



COURT FILE NUMBER 1701-13074

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF TERRANCE COOK as proposed
REPRESENTATIVE PLAINTIFF

DEFENDANTS THE CITY OF CALGARY and
JOHN DOE

CMH
A C J ROOKE

DOCUMENT **APPROVAL AND CERTIFICATION
ORDER**

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY
FILING THIS DOCUMENT

Higgerty Law
Attention: Patrick B. Higgerty, QC
Main Floor, Millennium Tower
101, 440 - 2nd Ave SW
Calgary, AB T2P 5E9
Ph: 403-503-8888
Fax: 587-316-2260

DATE ON WHICH ORDER WAS PRONOUNCED: February 10, 2021

LOCATION OF HEARING OR TRIAL: Calgary, Alberta

NAME OF JUDGE WHO MADE THIS ORDER: **Mr. Justice J. Rooke, ACJ**

UPON THE APPLICATION of the parties on a consent basis, and on hearing the submissions from counsel for the Plaintiff and the counsel for the Defendants; and on reading the pleadings and materials filed, and on being advised that the parties have entered into a settlement agreement, a copy of which is attached as **Schedule "A"**, and into an amending agreement, a copy which is attached as **Schedule "AA"** (collectively the "Settlement Agreement"); and on being advised that the Plaintiff and the Defendants consent to this Order; and having approved the Contingency Fee of the Agreement at the time of the Application for this Order;

Order
Court File Number: 1603 09819

THIS COURT ORDERS that:

Approval

1. The Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class and is approved pursuant to subsection 5(5) and section 35 of the *Class Proceedings Act*, SA 2003, c 0-16.5 (the “Act”) and shall be implemented in accordance with its terms and the terms of this Order.
2. The persons listed in the List of Opt-Outs, as attached at **Schedule “B”** and incorporated into this Order, have validly exercised their right to opt-out and are not Settlement Class Members.
3. This Order, including the Settlement Agreement, is binding upon the Parties and on every member of Settlement Class irrespective of whether he or she claims or receives monetary compensation or value under the Settlement Agreement, unless such member opted out by the Opt Out Deadline. Neither the Settlement Agreement nor the terms of this Order applicable to the Settlement class are binding on the Opt-out Individuals.
4. This Order, including the Settlement Agreement, is binding upon each member of the Settlement Class including those persons who are minors or mentally incapable, and the requirements of Rule 2.11 and Rule 2.19 of the *Alberta Rules of Court* are dispensed with in respect of this proceeding.
5. Upon the Effective Date, with the exception of each member of the Settlement Class who is an Opt-out:
 - a. the Releasees are forever, finally and absolutely released by the members of the Settlement Class from the Released Claims.
 - b. members of the Settlement Class are barred from making any claims or taking or continuing any proceeding arising out of, or relating to, the Released Claims, except as otherwise expressly provided for in the Settlement Agreement, against any Released Party; and

Order

Court File Number: 1603 09819

- c. any and all claims in this Action on behalf of members of Settlement Class in respect of Released Claims or against Released Parties shall be and are hereby dismissed without costs and with prejudice.
6. The Opt-out Individuals are not barred by this Order from commencing individual claims against the Defendants in respect of the Released claims.
7. MNP Ltd. is appointed as the Claims Administrator and shall act in that capacity pursuant to the Engagement Letter.
8. Upon the Effective Date, the payment of Claims Administration Costs pursuant to the Settlement Agreement are hereby approved.
9. To the extent, if any, that the \$150,120 of the Settlement Funds apportioned to payment of the Unconditional Individual Amount to each member of the Settlement Class remains unpaid by April 12th, 2021 then that unpaid portion shall thereupon be irrevocably credited to the Reversionary Fund to be applied in accordance with the Settlement Agreement, including to the Cy-pres Beneficiary if not otherwise applied in accordance with that agreement.
10. This Court will retain continuing jurisdiction over implementation, interpretation and enforcement of the settlement under the Settlement Agreement and subject to the Orders of this Court in this Action.
11. On notice to the Court, but without further order of the Court, the Parties to the Settlement Agreement may agree to reasonable extensions of time to carry out any of the provisions in the Settlement Agreement.

Certification

12. This proceeding is certified as a class proceeding pursuant to the Act including without limitation sections 4, 5, 6 and 9 thereof.
13. The Settlement Class in this class proceeding shall be:

Order

Court File Number: 1603 09819

All those persons resident in Alberta and throughout Canada and abroad, who were one of the approximately 3,807 persons employed by the City of Calgary and whose personal information was included in the unauthorized disclosure of such personal information, which occurred on or about June 14 and 15, 2016 as a result of certain actions by John Doe, then an employee of the City of Calgary (the "Privacy Breach") excluding all deceased persons and members of the Proposed Class who have Opted-Out.

14. The Plaintiff Terrence Cook is appointed as Representative Plaintiff for the Settlement Class.
15. Higgerty Law is appointed as Class Counsel.
16. The nature of the claims asserted in this Action on behalf of the Settlement Class are those as outlined in the Statement of Claim herein in relation to the Disclosure.
17. The relief sought by this Settlement Class in this proceeding is the compensation contemplated by the Settlement Agreement.
18. The common issue for the Settlement Class under the certification is whether the Defendants are liable to the Settlement Class.

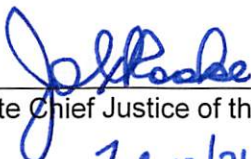
General

19. By March 10, 2021, the City will have issued the Approval Notice to all members of the Settlement Class substantially in the same manner and form as set out in the Notice Plan. A true copy of which is hereto attached as **Schedule "D"**.
20. Except to the extent that they are set out in or modified by this Order and the previous Notice Approval Order in this Action, the definitions set out in the Settlement Agreement, apply to and are incorporated into this Order.

Order

Court File Number: 1603 09819

21. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
22. Service for this Order is dispensed with except that Class Counsel will post a copy of this Order on its website.
23. This Order may be consented to by Counsel in counterpart, electronically or by facsimile.



Associate Chief Justice of the Court of Queen's Bench of Alberta
Feb 12/21

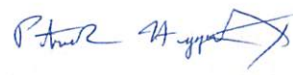
CONSENTED TO this 10th day
of February, 2021 by

Dolden Wallace Folick LLP

Per: _____
Eric Dolden and Jill Shore counsel for
the City of Calgary

CONSENTED TO this 10th day
of February, 2021 by

Higgerty Law


Per: _____
Patrick B. Higgerty, Q.C.
Counsel for the Plaintiff

Order

Court File Number: 1603 09819

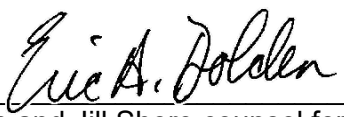
21. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
22. Service for this Order is dispensed with except that Class Counsel will post a copy of this Order on its website.
23. This Order may be consented to by Counsel in counterpart, electronically or by facsimile.

Associate Chief Justice of the Court of Queen's Bench of Alberta

CONSENTED TO this 10th day
of February, 2021 by

Dolden Wallace Folick LLP


Per: _____


Eric Dolden and Jill Shore counsel for
the City of Calgary

CONSENTED TO this 10th day
of February, 2021 by

Higgerty Law

Per: _____


Patrick B. Higgerty, Q.C.
Counsel for the Plaintiff

Schedule "A"

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT made as of the 8th day of May 2020.

BETWEEN:

TERRANCE COOK as proposed
Representative Plaintiff

(the “**Representative Plaintiff**”)

- and –

CITY OF CALGARY and JOHN DOE

(the “**Defendants**”)

PREAMBLE and RECITALS

Terrence Cook, on his own behalf and in his capacity as proposed representative plaintiff, and the defendant City of Calgary, hereby enter into this Settlement Agreement providing for the settlement of all claims made or which could have been made in the Action, subject to the approval of the Court as set forth herein;

WHEREAS:

- (a) The Representative Plaintiff commenced the Action seeking damages and other relief, on his own behalf and on behalf of the Proposed Class against the Defendants, *inter alia*, for loss, damage, and/or compensation, including punitive, exemplary and aggravated damages, as a result of the Disclosure as further set out in the Amended Statement of Claim filed by the Representative Plaintiff in the Action on October 3, 2017.
- (b) The Action is a Proposed Class Proceeding.
- (c) The Representative Plaintiff has not yet applied for certification of the Proposed Class Proceeding.
- (d) The City does not admit the allegations made by the Representative Plaintiff in the Action, has denied and continues to deny any wrongdoing or liability of any kind, denies that any damages are payable, has not conceded or admitted any civil liability, and asserts defences to all of the claims in the Action and Proposed Class Proceedings.
- (e) The City and the Representative Plaintiff and Class Counsel agree that this Settlement Agreement is not an admission of any liability on the part of the Defendants.
- (f) The Representative Plaintiff and the City have engaged in extensive arm’s length settlement discussions in respect of all of the Released Claims of the

Representative Plaintiff and the Proposed Class, including claims advanced in the Action and Proposed Class Proceeding, and as a result of those discussions, the Representative Plaintiff and the City have entered into this Settlement Agreement to resolve all Released Claims on behalf of all members of the Proposed Class, subject to the approval of the Court.

- (g) The Representative Plaintiff and the City intend by this Settlement Agreement to resolve all of the Released Claims.
- (h) The defendant John Doe is one or more persons unknown to the Representative Plaintiff as further described in paragraph 3 of the Amended Statement of Claim, and is a party to the Action (including the Proposed Class Proceeding).
- (i) The Representative Plaintiff and the City acknowledge that the total of the Representative Plaintiff's and Settlement Class' claims in the Action and Proposed Class Proceeding may exceed the total settlement amount paid or to be paid by the City on behalf of the Defendants pursuant to this Settlement Agreement.
- (j) It is the intent and purpose of this Settlement Agreement that the Releasees are fully and finally released from the Action and the Proposed Class Proceeding and from any and all other actions and claims which have been, or may be, commenced or asserted against the Releasees or either of them by the Representative Plaintiff, or any members of the Settlement Class, or by any party with a derivative claim which arises from or in any way is related to the facts and issues pleaded or which could have been pleaded in the Action and the Proposed Class Proceeding.
- (k) It is further the intent and purpose of this Settlement Agreement that an order of the Court will be obtained in the Action forever barring the Settlement Class from commencing or continuing against the Releasees or any of them, or against any other person who might claim contribution or indemnity from the Releasees or any of them, any claims which arise from or in any way are related to the facts and issues pleaded or which could have been pleaded in the Action and Proposed Class Proceeding.
- (l) The Representative Plaintiff and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analysis of the facts and law applicable to the Representative Plaintiff and Proposed Class' claims, and having regard to the burden and expense in prosecuting the Action and Proposed Class Action, including the risks and uncertainties associated with trials and appeals, the Representative Plaintiff and Class Counsel have concluded that this Settlement Agreement is fair, reasonable, and in the best interests of the Representative Plaintiff and the Proposed Class he seeks to represent.
- (m) The City has similarly concluded that this Settlement Agreement is desirable in order to avoid the time, risk, uncertainty and expense of defending protracted litigation, and to resolve finally and completely the Released Claims, despite its belief that it is not liable in respect of the allegations made in the Action and that it has good defences thereto.

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 HEREBY AGREED THAT the Action including the Proposed Class Action shall be fully and finally settled and resolved, and the Releasees shall be fully and finally released of all Released Claims , without costs to any Party, subject to the approval of the Court, on the following terms and conditions:**

PART 1 – Definitions

1. Unless a particular section of this Settlement Agreement explicitly provides for another interpretation, the following terms, as used in this Settlement Agreement and its exhibits, shall have the meanings set forth below. Terms used in the singular shall be deemed to include the plural, and *vice versa*, where appropriate. Feminine pronouns and female references shall be deemed to include the masculine, and *vice versa*, where appropriate.
 - a. **“Action”** shall mean Action No. 1701-13074 in the Court of Queen’s Bench of Alberta, in the Judicial Centre of Calgary, styled as *Terrance Cook as proposed Representative Plaintiff v. City of Calgary and John Doe*.
 - b. **“Approval and Certification Order”** means the order of the Court substantially in the form attached hereto as Exhibit “D”, or on such other terms as the Court may direct, that approves this Settlement Agreement and certifies the Action as a class proceeding pursuant to the *Class Proceedings Act*, S.A. 2003, c. C-16.5 for the purpose of settlement.
 - c. **“Approval Notice”** means the Court-approved notice, substantially in the form attached hereto as Exhibit “E”, or on such other terms as the Court may direct, which informs the Settlement Class of (i) the Approval and Certification Order; (ii) the core elements of the Settlement Agreement and the Distribution Protocol; (iii) the process for filing a claim with the Claims Administrator for payment of compensation from the Reversionary Funds; and (iv) if the Court determines that the timing of procedure for members of the Proposed Class to opt out of and exclude themselves from the Settlement Class shall occur after the Approval and Certification Order is made, the procedure for opting out and the Opt-out Deadline.
 - d. **“City”** means the City of Calgary.
 - e. **“Claims Administrator”** means MNP Ltd. or such other person proposed by Class Counsel and appointed by the Court, and any employees of such person, to administer claims made by members of the Settlement Class for payments from the Reversionary Funds, including to determine entitlement to payment from the Reversionary Funds, and to make payments from the Settlement Funds in accordance with the Settlement Agreement.
 - f. **“Claims Administration Costs”** means all costs associated with administering claims for compensation from, and making payments from, the Reversionary Funds and distributing the Non-Reversionary Payments, including the fees and disbursements of the Claims Administrator, and applicable taxes, and all postage costs to be incurred by the City for the purpose of providing notices in accordance with the Notice Plan.
 - g. **“Class Counsel”** means the law firm of Higgerty Law, with offices as of the date hereof at Millennium Tower, Main Floor 101, 440 – 2nd Avenue SW, Calgary, AB T2P 5E9.

- h. **“Class Counsel Fees”** means all legal fees, disbursements, and applicable taxes in respect of all legal services provided by Class Counsel for the benefit of any one or more of the Representative Plaintiff, Proposed Class, and Settlement Class, as approved by the Court.
- i. **“Class Counsel Fee Order”** means an order of the Court determining and approving Class Counsel Fees, and directing how such Class Counsel Fees shall be paid out of the Settlement Funds substantially in the form attached as Exhibit G, or on such other terms as the Court may direct.
- j. **“Condition”** means a psychological or psychiatric condition diagnosed by a medical doctor or psychologist.
- k. **“Condition Precedent”** means mandatory term(s) which are essential to the validity of the Settlement Agreement, and which all must be met. Conditions Precedent are found in Part 2 and 4 of this Settlement Agreement.
- l. **“Court”** means the Court of Queen’s Bench of Alberta.
- m. **“Disclosure”** means the alleged unauthorized disclosure of personal information about the members of the Proposed Class, which occurred on or about June 14 and 15, 2016 as a result of certain actions by John Doe, then an employee of the City.
- n. **“Distribution Protocol”** means the plans as set out in Part 9 of this Settlement Agreement for distribution of the Settlement Funds, including: (i) payment of the Unconditional Individual Amount to each member of the Settlement Class; (ii) payments from the Reversionary Funds to Qualifying Members; (iii) payment of Claims Administration Costs and/or any honorarium to the Representative Plaintiff from the Non-Reversionary Amounts; and (iv) payment of Class Counsel Fees.
- o. **“Document Procurement Costs Fund”** means a settlement fund, as further described in Part 5 Section 18(c) of the Settlement Agreement, from which any Qualifying Members may claim the actual amount incurred by them to obtain reports from a medical doctor or psychologist to prove that they are a Qualifying Member, up to a maximum of \$150 per person.
- p. **“Effective Date”** means the first date on which both the Approval and Certification Order and the Class Counsel Fee Order have become Final Orders.
- pp. **“Engagement Letter”** means the unsigned and undated letter from the contemplated Claims Administrator, MNP Ltd. setting out the terms of its engagement to act in that capacity, a copy of which is attached as Exhibit “H”.
- q. **“Execution Date”** shall mean the date on which this Settlement Agreement has been deemed executed by the Parties as written on the first page of this Settlement Agreement.
- r. **“Final Order”** means a final judgment or order entered by the Court, once the time to appeal such judgment or order has expired without any appeal being taken, if an appeal lies and there is a person with standing to appeal, or once there has been affirmation of the approval of any such judgment or order upon a final disposition of all appeals.

- s. **“Hearing Notice”** means the Court-approved notice, substantially in the form attached hereto as **Exhibit “B”**, or on such other terms as the Court may direct, which informs the Proposed Class of (i) the Proposed Class Proceeding; (ii) the date and location of the application for the Approval and Certification Order; (iii) the core elements of the Settlement Agreement and the Distribution Protocol; and (iv) if the Court determines that the timing of procedure for members of the Proposed Class to opt out of and exclude themselves from the Settlement Class shall occur prior to the application for the Approval and Certification Order, the procedure for opting out and the Opt-out Deadline. .
- t. **“Hearing Notice Date”** means the date by which publication of the Hearing Notice pursuant to the Notice Plan must occur, which date shall be no more than fifteen (15) business days following issuance of the Notice Approval Order, or such other date as may be approved by the Court.
- u. **Health Care Costs**” means all statutory claims for recovery of health care costs incurred by the Province of Alberta relating to or arising from the Disclosure pursuant to any Alberta health care program, including, *inter alia*, the *Hospitals Act*, RSA 2000, c. H-12.
- v. **“Non-Reversionary Payments”** means settlement payments to be paid by the City pursuant to Part 5 Section 23 of this Settlement Agreement.
- w. **“Notice Approval Order”** means the order of the Court that approves the Hearing Notice and Notice Plan, substantially in the form attached hereto as **Exhibit “A”**, or on such other terms as the Court may direct.
- x. **“Notice Plan”** means the Court-approved method, substantially as described in **Exhibit “C”** hereto, or on such other terms as the Court may direct, by which the Hearing Notice, Approval Notice, and Notice of Termination if any, is to be disseminated.
- y. **“Notice of Termination”** means the form of notice or notices, agreed to by the Representative Plaintiff and the City, substantially in the form attached hereto as **Exhibit “F”**, or such other form or forms as may be approved by the Court, which informs the Proposed Class of the termination of the Settlement Agreement.
- z. **“Notices”** means the Hearing Notice, the Approval Notice, and the Notice of Termination.
- aa. **“Opt-out Individual”** means a person who is a member of the Proposed Class and who would have been a member of the Settlement Class, except for his or her timely and valid request for exclusion from it and from the Proposed Class Proceeding and the Action, by completing and submitting the “Opt-out Form” (defined below) in accordance with Part 10 below.
- bb. **“Opt-out Deadline”** means 4:30 pm Mountain Time on [insert date], or such other date and time as may be ordered by the Court, which date shall be at least 30 days after the Hearing Notice Date.

bbb. “**Opt-out Form**” means the form attached as Schedule A to either the Hearing Notice or the Approval Notice, as directed by the Court, which shall be used by members of the Proposed Class to notify of their request to opt out of and be excluded from the Settlement Class, and from the Proposed Class Proceeding and the Action.

cc. “**Parties**” means the Representative Plaintiff and the City and John Doe.

dd. “**Proposed Class**” means a proposed class consisting of approximately 3716 persons resident in Alberta and throughout Canada and abroad, who were employees of the City and whose personal information was included in the Disclosure.

ee. “**Proposed Class Proceeding**” means that the Representative Plaintiff seeks a remedy in the Action on behalf of the Proposed Class, but the Representative Plaintiff has not yet made application to certify the Action as a class proceeding.

ff. “**Provable Mental Injury Fund**” means a settlement fund as further described in Part 5 Section 18(a) of the Settlement Agreement, from which any Qualifying Members may claim a maximum of \$2,000 per person in compensation for general damages for pain and suffering as a result of a compensable mental injury caused by the Disclosure.

gg. “**Qualification Requirements**” means the requirements set out in Part 7 Section 35 of this Settlement Agreement which must be met for a member of the Settlement Class to be qualified by the Claims Administrator as a Qualifying Member.

hh. “**Qualifying Members**” means members of the Settlement Class who have made claims for compensation from the Reversionary Funds, met the Qualification Requirements, and whose claims for compensation from the Provable Mental Injury Fund have been allowed by the Claims Administrator in accordance with Part 7 of this Settlement Agreement.

ii. “**Released Claims**” means any and all claims of the Representative Plaintiff and/or Settlement Class against the Releasees, or any of them, whether or not assigned and whether known or unknown, asserted or unasserted, past, now existing or in the future, in any way arising out of or relating to the Disclosure, or any of the allegations made or that could have been made in the Amended Statement of Claim filed in the Action. For greater certainty, the Released Claims include claims for general, pecuniary and non-pecuniary, aggravated and punitive damages, Health Care Costs, taxable costs and disbursements, Class Counsel Fees, Notice Costs and Claims Administration Costs arising in connection with the Action and/or this Settlement Agreement.

jj. “**Releasees**” means the City as well as its present and former employees, officers, directors, agents, executors, administrators, insurers, trustees, successors and assigns, including but not limited to the City’s employees named as John Doe in the Action, and their respective agents, heirs, executors, administrators, insurers, trustees, successors and assigns.

kk. “**Representative Plaintiff**” means Terrance Cook.

ll. “**Reversionary Amount**” means that portion of the Settlement Funds which shall be paid by the City to establish the Reversionary Funds as set out in Part 5 Section 18 of this Settlement Agreement.

- mm. **“Reversionary Funds”** mean the Provable Mental Injury Fund, the Treatment Charges and Expenses Fund, and the Document Procurement Costs Fund as further described in Part 5 Section 18 of this Settlement Agreement.
- nn. **“Settlement Administration Period”** means a period of nine (9) months commencing on the date of first issuance of the Approval Notice.
- oo. **“Settlement Agreement”** means this Settlement Agreement, inclusive of the preamble, recitals and Exhibits attached hereto.
- pp. **“Settlement Class”** means those members of the Proposed Class, excluding all deceased persons and Opt-out Individuals, and as may be further defined by the Court in the Approval and Certification Order, at which time the Proposed Class Proceeding is certified for the purpose of settlement pursuant to this Settlement Agreement.
- qq. **“Settlement Funds”** means money to be paid by the City pursuant to Part 5 of this Settlement Agreement, consisting of the Reversionary Amount, the Non-Reversionary Payments, and the Unconditional Individual Amount to be paid to each member of the Settlement Class.
- rr. **“Treatment Charges and Expenses Fund”** means a settlement fund as further described in Part 5 Section 18(b) of the Settlement Agreement, from which any Qualifying Members may claim the actual amount incurred by them for prescriptions, counselling, or other paramedical or medical treatments, including travel costs incurred in order to obtain such services or treatments in connection with a compensable mental injury caused by the Disclosure, up to a maximum of \$500 per person.
- ss. **“Trust Accounts”** means one or more interest bearing trust accounts at a Canadian Schedule 1 bank, to be used for the administration of the settlement as contemplated by this Settlement Agreement, under the control of the Claims Administrator, once appointed.
- tt. **“Unconditional Individual Amount”** means \$40 Canadian dollars.

PART 2 – APPROVAL OF THE SETTLEMENT AGREEMENT

The Approval and Certification Order

2. The Plaintiff shall, as soon as is reasonably possible after the Execution Date, file an application seeking the Approval and Certification Order.
3. The City shall consent to the Approval and Certification Order for the purpose of settlement of the Action and implementation of this Settlement Agreement, without prejudice to the rights of the Defendants to proceed to trial in the event that the Approval and Certification Order is not obtained, or does not become a Final Order, or this Settlement Agreement is otherwise terminated in accordance with its provisions.

Conditions Precedent to the Settlement Agreement

4. It is agreed that it is a Condition Precedent to this Settlement Agreement that the Court shall grant the Approval and Certification Order, on a without costs basis, and that it shall become a Final Order, and that such order shall:
 - a. define the Settlement Class;
 - b. certify the Proposed Class Proceeding pursuant to the *Class Proceedings Act*, S.A. 2003, c. C-16.5, solely for the purpose of settlement, so that all members of the Settlement Class will be bound by this Agreement as Plaintiffs in the Action to be certified by such Order;
 - c. approve and give full effect to this Settlement Agreement; and
 - d. prohibit the Settlement Class, and each member of it, now and hereafter, from instituting, continuing, maintaining, or asserting either directly or indirectly, whether in Alberta or elsewhere, on their own behalf or on behalf of any class or other person or entity, any action, suit, cause of action, claim or demand against the Releasees or any of them, or any other person or entity who may claim indemnity or other claims over relief, from the Releasees or any of them in respect of any Released Claim or any matter related thereto.

PART 3 – NOTICE TO THE CLASS

Notice of Application for Approval and Certification Order

5. The Representative Plaintiff and the City hereby agree to the form, contents and method of dissemination of the Hearing Notice, substantially in the form attached hereto as Exhibit “B”, and the Notice Plan, attached hereto as Exhibit “C”, subject to the issuance of the Notice Approval Order, which shall be sought by way of a case management conference after the Execution Date.
6. The Representative Plaintiff and the City agree to request that a case management conference be scheduled for this purpose as soon as is reasonably practicable after the Execution Date.
7. The Representative Plaintiff shall make his best efforts to set a case management conference for this purpose within a reasonable time after this Settlement Agreement is executed, and in any event no later than December 31, 2020.

Notice of Approval and Certification Order

8. The Representative Plaintiff and the City hereby agree to the form, contents and method of dissemination of the Approval Notice, substantially in the form attached hereto as Exhibit “E” and as set out in the Notice Plan attached hereto as Exhibit “C”.
9. The Representative Plaintiff and the City agree to issue the Approval Notice in accordance with the Notice Plan or any terms and conditions to be set by the Court.

Notice of Termination

10. If this Settlement Agreement is terminated in accordance with Part 13 of the Settlement Agreement, after the Approval and Certification Order has been granted, then a Notice of Termination will be given to the Settlement Class.
11. The City shall bear the cost of issuing the Hearing Notice, Approval Notice and Notice of Termination in accordance with the Notice Plan, with the exception of any out-of-pocket costs incurred for postage for notices which the City is not able to send by email, which postage expenses shall be reimbursed to the City as Claims Administration Costs, in accordance with the Distribution Protocol in Part 9 of this Settlement Agreement.

PART 4 – CONDITIONS PRECEDENT PRIOR TO SEEKING JUDICIAL APPROVAL

Approval and Resolution of Health Care Claims

12. The Representative Plaintiff shall assume sole responsibility for negotiating and concluding with the Province of Alberta the resolution of all statutory claims for Health Care Costs.
13. It is a Condition Precedent which must be met prior to the filing of any application seeking the Approval and Certification Order that the Representative Plaintiff obtain the requisite consents or approvals to resolve all Alberta statutory claims for Health Care Costs.
- 13.1 The Representative Plaintiff and the City acknowledge and agree that the Conditions Precedent in this Part 4 have been satisfied.

PART 5 - THE SETTLEMENT BENEFITS

14. It is agreed that the City shall have no obligation to make any payments pursuant to this Part 5 of the Settlement Agreement until such time as the Class Counsel Fee Order has become a Final Order and the Effective Date has occurred.

Payment by the City – Unconditional Individual Amount

15. The City shall pay to each living member of the Settlement Class, within 90 days after the Effective Date, the Unconditional Individual Amount, less any court ordered deductions from the Unconditional Individual Amount for payment of Class Counsel Fees, in whole or in part, which amount shall be distributed to the Settlement Class in accordance with the Distribution Protocol.
16. The Unconditional Individual Amount, less any court ordered deductions from the Unconditional Individual Amount for payment of Class Counsel Fees, shall constitute full and final compensation for each Settlement Class member's time, inconvenience, upset, anger and annoyance arising as a result of the Disclosure.
17. The Unconditional Individual Amount, net of any court ordered deductions, shall be paid by the City to each living member of the Settlement Class without need for proof of any damage or loss to be submitted by the members of the Settlement Class.

Payment by the City – Reversionary Funds

18. Within 90 days after the Effective Date, the City shall pay the Reversionary Amount of \$106,000 into a Trust Account with the Claims Administrator for the benefit of the Settlement Class and the City, to create the following Reversionary Funds.
 - a. A “**Provable Mental Injury Fund**” in the amount of \$80,000, from which any Qualifying Members may claim, subject to Section 20 of this Part 5, a maximum amount of \$2,000 per person;
 - b. A “**Treatment Charges and Expenses Fund**” in the amount of \$20,000, from which any Qualifying Members may claim, subject to Section 20 of this Part 5, the actual amount incurred by them for prescriptions, counselling, or other paramedical or medical treatments, including travel costs incurred in order to obtain such services or treatments, up to a maximum amount of \$500 per person; and
 - c. A “**Document Procurements Costs Fund**” in the amount of \$6,000, from which any Qualifying Members may claim, subject to Section 20 of this Part 5, the actual amount incurred by them to obtain medical reports to prove that they are a Qualifying Member, up to a maximum amount of \$150 per person.
19. Members of the Settlement Class may claim compensation from the Reversionary Funds pursuant to Part 7 of this Settlement Agreement, subject to the per person limits of the respective Reversionary Funds, for compensatory damages or loss sustained by them, and any out of pocket costs incurred by them, which are proven, on a balance of probabilities, to have been caused by the Disclosure.
20. To the extent that there are more than 40 Qualifying Members whose claims for compensation from the Reversionary Funds have been approved by the Claims Administrator, and/or the amount of the Reversionary Funds is reduced, pursuant to the Class Counsel Fee Order by payment of Class Counsel Fees, to an amount insufficient to make payments to each Qualifying Member at the maximum per person limits set forth above, the amount available for distribution per person shall be reduced pro-rata from the maximum per person limits set forth above.
21. To the extent that any of the Reversionary Funds remain unused or are not allocated to pay claims of Qualifying Members, any remainder shall be repaid by the Claims Administrator, together with any accrued interest, to the City in accordance with Part 9 Section 55 of this Settlement Agreement.
22. If any portion of the Reversionary Amount is returned to the City pursuant to the provisions of this Settlement Agreement, the taxes payable on the interest portion of the returned amount shall be the responsibility of the City.

Payments by the City – Non-Reversionary Payments

23. Within 60 days after the Effective Date, the City shall make the following additional Non-Reversionary Payments into a Trust Account with the Claims Administrator, which payments are not reversionary to the City:
 - a. Payment in the amount of \$25,000 towards Claims Administration Costs inclusive of GST;

- b. Payment in the amount of \$5,000 towards an honorarium payable to the Representative Plaintiff, if awarded by the Court in any amount.
 - c. Payment in the amount of \$13,880 to be allocated as directed by Class Counsel and as approved by the Court; and
 - d. Payment of that portion of the Settlement Funds designated in the Class Counsel Fee Order that is to be deducted from the Unconditional Individual Amount, if any, and paid to Class Counsel as Class Counsel Fees.
24. To the extent that any of the Non-Reversionary Payments remain unused or are not allocated for the payment of Claims Administration Costs or an honorarium to the Representative Plaintiff, any remainder plus accrued interest, after all payments are made pursuant to the Distribution Protocol, shall be allocated as directed by Class Counsel and as approved by the Court.
25. All taxes payable on any interest which accrues in relation to the Non-Reversionary Payments shall be the responsibility of the Settlement Class and shall be paid by the Claims Administrator from the Trust Account in which the interest accrued.

PART 6 – LEGAL FEES AND DISBURSEMENTS

26. Class Counsel shall bring an application to the Court for determination of Class Counsel Fees, and for directions with respect to allocation of Class Counsel Fees from the Settlement Funds.
27. All amounts awarded on account of Class Counsel Fees shall be paid from the Settlement Funds only after the Effective Date, and in such proportion, manner or priority as the Court may direct. It is understood and agreed that the Defendants shall have no obligation to make any payments towards Class Counsel Fees, in addition to the Settlement Funds.
28. The Releasees shall not be parties to the application concerning the approval of Class Counsel Fees, and will have no involvement in the approval process to determine the amount of Class Counsel Fees. The Releasees will not take any position or make any submissions to the Court concerning the Class Counsel Fees or how such Class Counsel Fees shall be allocated and paid from the Settlement Funds.
29. The approval of this Settlement Agreement shall not be contingent upon the approval of Class Counsel Fees. Any order or proceeding relating to Class Counsel Fees, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Settlement Agreement or affect or delay the finality of the Approval and Certification Order and the resolution of the proceeding provided therein.
30. The procedure for, and the allowance or disallowance by the Court of, any requests for Class Counsel Fees are not part of the settlement provided for herein, and are to be considered by the Court separately from its consideration of the fairness, reasonableness and adequacy of the settlement provided for herein.
31. Settlement Class members who have retained, or do retain lawyers to assist them in the process of making a claim for compensation from the Reversionary Funds, shall bear the responsibility for payment of the legal fees and expenses of such lawyers.

32. Opt-out Individuals who retain separate legal counsel to advance individual claims shall bear the responsibility for payment of their legal fees and disbursements.

PART 7 - QUALIFYING MEMBERS

33. Upon approval of the Approval and Certification Order, an Approval Notice will be issued to all members of the Settlement Class, which shall include directions on how members of the Settlement Class may make claims to the Claims Administrator for compensation from the Reversionary Funds if they have sustained compensable loss or damage caused by the Disclosure.
34. The Claims Administrator shall review and evaluate for approval all claims received from members of the Settlement Class, and shall determine if the members are Qualifying Members.
35. To become a Qualifying Member, members of the Settlement Class must meet all the following Qualification Requirements:
- a. Settlement Class members must provide to the Claims Administrator, prior to the expiry of the Settlement Administration Period, a note or report from a treating medical doctor or psychologist, that includes sufficient information from which the Claims Administrator can determine, on a balance of probabilities:
 - i. that the member suffers from a Condition and its diagnosis;
 - ii. how such Condition impacts the member's physical, mental or emotional capacity and well-being;
 - iii. the Condition was caused in fact by the Disclosure;
 - iv. that the Condition is a serious or prolonged trauma or illness, which rises above the ordinary annoyances, anxiety and fears experienced in daily life, as distinct from minor or transient upset, disgust, anxiety, agitation or other mental states that fall short of injury and shall not qualify for compensation; and
 - v. if the member suffered from the Condition prior to the Disclosure, that the Disclosure caused a deterioration or worsening of such Condition, and that any expenses claimed would not have been incurred but for the Disclosure
36. Qualifying Members are eligible for a payment from the Provable Mental Injury Fund in the maximum amount of \$2,000 per person, or such lesser amount if adjusted pro rata in accordance with Part 9 Section 54 of this Settlement Agreement.
37. The following expenses incurred by a Qualifying Member as a result of a Condition caused by the Disclosure, may be reimbursed from the Treatment Charges and Expenses Fund, up to a maximum per person amount of \$500, or such lesser amount if adjusted pro rata in accordance with Part 9 Section 54 of this Settlement Agreement, if proven to the satisfaction of the Claims Administrator on a balance of probabilities and if such expenses have not otherwise been reimbursed to the Qualifying Member by a third party, including a disability or accident and sickness plan:
- a. Costs of prescribed medication;

- b. Costs of prescribed treatment;
 - c. Costs of attending counselling sessions;
 - d. Travel charges incurred to obtain prescribed medications or treatment.
38. To be eligible for payments from the Treatment Charges and Expense Fund, Qualifying Members, in addition to meeting the Qualification Requirements, must provide to the Claims Administrator, prior to the expiry of the Settlement Administration Period:
- a. a doctor's prescription for any medication, medical services, or paramedical services expenses claimed;
 - b. original, certified, or reasonably verified to the satisfaction of the Claims Administrator, copies of each invoice and/or receipt claimed; and
 - c. written confirmation, signed by the Qualifying Member, that such expenses were not reimbursed by a third party.
39. The following expenses incurred by a Qualifying Member may be reimbursed from the Document Procurement Costs Fund, up to a maximum per person amount of \$150, or such lesser amount if adjusted pro rata in accordance with Part 9 Section 54 of this Settlement Agreement, if proven to the satisfaction of the Claims Administrator on a balance of probabilities:
- a. Costs of obtaining medical reports and/or a doctor's note, for the purpose of applying to the Claims Administrator for payment from the Reversionary Funds.
40. To be eligible for payments from the Document Procurement Costs Fund, Qualifying Members, in addition to meeting the Qualification Requirements, must provide to the Claims Administrator, prior to the expiry of the Settlement Administration Period, original or verified copies of all invoices and receipts.

PART 8 - CLAIMS ADMINISTRATION

41. Class Counsel will retain MNP Ltd. to act as the Claims Administrator, pursuant to the Engagement Letter, which has been approved by Class Counsel and counsel for the City.
42. During the Settlement Administration Period, the Claims Administrator will receive and evaluate claims from members of the Settlement Class to determine:
- a. if the claimants are members of the Settlement Class;
 - b. if the claimants meet all Qualification Requirements and are Qualifying Members;
 - c. the amount of any valid and proven claim by a Qualifying Member for reimbursement from the Reversionary Funds, subject to the per person maximums set out in Part 5 Section 18 of this Settlement Agreement;
 - d. the number of Qualifying Members with claims approved by the Claims Administrator; and

- e. the total dollar amount of all approved claims for each Reversionary Fund, if each is paid in full.
- 42.1 The Claims Administrator may prescribe a claims form to be used by claimants to apply for compensation under the Settlement Agreement.
43. The Claims Administrator will administer and make payments in accordance with the Distribution Protocol from the Reversionary Funds to all Qualifying Members whose claims have been approved by the Claims Administrator. The Claims Administrator will also distribute the Non-Reversionary Payments as the Court may direct.
44. No later than 60 days after the expiry of the Settlement Administration Period, the Claims Administrator will:
- a. issue a final report to Class Counsel and to the City containing an accounting of the claims submitted by members of the Settlement Class during the Settlement Administration Period, identifying which of the submitted claims were approved by it and paid from the Reversionary Funds, the amount of all payments made, and the amount of any remaining balance in the Reversionary Funds;
 - b. refund to the City the balance remaining in the Reversionary Funds after payment of approved claims of all Qualifying Members and Class Counsel Fees; and
 - c. provide a final accounting to Class Counsel of the distribution of all funds received by it pursuant to this Settlement Agreement.
- 44.1 Any information provided, created or obtained by the Claims Administrator during the Settlement Administration Period, whether written or oral, will be kept confidential by the Parties and their counsel, all members of the Settlement Class, and the Claims Administrator, except where provided by law, and will not be used for any purpose other than for administering the Settlement Agreement unless otherwise agreed by the Parties or ordered by the Court.
- 44.2 Subject to the requirements of law, within six months of the completion of the Settlement Administration Period, the Claims Administrator will destroy all information and documentation in its possession received from members of the Settlement Class during the Settlement Administration Period.

PART 9 - DISTRIBUTION PROTOCOL

45. As part of the Class Counsel Fee Order, Class Counsel will seek an order from the Court giving directions on how the Class Counsel Fee shall be allocated and paid from the Settlement Funds.

Payment of the Unconditional Individual Amount

46. If the Class Counsel Fee shall be paid, in whole or in part, from that portion of the Settlement Funds to be used for the payment of the Unconditional Individual Amount, then:
- a. the Unconditional Individual Amount shall be reduced pro-rata by the amount of Class Counsel Fees approved by the Court for payment from the Unconditional Individual Amount; and

- b. the portion of the Unconditional Individual Amount to be used for payment of Class Counsel Fees shall be paid by the City to Class Counsel no later than 90 days from the Effective Date.
- 47. The City shall pay the Unconditional Individual Amount, less any pro rata reduction for payment of Class Counsel Fees as may be required by the Class Counsel Fee Order, to each member of the Settlement Class, in accordance with Part 5 Section 15 of the Settlement Agreement, after the Effective Date and not later than 90 days from the Effective Date, as follows:
 - a. by way of direct deposit, if the member of the Settlement Class is still an employee of the City on the date of payment; or
 - b. by cheque to be sent by regular mail to the last known address on file with the City for such member of the Settlement Class, if the member is not still employed by the City on the date of payment.
- 48. Cheques issued by the City for payment of the Unconditional Amount will become stale dated 6 months after the date of issuance. If members of the Settlement Class have not received and cashed their cheque prior to the cheque becoming stale dated, the City shall have no obligation to re-issue a new cheque.

Payment of an Honorarium to the Representative Plaintiff

- 49. As part of the Approval and Certification Order, Class Counsel will seek an order from the Court approving payment of an honorarium to the Representative Plaintiff in an amount not to exceed \$5,000.
- 50. If the Court orders an honorarium payment to be made to the Representative Plaintiff, the Claims Administrator, will pay to the Representative Plaintiff from the Trust Account holding the Non-Reversionary Payments, the amount of the approved honorarium.
- 51. Such payment shall be made by the Claims Administrator, after the Effective Date and not later than 30 days after its receipt of the Non-Reversionary Payments from the City.

Payment of Claims From The Reversionary Funds

- 52. If the Class Counsel Fee Order requires that the Class Counsel Fee shall be paid, in whole or in part, from the Reversionary Amount, then the total amount available for distribution to members of the Settlement Class from the Reversionary Funds shall be reduced by the amount of Class Counsel Fee directed by the Court to be paid from the Reversionary Amount, and the remaining amount will be available for payment of claims of Qualifying Members approved by the Claims Administrator.
- 53. If there are sufficient available funds in the Reversionary Funds, after any reduction as may be required by the Class Counsel Fee Order, to pay out in full the amount of each Qualifying Member's claim approved by the Claims Administrator, then the Claims Administrator shall

pay all approved Claims in full from the remaining Reversionary Funds held in the Trust Account.

54. If there are not sufficient available funds in the Reversionary Funds, after any reduction as may be required by the Class Counsel Fee Order, to pay out in full the amount of each Qualifying Member's claim approved by the Claims Administrator, then approved claims of Qualifying Members shall be reduced pro-rata, such that each Qualifying Member's approved claim is reduced by an equivalent percentage to account for any shortfall, and the Claims Administrator shall pay the reduced amount of all approved claims from the remaining Reversionary Funds held in the Trust Account.
55. If, after payment of any Class Counsel Fees as may be directed by the Class Counsel Fee Order, and after payment of all approved claims by Qualifying Members, there are any funds remaining in the Reversionary Funds, the balance remaining in the Reversionary Funds shall be repaid by the Claims Administrator to the City.
56. All payments to be made by the Claims Administrator from the Reversionary Funds pursuant to this Distribution Protocol shall be paid after the Effective Date, and not later than 60 days after the expiry of the Settlement Administration Period, without the need for any further order from the Court.

Payment of Class Counsel Fee

57. To the extent that the Class Counsel Fee Order directs that some or all of Class Counsel Fees shall be paid from the Reversionary Amount or Non-Reversionary Payments, the Claims Administrator shall pay such Class Counsel Fees to Class Counsel as directed by that Order from the Trust Accounts.
58. Class Counsel Fees shall be paid after the Effective Date as and when directed by the Class Counsel Fee Order.

Payment of Claims Administration Costs

59. The Claims Administrator shall issue to Class Counsel invoices for services provided. Class Counsel will advise the Claims Administrator within 10 days of receipt of the Claims Administrator's invoice whether the invoice is approved for payment.
60. The City shall issue to the Claims Administrator a receipt for postage expenses incurred by it pursuant to Part 3 Section 11. The Claims Administrator shall reimburse the City for such expenses as Claims Administration Costs in accordance with this Part.
61. The Claims Administrator shall pay all Claims Administration Costs, including the Claims Administrator's invoices approved by Class Counsel, from the Trust Account holding the Non-Reversionary Payment made pursuant to Part 5, Subsection 23(a). If the total Claims Administration Costs shall exceed \$25,000, then such excess Claims Administration Costs shall be paid from the Settlement Funds, firstly from the Trust Account holding the Non-Reversionary Payment made pursuant to Part 5, Subsection 23(c). All Claims Administration Costs shall be paid by the Claims Administrator within 60 days of Class Counsel's approval of the Claims Administrator's invoices or request for reimbursement from the City pursuant to this Part.

- 61.1 If there is any dispute between Class Counsel and the Claims Administrator with respect to the payment of Claims Administration Costs, either may seek directions from the Court.

PART 10 – OPTING OUT

62. Any person who is a member of the Proposed Class has the right to opt-out of the Action and Proposed Class Proceeding.

- 62.1 As a term of the Notice Approval Order or the Approval and Certification Order, the Court will determine the Opt-out Deadline and process for members of the Proposed Class to opt-out of and be excluded from the Proposed Class Proceeding and the Action. Notice of the Opt-out Deadline and process for opting out will be set out in the Hearing Approval Notice or the Approval Notice as the Court may direct.

63. Any person who elects to opt-out of the Action and Proposed Class Proceeding must complete and submit to Class Counsel the Opt-out Form, which must be received by Class Counsel on or before the Opt-Out Deadline. If the completed Opt-out Form is sent but is either not received by Class Counsel, or is unintentionally delayed in delivery to Class Counsel, Class Counsel will be deemed to have received the completed Opt-out Form four business days after the date the request was mailed or sent.

64. Requests to opt-out shall be sent to Class Counsel at an address to be identified in the Hearing Notice.

65. Each request to opt-out must disclose the following information:

- a. Name, address, email address and phone number of the person requesting to opt-out of and be excluded from the Settlement Class and from participation in the Proposed Class Proceeding;
 - b. If the person seeking to opt-out is a minor, the name of the parent or guardian acting on that person's behalf;
 - c. The following statement: "The undersigned (on behalf of the above minor, if applicable) hereby requests exclusion from the Settlement Class and from the Action and Proposed Class Proceeding."
 - d. The signature of the person seeking to opt-out of the Proposed Class Proceeding, or if the person seeking to opt-out is a minor, the signature of the person's parent or guardian.
66. Any person who validly opts-out in accordance with this Part shall be excluded from the Settlement Class, the Action and the Proposed Class Proceeding, shall have no rights with respect to this Settlement Agreement, and shall not be bound by this Settlement Agreement.
67. Any person who falls within the Proposed Class, and who has not validly opted-out of the Action and Proposed Class Proceeding in accordance with this Settlement Agreement and any orders of the Court, shall be deemed to have elected to participate in this Settlement Agreement

and in the Proposed Class Proceeding, and shall be for all purposes a member of the Settlement Class for the duration of the Action.

68. Class Counsel shall forward to the Claims Administrator and to counsel for the City copies of all opt-out requests received within 10 days of the expiration of the Opt-Out Deadline.

PART 11 – RELEASE OF RELEASEES

69. Upon the Effective Date, and for the consideration provided in this Settlement Agreement, the Representative Plaintiff and each member of the Settlement Class, will and does HEREBY FULLY AND FINALLY REMISE, RELEASE, RELINQUISH, ACQUIT AND FOREVER DISCHARGE the Releasees and each of them, of and from the Released Claims, and shall not now or hereafter institute, maintain, or assert, on their own behalf, on behalf of the Settlement Class, or on behalf of any other person or entity, any Released Claims.
70. Without limiting any other provision herein, upon the Effective Date, each member of the Settlement Class, whether or not he or she submits a claim for compensation from the Reversionary Funds to the Claims Administrator, will be deemed by the Settlement Agreement completely and unconditionally to have fully and finally remised, released and forever discharged the Releasees, and each of them, of and from any and all of the Released Claims.
71. From and after the Effective Date, the Representative Plaintiff and each member of the Settlement Class, whether or not he or she submits a claim for compensation from the Reversionary Funds to the Claims Administrator, shall be forever barred and enjoined from commencing, maintaining, pursuing, continuing, instituting, prosecuting, assigning or asserting, on their own behalf or on behalf of any other person or entity, any action, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal proceeding, governmental or administrative forum, or any other forum, directly, representatively, or derivatively, any Released Claims against the Releasees or any of them.
72. The Representative Plaintiff agrees that he will not, in any manner whatsoever, at any time hereafter, commence, maintain, pursue, continue, assign or assert, on his own behalf or on behalf of any members of the Settlement Class or any other person or entity, any Released Claims against the Releasees or any of them, or any further legal action or proceeding related to the Action (including the Proposed Class Proceeding) against any non-party to this Settlement Agreement that could claim contribution or indemnity from the Releasees or any of them. In the event the Representative Plaintiff or any member of the Settlement Class breaches this term, then such person shall waive, forego, and not pursue such claims and shall consent to an Order of the Court or any other court as may be applicable, striking out any such action or pleadings and shall completely and fully indemnify and save harmless the Releasees in respect of all claims, damages, awards, judgments and costs in respect of such action or pleading, including the solicitor and his own client costs of the Releasees.

PART 12 – NO ADMISSION OF LIABILITY

73. The Representative Plaintiff and the City agree that, whether or not this Settlement Agreement is finally approved, that this Settlement Agreement and anything contained herein, and all negotiations, documents, discussions, and the proceeding 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 wrongdoing or liability by the Releasees or any of them, or of the truth of any of the claims or

allegations made in the Action or Proposed Class Proceeding, or in any other pleading filed by the Representative Plaintiff.

74. The Representative Plaintiff and the City further agree that, whether or not this Settlement Agreement is finally approved, neither this Settlement Agreement nor any document relating to it shall be offered in evidence in any action or proceeding in any court, agency or tribunal, except to seek Court approval of this Settlement Agreement, to give effect to and enforce the provisions of this Settlement Agreement, or as otherwise required by law.

PART 13 – TERMINATION

75. If any of the following events occur, then the Representative Plaintiff and the City will each have the option to unilaterally terminate this Settlement Agreement, which option shall be exercised by giving notice in writing to the other party within 10 days of such event having occurred, or within such other time as may be agreed upon by the Representative Plaintiff and the City:

- a. if any of the Conditions Precedent to the Settlement Agreement set out in Part 2 are not met;
- b. if any of the Conditions Precedent Prior to Seeking Settlement Approval set out in Part 4 of the Settlement Agreement are not met;
- c. if the Court does not approve the Settlement Agreement as being “fair and reasonable”;
- d. if the Approval and Certification Order is not granted, or if it is granted but on terms materially inconsistent with the terms of this Settlement Agreement, provided that any order, ruling or determination made by any court with respect to the opt-out process or Class Counsel Fees shall not provide any basis for the termination of this Settlement Agreement; or
- e. if the Approval and Certification Order fails to become a Final Order.

76. In the event the Settlement Agreement is terminated in accordance with this part:

- a. The Settlement Agreement shall be null and void, of no force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation; and
- b. A Notice of Termination will be distributed to the Settlement Class in accordance with the Notice Plan within 30 days of any such termination being effective, or such other period as may be agreed between the Representative Plaintiff and the City.

PART 14 – COMPUTATION OF TIME

77. For the computation of time for the purpose of the Settlement Agreement, except where a contrary intention appears, time shall be computed in accordance with the rules set out in section 22 of the *Interpretation Act*, RSA 2000, c. I-8, as if the Settlement Agreement were an enactment, and the definitions contained in the Interpretation Act applicable to section 22 shall apply.

PART 15 – REPRESENTATIONS

78. The Representative Plaintiff warrants and represents that he and the members of the Proposed Class are entitled to receive any settlement payments pursuant to the terms of this Settlement Agreement, and he has not assigned, and nor is he aware that any member of the Proposed Class has assigned the right to receive such payments, nor the corresponding right of action, to any person, firm, or corporation who might claim against the Defendants or otherwise.
79. The Representative Plaintiff represents and warrants that there are no other legal proceedings commenced by or on his behalf, or on behalf of the Proposed Class, in any legal jurisdiction, connected with or related to the allegations in the Action (including in the Proposed Class Proceeding) where the Defendants or either of them are named as a party or where there are any allegations made, related to or connected with the matters alleged in the Action (including the Proposed Class Proceeding).
80. 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.

PART 16 – ADDRESS FOR DELIVERY

81. Where this Settlement Agreement requires a party to provide notice or any other communication or document to another, such notice, communication, or document shall be provided by email, facsimile or letter by overnight delivery, to the representatives for the party to whom notice is being provided, as identified below:

For Representative Plaintiff and for Class Counsel:

Higgerty Law
 Millennium Tower, Main Floor
 101, 440 – 2nd Avenue SW
 Calgary, AB T2P 5E9
 Attention: Patrick B. Higgerty, QC

Tel: 1-888-699-7826
 Fax: 1-587-316-2260
 Email: info@higgertylaw.ca

For the City:

Dolden Wallace Folick LLP
 18th Floor, 609 Granville Street
 Vancouver, BC V7Y 1G5
 Attention: Eric A. Dolden and Jill M. Shore

Tel: 1-604-689-3222
 Fax: 1-604-689-3777
 Email: edolden@dolden.com; jshore@dolden.com

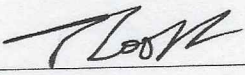
PART 17 - GENERAL PROVISIONS

82. The terms of this Settlement Agreement shall forthwith be disclosed by the Representative Plaintiff to the Court following execution of this Settlement Agreement by the City and the Representative Plaintiff.
83. It is acknowledged and agreed between the Representative Plaintiff and the City that the consideration for this Settlement Agreement and the terms of this Settlement Agreement fully and fairly resolve all claims, legal contest and legal controversy as between the Representative Plaintiff and the Defendants in relation to the Action, and as between the Proposed Class and the Defendants in the Proposed Class Proceeding.
84. The parties to this Settlement Agreement shall use their best efforts to effectuate this Settlement Agreement and forthwith obtain all orders of the Court contemplated in this Settlement Agreement.
85. Nothing in this Settlement Agreement shall be deemed to waive any solicitor and client, litigation, or common interest privilege of the Defendants.
86. The parties to this Settlement Agreement shall execute all other documents as may be necessary to accomplish the objectives of this Settlement Agreement.
87. Once the Settlement Agreement is approved by the Court and the Approval and Certification Order becomes a Final Order, this Settlement Agreement, including the Exhibits hereto, shall be binding upon and inure to the benefit of, the Representative Plaintiff, members of the Settlement Class, the City, the Releasees, Class Counsel, and the Claims Administrator.
88. The Representative Plaintiff and the City each acknowledge that they voluntarily accept this Settlement Agreement and have had the opportunity to seek and obtain independent legal advice with respect to the matters addressed in this Settlement Agreement, that the terms of the Settlement Agreement have been fully explained to them by their counsel, and that they fully understand this Settlement Agreement and the terms of settlement contained in it.
89. This Settlement Agreement has been the subject of negotiations and discussions between the Representative Plaintiff and the City, each of which has been represented and advised by competent legal counsel. The parties hereto agree that that no provisions shall be construed against the drafter, and any statute, case law or rule of interpretation or construction that might cause a provision to be construed against the drafter of this Settlement Agreement shall have no force or effect. The parties hereto further agree that the language used or not used in any previous draft of this Settlement Agreement, or any prior agreement in principle or term sheet or document related thereto, shall have no bearing upon the proper interpretation of the Settlement Agreement.
90. The Representative Plaintiff and the City each acknowledge that this Settlement Agreement, including the Exhibits hereto, constitutes the entire agreement between them, and supersedes any and all prior and contemporaneous understandings, undertakings, negotiations, representations, communications, promises, agreements, agreements in principle, term sheets, and memoranda of understanding in connection herewith, and that there are not, nor have they relied upon, any representations, collateral agreements, warranties or other agreements whatsoever between them other than as set out herein.

91. The parties hereto further agree that there shall be no amendments to this Settlement Agreement unless they are in writing and executed by all parties hereto and, if necessary, approved by the Court.
92. The representations and warranties contained in this Settlement Agreement shall survive its execution and implementation.
93. The parties agree that the preamble and recitals hereto form part of this Settlement Agreement, the recitals are true, and that the terms hereof are contractual and not mere recitals.
94. In this Settlement Agreement:
- a. The division of the 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 “Settlement Agreement”, “hereof”, “hereunder”, “herein”, “hereto” and similar expressions refer to this Settlement Agreement as a whole, and not to any particular section or portion of the Settlement Agreement.
95. This Settlement Agreement shall be governed by and construed in accordance with the laws of Alberta. The Representative Plaintiff, on his own behalf and on behalf of the Proposed Class, and the City, irrevocably attorn to the jurisdiction of the courts of Alberta, and agree that the courts of Alberta have and shall retain exclusive jurisdiction in the resolution of any legal disputes arising from or in connection with this Settlement Agreement, including any disputes regarding the interpretation, implementation, enforcement or breach of this Settlement Agreement.
96. This Settlement Agreement may be executed by facsimile or email, and a facsimile or electronic signature shall be deemed an original signature for the purposes of executing this Settlement Agreement. This Settlement Agreement may be delivered and is fully enforceable in original, faxed or other electronic form provided that it is duly executed.
97. This Settlement Agreement may be executed in counterparts, and the counterpart execution pages together will be deemed to constitute one and the same document, and shall constitute this Settlement Agreement.

THEREFORE the parties hereto have executed this Agreement as of the date first written above.

**Terrance Cook, as proposed Representative
Plaintiff**

Per: 
Terrence Cook


Witness

Authorized Signatory of The City of Calgary

Per: _____

Witness

Name: _____

Title: _____

**Terrance Cook, as proposed Representative
Plaintiff**

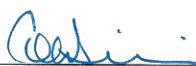
Per: _____
Terrence Cook

Witness

Authorized Signatory of The City of Calgary

Per: 

Name: DAVID LEWIS
Title: Manager of Litigation


Witness

AFFIDAVIT OF EXECUTION

CANADA)	I, _____, of the City
PROVINCE OF ALBERTA)	of Calgary in the Province of
TO WIT:)	Alberta, MAKE OATH AND SAY:

1. THAT I was present by video conference and did thereby see _____ named in the annexed instrument (the "Client"), who is known to me to be the person named therein, duly sign and execute the same in hard copy or the purpose named therein.

2. THAT the instrument was executed by the Client at the City of Calgary, in the Province of Alberta, and that I am the subscribing witness thereto.

3. THAT I know the Client based on the identification she/he presented to me and she/he is in my belief is of the full age of 18 years.

SWORN BEFORE ME at the City)
of Calgary, in the Province)
of Alberta on the ____ day of)
_____, 2020)
)
_____)
Commissioner for Oaths in _____)
and for the Province of Alberta)

AFFIDAVIT OF EXECUTION

CANADA)	I, Maria Serrano , of the City
PROVINCE OF ALBERTA)	of Calgary in the Province of
TO WIT:)	Alberta, MAKE OATH AND SAY:

1. THAT I was present by video conference and did thereby see Terrance Cook named in the annexed instrument (the "Client"), who is known to me to be the person named therein, duly sign and execute the same in hard copy for the purpose named therein.
2. THAT I know the Client based on the identification she/he presented to me and she/he is in my belief is of the full age of 18 years.
3. I was not physically present during the commissioning of this Affidavit because I believed that it would be medically unsafe for me to do so as a result of the coronavirus pandemic. Consequently, I swear that:
 - a. I was linked with the Commissioner of Oaths of this Affidavit by way of video technology during the commissioning;
 - b. I showed the Commissioner of Oaths the front and back of my government issued identification (driver's license);
 - c. I had a paper copy of this Affidavit, including Exhibits, before me at the time of commissioning. We reviewed each page of this Affidavit and Exhibits to verify that we had identical copies. I then initialed each page of the Affidavit and Exhibits in the lower right corner;
 - d. The Commissioner of Oaths administered the oath, and I affirmed the truth of the facts contained in this Affidavit; and
 - e. I sent an electronic copy of my sworn Affidavit and Exhibits to the Commissioner of Oaths.

SWORN BEFORE ME at the City
of Calgary, in the Province
of Alberta on the 01 day of
June, 2020

Cate Poulin
Commissioner for Oaths in
and for the Province of Alberta

Catherine Poulin
A Commissioner for Oaths
In and for Alberta

My Commission Expires September 18, 2022

Maria Serrano

CERTIFICATE OF COMMISSIONER FOR OATHS

I, Catherine Poulin, Commissioner for Oaths in and for the Province of Alberta, confirm that:

- a. I commissioned this Affidavit following the procedure for remote commissioning of Oaths as outlined by the Court of Queen's Bench in Notice to the Profession & Public: Remote Commissioning of Affidavits for Use in Civil and Family Proceedings during the COVID-19 Pandemic, dated March 25, 2020.
- b. I am satisfied that this process was necessary because it was unsafe for medical reasons for the deponent and me to be physically present at the time of commissioning.



A Commissioner for Oaths in and for
the Province of Alberta

Catherine Poulin

A Commissioner for Oaths

In and for Alberta

My Commission Expires September 18, 2022

EXHIBIT A

COURT FILE NUMBER	1701-13074
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	TERRANCE COOK as proposed REPRESENTATIVE PLAINTIFF
DEFENDANTS	THE CITY OF CALGARY and JOHN DOE
DOCUMENT	NOTICE APPROVAL ORDER
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Higgerty Law Attention: Patrick B. Higgerty, QC Main Floor, Millennium Tower 101, 440 - 2 nd Ave SW Calgary, AB T2P 5E9 Ph: 403-503-8888 Fax: 587-316-2260

DATE ON WHICH ORDER WAS PRONOUNCED:

LOCATION OF HEARING OR TRIAL: Calgary, Alberta

NAME OF JUDGE WHO MADE THIS ORDER: **Mr. Justice J. Rooke**

UPON THE consent of counsel for the parties and hearing their representations, as contemplated by the Settlement Agreement between the parties dated ***, 2020 (the "Settlement Agreement");

IT IS ORDERED THAT:

1. An Application to approve the settlement and certify this Action as a class proceeding will be heard on ****, 2020 at ** am at the Calgary Courts Centre.
2. The Hearing Notice [and Opt-out Form] is/are approved substantially in the same form and content as attached in Exhibit "B" of the Settlement Agreement. [The procedure for

members of the Proposed Class to opt out of and be excluded from the Settlement Class, the Proposed Class Proceeding and the Action shall be as set out in the Hearing Notice.]

3. Counsel for the Plaintiff shall promptly post the Hearing Notice [and the Opt-Out Form] on its website.
4. By ****, 2020, the City of Calgary (the "City") will issue the Hearing Notice substantially in the same manner set out in the Notice Plan which shall form and constitute part of this Order and which is attached as Exhibit "C" of Settlement Agreement.
5. The City shall bear the cost of issuing the Hearing Notice in accordance with the Notice Plan, with the exception of any out-of-pocket costs it incurs for postage for such issuances the City is not able to do by email and are mailed. Such postage expenses will be reimbursed by the Claims Administrator, if and when appointed, from Claims Administration Costs pursuant to sections 11, 60 and 61 of the Settlement Agreement.
6. If the Settlement Agreement is terminated pursuant to Part 13 thereof the City will issue the Notice of Termination substantially in the same manner set out in the Notice Plan within 30 days of any such termination being effective, or such other period as may be agreed between the Representative Plaintiff and the City.
7. All capitalized groups of words in this Order which are defined in the Settlement Agreement have the same definition in this Order.
8. This Order is granted without costs to either party.

Exhibit B

HEARING NOTICE

City of Calgary Privacy Breach Class Action

Were you an employee of the City of Calgary whose personal information was included in the unauthorized disclosure which occurred on June 14 and 15, 2016 as a result of certain actions by John Doe, then an employee of the City of Calgary?

This notice may affect your legal rights. Please read it carefully.

A class action has been commenced against the City of Calgary (the “City”) and John Doe (the “Defendants”) on behalf of the following proposed Class (the “Proposed Class”):

All those persons resident in Alberta and throughout Canada and abroad, who were one of the approximately 3716 persons employed by the City of Calgary and whose personal information was included in the unauthorized disclosure of such personal information, which occurred on or about June 14 and 15, 2016 as a result of certain actions by John Doe, then an employee of the City of Calgary (the “Privacy Breach”) excluding all deceased persons and members of the Proposed Class who have Opted-Out.

The City, while not admitting liability, has agreed to a conditional settlement of this lawsuit subject to court approval and certification of the Action, on terms as set out in a settlement agreement dated May 8, 2020, a copy of which is available for viewing on www.higgertylaw.ca (the “Settlement Agreement”). All capitalized groups of words in this Hearing Notice which are defined in the Settlement Agreement have the same definition in this Hearing Notice.

If you are a member of the Proposed Class, **you will automatically be included** in this class action and are not required to take any further steps at this stage.

The Terms of the Proposed Settlement

Under the Settlement Agreement, members of the Settlement Class will be entitled to payment of the following amounts by the City.

- Each member of the Settlement Class will be paid \$40 as compensation for time spent, inconvenience, upset, anger, and annoyance, less any court ordered deductions from this amount for payment of Class Counsel Fees, in whole or in part.

In addition, subject to the terms of the Settlement Agreement, Qualifying Members of the Settlement Class may claim entitlement to the following further payments if they can prove to

the satisfaction of the Claims Administrator that such member has met all of the Qualification Requirements and has incurred the claimed expenses:

- Up to \$2,000 per person in compensation for general damages for pain and suffering as a result of a compensable mental injury caused by the Disclosure;
- Up to \$500 per person for provable otherwise unreimbursed prescription and/or counselling, and related travel expenses incurred; and
- Up to \$150 per person for provable otherwise unreimbursed costs for documentation to substantiate mental injury.

The above amounts are subject to caps, and may be reduced pro-rata in accordance with the Settlement Agreement if those caps are exceeded. In addition, the above amounts may be reduced pro-rata due to payment of Class Counsel Fees as may be directed by the Court.

Further, the City will pay:

- \$25,000 would be allocated for Claims Administration Costs;
- Up to \$5,000 as an Honorarium for the Representative Plaintiff, if awarded by the Court;
- \$13,880 to be allocated as determined in the proceeding.

Class Counsel Fees would be paid out of the Settlement Fund, in an amount to be determined by the Court, with compensation to members of the Settlement Class adjusted accordingly.

A copy of the Settlement Agreement can be found on Class Counsel's website (higgertylaw.ca).

[[Your Right to Opt-Out of the Settlement]

Any person who is a member of the Proposed Class has the right to opt-out of the Action and Proposed Class Proceeding.

Any person who elects to opt-out of the Proposed Class Proceeding must complete and submit by mail, receipted email or delivery to Class Counsel at the below address, a written request to opt-out using the Opt-Out Form attached to this Hearing Notice. The Opt-Out Form must be received by Class Counsel prior to 4:30 pm Mountain Time on *[insert date]*, which shall be the Opt-Out Deadline. If for any reason an Opt-Out Form is sent but not received by Class Counsel, or is unintentionally delayed in delivery to Class Counsel, Class Counsel will be deemed to have received the Opt-Out Form four business days after the date on which it was mailed or sent.

Requests to opt-out shall be sent to Class Counsel at the email or mailing address specified below.

Each request to opt-out must disclose the following information:

- a. Name, address, email address and phone number of the person seeking to opt-out of the Proposed Class Action and Settlement;
- b. If the person seeking to opt-out is a minor, the name of the parent or guardian acting on that person's behalf;

- c. The following statement: “The undersigned (on behalf of the above minor, if applicable) hereby requests exclusion from the Settlement Class and from the Action and Proposed Class Proceeding.”
- d. The signature of the person seeking to opt-out of the Proposed Class Proceeding, or if the person seeking to opt-out is a minor, the signature of the person’s parent or guardian.

Any person who validly opts-out shall be excluded from the Settlement Class and the Action, including the Proposed Class Proceeding, shall have no rights with respect to the Settlement Agreement, and shall not be bound by it.

Any person who falls within the Proposed Class, and who has not validly opted-out of the Proposed Class Proceeding, shall be deemed to have elected to participate in the Settlement Agreement and in the Proposed Class Proceeding, and shall be for all purposes a member of the Settlement Class for the duration of the Action.]

[ANY JUDGMENT OBTAINED ON THE COMMON ISSUES FOR THE PROPOSED CLASS, WHETHER REACHED BY SETTLEMENT OR NOT, WHETHER FAVOURABLE OR NOT, WILL BIND ALL CLASS MEMBERS WHO DO NOT OPT OUT OF THIS ACTION.]

The Approval and Certification Hearing and Your Right to Participate

An Application to approve the settlement and certify this Action as a class proceeding is scheduled to be heard on ***, 2020 at ** am at the Court of Queen’s Bench of Alberta in Calgary, Alberta at 601 5 St SW. Class Counsel will also seek to confirm their appointment as Class Counsel and ask the Court to approve an award of fees and disbursements for their work in achieving the settlement.

If you agree with the proposed settlement and wish to participate in it, you do not have to do anything at this time. If the Court approves the settlement, a notice will be published setting out the procedures for submitting a claim.

If you disagree with the proposed settlement, you have the right to object. To object, you must deliver a letter to Class Counsel by ***, 2020 or appear in person at the hearing to oppose the approval of the settlement and certification of the Action. Your letter must include your name, contact information, and a brief statement of the nature and reasons for your objection.

What are the Financial Consequences?

No class member, other than the Representative Plaintiff, will be liable for costs.

Class Counsel has entered into an agreement with the Representative Plaintiff with respect to legal fees and disbursements. This agreement provides that counsel will not receive payment for their work unless and until the class action is successful or monies are recovered from the Defendants. The agreement must be approved by the Court.

**FOR MORE INFORMATION, TO MAKE INQUIRIES ABOUT AND/OR TO OPT OUT
OF THIS ACTION, PLEASE CONTACT CLASS COUNSEL AT:**

HIGGERTY LAW

Attention: Patrick Higgerty, Q.C.

Suite 101, 440-2nd Avenue S.W.,

Calgary, AB T2P 5E9

Tel: 403-503-8888 Fax: 587-316-2260

Email: info@higgertylaw.ca

For further information go to www.higgertylaw.ca

Schedule A to Exhibit B

OPT OUT FORM

City of Calgary Privacy Breach Class Action
(*Terrance Cook v City of Calgary*, Court File No.:)

This is not a Claim Form. Submitting this form excludes you from participation in the class action and the proposed settlement of the class action. Do not use this form if you wish to receive compensation under the proposed settlement.

You only need to file an Opt-Out Form if you wish to retain the right to pursue an individual action. If you do not wish to pursue an individual action and do not wish to file a claim for compensation under the settlement, you do not need to complete this form.

The following member of the Proposed Class is requesting to opt-out of and be excluded from the Settlement Class, and from participation in the Action and Proposed Class Proceeding:

Name:

Current Address:

Email Address:

Phone number:

Date of Birth:

If the above person is a minor, the name of the parent or guardian acting on that person's behalf:

The undersigned (on behalf of the above minor, if applicable) hereby requests exclusion from the Settlement Class and from the Action and Proposed Class Proceeding.

Date: _____ Signature: _____

Print name of Signatory: _____

To opt-out of the Class Action, you must sign and deliver this form to Class Counsel at the address below received or postmarked no later than *****, 2020:

HIGGERTY LAW

Attention: Patrick Higgerty, Q.C.

Suite 101, 440-2nd Avenue S.W.,

Calgary, AB T2P 5E9

Tel: 403-503-8888 Fax: 587-316-2260

Email: info@higgertylaw.ca

For further information go to www.higgertylaw.ca

EXHIBIT C

Terrence Cook v City of Calgary Class Action (the “Class Action”)

NOTICE PLAN PURSUANT TO THE NOTICE APPROVAL ORDER PRONOUNCED ON X, 2020 (the “Notice Approval Order”), attached as exhibit “C” to Settlement Agreement dated May 8, 2020 (the “Settlement Agreement”)

This Notice Plan will apply to the following notices provided for in the Settlement Agreement, namely: the Notice of Termination; the Hearing Notice; and, if that relief is granted, the Approval Notice (collectively the “Notices”).

1. Class Counsel will provide the Notices by email, or by mail if no email address is available, to all members of the Proposed Class who are clients of Class Counsel in relation to this Action.
2. For potential members of the Proposed Class for whom the City of Calgary (the “City”) has an email address, the City will email them the Notices directly at their respective email addresses contained in the City’s records.
3. For potential members of the Proposed Class for whom the City does not have their current email addresses, the City will mail them the Notices directly at their respective last mailing addresses known to the City.
4. The Notices will be promptly published on the class counsel’s website at www.higgertylaw.ca;
5. Any other methods and the timing for issuance of the Notices shall be as stipulated by order(s) of the Court.
6. Subject to Court approval, the cost of issuing the Notices shall be paid as specified in the Settlement Agreement.
7. All capitalized groups of words in this Plan which are defined in the Settlement Agreement or in the Notice Approval Order have the same definition in this Plan.

EXHIBIT D

COURT FILE NUMBER	1701-13074
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	TERRANCE COOK as proposed REPRESENTATIVE PLAINTIFF
DEFENDANTS	THE CITY OF CALGARY and JOHN DOE
DOCUMENT	APPROVAL AND CERTIFICATION ORDER
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Higgerty Law Attention: Patrick B. Higgerty, QC Main Floor, Millennium Tower 101, 440 - 2 nd Ave SW Calgary, AB T2P 5E9 Ph: 403-503-8888 Fax: 587-316-2260

DATE ON WHICH ORDER WAS PRONOUNCED:

LOCATION OF HEARING OR TRIAL: Calgary, Alberta

NAME OF JUDGE WHO MADE THIS ORDER: **Mr. Justice J. Rooke, ACJ**

UPON THE APPLICATION of the Plaintiff and the Defendant City of Calgary ("City") on a consent basis, and on hearing the submissions from counsel for the Plaintiff and counsel for the City; and on reading the pleadings and materials filed, and on being advised that the Plaintiff and the Defendant City have entered into a settlement agreement, a copy of which is attached as **Schedule "A"** (the "Settlement Agreement"); and on being advised that the Plaintiff and the Defendant City consent to this Order;

THIS COURT ORDERS that:

Approval

1. The Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class and is approved pursuant to subsection 5(5) and section 35 of the *Class Proceedings Act*, SA 2003, c 0-16.5 (the “Act”) and shall be implemented in accordance with its terms and the terms of this Order.
2. [The persons listed in the List of Opt-Outs, which list is attached at **Schedule “B”** and incorporated into this Order, and *_[insert name of any individuals who have opted out after drafting the List of Opt-Outs or who show up at court to oppose and elect to opt out]_* (collectively, the “Opt-Out Individuals”), have validly exercised their right to opt-out and are not members of the Settlement Class defined herein.]
3. [All persons who wish to opt-out of and request to be excluded from participation in the Settlement Class and this Action shall execute and deliver an Opt-out Form to Class Counsel on or before XXX date (the “Opt-out Deadline”), in accordance with the instructions as set out in the Approval Notice attached hereto as Schedule “C”. Class Counsel shall maintain a list of all individuals (the “Opt-out Individuals”) who have delivered an Opt-Out Form prior to the Opt-out Deadline (the “List of Opt-Outs”). Class Counsel shall file the List of Opt-outs with the Court no later than 14 days after the Opt-out Deadline. Upon the List of Opt-outs being filed with the Court, the Opt-out Individuals listed therein shall be excluded from the Settlement Class and from participation in this Action without the need for further Order of this Court.]
4. This Order, including the Settlement Agreement, is binding upon the Parties and on every member of the Settlement Class, irrespective of whether he or she claims or receives monetary compensation or value under the Settlement Agreement. Neither the Settlement Agreement nor the terms of this Order applicable to the Settlement Class are binding on the Opt-Out Individuals.
5. This Order, including the Settlement Agreement, is binding upon each member of the Settlement Class including those persons who are minors or mentally incapable, and the requirements of Rule 2.11 and Rule 2.19 of the *Alberta Rules of Court* are dispensed with in respect of this proceeding.

6. Upon the Effective Date:
 - a. the Releasees are forever, finally and absolutely released by the members of the Settlement Class from the Released Claims.
 - b. members of the Settlement Class are barred from making any claims or taking or continuing any proceeding arising out of, or relating to, the Released Claims, except as otherwise expressly provided for in the Settlement Agreement, against any Released Party; and
 - c. any and all claims in this Action on behalf of members of Settlement Class in respect of Released Claims or against Released Parties shall be and are hereby dismissed without costs and with prejudice.
7. The Opt-out Individuals are not barred by this Order from commencing individual claims against the Defendants in respect of the Released Claims.
8. MNP Ltd. is appointed as the Claims Administrator and shall act in that capacity pursuant to the Engagement Letter and Settlement Agreement.
9. Upon the Effective Date, the payment of Claims Administration Costs pursuant to the Settlement Agreement are hereby approved.
10. [Upon the Effective Date, the payment of an Honorarium to the Representative Plaintiff pursuant to the Settlement Agreement is hereby approved in the amount of \$****.]
11. This Court will retain continuing jurisdiction over implementation, interpretation and enforcement of the settlement under the Settlement Agreement and subject to the Orders of this Court in this Action.
12. On notice to the Court, but without further order of the Court, the parties to the Settlement Agreement may agree to reasonable extensions of time to carry out any of the provisions in the Settlement Agreement.

Certification

13. This proceeding is certified as a class proceeding pursuant to the Act including without limitation sections 4, 5, 6 and 9 thereof.

14. The Settlement Class in this class proceeding shall be:

All those persons resident in Alberta and throughout Canada and abroad, who were one of the approximately 3716 persons employed by the City of Calgary and whose personal information was included in the unauthorized disclosure of such personal information, which occurred on or about June 14 and 15, 2016 as a result of certain actions by John Doe, then an employee of the City of Calgary (the "Privacy Breach"), excluding all deceased persons and all Opt-out Individuals.

15. The Plaintiff Terrence Cook is appointed as Representative Plaintiff for the Settlement Class.

16. Higgerty Law is appointed as Class Counsel.

17. The nature of the claims asserted in this Action on behalf of the Settlement Class are those as outlined in the Amended Statement of Claim herein in relation to the Disclosure.

18. The relief sought by this Settlement Class in this proceeding is the compensation contemplated by the Settlement Agreement.

19. The common issue certified for the purpose of settlement is whether the Defendants are liable to the Settlement Class.

General

20. The form of Approval Notice attached as **Schedule "C"** is hereby approved.

21. By ***, 2020, Class Counsel and the City will issue the Approval Notice substantially in the same manner as set out in the Notice Plan approved by this court in the Notice Approval Order.

22. Except to the extent that they are set out in or modified by this Order and the previous Notice Approval Order in this Action, the definitions set out in the Settlement Agreement, apply to and are incorporated into this Order.
23. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
24. This Order may be consented to by Counsel in counterpart, electronically or by facsimile.

J.C.Q.B.A

<p>CONSENTED TO this____day of_____, 2020 by</p> <p>Per: _____</p>	<p>CONSENTED TO this____day of_____, 2020 by</p> <p>Higgerty Law</p> <p>Per: _____ Patrick B. Higgerty, Q.C. Counsel for the Plaintiff</p>
--	--

Exhibit E

APPROVAL NOTICE

City of Calgary Privacy Breach Class Action

Terrence Cook v City of Calgary and John Doe

If you were an employee of the City of Calgary whose personal information was disclosed on June 14 and 15, 2016 as a result of certain actions by John Doe, then an employee of the City, this notice may affect your legal rights. Please read it carefully.

On ***, the Court approved a settlement (the “Settlement”) of the class action *Terrance Cook v City of Calgary and John Doe* (the “Class Action”). The Class Action concerns the unauthorized disclosure of personal information of persons employed by the City of Calgary. A copy of the court’s Approval and Certification Order and of the terms of the Settlement, as set out in the Settlement Agreement referenced in the Approval and Certification Order, can be found on Class Counsel’s website (www.higertylaw.ca). Except to the extent that they are set out in or modified by the Approval and Certification Order and the previous Notice Approval Order in this Action, the definitions set out in the Settlement Agreement apply to and are incorporated into this Notice.

Who is Eligible to participate in the Settlement?

To be eligible to participate in the Settlement, you must be a member of the Settlement Class and have had your personal information disclosed. The Settlement Class is defined as:

[All those persons resident in Alberta and throughout Canada and abroad, who were one of the approximately 3716 persons resident in Alberta and throughout Canada and abroad, who were employees of the City and whose personal information was included in the unauthorized disclosure of such personal information, which occurred on or about June 14 and 15, 2016 as a result of certain actions by John Doe, then an employee of the City (the “Privacy Breach”), excluding all deceased persons and all persons who have opted-out of participation in the Class Action in accordance with the Settlement Agreement].

Anyone who has opted out of the Class Action shall not participate in the Settlement, and is not eligible for compensation under the Settlement Agreement.

What are the Terms of the Settlement?

Under the Settlement Agreement, members of the Settlement Class are entitled to payment of the following amounts.

- Each member of the Settlement Class will be paid \$40 as compensation for time spent, inconvenience, upset, anger, and annoyance, less any court ordered deductions from this amount for payment of Class Counsel Fees, in whole or in part.

In addition, subject to the terms of the Settlement Agreement, Qualifying Members of the Settlement Class may claim entitlement to the following further payments, if they can prove to the satisfaction of the Claims Administrator that such member has met the Qualification Requirements and has incurred the claimed expenses:

- Up to \$2,000 per person in compensation for general damages for pain and suffering as a result of a compensable mental injury caused by the Disclosure;
- Up to \$500 per person for provable otherwise unreimbursed prescription, treatment and/or counselling costs, and related travel expenses incurred; and
- Up to \$150 per person for provable otherwise unreimbursed costs for documentation to substantiate mental injury.

The above amounts are subject to caps, and may be reduced pro-rata in accordance with the Settlement Agreement if those caps are exceeded. In addition, the above amounts may be reduced pro-rata due to payment of Class Counsel Fees as may be directed by the Court.

Further, the City will pay:

- \$25,000 for Claims Administration Costs;
- \$5,000 towards an Honorarium for the Representative Plaintiff, which was awarded in the amount of \$_____;
- \$13,880 to be allocated to_____, as determined in the proceeding.

[Class Counsel Fees will be paid out of the Settlement Funds, in accordance with the Class Counsel Fee Order made XXX, 2020 as follows: [insert]

A copy of the Class Counsel Fee Order can be found on the Class Counsel's website (higgertylaw.ca).]

[OR – insert notice about when the Class Counsel Fee Order application will be heard – maybe copy from Hearing Notice]

[[Your Right to Opt-Out of the Settlement]

Any person who is a member of the Proposed Class has the right to opt-out of participation in the Action, which shall now proceed as a class action (the “Class Action”).

Any person who elects to opt-out of participation in the Class Action must complete and submit by mail, receipted email or delivery to Class Counsel at the below address, a written request to opt-out using the Opt-Out Form attached to this Hearing Notice. The Opt-Out Form must be received by Class Counsel prior to 4:30 pm Mountain Time on *[insert date]*, which shall be the Opt-Out Deadline. If for any reason an Opt-Out Form is sent but not received by Class Counsel, or is unintentionally delayed in delivery to Class Counsel, Class Counsel will be deemed to have received the Opt-Out Form four business days after the date on which it was mailed or sent.

Requests to opt-out shall be sent to Class Counsel at the email or mailing address specified below.

Each request to opt-out must disclose the following information:

- e. Name, address, email address and phone number of the person seeking to opt-out of the Class Action and Settlement;
- f. If the person seeking to opt-out is a minor, the name of the parent or guardian acting on that person's behalf;
- g. The following statement: "The undersigned (on behalf of the above minor, if applicable) hereby requests exclusion from the Settlement Class and from participation in the Class Action."
- h. The signature of the person seeking to opt-out of the Class Action, or if the person seeking to opt-out is a minor, the signature of the person's parent or legal guardian.

Any person who validly opts-out shall be excluded from the Settlement Class and from participation in the Class Action, shall have no rights with respect to the Settlement Agreement, and shall not be bound by it.

Any person who falls within the Proposed Class, and who has not validly opted-out of the Class Action shall be deemed to have elected to participate in the Settlement Agreement and in the Class Action, and shall be for all purposes a member of the Settlement Class for the duration of the Action.]

How Do I Make a Claim?

Members of the Settlement Class who wish to seek compensation under the Settlement Agreement must submit their claims together with all supporting documentation to the Claims Administrator on or before **** using any claim form the Claims Administrator may prescribe and post on its website.

For information and to Obtain a Claim Form, contact the Claims Administrator at:

MNP Ltd.

1500, 640 - 5 Ave SW
Calgary, AB T2P 3G4
Tel: 403-538-3187
Email Address:

For further information, you may contact Class Counsel:

HIGGERTY LAW

Attention: Patrick Higgerty, Q.C.

Suite 101, 440-2nd Avenue S.W.,
Calgary, AB T2P 5E9
Tel: 403-503-8888 Fax: 587-316-2260
Email: info@higgertylaw.ca
For further information go to www.higgertylaw.ca

Schedule A to Exhibit E

OPT OUT FORM

City of Calgary Privacy Breach Class Action
(*Terrance Cook v City of Calgary*, Court File No.:)

This is not a Claim Form. Submitting this form excludes you from participation in the above referenced class action (the “Class Action”) and the settlement of the Class Action (the “Settlement”). Do not use this form if you wish to receive compensation under the Settlement.

You only need to file an Opt-Out Form if you wish to retain the right to pursue an individual action. If you do not wish to pursue an individual action and do not wish to file a claim for compensation under the Settlement, you do not need to complete this form.

The following member of the Proposed Class is requesting to opt-out of and be excluded from the Settlement Class, and from participation in the Class Action:

Name:

Current Address:

Email Address:

Phone number:

Date of Birth:

If the above person is a minor, the name of the parent or guardian acting on that person’s behalf:

The undersigned (on behalf of the above minor, if applicable) hereby requests exclusion from the Settlement Class and from participation in the Class Action.

Date:

Signature:

Print name of Signatory:

To opt out of the Class Action, you must sign and deliver this form to Class Counsel at the address below received or postmarked no later than *****, 2020:

HIGGERTY LAW

Attention: Patrick Higgerty, Q.C.

Suite 101, 440-2nd Avenue S.W.,

Calgary, AB T2P 5E9

Tel: 403-503-8888 Fax: 587-316-2260

Email: info@higgertylaw.ca

For further information go to www.higgertylaw.ca

Exhibit F

NOTICE OF TERMINATION

This Notice of Termination relates to the lawsuit:

Terrence Cook as proposed Representative Plaintiff v City of Calgary and John Doe,

filed in the Court of Queen's Bench of Alberta, in the Judicial District of Calgary under Action No. 1701-13074 on October 3, 2017, which is a proposed class action known as the City of Calgary Privacy Breach Class Action (the "Class Action")

To members of the Proposed Class in the Class Action:

1. A conditional settlement agreement dated ***, 2020 (the "Settlement Agreement") was reached between the proposed Representative Plaintiff and the defendant City of Calgary to settle the Class Action.
2. The Settlement Agreement has been terminated effective ***, 2020 pursuant to Part 13 of the Settlement Agreement.
3. The Settlement Agreement is therefore null and void, of no force or effect, and is not binding on the Parties, and is not to be used as evidence or otherwise in any litigation.
4. If you have any questions please direct them to Class Counsel at:

HIGGERTY LAW

Attention: Patrick Higgerty, Q.C.

Suite 101, 440-2nd Avenue S.W.,

Calgary, AB T2P 5E9

Tel: 403-503-8888 Fax: 587-316-2260

Email: info@higgertylaw.ca

For further information go to www.higgertylaw.ca

Dated in Calgary, Alberta this *** day of 2020.

Exhibit G

COURT FILE NUMBER	1701-13074
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	TERRANCE COOK as proposed REPRESENTATIVE PLAINTIFF
DEFENDANTS	THE CITY OF CALGARY and JOHN DOE
DOCUMENT	CLASS COUNSEL FEES ORDER
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Higgerty Law Attention: Patrick B. Higgerty, QC Main Floor, Millennium Tower 101, 440 - 2 nd Ave SW Calgary, AB T2P 5E9 Ph: 403-503-8888 Fax: 587-316-2260

DATE ON WHICH ORDER WAS PRONOUNCED:

LOCATION OF HEARING OR TRIAL: Calgary, Alberta

NAME OF JUDGE WHO MADE THIS ORDER: **Mr. Justice J. Rooke, ACJ**

UPON THE APPLICATION of the Plaintiff, and on hearing the submissions from counsel for the Plaintiff and the counsel for the Defendant The City of Calgary (the "City"); and on reading the pleadings and materials filed, and on being advised that the Plaintiff and the City have entered into a settlement agreement, a copy of which is attached as **Schedule "A"** (the "Settlement Agreement"); and on being advised that the Defendant City takes no position with respect to this Order;

THIS COURT ORDERS that:

1. The Contingency Fee Agreement between the Representative Plaintiff and Higgerty Law dated September 19, 2017, a copy of which is attached as **Schedule "B"**, is approved.

2. Class Counsel's fees and disbursements payable under that agreement are fair and reasonable and are approved in the total all-inclusive amount of \$__ ("Class Counsel Fees"), which amount is inclusive of all applicable taxes including Goods and Services Tax thereon
3. Class Counsel Fees shall be paid out of the Settlement Funds as follows: [insert as court may direct].
4. [The portion of Class Counsel Fees payable from the Undisputed Individual Amount shall be remitted to Class Counsel by the City in accordance with the Settlement Agreement, and the Undisputed Individual Amount payable to members of the Settlement Class will be reduced pro-rata as a result of such payment.]
5. [The remaining portion of] Class Counsel Fees [that is not to be paid out of Undisputed Individual Amount] will be remitted to Class Counsel by the Claims Administrator pursuant to the Settlement Agreement and as may be directed by the Court.
6. All capitalized groups of words in this Order which are defined in the Settlement Agreement have the same definition in this Order.

DRAFT

PRIVATE AND CONFIDENTIAL

[Date], 2020

Higgerty Law
101, 440 – 2 Ave SW
Calgary, AB T2P 5E9

Attention: Patrick Higgerty

Dear Mr. Higgerty

Re: Class Action Claims Administration Services

ENGAGEMENT

We are pleased to confirm the arrangements under which MNP Ltd. (“**MNP**”) will provide class actions claims administration services to you, Higgerty Law (“**Plaintiff’s Counsel**”). This letter confirms our engagement by you to act as Class Action Claims Administrator (the “**Claims Administrator**”) of the settlement between City of Calgary Employees and The City of Calgary, as evidenced by the settlement agreement to be entered into by the same parties and approved by the Court (the “**Settlement Agreement**”).

SCOPE OF SERVICES

In carrying out this engagement, we will act objectively and in accordance with the terms of the Settlement Agreement or other order of the Court. Our duties will likely include, but will not necessarily be limited to, the following:

1. Developing and implementing systems and procedures for receiving individual claims, including creating the specific documentation and process required for us to substantiate a valid claim;
2. Creating a supporting website with information about the Settlement Agreement, and any necessary advertisement if required by the Court;
3. Reviewing and processing all individual claims and making objective determinations in respect of claims based on eligibility criteria as established by the Settlement Agreement or order of the Court;
4. Giving notice to claimants regarding their claim decision, and distributing the applicable compensation to the claimants;
5. Receiving and responding to correspondence respecting claims from claimants;
6. Prepare and deliver written reports regarding the claims as may be required by the Settlement Agreement or the Court; and
7. Perform other such duties as may be required by you, the Settlement Agreement, or order of the Court (collectively, the “**Services**”).

Our duty to evaluate claims is limited to an objective assessment of the claim based on documentation provided by individual claimants as outlined in the Settlement Agreement. In performing the Services, we will be relying on the sufficiency, accuracy, and reliability of the information provided by the claimants and the terms of the Settlement Agreement. While our Services will be designed with a view to detecting fraudulent or duplicative claims, you agree and acknowledge that no forensic inquiry into the authenticity or reliability of the documentation provided by the claimants will be performed by MNP and the Services should not be relied upon as evidence of the same.

During this engagement, we will act as Claims Administrator and perform the Claims Administration duties outlined in Part 8 of the Settlement Agreement. In all other respects our duties will remain solely advisory and administrative in nature and we will not assume any decision-making or other management responsibility in connection with the affairs of Plaintiff's Counsel, City of Calgary Employees, the City of Calgary, or the substance of the Settlement Agreement.

Our ability to complete the Services will depend on your cooperation, the cooperation of the claimants, and potentially the cooperation of the defendants.

Our scope of services will ultimately be determined by the terms of the Settlement Agreement and any further order or direction of the Court, and as such our scope of services may be subject to change.

CLIENT RESPONSIBILITIES

The Services will be conducted in accordance with the terms of the Settlement Agreement, as approved by the Court. As Plaintiff's Counsel, you are responsible for clarifying and resolving any outstanding issues or ambiguities related to the Settlement Agreement, including but not limited to, any issues related to the distribution protocol. If circumstances require, you will apply to the Court for further instructions with respect to any unresolved issue.

As Plaintiff's Counsel, you agree to share a draft of the Settlement Agreement with us before it is publicly filed with a Court or forms any part of a Court application. You further agree to use your best efforts to ensure that the Court order approving our appointment to act as Claims Administrator includes a provision that prohibits an action against the Claims Administrator without leave of the Court.

FEES AND DISBURSEMENTS

Our fees for this engagement are \$25,000 inclusive of GST and the City of Calgary postage allotment. In the event of an anticipated change in scope of the engagement or fees, we will facilitate a proactive discussion followed by a formal approval and signing process involving Plaintiff's Counsel, prior to any additional work being conducted. The formal process will include documenting the change in scope and estimating the effort to complete and the costs associated with the change. MNP will not undertake any out-of-scope or change-of-scope work without prior discussion and approval by Plaintiff's Counsel.

DISCLOSURE OF INFORMATION AND REPORTING

We may make full disclosure to the Court, as it requests, of all information of which we become aware and documents we obtain in the course of this engagement. We may make copies of any documentation necessary to facilitate our review and may show such documentation to you.

We will provide such written reports to you regarding the claim administration process as the Settlement Agreement or the Court may require.

With the exception of any documents required to be filed with the Court, if a written report is prepared, whether it be in draft or final version, it is not intended for general circulation or publication, nor is it to be reproduced or used for any purpose other than that outlined in this engagement without our prior written permission in each specific instance. We will not assume any responsibility or liability for losses incurred by you, or any other parties as a result of the circulation, publication, reproduction or use of any of our reports contrary to the provisions of this engagement.

Electronic Communications

You acknowledge that (a) we may correspond with you or convey documentation via Internet email unless you expressly request otherwise, (b) neither party to this agreement has control over the performance, reliability, availability, or security of Internet email and (c) we shall not be liable for any loss, damage, expense, harm or inconvenience resulting from the loss, delay, interception, corruption, or alteration of any Internet email due to any reason beyond our reasonable control.

STANDARD TERMS AND CONDITIONS

The Standard Terms and Conditions attached hereto are an integral part of this engagement letter. This engagement letter should be read in conjunction with the attached Standard Terms and Conditions, which are

collectively referred to hereinafter as the “**Agreement**”. In the event of any conflict or inconsistency between this engagement letter and the Standard Terms and Conditions attached hereto, the terms of this engagement letter shall prevail.

ACKNOWLEDGEMENT AND ACCEPTANCE

You hereby acknowledge that MNP has not made any warranties or guarantees of any nature in respect of this engagement, including, but not limited to, any objectives which may be described in this engagement letter, or as to the economic and financial impacts or other results which may be obtained or experienced by the parties as a result of the success or lack of success of the Services in carrying out this engagement.

You also acknowledge that we have permission to publicize the successful completion of this engagement (including our role) on MNP's website and in such other materials or publications as we may choose including, but not limited to, financial and other newspapers, tombstones, or business journals. An announcement may include Plaintiff's Counsel's name(s), logo(s), and a summary of this engagement; but shall not include Settlement Agreement values.

We look forward to working with you on this engagement. Please confirm your acceptance of the terms of this Agreement by signing the attached Agreement and Authorization Form where indicated, and returning it, along with a copy of this Agreement, to us. Once these are received, we will be pleased to commence our Services.

If you have any questions regarding this Engagement Letter, please do not hesitate to contact us.

Yours very truly,

MNP Ltd.

Victor P. Kroeger, CPA, CA, CIRP, LIT, CFE
Senior Vice President

AGREEMENT & AUTHORIZATION FORM

RE: Higgerty Law

Agreement and Authorization

We have reviewed the Agreement and hereby accept the terms thereof. We authorize MNP Ltd. to proceed with this engagement if MNP's appointment is approved by the Court. This agreement is subject to the settlement being approved by the Court and the appeal period successfully expired.

Dated at _____, the _____ day of _____, 2020.

Plaintiff's Counsel

Per: _____
Name:
Title:

Appendix A

STANDARD TERMS AND CONDITIONS

The following standard terms and conditions and the Engagement Letter to which they are attached form one agreement and set out the terms and conditions upon which MNP will provide the Services to Plaintiff's Counsel.

- 1. Gathering and Verification of Information.** MNP will perform the Services based on the information Plaintiff's Counsel or individual claimants provide to MNP. MNP will rely on that information to be accurate and complete and MNP will neither verify the information nor perform any procedures designed to discover errors or other irregularities in the information, although MNP may ask Plaintiff's Counsel or individual claimants to clarify or supplement such information. MNP will not independently verify financial statements or data submitted by Plaintiff's Counsel or individual claimants to allow MNP to perform the Services, nor will MNP review furnished working papers for technical and mathematical accuracy. To the best of the Plaintiff Counsel's knowledge, all information provided to MNP will be true and correct in all material respects and will not contain any material misstatement of fact or omit to state any material fact necessary to make the statements contained therein not misleading. The engagement of MNP cannot be relied upon to uncover errors in the underlying information incorporated in Plaintiff's Counsel's information, should any exist.
- 2. Cooperation.** Plaintiff's Counsel shall cooperate with MNP in the performance by MNP of its Services hereunder, including, without limitation, by providing MNP with reasonable facilities and timely access to data, information and personnel of Plaintiff's Counsel. Plaintiff's Counsel shall be responsible for the performance of its personnel and agents and for the accuracy and completeness of all data and information provided to MNP for purposes of the performance by MNP of its Services hereunder. Plaintiff's Counsel shall promptly notify MNP if Plaintiff's Counsel learns that the information provided is inaccurate or incomplete or otherwise should not be relied upon. Furthermore, if during this engagement new information arises that is reasonably relevant to the Services, Plaintiff's Counsel shall promptly notify MNP and provide MNP with all such information.
- 3. Additional Company Responsibilities.** It is understood and agreed that MNP's role is to assist with the Settlement Agreement administration in accordance with the terms of the Settlement Agreement and any order of the Court regarding the Settlement Agreement. Plaintiff's Counsel retains complete and final control of all key decisions relating to negotiating terms of the Settlement Agreement. Plaintiff's Counsel shall appoint a senior employee to oversee, evaluate and accept the Services provided by MNP. In no case shall any decision to accept or implement such Services be a decision of MNP, and all such decisions shall be the decisions of Plaintiff's Counsel according to Plaintiff's Counsel's own internal management rules.
- 4. Payment of Invoices.** Accounts will be rendered on a regular basis as the engagement progresses and all accounts shall be due and payable when rendered. Without limiting its rights or remedies, MNP shall have the right to halt or terminate its services entirely if payment is not received within thirty (30) days of the invoice date. Interest shall be charged on accounts unpaid after thirty (30) days after the date of the bill. Interest shall be calculated and payable at the rate of 19.56% per annum (1.5% per month).
- 5. Administrative and Other Expenses.** A non-reimbursable, administrative expense fee (the "**Administrative Fee**") equal to 5% of the professional fees charged will be levied for administrative expenses such as long-distance telephone and telecommunication charges, photocopying, delivery, postage, and clerical assistance, etc. The Administrative Fees will be added to the professional fees and will be payable at the same time. In addition to the Administrative Fee, Plaintiff's Counsel will reimburse MNP for all other out-of-pocket expenses incurred in performing this engagement including, but not limited to, accommodation and travel expenses.
- 6. Taxes.** All fees and other charges do not include any applicable federal, provincial or other sales taxes, or any other taxes or duties whether presently in force or imposed in the future. Any such taxes or duties shall be assumed and paid by Plaintiff's Counsel without deduction from the fees and charges hereunder.
- 7. Term and Termination.** The term of this engagement (the "**Term**") shall commence on the date this engagement letter is executed by Plaintiff Counsel and shall continue until the Services are complete, or until this engagement is otherwise terminated as provided herein. At any time during the Term of the engagement,

either party may terminate this engagement for whatever reason, upon 24 hours written notice to the other party. This engagement may also be terminated at any time by order of the Court removing us as Claims Administrator of the Settlement Agreement. Upon termination of this engagement, Plaintiff's Counsel shall be liable to compensate MNP for all fees, administrative fees, and out of pocket expenses uncured up to and including the date of termination. Any fees already paid to MNP at the time of termination but not yet applied to the engagement fees shall be credited to the outstanding fees at the time of termination.

8. **Grant of License.** All documents created or produced by MNP, in any form whatsoever, for delivery to Plaintiff's Counsel and the City including, but not limited to, any reports provided (collectively, the "**Deliverables**") are prepared in contemplation only of Plaintiff's Counsel's and the City's use for the purpose of furthering this engagement and not for any other purpose, or by any other party. MNP hereby grants Plaintiff's Counsel and to the City a limited, non-exclusive, perpetual, world-wide license, without payment of any royalty, so that Plaintiff's Counsel and the City may, solely for their internal business purposes, use, copy and distribute internally the Deliverables, without modification. Plaintiff's Counsel and the City shall not use the Deliverables directly or indirectly, for any purpose competitive with the business of MNP. MNP retains all intellectual property rights, title and interest in and to all its existing methodologies, processes, techniques, ideas, concepts, trade secrets, artwork, logos and identifying script and know-how that MNP may develop or supply in connection with this Agreement ("**MNP Knowledge**") whether or not such is embodied in the Deliverables. Subject to the confidentiality restrictions contained in paragraph 11, MNP may use the MNP Knowledge for any purpose.
9. **Working Papers.** MNP owns all working papers and files, other materials, reports and work created, developed or performed during this engagement, including intellectual property used in the preparation thereof. MNP may, but is under no obligation to, agree to provide Plaintiff's Counsel with a copy of all practitioner-prepared working papers necessary for Plaintiff's Counsel's records. MNP may develop software, including spreadsheets, documents, databases, and other electronic tools, to assist us with this engagement. Where these tools are developed specifically for MNP's purposes and without consideration of any purpose for which Plaintiff's Counsel might use them, any such tools provided to Plaintiff's Counsel are made available on an "as is" basis only, and remain the exclusive intellectual property of MNP, and are not to be distributed to or shared with any third party and MNP shall be entitled to the return of all such property, uncopied, at any time. Additionally, Plaintiff's Counsel acknowledges that no reliance can be placed on draft reports, conclusions, or advice, whether oral or written, issued by MNP as the same may be subject to further work, revision and other factors which may mean that such drafts are substantially different from any final report or advice issued.
10. **Third Parties and Internal Use.** This Agreement is not intended for the express or implied benefit of any third party. No third party is entitled to rely, in any manner or for any purpose, on the advice, opinions, reports, Deliverables or Services of MNP contemplated in this Agreement. Plaintiff's Counsel further agrees that the advice, opinions, reports and Deliverables issued by MNP shall not be distributed publicly or to any third party without the prior written consent of MNP. MNP agrees that such consent will ordinarily be granted provided that Plaintiff's Counsel makes a specific written request of MNP and the third party seeking such materials executes an acknowledgement of non-reliance and a release acceptable to MNP. In the event disclosure is required by subpoena or Court order, Plaintiff's Counsel will provide MNP reasonable advance notice and permit MNP to comment on the form and content of the disclosure. MNP does not warrant and is not responsible for any third-party products or services obtained independently by Plaintiff's Counsel notwithstanding any participation or involvement by MNP in the procurement of such services. Plaintiff's Counsel shall have the sole and exclusive rights and remedies with respect to any defect in third party products or Services and any claim shall only be brought against the third-party vendor and not against MNP.
11. **Confidentiality.** To the extent that, in connection with this engagement, MNP comes into possession of any proprietary or confidential information of Plaintiff's Counsel, MNP will not disclose such information to any third party, except as permitted by the Rules of Professional Conduct of the institutes of chartered accountants or other applicable law. Except as instructed otherwise in writing, each party may assume that the other approves of properly addressed fax, email (including email exchanged via Internet media) and voicemail communication of both sensitive and non-sensitive documents and other communications concerning this engagement, including other means of communication used or accepted by the other. MNP may use third-party service providers to provide professional Services for Plaintiff's Counsel which may require MNP to share Plaintiff's

Counsel's confidential information with the third-party service provider. Prior to any such disclosure, MNP will enter into a confidentiality agreement with the provider, the form of which shall be approved by Plaintiff's Counsel, which requires the third-party service provider to maintain the confidentiality of Plaintiff's Counsel's information.

12. **Consent for Personal Information Collection, Use, and Disclosure.** MNP will not collect, use or disclose any of Plaintiff's Counsel's personal information without the Individual's knowledge and consent, or as may be required by law. Provided, however, that MNP may collect, use and disclose personal information about Plaintiff's Counsel relevant to the purposes of this engagement and necessary to the provision of the Services by MNP. MNP may also collect and use personal information from Plaintiff's Counsel for the purposes of providing other services or informing Plaintiff's Counsel of other opportunities from time to time ("**Other Matters**"). Personal information that is not relevant to the purpose of this engagement or the Other Matters will not be disclosed to anyone for any reason without Plaintiff's Counsel's further prior consent. Plaintiff's Counsel may review MNP's privacy policy at www.mnp.ca.
13. **Limited Warranty.** MNP warrants that the Services shall be performed with reasonable care in a diligent and competent manner. MNP agrees to correct any non-conformance with this warranty (subject to the limitations on MNP's liability set forth in paragraph 14), provided that Plaintiff's Counsel gives MNP written notice of such non-conformity together with details of any financial loss claimed and Plaintiff's Counsel's expectations no later than thirty (30) days following the discovery by Plaintiff's Counsel, of such non-conformity and in any event within the time limitation (18 months) set out in paragraph 14. Except as otherwise contained in this Agreement, MNP makes no other warranties, express or implied, and Plaintiff's Counsel waives application of all other warranties, whether arising by operation of law, course of performance or dealing, custom, usage in the trade or profession or otherwise, including without limitation, implied warranties or conditions of merchantable quality and fitness for a particular purpose.
14. **Limitation on Liability.** Plaintiff's Counsel and MNP agree to the following with respect to MNP's liability to Plaintiff's Counsel:
 - (a) MNP's liability to Plaintiff's Counsel is limited to the aggregate of all losses, claims, liabilities, penalties, damages, or expenses and shall not exceed the amount of fees paid by Plaintiff's Counsel to MNP pursuant to this Agreement, except to the extent such loss, claim, liability, penalty or expense suffered by Plaintiff's Counsel has been finally judicially determined to have resulted from the bad faith or intentional misconduct of MNP
 - (b) In no event shall MNP be liable for any consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense or any loss of revenue or profit or any other commercial or economic loss or failure to realize expected savings.
 - (c) Plaintiff's Counsel may only claim payment from MNP of MNP's proportionate share of the total liability based on the degree of fault of MNP as finally determined by a court of competent jurisdiction.

Any notice required under paragraph 13 above or this paragraph 14 or any action by way of filed court process against MNP by Plaintiff's Counsel must be brought and served within eighteen (18) months after the cause of action arises and, if not so brought, such notice or action shall be null and void to the same extent as if the right to bring such were statute barred.

15. **Indemnity.** Plaintiff's Counsel, on a joint and several basis, agrees to indemnify and hold harmless MNP from and against any and all fees, costs, expenses (including without limitation legal fees and disbursements), claims, losses, damages, fines, penalties or liabilities of any nature whatsoever, whether arising out of any commenced or threatened action, suit, proceeding, investigation, claim or otherwise, which is brought or threatened against MNP by a third party (each, a "**Claim**") under any contract, statute, regulation, common law, rule of equity, or otherwise, including without limiting the generality of the foregoing, preparing for, defending against, providing evidence in, producing documents, or taking any reasonable action in respect of any Claim, insofar as such Claim arises out of or is based directly or indirectly upon the carrying out by MNP of this engagement, or the Services and Deliverables provided by MNP pursuant to this Agreement.

16. **Survival and Interpretation.** The agreements and undertakings of Plaintiff's Counsel contained in this Agreement shall survive the expiration or termination of this Agreement. For the purposes of this Agreement, "**MNP**" shall mean MNP and its directors, officers, partners, professional corporations, employees, subsidiaries and affiliates and to the extent providing Services under this Agreement to which these terms are attached, MNP, its member firms, and all of their partners, principals, members, owners, directors, staff and agents; and in all cases any successor or assignee.
17. **Governing Law, Severability and Entire Agreement.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable in Alberta. Any action or proceeding relating to this engagement shall be brought in the Province of Alberta, and the parties submit to the jurisdiction of the courts of the Province of Alberta and waive any defense of inconvenient forum to the maintenance of such action or proceeding. If any provision of this Agreement is found by a court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties set forth herein. This Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, proposals, negotiations, representations or warranties of any kind whether oral or written. This Agreement can only be amended by an agreement in writing signed by both parties.
18. **Assignment.** Except as herein provided, neither party may assign, transfer or delegate any of its rights or obligations hereunder (including, without limitation, interests or claims relating to this engagement) without the prior written consent of the other party. MNP may, without the consent of Plaintiff's Counsel, assign or subcontract its rights and obligations hereunder to (a) any affiliate or related entity or (b) any entity which acquires all or a substantial part of the assets or business of MNP
19. **Response to Legal Process.** If MNP is requested by subpoena, or other legal process or proceeding to produce documents pertaining to Plaintiff's Counsel, Plaintiff's Counsel shall reimburse MNP for its professional time, including out-of-pocket expenses and reasonable attorney fees that MNP incurs in responding to such request.

Schedule "AA"

AMENDING AGREEMENT

THIS SETTLEMENT AMENDING AGREEMENT made as of the Feb 3, 2021 day of February 2021.

BETWEEN:

TERRANCE COOK as proposed
Representative Plaintiff

(the “**Representative Plaintiff**”)

- and -

CITY OF CALGARY and JOHN DOE

(the “**Defendants**”)

Whereas Terrance Cook and the City of Calgary (the “Parties”) entered into a Settlement Agreement dated May 8th 2020 (the “Settlement Agreement”).

And whereas the Parties wish to make certain amendments to the the terms and conditions set forth in the Settlement Agreement as hereinafter described in this Settlement Amending Agreement (the “Settlement Amending Agreement”).

This Settlement Amending Agreement is the first amendment to the Settlement Agreement.

Now Therefore, subject to Court approval, the Parties agree to amend the Settlement Agreement as follows:

1. Paragraph 21 is deleted in its entirety and in substitution therefor the following replacement paragraph 21 is inserted, namely:

“21. To the extent that any of the Reversionary Funds remain unused or are not allocated to pay claims of Qualifying Members, any remainder shall be distributed cy près by the Claims Administrator, together with any accrued interest, to the Public Interest Advocacy Centre (the “Cy près Beneficiary”) in accordance with Part 9 Section 55 of this Settlement Agreement.

2. Paragraph 52 is deleted in its entirety and in substitution therefor the following replacement paragraph 52 is inserted with additional words added to the original paragraph 52 in bold, namely:

“52. If the Class Counsel Fee Order requires that the Class Counsel Fee shall be paid, in whole or in part, from the Reversionary Amount, then the total amount available for distribution to members of the Settlement Class from the Reversionary Funds **and, if applicable, to the Cy près Beneficiary** shall be reduced by the amount of Class Counsel Fee directed by the Court to be paid from the Reversionary Amount, and the remaining amount will be available for payment of claims of

Qualifying Members approved by the Claims Administrator **and, if applicable, to the Cy près Beneficiary.**”

3. Paragraph 55 is deleted in its entirety and in substitution therefor the following replacement paragraph 55 is inserted with additional words added to the original paragraph 55 in bold, namely:

“55. If, after payment of any Class Counsel Fees as may be directed by the Class Counsel Fee Order, and after payment of all approved claims by Qualifying Members, there are any funds remaining in the Reversionary Funds, the balance remaining in the Reversionary Funds shall be **paid** by the Claims Administrator to the **Cy près Beneficiary.**”

4. The parties to this Settlement Amending Agreement shall execute all other documents as may be necessary to accomplish the objectives hereof.
5. Once the Settlement Amending Agreement is approved by the Court and the Settlement Approval and Certification Order becomes a Final Order, the Settlement Agreement as amended by this Settlement Amending Agreement, shall be binding upon and enure to the benefit of, the Representative Plaintiff, members of the Settlement Class, the City, the Releasees, Class Counsel, and the Claims Administrator.
6. The Representative Plaintiff and the City each acknowledge that they voluntarily accept this Settlement Amending Agreement and have had the opportunity to seek and obtain independent legal advice with respect to the matters addressed in this Settlement Amending Agreement, that the terms of the Settlement Amending Agreement have been fully explained to them by their counsel, and that they fully understand this Settlement Amending Agreement and the terms of settlement contained in it.
7. This Settlement Amending Agreement has been the subject of negotiations and discussions between the Representative Plaintiff and the City, each of which has been represented and advised by competent legal counsel. The parties hereto agree that that no provisions shall be construed against the drafter, and any statute, case law or rule of interpretation or construction that might cause a provision to be construed against the drafter of this Settlement Amending Agreement shall have no force or effect. The parties hereto further agree that the language used or not used in any previous draft of this Settlement Amending Agreement, or any prior agreement in principle or term sheet or document related thereto, shall have no bearing upon the proper interpretation of this Settlement Amending Agreement.
8. The Representative Plaintiff and the City each acknowledge that the Settlement Agreement as amended by this Settlement Amending Agreement, constitutes the entire agreement between them, and supersedes any and all prior and contemporaneous understandings, undertakings, negotiations, representations, communications, promises, agreements, agreements in principle, term sheets, and memoranda of understanding in connection herewith, and that there are not, nor have they relied upon, any representations, collateral agreements, warranties or other agreements whatsoever between them other than as set out herein.
9. The parties hereto further agree that there shall be no amendments to the Settlement Agreement as amended by this Settlement Amending Agreement unless they are in writing

and executed by all parties hereto and, if necessary, approved by the Court.

10. The parties agree that the preamble and recitals hereto form part of this Settlement Amending Agreement, the recitals are true, and that the terms hereof are contractual and not mere recitals.
11. The Settlement Agreement as amended by this Settlement Amending Agreement shall be governed by and construed in accordance with the laws of Alberta. The Representative Plaintiff, on his own behalf and on behalf of the Proposed Class, and the City, irrevocably attorn to the jurisdiction of the courts of Alberta, and agree that the courts of Alberta have and shall retain exclusive jurisdiction in the resolution of any legal disputes arising from or in connection with this Settlement Amending Agreement, including any disputes regarding the interpretation, implementation, enforcement or breach of the Settlement Agreement as amended by this Settlement Amending Agreement.
12. The capitalized words in this Settlement Amending Agreement which are defined terms in the Settlement Agreement have the same meaning herein.
13. This Settlement Amending Agreement may be executed by facsimile or email, and a facsimile or electronic signature shall be deemed an original signature for the purposes of executing this Settlement Agreement. This Settlement Amending Agreement may be delivered and is fully enforceable in original, faxed or other electronic form provided that it is duly executed.
14. This Settlement Amending Agreement may be executed in counterparts, and the counterpart execution pages together will be deemed to constitute one and the same document, and shall constitute this Settlement Amending Agreement.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first above written.

Terrance Cook, as proposed Representative Plaintiff

Per: _____
Terrence Cook

Witness

Authorized Signatory of The City of Calgary

Per: _____
Name: _____
Title: _____

Witness

and executed by all parties hereto and, if necessary, approved by the Court.

10. The parties agree that the preamble and recitals hereto form part of this Settlement Amending Agreement, the recitals are true, and that the terms hereof are contractual and not mere recitals.
11. The Settlement Agreement as amended by this Settlement Amending Agreement shall be governed by and construed in accordance with the laws of Alberta. The Representative Plaintiff, on his own behalf and on behalf of the Proposed Class, and the City, irrevocably attorn to the jurisdiction of the courts of Alberta, and agree that the courts of Alberta have and shall retain exclusive jurisdiction in the resolution of any legal disputes arising from or in connection with this Settlement Amending Agreement, including any disputes regarding the interpretation, implementation, enforcement or breach of the Settlement Agreement as amended by this Settlement Amending Agreement.
12. The capitalized words in this Settlement Amending Agreement which are defined terms in the Settlement Agreement have the same meaning herein.
13. This Settlement Amending Agreement may be executed by facsimile or email, and a facsimile or electronic signature shall be deemed an original signature for the purposes of executing this Settlement Agreement. This Settlement Amending Agreement may be delivered and is fully enforceable in original, faxed or other electronic form provided that it is duly executed.
14. This Settlement Amending Agreement may be executed in counterparts, and the counterpart execution pages together will be deemed to constitute one and the same document, and shall constitute this Settlement Amending Agreement.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first above written.

Terrance Cook, as proposed Representative Plaintiff


Per: _____
Terrence Cook

Maria Serrano

Witness

Authorized Signatory of The City of Calgary

Per: _____

Name: _____


Title: _____

Witness

AFFIDAVIT OF EXECUTION

CANADA)
PROVINCE OF ALBERTA) I, Maria Serrano, of the City
TO WIT:) of Calgary in the Province of
) Alberta, MAKE OATH AND SAY:

1. THAT I was present by video conference and did thereby see Terrance Cook named in the annexed instrument (the "Client"), who is known to me to be the person named therein, duly sign and execute the same by the SignRequest computer program for the purpose named therein.
2. THAT I know the Client based on the identification she/he presented to me and she/he is in my belief is of the full age of 18 years.
3. I was not physically present during the commissioning of this Affidavit because I believed that it would be medically unsafe for me to do so as a result of the coronavirus pandemic. Consequently, I swear that:
 - a. I was linked with the Commissioner of Oaths of this Affidavit by way of video technology during the commissioning;
 - b. I showed the Commissioner of Oaths the front and back of my government issued identification (driver's license);
 - c. I had a paper copy of this Affidavit, including Exhibits, before me at the time of commissioning. We reviewed each page of this Affidavit and Exhibits to verify that we had identical copies. I then initialed each page of the Affidavit and Exhibits in the lower right corner;
 - d. The Commissioner of Oaths administered the oath, and I affirmed the truth of the facts contained in this Affidavit; and
 - e. I sent an electronic copy of my sworn Affidavit and Exhibits to the Commissioner of Oaths.

SWORN BEFORE ME at the City)
of Calgary, in the Province)
of Alberta on the 5th day of)
February, 2021)
)
Commissioner for Oaths in)
and for the Province of Alberta)



Beverley Kwok-Yun Jim
A Commissioner for Oaths
In and for Alberta

My Commission Expires December 30, 2022

CERTIFICATE OF COMMISSIONER FOR OATHS

I, Beverley Jim, Commissioner for Oaths in and for the Province of Alberta, confirm that:

a. I commissioned this Affidavit following the procedure for remote commissioning of Oaths as outlined by the Court of Queen's Bench in Notice to the Profession & Public: Remote Commissioning of Affidavits for Use in Civil and Family Proceedings during the COVID-19 Pandemic, dated March 25, 2020.

b. I am satisfied that this process was necessary because it was unsafe for medical reasons for the deponent and me to be physically present at the time of commissioning.



A Commissioner for Oaths in and for
the Province of Alberta

Beverley Kwok-Yun Jim

A Commissioner for Oaths

In and for Alberta

My Commission Expires December 30, 2022

Schedule "B"

List of Opt Outs

City of Calgary Privacy Breach Class Action

As of February 9th, 2021

Number	Name	Opt Out Date
1	Devin Larsen	Jan.20, 2021
2	Lawrence Anderson	Jan.22, 2021
3	Marc Despins	Jan.22, 2021
4	Vengil Epp	Jan 22, 2021
5	Manjinder Singh Duggal	Jan 23, 2021
6	Glen Collins	Jan 25, 2021
7	Kenneth Marcus	Jan 25, 2021
8	Mary Fiwehuk	Jan.25, 2021
9	Edwin Camayang	Jan.21, 2021
10	Wilfred Blanchard	Jan.27, 2021
11	Christopher Dilchneider	Jan.28, 2021
12	Scott Russell	Jan 28. 2021
13	Anil Madan	Feb.2.2021
14	Sing Poon	Feb.2.2021
15	Mark Hart	Feb.5.2021
16	Teresa Durrant	Feb.5.2021
17	Rashpal Kooner	Feb.7.2021
18	James Heynen	Feb.8.2021
19	Keith Field	Feb.8.2021

Schedule "C"

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

Higgerty Law

of the First Part

- and -

Terrance Cook

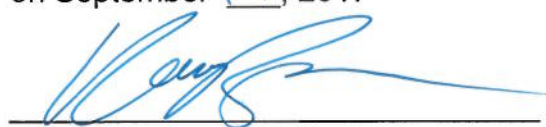
of the Second Part

AFFIDAVIT OF SERVICE

I, Erinn Wilson, of the City of Calgary, in the Province of Alberta, MAKE OATH
AND SAY THAT:

1. I am [an employee with Higgerty Law and as such have a personal knowledge of the matters hereinafter deposed to except where stated to be based upon information and belief.
2. THAT I did on September 19, 2017, serve Terrance Cook with a true copy of the signed Contingency Agreement which is hereunto annexed and marked as Exhibit "A" to this my Affidavit by personally giving him a copy of the said Contingency Agreement.

SWORN BEFORE ME at the City
of Calgary, in the Province of Alberta
on September 19, 2017


A Commissioner for Oaths in and
for the Province of Alberta.

)
)
)
)
)
)
)
)
)
)

Witness - Erinn Wilson

KANCHAN BRAICH
Student-at-Law, Notary Public &
Commissioner for Oaths
in and for Alberta

**CONTINGENCY FEE AGREEMENT
REPRESENTATIVE PLAINTIFF
(CLASS PROCEEDING)**

THIS AGREEMENT MADE THE 19 DAY OF SEPTEMBER 2017 in the presence of

THIS IS EXHIBIT " A "

Erinn Wilson

Sworn before me this 19

day of Sept. A.D. 2017

Keefe
A Commissioner for Oaths in and for Alberta

BETWEEN:

HIGGERTY LAW
Suite 101, 440 - 2nd Ave SW
Calgary, Alberta T2P 5E9

(the "Lawyers")

AND:

Terrance Cook
108 Lake Ontario Place S.E.
Calgary, Alberta T2J 4X8

KANCHAN BRAICH
Student-at-Law, Notary Public &
Commissioner for Oaths
in and for Alberta

(the "Client")

WHEREAS the Client wishes to retain the Lawyers to pursue recovery of a claim through a Class Action with regard to a privacy breach that occurred on or about June 14th or 15th 2016, whereby the City of Calgary released personal information of its employees to an undisclosed Alberta Municipality (the "Claim").

AND WHEREAS the Lawyers have agreed to act on behalf of the class on the terms set forth below, and the Client wishes be a Representative Plaintiff in the Class Action for the Claim and to instruct the Lawyers to proceed with the Claim on the terms hereinafter set forth;

AND WHEREAS the Client and the Lawyers' desire to make an agreement respecting the amount and manner of payment of the Lawyers fees;

NOW THEREFORE IT IS AGREED BETWEEN THE CLIENT AND THE LAWYERS AS FOLLOWS:

1. The Client agrees to be a Representative Plaintiff in the Class Action for the Claim and does hereby employ and retain the Lawyers to pursue recovery of the Claim and agrees to instruct them as required from time to time. The Lawyers agree to pursue recovery of the Claim through a Class Action and to act in the best interests of the Client and those represented by the Client, and the Client authorizes the Lawyers to take any proceedings or do any acts which in their opinion may be necessary or advisable for this purpose and to generally act as counsel in the matters as the Lawyers may deem expedient and proper. The Client agrees that the Lawyers are authorized to speak to the media about the case without revealing the Client's identity unless specifically authorized in advance. It is agreed that the Lawyers may not settle this case without the approval of the Client and/or the court and that the Client shall negotiate only through the offices of the Lawyers. The Lawyers may, in the Lawyers' absolute discretion, withdraw at any

time from from this engagement.

2. The Client agrees that the Lawyers should be paid a fee for rendering the services, of **33 1/3%** of any recovery (excluding "Costs and Expenses", defined below) on the Claim or a 3 times Lawyers fees based on their time spent and applicable hourly rate(s), whichever is greater, and/or as may be ordered by the court after this date in compensation for the Claim. If it is intended that there be more than one representative plaintiff for the Claim under separate contingency fee agreement(s) with the Lawyers, then such fee shall be paid only once. It is also understood and agreed that if the Lawyers are also class member counsel providing services in relation to individual class member claims then they are also entitled to be compensated for doing so as permitted by the Court. However, **the Lawyers are not entitled to any fees if the class members do not receive compensation for the Claim.**
3. **NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN THE EVENT OF NO RECOVERY IN RELATION TO THE CLAIM, THE CLIENT SHALL OWE THE LAWYERS NOTHING FOR SERVICES RENDERED OR FOR THE "COSTS AND EXPENSES" (DEFINED BELOW) AND INCURRED BY THE LAWYERS PURSUANT TO PARAGRAPH 4 BELOW.**
4. The Lawyers shall pay all disbursements, costs, expenses and taxes, including applicable Goods and Services Tax, (collectively "Costs and Expenses"), for settlement or trial of the Claim and the preparation therefor, and the Client shall not be responsible to pay such Costs and Expenses; except that if **recovery of funds in relation to the Claim is made, the Lawyers, in addition to being paid fees payable pursuant to this agreement, shall be paid from the recovery all reasonable Costs and Expenses,** and the Client hereby authorizes the Lawyers to deduct all amounts payable pursuant to this agreement from any funds recovered in relation to the Claim. These Costs and Expenses typically include trust transfer fees, telephone charges, messenger charges, postage and courier charges, computer research charges, file software subscription charges, word-processing charges, travel expenses, all filing charges, court filing fees, court reporter fees for examinations and transcripts, witness fees, expert fees and fees for service of legal process, any and all interest charges (including for the Lawyers' financing of such Costs and Expenses) thereon, plus printing, scanning and reproduction costs. With respect to printing, scanning and reproduction costs, the Lawyers will charge, at the Lawyers' option, either: i) what the Lawyers view to be the prevailing rate per page (a rate for black and white and a higher rate for colour) for each; or ii) 2.5% of our fees (before GST) on each invoice. Such Costs and Expenses may also include interest charges on loan(s) the Lawyers may secure to finance such costs and disbursements but only to the extent recovered from another party(ies) or such loans may be approved by the Client in advance. Prior to recovery on the Claim, the Lawyers may from time to time invoice and be paid for disbursements and other charges to the extent the Lawyers may be reimbursed for such by one or more third parties such as one or more defendants, and/or their insurance companies and adjusters.
5. On recovery in relation to the Claim the Client shall also pay to the Lawyers the Goods and Services Tax ("GST") levied on the Lawyers' fees and on all Costs and Expenses payable under this agreement.
6. The Client agrees that the Lawyers have the ability to retain other counsel, and their fees, Costs and Expenses are included in those provided by this Agreement.
7. The Client agrees that the Lawyers have made no promise or guarantee regarding the

outcome of the Claim. The Client acknowledges that any monies expended by the Client forming part of the Claim may not be recovered and that the Client may be subject to payment of court costs in an action on the Claim, and the Client hereby agrees to accept such risks. Furthermore, in the event that security for costs are ordered by the Court of Queen's Bench of Alberta in relation to a legal action for the Claim, such security shall be posted by the Client pursuant to the order.

8. It is understood and agreed that the Lawyers shall have full authority in the conduct of the file, but shall not settle or compromise the legal position of the Client without first obtaining the consent of the Client and/or approval by Order of the Court.

9. Respecting any portion of funds in relation to the Claim awarded, recovered or settled for court costs the Lawyers shall receive 33 ⅓% of such costs or as otherwise allocated by the court and:

i) such costs are intended to be a complete or partial reimbursement of the Lawyers' charges to the Client;

ii) such costs are owned by the Client and that by signing this contingency fee agreement the Client is waiving the right to any amount from the costs award that is payable to the Lawyers in accordance with subclause (iv) of this paragraph 9;

iii) the amount from such costs retained by the Lawyers will be in addition to the Lawyers' fee as set out in paragraph 2 above; and,

iv) the percentage of such costs that the Lawyers may receive may not exceed the percentage of the judgment or settlement that the Lawyers are entitled to.

10. Upon any funds recovered on the Claim becoming payable, the Client hereby assigns such funds and the Claim to the Lawyers as a first charge. Further, for any funds howsoever becoming payable in relation to the Claim, the Client hereby absolutely and irrevocably assigns to the Lawyers that portion of such funds as may become payable to the Lawyers under this agreement and the Lawyers may at any time provide notice of this assignment to such party or parties as may be or become liable for such payment.

11. Provided the Lawyers are not retained for Class Members in the Claim, the Lawyers' trust accounting for the Claim will specify the Representative Plaintiff(s) and/or his/her /their designated committee as the sole client(s) who/which may collect funds, including cheques made out to the Lawyers, to cover Costs and Expenses.

12. It is the intention of the parties that this Contingency Fee Agreement is applicable to the Initial litigation of the Claim only. Should the Claim proceed to an Appeal, this Contingency Fee Agreement will not apply to the Appeal portion of the matter, and a separate Contingency Fee Agreement would be required and have to be agreed upon between the parties.

13. At the request of the Lawyers from time to time the Client will:

i) provide in a timely manner any and all relevant information and documentation in the Client's possession or control and will assist the Lawyers to obtain any other relevant information and documentation to substantiate the Claim;

ii) assist the Lawyers to complete, and will execute as required, any and all applications,

authorizations and forms necessary to make the Claim.

The Client will also promptly notify the Lawyers of any change in the Client's contact information.

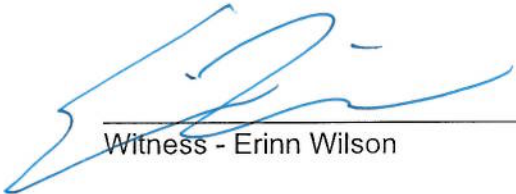
If the Client should fail to fulfill the Lawyers' reasonable requests under this paragraph as and when required then such circumstance would be a proper reason for the Lawyers to withdraw from this agreement.

The Client hereby authorizes the Lawyers to disclose any and all relevant information and documentation as they see fit for the advancement of the Claim, including without limitation to any co-counsel, opposing counsel, and parties assisting or adverse in interest.

14. The Client hereby authorizes the Lawyers to sign on the Client's behalf any and all authorizations, cheques, bank drafts, releases, and discontinuances in relation to the Claim.
15. The Lawyers will not make any loans or advances to the Client.
16. If the Client gives notice in writing to the Lawyers within 5 days after the Client's copy of this Contingency Fee Agreement is served on the Client, the Client may terminate this Contingency Fee Agreement, without incurring any liability for the Lawyers' fees, but the Client is liable to reimburse the Lawyers for reasonable disbursements.
17. If this contingency fee agreement is entered into pursuant to an engagement agreement between the parties, the terms of such engagement agreement shall constitute and form a part of this contingency agreement, except to the extent they conflict with this contingency fee agreement. The above recitals shall also form and constitute a part of this contingency agreement.
18. From time to time, both during and any time after the conclusion of this Engagement, ***the Client expressly consent to receiving from the Lawyers, emails and/or any other form of electronic messages for any purposes related to the engagement under this agreement and to receive any information regarding further legal and related services the Lawyers may offer or solicit to the Client.***
19. AT THE REQUEST OF THE CLIENT, A REVIEW OFFICER OF THE COURT MAY REVIEW EITHER OR BOTH THIS CONTINGENCY FEE AGREEMENT AND ANY CHARGES OF THE LAWYERS IN AN ACCOUNT RENDERED UNDER THIS CONTINGENCY FEE AGREEMENT, AND EITHER OR BOTH THIS CONTINGENCY FEE AGREEMENT OR ANY CHARGES OF THE Lawyers MAY BE FURTHER REVIEWED BY WAY OF AN APPEAL FROM A REVIEW OFFICER'S DECISION TO A JUDGE. WITHOUT LIMITING THE FOREGOING, THE LAWYERS' CHARGES UNDER THIS CONTINGENCY FEE AGREEMENT MAY BE REVIEWED IN ALBERTA AT THE REQUEST OF EITHER THE CLIENT OR THE LAWYERS.
20. The terms of this Agreement may be varied or amended, but only in writing, including exchange of emails or correspondence, between the Lawyers and the Client.

21. This agreement may be executed as one two-signature document(s) or as two separate single signature documents (counterparts) and delivered by hand to the address or by email or fax transmission. For such purpose or to provide any other notices contemplated by this agreement, the address, email address or fax number of each party to be used shall be as noted in the parties clause above or as noted in subsequent notice of one party to the other.


IN WITNESS WHEREOF THE PARTIES HAVE HEREUNTO AFFIXED THEIR SIGNATURES AS OF THE DATE FIRST ABOVE WRITTEN.



Witness - Erinn Wilson

Client Signature

HIGGERTY LAW



Per: Patrick B. Higgerty, Q.C
or Clint G. Docken, Q.C

CANADA
PROVINCE OF ALBERTA
TO WIT:

) I, Erinn Wilson of the
) City of Calgary , in the Province
) of Alberta, MAKE OATH AND SAY:

1. THAT I was personally present and did see Terrance Cook named in the annexed instrument, who is personally known to me to be the person named therein, duly sign and execute the same or the purpose named therein.
2. THAT the instrument was executed at the City of Calgary, in the Province of Alberta, and that I am the subscribing witness thereto.
3. THAT I know the said Terrance Cook and he is in my belief is of the full age of 18 years.

SWORN BEFORE ME at the City
of Calgary, in the Province of Alberta
on the 19 day of September, 2017


A Commissioner for Oaths in
and for the Province of Alberta

Witness - Erinn Wilson

KANCHAN BRAICH
Student-at-Law, Notary Public &
Commissioner for Oaths
in and for Alberta

Schedule "D"

APPROVAL NOTICE

City of Calgary Privacy Breach Class Action

Terrence Cook v City of Calgary and John Doe

If you were an employee of the City of Calgary whose personal information was disclosed on June 14 and 15, 2016 as a result of certain actions by John Doe, then an employee of the City, this notice may affect your legal rights. Please read it carefully.

On February 10, 2021, the Court approved a settlement (the “Settlement”) of the class action *Terrance Cook v City of Calgary and John Doe* (the “Class Action”). The Class Action concerns the unauthorized disclosure of personal information of persons employed by the City of Calgary. A copy of the court’s Approval and Certification Order and of the terms of the Settlement, as set out in the Settlement Agreement referenced in the Approval and Certification Order, can be found on Class Counsel’s website (www.higertylaw.ca). Except to the extent that they are set out in or modified by the Approval and Certification Order and the previous Notice Approval Order in this Action, the definitions set out in the Settlement Agreement apply to and are incorporated into this Notice.

Who is Eligible to participate in the Settlement?

To be eligible to participate in the Settlement, you must be a member of the Settlement Class and have had your personal information disclosed. The Settlement Class is defined as:

All those persons resident in Alberta and throughout Canada and abroad, who were one of the approximately 3,807 persons resident in Alberta and throughout Canada and abroad, who were employees of the City and whose personal information was included in the unauthorized disclosure of such personal information, which occurred on or about June 14 and 15, 2016 as a result of certain actions by John Doe, then an employee of the City (the “Privacy Breach”), excluding all deceased persons and all persons who have opted-out of participation in the Class Action in accordance with the Settlement Agreement.

Anyone who has opted out of the Class Action shall not participate in the Settlement, and is not eligible for compensation under the Settlement Agreement.

What are the Terms of the Settlement?

Under the Settlement Agreement, members of the Settlement Class are entitled to payment of the following amounts.

- Each member of the Settlement Class will be paid \$40 as compensation for time spent, inconvenience, upset, anger, and annoyance, less any court ordered deductions from this amount for payment of Class Counsel Fees, in whole or in part.

In addition, subject to the terms of the Settlement Agreement, Qualifying Members of the Settlement Class may claim entitlement to the following further payments, if they can prove to the satisfaction of the Claims Administrator that such member has met the Qualification Requirements and has incurred the claimed expenses:

- Up to \$2,000 per person in compensation for general damages for pain and suffering as a result of a compensable mental injury caused by the Disclosure;
- Up to \$500 per person for provable otherwise unreimbursed prescription, treatment and/or counselling costs, and related travel expenses incurred; and
- Up to \$150 per person for provable otherwise unreimbursed costs for documentation to substantiate mental injury.

The above amounts are subject to caps, and may be reduced pro-rata in accordance with the Settlement Agreement if those caps are exceeded. In addition, the above amounts may be reduced pro-rata due to payment of Class Counsel Fees as may be directed by the Court.

Further, the City will pay:

- To the Claims Administrator \$25,000 to cover the Claims Administration Costs;
- To Class Counsel the \$5,000 initially earmarked for the now waived Honorarium for the Representative Plaintiff; and,
- To Class Counsel the \$13,880 which was added to round-up the total amount of the Settlement Funds.

Class Counsel Fees will be paid out of the Settlement Funds, in accordance with the Class Counsel Fee Order made February 10, 2021 as follows:

- To reduce the percentage Class Counsel Fees from 33.3% to 27.6%, by allocation against those fees the \$5,000 initially earmarked for the now waived Honorarium for the Representative Plaintiff and the \$13,880 which was added to round-up the total amount of the Settlement Funds;
- 27.6% of each compensation amount payable to Settlement Class Members.

A copy of the Class Counsel Fee Order can be found on the Class Counsel's website (higgertylaw.ca).

How Do I Make a Claim?

Members of the Settlement Class who wish to seek compensation under the Settlement Agreement must submit their claims together with all supporting documentation to the Claims Administrator on or before **November 17, 2021** using any claim form the Claims Administrator may prescribe and post on its website.

For information and to obtain a Claim Form, contact the Claims Administrator at:

MNP Ltd.

1500, 640 - 5 Ave SW

Calgary, AB T2P 3G4

Tel: 403-538-3187

Email Address: COCsettlementadministrator@mnp.ca

For further information, you may contact Class Counsel:

HIGGERTY LAW

Attention: Patrick Higgerty, Q.C.

Suite 101, 440-2nd Avenue S.W.,

Calgary, AB T2P 5E9

Tel: 403-503-8888

Fax: 587-316-2260

Email: info@higgertylaw.ca

For further information go to www.higgertylaw.ca