

SCHEDULE A
SETTLEMENT AGREEMENT

Made on October 21, 2015

(the "Execution Date")

Between

T.L., R.M., and J.S.

(the "Plaintiffs")

and

**Her Majesty the Queen in Right of Alberta as represented by the Director of Child
Welfare and the Public Trustee**

(the "Defendants")

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SETTLEMENT AGREEMENT

RECITALS

A. WHEREAS the Plaintiffs have commenced the Proceedings and allege that the Defendants breached their duty to sue third party tortfeasors and make claims under crimes compensation legislation on the Plaintiffs' and Class Members' behalf as a result of personal injuries suffered by them before or when they were subject to the Director's permanent wardship, temporary guardianship, or, permanent guardianship (the "Alleged Duty"), and the Plaintiffs claim class-wide damages allegedly caused as a result of the Alleged Duty, as well as equitable relief;

B. AND WHEREAS the Defendants believe that they are not liable in respect of the Alleged Duty, and believe they have good and reasonable defences in respect of the claims advanced in the Proceedings;

C. AND WHEREAS the Defendants do not admit through the execution of this Settlement Agreement any allegation of unlawful conduct as alleged in the Proceedings or at all;

D. AND WHEREAS the Parties agree that neither this Settlement Agreement nor any statement made in the negotiations thereof shall be deemed or construed to be an admission by or evidence against the Defendants or evidence of the truth of any of the Plaintiffs' allegations against the Defendants, which the Defendants expressly deny;

E. AND WHEREAS, despite their belief that they are not liable in respect of the Alleged Duty and that they have good and reasonable defences in respect of the claims advanced in the Proceedings, the Defendants have negotiated and entered into this Settlement Agreement to

avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation of the Proceedings and any other present or future litigation arising out of the facts that gave rise to the Proceedings, to avoid the risks inherent in uncertain, complex and protracted litigation and to achieve final resolutions of all claims asserted or which could have been asserted against the Defendants by the Plaintiffs on their own behalf and on behalf of the classes they seek to represent in relation to the Alleged Duty;

F. AND WHEREAS counsel for the Defendants have engaged in extensive arm's-length settlement discussions and negotiations with Class Counsel in respect of this Settlement Agreement;

G. AND WHEREAS as a result of these settlement discussions and negotiations, the Defendants and the Plaintiffs have entered into this Settlement Agreement, which embodies all of the terms and conditions of settlement between the Defendants and the Plaintiffs, both individually and on behalf of the Settlement Class, subject to approval of the Court;

H. AND WHEREAS the Plaintiffs have agreed to accept the Settlement Amount, in part, because of the value of the Settlement Amount paid under this Settlement Agreement, as well as the attendant risks of litigation in light of the potential defences that may be asserted by the Defendants;

I. AND WHEREAS the Plaintiffs and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, and having regard to the proposed dismissal of the Proceedings against the Defendants, the value of the Settlement Amount, the burdens and expense associated with prosecuting the Proceedings, including the risks and uncertainties

associated with motions, trials and appeals, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiffs and the classes they seek to represent in the Proceedings;

J. AND WHEREAS the Plaintiffs and the Settlement Class intend to fully and completely settle and resolve the claims advanced in the Proceedings as against the Defendants on the Effective Date pursuant to this Settlement Agreement;

K. AND WHEREAS the Parties therefore wish to, and hereby do, finally resolve, without admission of liability, the Proceedings as against the Defendants;

L. AND WHEREAS for the purposes of settlement only and contingent on approvals by the Courts as provided for in this Settlement Agreement, the Plaintiffs have consented to a dismissal of the Proceedings as against the Defendants;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Proceedings as against the Defendants be settled and dismissed with prejudice and without costs, subject to the approval of the Court, on the following terms and conditions:

SECTION 1 - DEFINITIONS

For the purpose of this Settlement Agreement only, including the Recitals and Schedules hereto:

(1) *Adjudicator* means the neutral adjudicator appointed by the Court, which adjudicator will evaluate and process Claims advanced by Settlement Class Members.

- (2) ***Alleged Duty*** means the alleged duty of the Defendants to sue third party tortfeasors and to make claims under crimes compensation legislation on the Plaintiffs' and Class Members' behalf as a result of personal injuries suffered by them before or when they were subject to the Director's permanent wardship, temporary guardianship, or permanent guardianship.
- (3) ***Approval Hearing*** means the hearing of the application brought by Class Counsel for the approval of the terms provided for in this Settlement Agreement.
- (4) ***Claim*** means an application made to the Adjudicator under section 3.1(2).
- (5) ***Class Counsel*** means McKenzie Lake Lawyers LLP.
- (6) ***Class Counsel Fees*** include the fees, disbursements, costs, and other applicable taxes or charges of Class Counsel, including any applicable taxes.
- (7) ***Class Period*** means July 1, 1966 to February 19, 2008.
- (8) ***Common Issues*** means:
- (a) Did the Defendants Child Welfare and the Public Trustee, between 1966 and February 19, 2008, owe a duty to some or all of the various types of Settlement Class Members to protect their legal rights by taking steps to obtain compensation on their behalf, and if so, what was the nature of that duty?
 - (b) What policies, practices and systems did the Defendants Child Welfare and the Public Trustee have in place between 1966 and February 19, 2008 relating to the prosecution of civil claims on behalf of children in care?

- (c) Was the existence of, absence of, or content of the policies of the Defendants Child Welfare and the Public Trustee relating to the protection of the civil rights of children in care at any time between 1966 and February 19, 2008 so egregious or highhanded as to justify an award of punitive damages?
 - (d) If the answer to (c) above is affirmative, what quantum of punitive damages should be paid, and to whom?
 - (e) Did the Defendant Child Welfare, in its operation of the child welfare system, and the Defendant Public Trustee, insofar as it was involved in that system, at any time between 1966 and February 19, 2008 fraudulently conceal any breach of duty by them to the Settlement Class Members?
- (9) **Court** means the Alberta Court of Queen's Bench.
- (10) **Defendants** mean, individually or collectively, the entities named as defendants in the Proceeding.
- (11) **Director** means the statutory Director pursuant to the *Child Welfare Act* RSA 1970 c45 as amended from time to time and pursuant to the *Child, Youth and Family Enhancement Act*, RSA 2000 c12 as amended from time to time.
- (12) **Effective Date** means the date when the Final Order has been received from the Court approving this Settlement Agreement and any appeal period therefore has thereafter expired.
- (13) **Execution Date** means the date the Parties execute this Settlement Agreement.

(14) **Final Order** means a final order made by the Court in respect of the approval of this Settlement Agreement once the time to appeal such order has expired without any appeal being taken, if an appeal lies, or once there has been affirmation of the approval of this Settlement Agreement upon a final disposition of all appeals.

(15) **Notices** mean the Pre-Settlement Notice and the Settlement Notice.

(16) **Parties** mean the Plaintiffs and the Defendants (each a “Party”).

(17) **Person(s)** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.

(18) **PGO Amount** means up to a maximum of \$6,500,000.00 towards PGO Claims.

(19) **PGO Claims** mean Claims approved by the Adjudicator made by Settlement Class Members who were subject to Permanent Guardianship Orders, or both Permanent Guardianship Orders and Temporary Guardianship Orders, or Permanent Wardship Orders, or Permanent Guardianship Agreements.

(20) **PGO Class Member** means a Settlement Class Member who was subject to a Permanent Guardianship Order, Permanent Wardship Order, or Permanent Guardianship Agreement.

(21) **Plaintiffs** mean the plaintiffs in the Proceeding, and any other Person who may in the future be added or substituted as a plaintiff in the Proceeding.

(22) ***Pre-Settlement Notice*** means the form of notice, agreed to by the Plaintiffs and the Defendants, or such other form or forms as may be approved by the Court, which informs the Settlement Class of the principle elements of this Settlement Agreement and the dates and locations of the Approval Hearing, and includes detailed information designed to permit Settlement Class Members to recognize the fact that they may have rights under the terms of the Settlement Agreement and to provide them with all of the necessary information to permit them to participate at the Approval Hearing, and/or make objections to the terms of the Settlement.

(23) ***Proceeding*** means the proceeding commenced by S.J. Robert Doe by his Next Friend S.J., and Rhonda Doe by her Next Friend S.J., later replaced by T.L., R.M., and J.S., in the form of an action filed in the Alberta Court, File No. 0403-12898 (Edmonton Registry), filed on December June 29, 2004.

(24) ***Released Claims*** mean any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages whenever incurred, damages of any kind including compensatory, punitive or other damages, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity, that Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, relating in any way to any conduct occurring anywhere, from the beginning of time, in respect of the Alleged Duty or relating to any conduct alleged (or which could have been alleged) in the Proceeding or similar future conduct including, without limitation, any such

claims which have been asserted, would have been asserted, could have been asserted or could be asserted in the future, directly or indirectly, whether in Alberta or elsewhere, as a result of or in connection with the Alleged Duty.

(25) **Releasee(s)** mean, jointly and severally, individually and collectively, the Defendants, and all former, direct and indirect, divisions, affiliates, partners, insurers, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of the respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants, representatives, predecessors, successors, heirs, executors, administrators and assigns of each of the foregoing.

(26) **Releasors** mean, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members and their respective present, former, and future trustees, representatives, heirs, executors, administrators, insurers, and assigns.

(27) **Settlement Notice** means the form or forms of notice, agreed to by the Plaintiffs and the Defendants, or such other form or forms as may be approved by the Court, which shall be issued as soon after as practicable, the execution of the Settlement Approval Order and again 60 days before the end of the Claims Period and which informs the Settlement Class Members of the principle elements of the Settlement Agreement, and includes all of the necessary information to permit them to make a Claim and that they can contact Class Counsel for assistance in making a Claim.

(28) **Settlement Agreement** means this agreement, including the Recitals and Schedules.

(29) **Settlement Amount** means the amount paid to Settlement Class Members as set out in section 3.1(6).

(30) **Settlement Class** means all Persons who, while resident in Alberta, suffered personal injury while a minor as a result of a tort by a third party, and between July 1, 1966 and February 19, 2008, were in the actual custody of Child Welfare: (i) as a permanent ward, (ii) under a Permanent or Temporary Guardianship Order, or (iii) under a Permanent Guardianship Agreement, and for whom the Defendants did not make a claim under the Criminal Injuries Compensation Act, RSA 1980, c C-33 or the Victims of Crime Act, RSA 2000, c V-3, or commence a civil action to obtain compensation on their behalf, and who did not validly opt out of the Proceeding.

(31) **Settlement Class Member(s)** means a member of the Settlement Class who did not validly opt out of the Proceeding.

(32) **TGO Amount** means up to a maximum of \$1,000,000.00 towards TGO Claims;

(33) **TGO Claims** mean Claims approved by the Adjudicator made by Settlement Class Members subject to Temporary Guardianship Orders;

(34) **TGO Class Member** means a Settlement Class Member subject to a Temporary Guardianship Order excluding Settlement Class Members who were subject to a Temporary Guardianship Order and a Permanent Guardianship Order, Permanent Guardianship Agreement, or Permanent Wardship Order.

(35) **Victims of Crime Act** means the *Victims of Crime Act*, RSA 2000, c V-3 as amended from time to time.

(36) *Victims of Crime Application* means an application for benefits under the *Victims of Crime Act*.

(37) *Victims of Crime Application Period* means one year from issuance of the Final Order.

(38) **VOC Director** means the Director designated pursuant to s.3(1) of the *Victims of Crime Act* RSA 2000 c V-3, including any employee delegated by the Director for the purpose of assisting in the administration of this Settlement Agreement.

SECTION 2- SETTLEMENT APPROVAL

2.1 Best Efforts

(1) The Parties shall use their best efforts to: (i) effectuate this Settlement Agreement, including obtaining the approval of the Court, and to secure the prompt, complete and final dismissal with prejudice of the Proceeding, or where applicable a declaration of settlement...

2.2 Applications Approving Notice

(1) At a time mutually agreed to by the Plaintiffs and the Defendants after this Settlement Agreement is executed, the Plaintiffs shall bring an application before the Court for an order approving the Notices.

(2) The order approving the Pre-Settlement Notice, referred to in section 2.2(1), shall be substantially in the form set out in SCHEDULE A.

(3) Following receipt of any order referred to in section 2.2(1), and at a time mutually agreed to by the Parties, the Plaintiffs shall bring an application before the Court for an order approving this Settlement Agreement and the Settlement Notice.

(4) The order approving this Settlement Agreement referred to in section 2.2(3) shall be substantially in the form set out in SCHEDULE B.

2.3 Agreement on Form of Orders

(1) It is a fundamental term of this Settlement Agreement that the Plaintiffs and the Defendants must agree on the form and content of the order to be sought pursuant to section 2.2, including the form of Pre-Settlement Notice, and the issued Approval Order, which must be consistent with the terms of this Settlement Agreement. The form and content of the Approval Order shall be considered a material term of this Settlement Agreement and the failure of the Court to approve the form and content of the Approval Order substantially in the form agreed upon shall give rise to a right of termination pursuant to section 8.1(1) of this Settlement Agreement.

SECTION 3 – CLAIMS PROCESS

3.1 Claims Process

(1) In order to make a Claim, Settlement Class Members must first make a Victims of Crime Application (including Settlement Class Members who have already made an application for *Victims of Crime Act* or *Criminal Injuries Compensation Act* financial benefits and whose application were denied prior to the date of the Final Order). The Director will write an acknowledgement of application letter to Settlement Class members, which will be copied to the

Defendants and Class Counsel. The Victims of Crime Application must be made by the Settlement Class Member within the Victims of Crime Application Period. The Victims of Crime Application form will be amended as necessary in order to ask questions in order to confirm if an applicant is a Settlement Class Member, and whether the Settlement Class Member is a PGO Class Member or a TGO Class Member. The VOC Director shall advise the Defendants, Class Counsel and the Adjudicator of the identity of all Victims of Crimes Applications received from Settlement Class Members and the status of such Victims of Crime Applications within 60 days of the end of the Victims of Crime Application Period. After the Victims of Crime Application Period, the VOC Director will provide updates every 60 days to the Defendants, Class Counsel and the Adjudicator of the date of issuance of any decisions made on Victims of Crime Applications outstanding at the end of the Victims of Crime Application Period.

(2) If a Victims of Crime Application is denied solely for being made out of time pursuant to s.12.2(1), s.12.2(2) or s.12.3 of the *Victims of Crime Act*, and for whom the VOC Director does not extend the period of time for making an application pursuant to s. 12.4 of the *Victims of Crime Act*, a Settlement Class Member may advise the Defendants and the Adjudicator that they wish their Claim to be evaluated by the Adjudicator within 90 days of the issuance of the rejection in the form attached as SCHEDULE C.

(3) If a Settlement Class Member's application for financial benefits pursuant to the *Victims of Crime Act* is denied by a final decision of the VOC Director for reasons other than, or in addition to, being out of time, the Settlement Class Member is not entitled to make further application to the Adjudicator.

(4) Upon receipt of a Claim, the Adjudicator shall be entitled to receive a copy of the Victims of Crime Application and all information received by the VOC Director in support of the Application, excluding information subject to a legal privilege. There shall be no obligation imposed upon the Adjudicator to seek or obtain further information, although the Adjudicator shall be entitled to request additional information if required. If the Adjudicator wishes to obtain further information, the Adjudicator will first request the assistance of the VOC Director and the VOC Director will use reasonable efforts to obtain such information. Any such requests, as well as any information received in response, shall be provided to the Settlement Class Member and the Defendants. The Adjudicator at all times will authorize expenditures in the most cost-effective manner available, within a prescribed budget.

(5) The Adjudicator will not deny any Settlement Class Member's claims because the application for financial benefits under the *Victims of Crime Act* or the *Criminal Injuries Compensation Act* was denied by the VOC Director for the reasons expressed in section 3.1(2).

(6) Excepting only the provisions of section 3.1(5), the Adjudicator will evaluate Claims received under section 3.1(2) to determine eligibility and benefit amounts by applying the same claims analysis process used by the VOC Director and determining the amount of financial benefits pursuant to s. 13 of the *Victims of Crime Act* and the *Victims of Crime Regulation* AR 63/2004 that are in force as of the date the Adjudicator makes the decision.

(7) A Settlement Class Member whose Victims of Crime Application is denied solely for limitations reasons need not exercise the rights of review or appeal provided by the *Victims of Crime Act*. However, if a Settlement Class Member elects to review a Director's decision or appeal a Criminal Injuries Review Board decision pursuant to the *Victims of Crime Act*, or

otherwise seek judicial review of a Director's decision, they will not be entitled to apply to the Adjudicator.

(8) All Claims adjudicated by the Adjudicator will be paid by the Defendants after the time has expired for all Settlement Class Members to make a Claim, and after the Adjudicator has adjudicated all Claims properly advanced by Settlement Class Members. The Claims will be paid by the Defendants as adjudicated (after any court approved deduction for Class Counsel Fees, disbursements and applicable taxes), or paid on a reduced pro rata basis if the funds are insufficient.

(9) The Defendants agree to pay:

(a) up to \$6,500,000.00 towards PGO Claims approved by the Adjudicator;

(b) up to \$1,000,000.00 towards TGO Claims approved by the Adjudicator;

in full satisfaction of all payment obligations under this Settlement Agreement and the Released Claims against the Releasees.

3.2 No Appeal

(1) The decision of the Adjudicator with respect to Claims advanced by Settlement Class Members is final.

SECTION 4 - RELEASES, DISMISSALS AND STAYS

4.1 Release of Releasees

(1) Upon the Effective Date, and in consideration of payment of the Settlement Amount and for other valuable consideration set forth in this Settlement Agreement, the Releasers shall be deemed to and do hereby forever and absolutely release, acquit and discharge the Releasees from the Released Claims. The Parties shall use their best efforts to have the terms of the release contemplated herein incorporated into the orders obtained from the Courts approving this Settlement Agreement.

(2) The Plaintiffs and Settlement Class Members acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the subject matter of this Settlement Agreement, and it is their intention to release fully, finally and forever all Released Claims (including, without limitation, anything that might be based on additional or different facts later discovered), and in furtherance of such intention, this release shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

4.2 Covenant Not To Sue

(1) The Plaintiffs and Settlement Class Members acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the subject matter of the Settlement Agreement, and it is their intention to fully, finally and forever covenant and undertake not to sue or make any claim against the Releasees as set out in this Subsection 4.2(1), and in furtherance of such intention,

this covenant not to sue shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

4.3 No Further Claims

(1) The Releasors shall not now or hereafter threaten, institute, prosecute, continue, maintain or assert, either directly or indirectly, whether in Alberta or elsewhere, on their own behalf or on behalf of any class or any other Persons, any action, suit, cause of action, claim, proceeding, complaint or demand against or collect or seek to recover from any Releasee or any other Persons who will or could bring or commence or continue any claim, cross claim, claim over or any claim for contribution, indemnity, or other relief against any Releasees in respect of any Released Claim or any matter related thereto. Plaintiffs and Class Counsel acknowledge that the Defendants consider it to be a material term of this Settlement Agreement that the Settlement Class Members will be bound by the releases provided for herein. The Releasors are deemed to have consented to a dismissal of that portion of any existing action that pleads the Released Claims.

4.4 Dismissal of the Proceeding

(1) Class Counsel shall bring such applications as are necessary to dismiss the Proceeding with prejudice and without costs as against any and all Releasees that are Defendants in the Proceeding within sixty (60) days of the Effective Date of this Settlement Agreement.

4.5 Claims Against Other Entities Reserved

(1) Except as provided herein, this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by the Settlement Class Members against any Person other than the Releasees.

4.6 Releases and Covenants

(1) The releases and covenants contemplated in this section shall be considered a material term of this Settlement Agreement and the failure of the Court to approve the releases, or of the Releasers to abide by the covenants, contemplated herein shall give rise to a right of termination pursuant to section 8.1(1) of this Settlement Agreement.

SECTION 5 - EFFECT OF SETTLEMENT

5.1 No Admission of Liability

(1) The Plaintiffs and the Defendants expressly reserve all of their rights if this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason. Further, whether or not this Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any fault, omission, wrongdoing or liability by the Defendants or by any Releasee, or of the truth of any of the claims or allegations contained in the Proceeding or any other pleading filed by the Plaintiffs or any other Settlement Class Member.

5.2 Agreement Not Evidence

(1) Whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any present, pending or future civil, criminal or administrative action or proceeding, except: (a) by the Parties in a proceeding to approve or enforce this Settlement Agreement; (b) by a Releasee to defend against the assertion of a Released Claim; (c) by a Releasee in any insurance-related proceeding; or (d) as otherwise required by law or as provided in this Settlement Agreement.

5.3 No Further Litigation

(1) No Class Counsel, no Plaintiff, no Settlement Class Member, nor anyone currently or hereafter employed by, associated with, or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made, other than a claim under this Settlement Agreement, or action commenced by any Person which relates to or arises from the Released Claims.

SECTION 6 - NOTICE TO SETTLEMENT CLASS

6.1 Form and Distribution of Notices

(1) The form and content of the Notices and the manner and extent of publication and distribution of the Notices shall be as agreed to by the Plaintiffs and the Defendants, such agreement not to be unreasonably withheld, and approved by the Courts. The dissemination plan

for distributing the Pre-Settlement Notice shall be substantially in the form set out in SCHEDULE D.

(2) The Notices shall provide detailed information designed to permit Settlement Class Members to recognize the fact that they may have rights under the terms of the Settlement Agreement and to provide them with all of the necessary information to permit them to participate at the Approval Hearing and/or actually make claims.

6.2 Notice Costs

(1) The Defendants shall pay all costs associated with the distribution of the Notices.

SECTION 7- COSTS, FEES AND ADMINISTRATION EXPENSES

7.1 Costs

(1) The Defendants shall pay an all-inclusive amount \$750,000.00 in costs. This is an agreed amount for properly incurred work, as well as unpaid taxable disbursements, interest, and applicable taxes.

(2) The Defendants take no position with respect to any request to the Court by Class Counsel for fees and disbursements, subject to the limits specified below, but any such payment must be approved by the Court as fair and reasonable. Class Counsel will cap any proposed fee payment as follows:

(a) payment of the \$750,000.00 in costs;

- (b) up to 10% of the amount paid to each Settlement Class Member pursuant to a *Victims of Crime Act* Application made during the Victims of Crime Application Period; and
 - (c) Up to 33.33% of the amount paid to each Class Member pursuant to a determination by the Adjudicator.
- (3) This Settlement Agreement will not be conditional on approval of any particular fee request within the limits outlined above.
- (4) If the Court approves a percentage fee from the Victims of Crime Applications, the VOC Director shall forward the Settlement Class Member's VOC benefits cheque in trust to Class Counsel. Class Counsel will forward the VOC benefits amount, less the deduction percentage approved by the Court.
- (5) If the Court approves a percentage fee from the Claims made to an Adjudicator, the Defendants shall deduct this approved amount from any such award and forward same to Class Counsel.

7.2 Representative Plaintiff Honoraria

- (1) The Defendants will not object to a request by Class Counsel for payment of honoraria to each of the Plaintiffs, to be paid out of Class Counsel Fees.

SECTION 8 - TERMINATION OF SETTLEMENT AGREEMENT

8.1 Right of Termination

- (1) The Defendants or the Plaintiffs may terminate this Settlement Agreement in the event that:
- (a) the releases and covenants contemplated in the Settlement Agreement are not provided or abided by;
 - (b) the form and content of any of the orders or Notices departs materially from the form and content of the orders and Notices as agreed upon by the Plaintiffs and the Defendants;
 - (c) the form and content of any of the Final Orders approved by the Court departs materially from the form and content of the orders agreed upon by the Plaintiffs and the Defendants under section 2.3(1) of this Settlement Agreement;
 - (d) the Court declines to approve this Settlement Agreement or any material term or part hereof;
 - (e) the Court declines to dismiss the Proceeding;
 - (f) the Court approves this Settlement Agreement in a materially modified form; or
 - (g) any order approving this Settlement Agreement made by the Court does not become a Final Order.

(2) To exercise a right of termination under section 8.1, a terminating party shall deliver a written notice of termination pursuant to this Settlement Agreement with fifteen (15) business days of the fact of the condition being met becoming known to the terminating party. Upon delivery of such a written notice, this Settlement Agreement shall be terminated and, except as provided for in section 8.3, shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.

(3) Any order, ruling or determination made by any Court that is not substantially in the form and content of the respective Final Order, as agreed upon by the Plaintiffs and the Defendants in accordance with section 2.3(1), shall be deemed to be a material modification of this Settlement Agreement and shall provide a basis for the termination of this Settlement Agreement, provided however that the Defendants may agree to waive this provision.

(4) Any order, ruling or determination made by the Court with respect to Class Counsel Fees, other than an increase in the agreed costs award, shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

8.2 If Settlement Agreement is Terminated

(1) If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason:

- (a) no application to approve this Settlement Agreement, which has not been decided, shall proceed;

- (b) any order approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and the Parties shall be estopped from asserting otherwise; and
 - (c) the Parties shall negotiate in good faith to determine a new timetable, if the Proceeding is to continue against any Releasees.
- (2) The Plaintiffs and the Defendants expressly reserve all of their respective rights if this Settlement Agreement is terminated.

8.3 Survival of Provisions After Termination

- (1) If this Settlement Agreement is terminated or otherwise fails to take effect for any reason, the provisions of sections 5.1, 5.2, 6, and 8 shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of the interpretation of these surviving sections within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

SECTION 9 - MISCELLANEOUS

9.1 Motions for Directions

- (1) The Defendants or the Plaintiffs may apply to the Court for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.
- (2) All motions contemplated by this Settlement Agreement shall be on notice to the Plaintiffs and the Defendants.

9.2 Further Acts

(1) Without limiting the generality of any other provisions of this Settlement Agreement, until such time as the Court has approved or refused to approve this Settlement Agreement: (i) none of the Plaintiffs, the Releasers and Class Counsel shall take any action or omit to take any action that is inconsistent with the purposes and scope of this Settlement Agreement; and (ii) none of the Releasees and their respective counsel shall take any action or omit to take any action that is inconsistent with the purposes and scope of this Settlement Agreement.

9.3 Publicity

(1) Except as otherwise required for the purposes of approving the settlement, the Plaintiffs and the Defendants agree that:

- (a) the Parties shall not issue any press releases or other written communication of any kind (with the media or otherwise) regarding this settlement, except those that may be agreed to by the Parties;
- (b) the Parties shall act in good faith to ensure that any public statements, comments or any communications of any kind about any descriptions of the settlement and the terms of this Settlement Agreement are balanced, fair and accurate;
- (c) the Parties shall not make any public statements, comments or any communications of any kind about any negotiations or information exchanged as part of the settlement process, except as may be required for the Parties to comply with any order of the Court or as may be required under any applicable law or regulation.

9.4 Headings, etc.

- (1) In this Settlement Agreement:
 - (a) the division of this Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and
 - (b) the terms “this Settlement Agreement”, “hereof”, “hereunder”, “herein” and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

9.5 Computation of Time

- (1) In the computation of time in this Settlement Agreement, except where a contrary intention appears:
 - (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
 - (b) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

9.6 Governing Law

(1) This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Alberta.

9.7 Entire Agreement

(1) This Settlement Agreement, including the Recitals herein and the Schedules attached hereto, constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

9.8 Amendments and Waivers

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto and the Court.

(2) The waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving party and, any such waiver shall not be deemed or construed as a waiver of any other right, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

9.9 Binding Effect

(1) This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Settlement Class Members, the Releasers, the Releasees, and all of their successors

and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiffs shall be binding upon all Releasors and each and every covenant and agreement made herein by the Defendants shall be binding upon all of the Releasees.

9.10 Counterparts

(1) This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or PDF signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

9.11 Negotiated Agreement

(1) This Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, all have no bearing upon the proper interpretation of this Settlement Agreement.

9.12 Recitals

(1) The recitals to this Settlement Agreement are true and form part of this Settlement Agreement.

9.13 Schedules

- (1) The Schedules annexed hereto form part of this Settlement Agreement.

9.14 Notice

- (1) Any and all notices, requests, directives, or communications required by this Settlement Agreement shall be in writing and shall, unless otherwise expressly provided herein, be given personally, by express courier, by postage prepaid mail, by facsimile transmission, or by email PDF files, and shall be addressed as follows:

For the Plaintiffs and for Class Counsel in the Proceeding:

Michael J. Peerless

McKENZIE LAKE LAWYERS LLP
1800 – 140 Fullarton Street
London, ON N6A 5P2
Tel: 519-667-2644
Fax: 519-672-2674
Email: peerless@mckenzielake.com

For Alberta Justice and Solicitor General:

G. Alan Meikle, Q.C.
Peter Barber

ALBERTA JUSTICE AND SOLICITOR GENERAL
Legal Services Division
Civil Law Branch
10011 – 109 Street
Edmonton, AB T4J 3S8
Tel: (780) 422-9479
Tel: (780) 422-9252
Fax: (780) 427-1230
Email: alan.meikle@gov.ab.ca
peter.barber@gov.ab.ca

For Her Majesty the Queen in Right of Alberta as represented by the Director of Child Welfare:

Ward K. Branch

BRANCH MACMASTER LLP
1410 - 777 Hornby Street
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Tel: (604) 654-2966
Fax: (604) 684-3429
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Peter Barber

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Tel: (780) 422-9479
Tel: (780) 422-9252
Fax: (780) 427-1230
Email: alan.meikle@gov.ab.ca
peter.barber@gov.ab.ca

For the Public Trustee:

David N. Jardine

SHORES JARDINE LLP
Bell Tower
2250 – 10104 103 Avenue NW
Edmonton, AB T5J 0H8
Tel: (780) 448-9275
Fax: (780) 423-0163
Email: David@shoresjardine.com

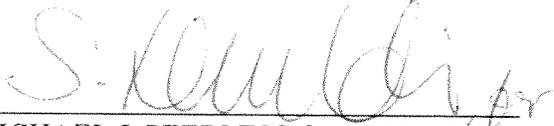
9.15 Acknowledgements

- (1) Each of the Parties hereby affirms and acknowledges that:
 - (a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood this Settlement Agreement;
 - (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;
 - (c) he, she or the Party's representative fully understands each term of this Settlement Agreement and its effect; and
 - (d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of this Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

9.16 Authorized Signatures

- (1) Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified below their respective signatures.

Executed in counterparts on October 21, 2015.

A handwritten signature in black ink, appearing to read "S. K. Peerless", written over a horizontal line.

MICHAEL J. PEERLESS for McKenzie Lake
Lawyers LLP, the Plaintiffs

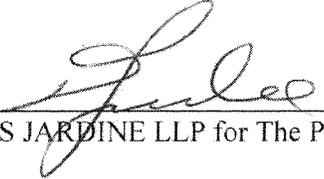
G. ALAN MEIKLE, Q.C. for Her Majesty the
Queen in Right of Alberta as represented by the
Director of Child Welfare

SHORES JARDINE LLP for The Public Trustee

Executed in counterparts on October 21, 2015.

MICHAEL J. PEERLESS for McKenzie Lake
Lawyers LLP, the Plaintiffs

G. ALAN MEIKLE, Q.C. for Her Majesty the
Queen in Right of Alberta as represented by the
Director of Child Welfare



SHORES JARDINE LLP for The Public Trustee