

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

ELAINE QUINTE, JOHN QUINTE and 1358896 ONTARIO INC. (CARRYING ON BUSINESS AS HUNGRY JACK'S)

Plaintiffs/Moving Parties

-and-

EASTWOOD MALL INC., BOB NAZARIAN, THE CORPORATION OF THE CITY OF ELLIOT LAKE, M.R. WRIGHT & ASSOCIATES CO. LTD., R.G.H. WOOD, G.J. SAUNDERS, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, ALGOMA CENTRAL PROPERTIES INC., CORESLAB STRUCTURES (ONT) INC., JOHN KADLEC, JAMES KEYWAN, NON-PROFIT RETIREMENT RESIDENCES OF ELLIOT LAKE INC. (CARRYING ON BUSINESS AS RETIREMENT LIVING), AND 1425164 ONTARIO LTD. INC. (CARRYING ON BUSINESS AS NORDEV)

Defendants/Responding Parties

PROCEEDINGS UNDER THE *CLASS PROCEEDING ACT, 1992*

CLASS ACTION SETTLEMENT AGREEMENT

RECITALS

- A. **WHEREAS** this proceeding relating to the collapse of the Mall in Elliot Lake, Ontario on or about June 23, 2012, was commenced by the Representative Plaintiffs Elaine Quinte, John Quinte and 1358896 Ontario Inc. (Carrying on Business as Hungry Jack's – "**Hungry Jack's**") (collectively the "**Plaintiffs**") against the above-captioned defendants in the Ontario Superior Court of Justice at Toronto pursuant to the *Class Proceedings Act, 1992*, and is known as Court File Number CV-12-458218-00CP (the "**Class Action**");
- B. **AND WHEREAS**, by Order of the Superior Court of Justice dated February 13, 2014, this Action was certified as a class proceeding and the Plaintiffs were appointed the representative plaintiffs in the Class Action;
- C. **AND WHEREAS** the Class (as defined below) was notified of the certification of this action as a class proceeding and the opt-out period is now closed;

- D. AND WHEREAS** a separate proceeding, relating to the partial collapse of the Algo Centre Mall in Elliot Lake, Ontario on or about June 23, 2012, was commenced by the plaintiffs, 749416 Ontario Inc. carrying on business under the firm name and style of Elliot Lake Foodland, Pierre Vaillancourt and Pauline Vaillancourt, against Eastwood Mall Inc. carrying on business under the firm name and style of Algo Centre Mall, 1080932 Ontario Inc. carrying on business under the firm name and style of Algo Centre Mall, Robert Nazarian, The Corporation of the City of Elliot Lake, Her Majesty the Queen in Right of Ontario, as represented by the Minister of Labour, Non-Profit Retirement Residences of Elliot Lake Inc., 1425164 Ontario Limited carrying on business under the firm name and style of NorDev Group, M.R. Wright & Associates Co. Ltd., Robert G.H. Wood, Gregory J. Saunders, Algoma Properties Inc., James Keywan, Beta Engineering Group Ltd., and Coreslab Structures (Ont) Inc., in the Ontario Superior Court of Justice at Sudbury, under Court File No. 3316-14 (the “**Foodland Action**”);
- E. AND WHEREAS** the Parties (as defined below) attended a multi-part, multi-year mediation conducted by two retired justices of the Court of Appeal for Ontario (first, by the Honourable Stephen Goudge and then continued by the Honourable Warren Winkler);
- F. AND WHEREAS** the Defendant John Kadlec (“**Kadlec**”) has not filed a Statement of Defence, not hired legal counsel, not attended the certification motion or any part of the multi-year mediation process in this Class Action (or any other proceedings in this Class Action), and been noted in default on October 12, 2022;
- G. AND WHEREAS** Kadlec has not responded to correspondence earlier this month from Class Counsel (sent by courier to his last known address) advising of the proposed settlement of this Class Action and the Plaintiffs’ willingness to abandon the claims against him as part of any such settlement, and seeking Kadlec’s contact information (telephone number or email address) in order to address and finalize the cessation of the claims against him in this Class Action;
- H. AND WHEREAS** the Settling Defendants have consented to the discontinuance or dismissal of any and all claims, crossclaims or other claims as against Kadlec in this Class Action on a

without costs basis;

- I. **AND WHEREAS**, once the terms of this Class Action Settlement Agreement are finalized and agreed to, and copies hereof are executed by all of the Parties hereto (such that it becomes binding on the Parties, subject to court approval), the Plaintiffs will send a copy of this Class Action Settlement Agreement by prepaid first class mail or courier to the last known address of Kadlec and, subsequently, will also send a copy of the Notice of Proposed Settlement by prepaid first class mail or courier to the last known address of Kadlec;
- J. **AND WHEREAS**, if this Class Action Settlement Agreement is approved by the Court, the Plaintiffs will, on behalf of all the Parties and if this Class Action Settlement Agreement is approved by the Court, seek at the same time: (i) leave and/or an order of the Court (if necessary) discontinuing, or permitting the service and filing of a Notice of Discontinuance of, all claims, crossclaims, third party or other claims as against Kadlec in this Class Action on a without costs basis, and (ii) leave of this Court authorizing and validating service of that Order or any such Notice of Discontinuance on Kadlec by sending a copy of the Order or Notice by prepaid first class mail or courier to the last known address of Kadlec;
- K. **AND WHEREAS** the defendant James Keywan has passed away, and all Parties have consented to this proceeding continuing as against his Estate (or, more technically, as against the Estate Trustee (or Executor, Administrator or such other authorized estate representative) of the Estate of the Late James Keywan), and WHEREAS the Parties hereby consent to an order that, and otherwise agree that: (i) the proceeding so continue as against the Estate/Estate representative of James Keywan; and (ii) all references to James Keywan in this Class Action Settlement Agreement, in the pleadings in this Class Action (including but not limited to the title of proceedings), and in all orders or other documents issued, served or filed after the date of the execution of this Class Action Settlement Agreement shall remain the same and continue to expressly refer to James Keywan but shall be treated, interpreted and deemed effective as if they expressly named the Estate Trustee (or such other estate representative) of the Estate of the Late James Keywan;
- L. **AND WHEREAS** a settlement (subject to the terms below) was reached jointly in the

Class Action and in the Foodland Action for the combined all-inclusive sum of \$10,775,000.00, that was to be funded on the following basis by certain common defendants as between the Foodland Action and the Class Action, as outlined below (hereinafter the “**Settling Defendants**”):

- i. \$3,500,000.00 on behalf of The Corporation of the City of Elliot Lake;
- ii. \$2,000,000.00 on behalf of Algoma Central Properties Inc. (improperly named in the Statement of Claim in the Foodland Action as “Algoma Properties Inc.”) (hereinafter “Algoma Central Properties Inc.”);
- iii. \$1,745,000.00 on behalf of Eastwood Mall Inc. o/a Algo Centre Mall (improperly named in the Statement of Claim in the Foodland Action as “Eastwood Mall Inc. carrying on business under the firm name and style of Algo Centre Mall” and “1080932 Ontario Inc. carrying on business under the firm name and style of Algo Centre Mall”), 1080932 Ontario Inc. (carrying on business as Eastwood Mall Inc.), and Asadoor Bob Nazarian (improperly named in the Statement of Claim in the Foodland Action as “Robert Nazarian” and improperly named in the Statement of Claim in the Class Action as “Bob Nazarian”) (hereinafter collectively “Eastwood Mall Inc. and Nazarian”);
- iv. \$1,000,000.00 on behalf of 1425164 Ontario Limited carrying on business under the firm name and style of NorDev Group/1425164 Ontario Ltd. Inc. (carrying on business as NorDev) (hereinafter “1425164 Ontario Limited c.o.b. NorDev”);
- v. \$1,000,000.00 on behalf of Non-Profit Retirement Residences of Elliot Lake Inc. (carrying on business as Retirement Living) (hereinafter “Retirement Living”);
- vi. \$730,000.00 on behalf of M.R. Wright & Associates Co. Ltd. Robert G.H. Wood/R.G.H. Wood and Gregory J. Saunders/G.J. Saunders (hereinafter collectively “M.R. Wright & Associates Co. Ltd, Wood and Saunders”);
- vii. \$400,000.00 on behalf of His Majesty the King in Right of Ontario (formerly Her Majesty the Queen in Right of Ontario) (hereinafter “His Majesty the King in Right of Ontario”);

- viii. \$225,000.00 on behalf of Coreslab Structures (Ont) Inc.; and,
- ix. \$175,000.00 on behalf of James Keywan (hereinafter "Keywan");

M. AND WHEREAS an agreement has been reached as between the Plaintiffs in the Foodland Action and the Plaintiffs in the Class Action that \$775,000.00 of the all-inclusive sum of \$10,775,000.00 referenced in Recital L above be allocated to settle the Foodland Action, with the settlement of the Foodland Action formalized in separate Minutes of Settlement, and that \$10,000,000.00 of the all-inclusive sum of \$10,775,000.00 referenced in Recital L above be allocated to settle the Class Action based on the contributions as set out in paragraph 4 below, with the settlement of the Class Action formalized in the within Class Action Settlement Agreement, which is subject to approval by the Ontario Superior Court of Justice;

N. AND WHEREAS, the Class and the Settling Defendants are referred to below as the "Parties";

O. AND WHEREAS the Parties wish to conclusively resolve all issues which were or could reasonably have been advanced by the Class against the Defendants in the context of the Class Action; and

P. AND WHEREAS the Parties understand and acknowledge that this Class Action Settlement Agreement, including the Schedule hereto, must be approved by the Ontario Superior Court of Justice and incorporated into a final Settlement Approval Order (as defined below).

IT IS HEREBY AGREED by the Parties that, subject to the Court's approval, the Class Action shall be finally and fully compromised, settled, released and dismissed, upon and subject to the terms and conditions of this Class Action Settlement Agreement, as follows:

DEFINITIONS

1. In this Settlement Agreement, in addition to terms that are defined elsewhere herein, the following terms have the meanings specified below. The plural of any defined term includes the singular, and the singular of any defined term includes the plural, as the case may be.

- a. "**Class Action**" means Ontario Superior Court Action Court File Number CV-12-

458218-00CP (Toronto);

- b. **“Administration Expenses”** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable relating to the implementation and administration of this Class Action Settlement Agreement, including the costs of publishing and mailing notices, and the fees, disbursements and taxes payable (or reserved to pay) to the Settlement Administrator and any referee or adjudicator (or such similar person or company) appointed to evaluate the claims of the Class Members pursuant to any distribution protocol approved by the Court as well as any other expenses approved by the Court;
- c. **“Business Day”** means a day other than a Saturday or a Sunday or a day observed as a holiday under the laws of the Province or Territory in which the person who needs to take action pursuant to this Class Action Settlement Agreement is situated or a holiday under the federal laws of Canada applicable in the said Province or Territory;
- d. **“Class Counsel”** means Roy O’Connor LLP, Jeffery Broadbent and Roland Aube Law Office inclusive of their predecessor firms;
- e. **“Class Counsel Fees”** means the fees, disbursements, and applicable taxes of Class Counsel as may be approved by the Court;
- f. **“Class”** and **“Class Members”** means all persons that satisfy the following court-approved Class Definition:
 - The class consists of all individuals or businesses (except the defendants) who:*
 - a. Were occupants in the Mall at the time of the Collapse, or were the occupants’ parents, spouses, children and siblings;*
 - b. Were tenants in the Mall at the time of the Collapse; or*
 - c. Were employed in the Mall at the time of the Collapse (even if they were not working on the day of the Collapse).*
- g. **“Class Action Case Management Judge”** means the judge assigned by the Court to case manage or oversee the Class Action;

- h. **“Collapse”** means the collapse of the Algo Centre Mall in Elliot Lake Ontario on June 23, 2012;
- i. **“Common Issues”** means the certified common issues certified pursuant to the Certification Order of the Honourable Justice Belobaba dated February 13, 2014:

Common Issue 1 – Duties & Breach

a. Did the Defendants (or any of them) owe a duty of care (whether at common law, statute or otherwise) to the Class Members regarding safety of the Mall?

b. If the answer to Common Issue 1(a) is yes, did the Defendants (or any of them) breach the foregoing duty (or duties) of care? If so, how?

Common Issue 2 – Causation & Damages

a. If the answer to Common Issue 1(b) is yes, did the Defendants (or any of their) breaches of duty cause or contribute to the Collapse?

b. If the answer to Common Issue 2(a) is yes what types or heads of damages may Class Members be entitled to recover from the Defendants (or any of them), subject to any individual defence to the claim of individual class members?

Common Issue 3 – Apportionment of Liability

a. If the answer to Common Issue 1(b) is yes, what degree of fault should be assigned to the defendants under the common law, the Negligence Act or under any other statute?

- j. **“Court”** means the Ontario Superior Court of Justice;
- k. **“CPA”** means the *Class Proceedings Act, 1992* (Ontario), S.O. 1992, c.6, as amended;
- l. **“CPF”** means the Class Proceedings Fund created pursuant to Section 59.1 of the *Law Society Act* and administered by the Class Proceedings Committee of the Law Foundation of Ontario;
- m. **“CPF Levy”** means a levy from the Settlement Fund equal to the amount of financial support paid to the Plaintiffs by the CPF plus 10% of the balance of the Net Settlement Fund (net of Class Counsel Fees, and Administration Expenses) to

which the CPF is entitled pursuant to Ontario Regulation 771/92, having previously approved the Plaintiffs for financial support;

- n. **“Distribution Protocol”** means the proposed plan for distributing the Net Settlement Fund to the Class as proposed by Plaintiffs or Class Counsel in advance of the Settlement and Fee Approval Hearing;
- o. **“Effective Date”** means the earlier of: (i) the date on which the ability to appeal, if an appeal lies, from the Settlement Approval Order has expired without any appeal being taken, namely, thirty (30) days after the date of the Approval Order; or (ii) if any appeals have been taken from the Settlement Approval Order, the date on which all such appeals are concluded by way of a final order or judgment;
- p. **“Execution Date”** means the date on which this Class Action Settlement Agreement is signed by the Parties or by their respective designated representatives;
- q. **“Final Settlement Approval”** means the Effective Date after the date of issuance of the Settlement Approval Order;
- r. **“Fee Approval Order”** means an order or order of the Ontario Superior Court of Justice fixing and/or approving Class Counsel Fees;
- s. **“Foodland Action”** means Ontario Superior Court Action Court File No. 3316-14 (Sudbury);
- t. **“Mall”** means the Eastwood Mall (a.k.a. the Algo Centre Mall), formerly located in the City of Elliot Lake, Ontario;
- u. **“Net Settlement Fund”** means the amount of the Settlement Fund available for distribution to the Class Members following the deduction (as approved by the Court) of Class Counsel Fees, Ontario Ministry of Health subrogated Health Care Costs Claims, Administration Expenses, and CPF Levy;
- v. **“Notice of Approved Settlement”** means the notice, in a form to be agreed upon by the Parties acting reasonably and to be approved by the Court, to be provided to the Class in the event that this Class Action Settlement Agreement is approved

at the Settlement Approval Hearing.

- w. **“Notice of Proposed Settlement”** means the notice of the settlement approval hearing to be approved by the Court and provided to the Class that summarizes this Class Action Settlement Agreement and the process by which the Parties will seek its approval, in a form to be agreed upon by the Parties acting reasonably;
- x. **“Notice Program”** is the program for publishing and distributing notices as set out in paragraphs 13 through 16 of this Class Action Settlement Agreement;
- y. **“Parties”** means the following parties to this Settlement Agreement:
 - i. Elaine Quinte;
 - ii. John (Jack) Quinte;
 - iii. 1358896 Ontario Inc. (carrying on business as Hungry Jack’s);
 - iv. the Settling Defendants, as set out in Recital L above.
- z. **“Released Claims”** means any and all manner of claims, crossclaims, counterclaims, third party claims or other claims (including, without limitation all claims for negligence, breach of duty of care or any other duty, breach of the *Occupiers’ Liability Act*, R.S.O. 1990, c. O.2, breach of duty to warn, misconduct or any violation of any federal, provincial or other statutes, rules, regulations or common law), demands, actions, suits, causes of action, whether class, individual or otherwise in nature whether personal or subrogated, damages whenever incurred and liabilities of any nature and kind whatsoever, including interest, costs, expenses, penalties, taxes, fees, known or unknown, in law, under statute or in equity, that had been, have been or could reasonably have been asserted against the Defendants (or any of them) in respect of the facts and allegations raised in the Class Action or otherwise relating to the Collapse;
- aa. **“Released Persons”** shall mean the Settling Defendants as well as their respective predecessors, successors, parents, subsidiaries, affiliates, associated companies, entities and divisions, and each of their respective current and former shareholders, officers, directors, employees, lawyers, attorneys, agents, insurers,

trustees, assigns, owners, consultants, suppliers, distributors and partners, as applicable;

bb. **“Settlement”** means the settlement of the Class Action pursuant to this Class Action Settlement Agreement;

cc. **“Settlement Agreement”** means this Class Action Settlement Agreement together with its Schedule;

dd. **“Settlement Administrator”** means such firm as may be appointed by the Court to administer this Settlement. Some of the duties of the Settlement Administrator are set out at paragraph 18 below;

ee. **“Settlement Approval Order”** means an order or orders of the Ontario Superior Court of Justice approving this Settlement as fair, reasonable and in the best interests of the Class Members for the purposes of settlement pursuant to the CPA;

ff. **“Settlement and Fee Approval Hearing”** means the motion returnable before the Court for approval of the Settlement;

gg. **“Settlement Fund”** means the ten million dollars (\$10,000,000.00) (CDN) amount to be paid by the Settling Defendants in the Class Action, as set out in paragraph 4 below;

hh. **“Settling Defendants”** means the Defendants set out in Recital L above.

PARTIES’ EFFORTS

2. The Parties shall endeavour in good faith to implement the terms and conditions of this Settlement Agreement and to seek approval of this Settlement Agreement from the Court.

SETTLEMENT NEGOTIATIONS AND MEDIATION

3. The Plaintiffs, the Settling Defendants and their respective counsel have engaged in extensive arms-length without prejudice settlement discussions, which included a multi- part,

multi-year mediation conducted by the Honourable Stephen Goudge and subsequently by the Honourable Warren Winkler.

SETTLEMENT FUND

4. In consideration of the terms and covenants herein, within fifteen (15) days of the Effective Date, the Settling Defendants shall pay to the Settlement Administrator the sum of \$10,000,000.00 to be held in Trust, to be funded as follows:

- a. The defendant, The Corporation of the City of Elliot Lake, will contribute \$3,248,000.00;
- b. The defendant, Algoma Central Properties Inc., will contribute \$1,856,000.00;
- c. The defendants, Eastwood Mall Inc. and Nazarian, will contribute \$1,619,360.00;
- d. The defendant, 1425164 Ontario Limited c.o.b. NorDev, will contribute \$928,000.00;
- e. The defendant, Retirement Living, will contribute \$928,000.00;
- f. The defendants, M.R. Wright & Associates Co. Ltd., Wood and Saunders, will contribute \$677,440.00;
- g. The defendant, His Majesty the King in Right of Ontario, will contribute \$372,000.00;
- h. The defendant, Coreslab Structures (Ont) Inc., will contribute \$208,800.00; and,
- i. The defendant, Keywan, will contribute \$162,400.00.

Each of the amounts to be funded by each of the defendants as set out immediately above is calculated by proportionately reducing the amount that each of them was contributing to the \$10,775,000.00 as set out in the subparagraphs of Recital L above (or, in other words, the amounts listed in the subparagraphs of Recital L are multiplied by the fraction $\$10,000,000/\$10,775,000$, to arrive at the proportionate amount that each defendant(s) funds the \$10,000,000.00 Settlement Fund for this Class Action.

5. The Parties agree that the amounts to be contributed toward the Settlement Fund by the Settling Defendants, as set out in paragraph 4 above, will not be subject to any reallocation as amongst the Settling Defendants or otherwise.

6. The Settlement Fund shall be managed and paid out by the Settlement Administrator in accordance with the terms of this Settlement Agreement. The Settlement Administrator shall not

pay out all or any part of the monies in the Settlement Fund, except in accordance with the Settlement Agreement or an Order of the Court obtained on notice.

7. The Settlement Fund (or any portion thereof) may be held in an interest-bearing trust account subject to the Settlement Administrator and Class Counsel evaluating whether it is economical to do so (including, without limitation, in light of any expenses associated with maintaining, administering, and reporting with respect to any such interest-bearing account relative to the interest to be generated therefrom). Class Counsel and the Settlement Administrator shall have no liability with respect to the use (or not) of an interest-bearing account for the Settlement Fund or any portion thereof. The Settlement Administrator shall maintain the Settlement Fund as provided for in this Settlement Agreement.

8. The Settling Defendants shall have no reversionary interest in and otherwise no right or claim to reimbursement or reversion from the Settlement Fund or any portion thereof. The Settling Defendants shall bear no risk related to the management or investment of the Settlement Fund. The Settling Defendants shall not be required to deposit additional funds as a result of investment or any losses to the Settlement Fund or for any other reason.

9. The Settlement Fund is inclusive of all amounts, including, without limitation, taxes, interest, costs, Administration Expenses, Ministry of Health subrogated Health Care Cost Claims, Class Counsel Fees, and CPF Levy. For greater certainty, the Settling Defendants shall not be required to make any payments pursuant to this Settlement Agreement other than the payment of the \$10,000,000 Settlement Fund as described above, and other than as necessary to effect the settlement in the Foodland Action.

THE SETTLEMENT APPROVAL MOTION

10. Within fifteen (15) days of the Execution Date, the Plaintiffs shall provide draft motion materials for the motion to approve this Settlement and issue the Settlement Approval Order to counsel for the Settling Defendants to allow counsel to the Settling Defendants to review and comment on such materials.

11. Within forty-five (45) days of the Execution Date, the Plaintiffs shall serve and file materials for a motion for approval of this Settlement and issuance of the Settlement Approval

Order. The Settlement Approval Order shall be substantially in the form set out in Schedule "A" to this Settlement Agreement.

12. Subject to paragraphs 27-32 below, this Settlement Agreement shall be null and void and of no force and effect unless a Settlement Approval Order and the required dismissal is granted and the Effective Date occurs.

NOTICE OF THE PROPOSED SETTLEMENT AND FEE APPROVAL HEARING

13. The Plaintiffs shall forthwith bring a motion to approve the content and distribution of the Notice of Proposed Settlement to the Class, any insurers/insurance companies who have contacted Class Counsel in respect of potential subrogated claims and the Ministry of Health for Ontario (for purposes of any OHIP subrogated Health Care Costs Claims). Subject to the direction of the Class Action Management Judge, this motion may proceed in person, in writing, or by way of virtual case conference. For clarity, by including such insurers/insurance companies in the notice program, the Plaintiffs and Class Counsel are not confirming or taking any position on the specific rights or interests of any insurers/insurance companies to or in any share of the Settlement Fund.

14. Subject to the approval of the Court, the Plaintiff (through Class Counsel) shall following such approval: (a) provide the Notice of Proposed Settlement to persons who have previously contacted Class Counsel and appear to be Class Members by email or, where no email address is available, regular mail (using their last known addresses to the extent such addresses are available to Class Counsel) as soon as reasonably possible; (b) immediately post the Notice of Proposed Settlement on the website(s) controlled by Class Counsel; and (c) immediately contact the local Elliot Lake media outlets, advise them of the proposed Settlement, and provide them with a copy of the Notice of Proposed Settlement. Notice shall be deemed effective as of the first date on which the Notice is posted or disseminated as set out in subparagraphs (b) and (c) immediately above.

15. If, following the publication and distribution of the Notice of Proposed Settlement, the Settling Defendants receive inquiries from Class Members about this Action or this Settlement, they shall re-direct such inquiries to the Settlement Administrator or Class Counsel.

NOTICE OF APPROVED SETTLEMENT

16. If the Settlement is approved, the Class Members shall be notified of the approval by way of the Notice of Approved Settlement in a form to be agreed upon by the Plaintiffs and the Settling Defendants (acting reasonably) and approved by the Court.

17. The cost of the aforesaid Notices and related correspondence and communications shall be paid or reimbursed from the Settlement Fund.

DISTRIBUTION OF THE SETTLEMENT FUND

18. On or after the Effective Date, the Settlement Administrator shall distribute the Settlement Fund in accordance with the following priorities:

- a. to pay, as per paragraphs 23 to 26 below, Class Counsel Fees as may be approved by the Court;
- b. to pay all of the costs and expenses reasonably incurred in connection with the provision of the Settlement Approval Notices;
- c. to pay (or reserve sufficient funds to pay) all of the Administration Expenses, and for greater certainty and clarity, the Settling Defendants and the Class or Class Counsel are specifically excluded from being required to pay any such Administration or notice costs and expenses, with all such costs and expenses being paid from the Settlement Fund;
- d. to pay any taxes required by law to any governmental authority;
- e. to pay any Ministry of Health subrogated Health Care Cost Claims;
- f. if approved by the Court, to pay an honorarium to Elaine and John Quinte in recognition of their contributions in relation to this Action;
- g. to pay the CPF Levy as prescribed by Section 10 of the Class Proceedings regulation under the *Law Society Act*; and
- h. to pay a share(s) of the Net Settlement Fund to each eligible Class Member in proportion to their claim as recognized in accordance with the Distribution Protocol to be proposed by the Plaintiffs and as approved by the Court.

19. The approval or denial by the Court of any proposed Distribution Protocol is not necessary for the approval of the \$10,000,000 Settlement with the Settling Defendants as otherwise set out

herein. The \$10,000,000 Settlement set out herein and its fairness and reasonableness can be considered by the Court separately and may be approved by the Court even if any proposed Distribution Protocol is not approved. If the proposed Distribution Protocol is not approved but the \$10,000,000 Settlement as otherwise set out herein is approved by the Court, the Settlement will be binding on the Parties and the subsequent approval of a revised distribution protocol as proposed by the Plaintiffs or Class Counsel acting reasonably will be considered by the Court subsequently on notice to the Class (with the content and publication of such notice to be determined subsequently).

RELEASE

20. Upon the Effective Date, the Parties and the Class Members shall have, and by operation of the Settlement Approval Order shall be deemed to have, fully, finally, and forever released, relinquished, and discharged the Released Claims as against every one of the Released Persons. By entering into this Settlement Agreement, each of the Parties represents and warrants that he, she, or it has not assigned, hypothecated, transferred, or otherwise granted any interest in the Released Claims to any other Person.

21. Upon the Effective Date, the Parties and the Class Members shall be permanently barred and enjoined from commencing or prosecuting in any jurisdiction or forum any action or claim against the Released Persons related to, or based on, the Released Claims. This Settlement Agreement shall operate conclusively as an estoppel in the event of any claim, action, complaint or proceeding brought by any Party or Class Members against the Released Persons in respect of, and to the extent of, any Released Claims. The Settling Defendants and the Released Persons may file this Settlement Agreement and the Settlement Approval Order in any action or proceeding that may be brought against them in breach of this paragraph in order to support any defence or counterclaim, including without limitation those based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defence or counterclaim. This Settlement Agreement and the Settlement Approval Order may be pleaded in the event that any claim, action, complaint or proceeding is brought in breach of this paragraph, and the Settlement Agreement and the Settlement Approval Order may be relied upon for the purpose of a motion or application to

dismiss any such claim, action, complaint or proceeding (if and to the extent that such claim, action, complaint or proceeding breaches this paragraph) on a summary basis, and this Settlement Agreement and the Settlement Approval Order shall be a full defence to any such action to the extent that such action represents a breach of this paragraph. No Party, or Class Member, may seek to avoid the application of this Settlement Agreement and the Settlement Approval Order to the Released Persons based on a lack of privity or mutuality.

22. In the event that any Class Member (or any insurer or other entity advancing a subrogated or other claim on behalf of the Class Member) asserts against one or more of the Released Persons any Released Claims, the Plaintiffs and the Class Members hereby expressly waive and disclaim in favour of the Released Persons any right, claim or entitlement to receive any compensation or funds derived from, or otherwise participate in, any recovery or award against the Released Persons in respect of the Released Claims in any such subsequent action or proceeding.

COURT APPROVAL OF CLASS COUNSEL FEES & DISBURSEMENTS

23. Class Counsel will seek the Court's approval to pay Administration Expenses (or estimates or reserves in respect thereof) and Class Counsel Fees, contemporaneous with seeking approval of this Settlement Agreement. The foregoing shall be reimbursed and paid solely out of the Settlement Fund after the Effective Date. Except as provided herein, Administration Expenses may only be paid out of the Settlement Fund after the Effective Date.

24. Class Counsel shall request a Fee Approval Order that provides that its fees be approved by the Court and fixed as twenty-five percent (25%) of the total amount of the Settlement Fund remaining after the deduction of Class Counsel's approved disbursements. Class Counsel shall also request payment of disbursements as well as the corresponding taxes on that 25% fee and/or disbursements. Class Counsel may also request that it be permitted to retain the \$145,000.00 certification costs previously paid by the Defendants in this proceeding.

25. The approval, or denial, by the Court of any requests for Class Counsel Fees to be paid out of the Settlement Fund are not part of the Settlement provided for herein, except as expressly provided in paragraph 18, and are to be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the settlement provided for herein.

26. For greater certainty, the failure of the Court to approve a request for Class Counsel Fees has no impact or effect on the rights and obligations of the Parties to this Settlement Agreement, shall not affect or delay the issuance of the Settlement Approval Order, and shall not be grounds for termination of the Settlement Agreement.

FAILURE TO OBTAIN APPROVALS

27. In the event this Settlement Agreement is not approved by the Court, or an appeal precludes the consummation of the Settlement provided for herein in accordance with the terms and conditions of this Settlement Agreement, or this Settlement Agreement is terminated or fails to become effective, the Parties shall be restored to their respective positions in the Class Action as though this Settlement Agreement had never been made. In such event, the terms and provisions of this Settlement Agreement shall have no further force and effect, and shall not be used or admissible in the Class Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of this Settlement Agreement shall be treated as vacated, *nunc pro tunc*. In the event that the Settlement provided for in this Settlement Agreement is terminated or fails to become effective in accordance with the terms hereof, all amounts paid into the Settlement Fund by the Settling Defendants pursuant to paragraph 4 above shall be immediately refunded to the Settling Defendants.

TERMINATION OF SETTLEMENT AGREEMENT

28. The Plaintiffs or Settling Defendants may terminate this Settlement Agreement only in the event that:

- a. The Court declines to grant a Settlement Approval Order approving this Agreement or if any such Settlement Approval Order is overturned or reversed in whole or in part on appeal; or,
- b. The Court declines to grant an Order dismissing the Class Action with prejudice and without costs.

29. In addition, if the Settlement Fund is not paid in accordance with paragraph 4 above, the Plaintiffs shall have the right to terminate this Settlement Agreement, at their sole discretion.

30. To exercise a right of termination under paragraph 28 or 29, the terminating party shall

deliver a written notice within thirty (30) days following an event described above.

IF SETTLEMENT AGREEMENT TERMINATED

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

- a. No motion to approve this Settlement Agreement, which has not been decided, shall proceed;
- b. The Parties will cooperate in seeking to have any orders made in respect of this Settlement Agreement set aside and declared null and void and of no force or effect;
- c. All negotiations, statements, proceedings, and other matters relating to the settlement and the Settlement Agreement and its approval (including but without limitation any affidavits, factums or other submissions supporting the proposed settlement) shall be deemed to be without prejudice to the rights of the Parties, and the Parties shall be deemed to be restored to their respective positions existing immediately before the Settlement Agreement was executed; and,
- d. Without limiting the generality of subparagraph c immediately above, the Settling Defendants shall retain any and all defences to the Class Action otherwise previously available to them and the Plaintiff/Class shall retain all of their claims, rights, and interests relating to the Class Action and the Released Claims.

SURVIVAL OF PROVISIONS AFTER TERMINATION

32. If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, the provisions of paragraphs 27 through 32 and the definitions and Schedule applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedule shall survive only for the limited purpose of the interpretation of paragraphs 27 through 32 within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

MOTIONS FOR DIRECTIONS AND ONGOING JURISDICTION

33. The Parties may apply to the Court as may be required for directions in respect of the

interpretation, implementation, operation and administration of this Settlement Agreement.

34. All motions contemplated by this Settlement Agreement shall be on notice to the Parties.

35. The Court shall retain and exercise continuing and ongoing jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement. The Plaintiffs, Class Members, and the Settling Defendants attorn to the jurisdiction of the Court and motions styled in this Action before the Class Action Case Management Judge for such purposes.

NO ADMISSION

36. The Settling Defendants expressly deny any wrongdoing by them or any Released Persons. Neither this Settlement Agreement, whether or not consummated, nor any negotiations, discussions, or proceedings in connection herewith, shall be:

- a. offered or received against the Settling Defendants or the Released Persons as evidence, or construed or deemed to be evidence, of any presumption, concession or admission by the Settling Defendants or the Released Persons of the truth of any fact alleged by the Plaintiffs, Class Members, or the validity of any claim that has been or could have been asserted in the Class Action or in any litigation, or the deficiency of any defence that has been or could have been asserted in the Class Action or in any litigation, or of any liability, negligence, fault, or wrongdoing of the Settling Defendants or the Released Persons;
- b. offered or received against the Plaintiffs or the Class Members or Class Counsel or their experts and consultants as evidence of any infirmity in the claims of the Plaintiffs or the Class, or as evidence otherwise relating to the merit or veracity of those claims; or
- c. construed against the Settling Defendants, the Released Persons, the Plaintiff, the Class, their respective counsel, or their respective experts and consultants as an admission or concession that the consideration to be given hereunder represents the amount or quantum of damages which could be or would have been recovered from the Settling Defendants or any of them.

37. The Plaintiffs hereby acknowledge and agree that Class Counsel, the Settling Defendants, and their counsel, have no obligation to provide and are in fact not providing any advice about::

- a. any potential taxes, tax consequences, tax obligations, deductions, financial or tax reporting or filing obligations/requirements, remittance obligations, withholdings;
- b. any rights, obligations, claims or demands relating to or arising under any insurance or insurance policies;
- c. any rights or obligations to or relating to insurers in respect of any payments from the Settlement Fund to Class Members;
- d. any prior or other payments made (or not made) by insurers to Class Members;
- e. any claims or demands by insurers for any portion of payments made to Class Members from the Settlement Fund; or,
- f. any other potential consequences or any other payment, remittance, reporting, sharing or filing obligations (whether statutory, regulatory, contractual or otherwise) relating to any compensation payable to Class Members under the Settlement.

38. The Class Members are hereby advised, and are deemed to have acknowledged and agreed, that the Plaintiffs, Class Counsel, the Settling Defendants, and their counsel, have no obligation to provide and are in fact not providing any advice about:

- a. any potential taxes, tax consequences, tax obligations, deductions, financial or tax reporting or filing obligations/requirements, remittance obligations, withholdings;
- b. any rights, obligations, claims or demands relating to or arising under any insurance or insurance policies;
- c. any rights or obligations to or relating to insurers in respect of any payments

from the Settlement Fund to Class Members;

- d. any prior or other payments made (or not made) by insurers to Class Members;
- e. any claims or demands by insurers for any portion of payments made to Class Members from the Settlement Fund; or,
- f. any other potential consequences or any other payment, remittance, reporting, sharing or filing obligations (whether statutory, regulatory, contractual or otherwise) relating to any compensation payable to Class Members under the Settlement.

The Class Members shall have no claims or remedies as against the Plaintiffs, Class Counsel, the Settling Defendants or their counsel in respect of the foregoing matters. Class Members are advised to seek their own independent tax, financial, accounting, legal, insurance or other advice in respect of the foregoing matters.

MISCELLANEOUS PROVISIONS

39. The Parties acknowledge that they have required and consented that this Settlement Agreement, its Schedule and all related documents, be prepared in English. Les parties aux présentes conviennent et exigent que cette Convention et tous les documents qui s'y rattachent soient rédigés en anglais.

40. The captions contained in this Settlement Agreement are inserted only as a matter of convenience and in no way define, extend, or describe the scope of this Settlement Agreement or the intent of any provision thereof.

41. In the computation of time in this Settlement Agreement, except where a contrary intention appears,

- a. where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and,
- b. only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

42. This Settlement Agreement shall be interpreted and enforced in accordance with the laws of the Province of Ontario without regard to choice of law rules.

43. The Court shall, as noted above, retain jurisdiction with respect to implementing, enforcing, interpreting, administering or otherwise relating to the terms of this Settlement Agreement, and the Parties submit to the jurisdiction of the Court for purposes of implementing, enforcing, interpreting, administering or otherwise relating to the terms and the Settlement provided for in this Settlement Agreement.

44. This Settlement Agreement, and the recitals herein, the Schedule attached hereto, constitute the entire agreement among the Parties, and no representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement or its recitals or Schedule other than the representations, warranties, and covenants contained and memorialized in such documents. Any and all prior and contemporaneous agreements, negotiations, discussions, representations, warranties, and inducements concerning the Action, this Settlement Agreement, and the subjects addressed in this Settlement Agreement are merged and integrated into this Settlement Agreement.

45. The recitals and Schedule to this Settlement Agreement are material and integral parts hereof and are fully incorporated into, and form part of, this Settlement Agreement.

46. The Parties further agree that the language contained in or not contained in any previous drafts of this Settlement Agreement, shall have no bearing upon the proper interpretation of this Settlement Agreement.

47. This Settlement Agreement was negotiated in good faith, at arms-length, mutually drafted by all of the Parties, and entered into freely by the Parties with the advice, input, and participation of their own legal counsel. In the event that an ambiguity exists in any provision of this Settlement Agreement, such ambiguity is not to be construed against any Party as the drafter of the document.

48. This Settlement Agreement shall be binding upon the Parties and the Class Members and their successors, heirs, executors, administrators, and assigns, and their respective counsel, experts and consultants, and shall enure to the benefit of the Parties, the Class Members, and the Released Persons, as well as their successors, heirs, executors, administrators, and assigns,

and their respective counsel, experts and consultants.

49. The waiver by one Party of any breach of this Settlement Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.

50. Prior to the Settlement and Fee Approval Hearing, this Settlement Agreement may be amended, modified, waived, or discharged only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest. Prior to the Settlement and Fee Approval Hearing, amendments and modifications may be made without notice to the Class Members unless otherwise ordered by the Court. Following the Settlement and Fee Approval Hearing, any such amendment and modification may be made on the consent of the Parties and with the approval of the Court.

51. Any and all notices, requests, directives, or communications required by this Settlement Agreement shall be in writing and shall, unless otherwise expressly provided herein, be given personally, by express courier, by postage prepaid mail, or by facsimile transmission followed by postage prepaid mail and a copy also by email, and shall be addressed as follows:

If to: Elaine Quinte, John Quinte and/or Hungry Jack's
c/o Roy O'Connor LLP
Barristers
1920 Yonge Street, Suite 300
Toronto, ON M4S 3E2
Fax: 416.362.6204

By email, to each of these addressees:

E-mail: dfo@royoconnor.ca
Attention: David F. O'Connor
--And--
E-mail: jad@royoconnor.ca
Attention: J. Adam Dewar

If to: The Corporation of the City of Elliot Lake
c/o Lerner's LLP
Barristers & Solicitors
301-305 King Street West
Kitchener, ON N2G 1B9
Fax: 226.215.3308
Email: gbennett@lerner.ca

Attention: Graham Bennett

If to: Algoma Central Properties Inc
c/o Dutton Brock LLP
438 University Avenue, Suite 1700
Toronto, ON M5G 2L9
Fax: 416.593.5922
Email: ptushinski@duttonbrock.com
Attention: Paul Tushinski

If to: Eastwood Mall Inc. and Nazarian
c/o Rogers Partners LLP
100 Wellington Street West, Suite 500, P.O. Box 255
Toronto, ON M5K 1J5
Fax: 416-594-9100

By email, to each of these addressees:

Email: stephen.ross@rogerspartners.com

Attention: Stephen G. Ross

--And--

Email: thomas.macmillan@rogerspartners.com

Attention: Thomas Macmillan

If to: 1425164 Ontario Limited c.o.b. NorDev
c/o Benson Percival Brown LLP
Barristers & Solicitors
801-1881 Yonge Street
Toronto, ON M4S 3C4
Fax: 416.977.1241
Email: dyoung@bensonpercival.com
Attention: David S. Young

If to: Retirement Living
c/o Boghosian + Allen LLP
Litigation Counsel
37 Spadina Road
Toronto, ON M5R 2S9
Fax: 416.368.1010
Email: dgb@boglaw.ca
Attention: David Boghosian

If to: M.R. Wright & Associates Co. Ltd., Wood and Saunders
c/o Advocates LLP
700 Richmond Street, Suite 400
London, ON N6A 5C7

Fax: 519.858.0687
Email: J.LeBer@AdvocatesLLP.com
Attention: James A. LeBer

If to: His Majesty the King in Right of Ontario
Ministry of the Attorney General
Crown Law Office - Civil
720 Bay Street, 8th Floor
Toronto, ON M7A 2S9
Fax: 416-326-4181
Email: Antonin.Pribetic@ontario.ca
Attention: Antonin Pribetic

If to: Coreslab Structures (Ont) Inc.
c/o Agro Zaffiro LLP
21 King Street West, 11th Floor
Hamilton, ON L8P 4W7
Fax: 905.527.6843
Email: newcombe@agrozaffiro.com
Attention: Ian P. Newcombe

If to: James Keywan
c/o Lundy Levy Eski Baum
25 Adelaide St E, Suite 1900
Toronto, ON M5C 3A1
[Note - no fax number for firm]
Email: alundy@lleb.ca
Attention: Andrew Lundy

52. Counsel executing this Settlement Agreement on behalf of any Party hereby warrants that such counsel has the full authority to do so.

53. This Settlement Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one and the same Settlement Agreement.

54. Electronic or paper copies of this Settlement Agreement as executed, by hand or electronically, are binding upon the parties hereto.

IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement to be executed by their respective counsel effective as of the 27th day of November, 2025.

**ELAINE QUINTE, JACK QUINTE and 1358896
ONTARIO INC. (carrying on business as HUNGRY JACK's)**

Per: 

David F. O'Connor
Roy O'Connor LLP

**1080932 ONTARIO INC./EASTWOOD MALL INC. AND ASADOOR
BOB NAZARIAN (a.k.a. BOB NAZARIAN)**

Per:  Digitally signed by Thomas Macmillan
Date: 2025.12.18 17:19:05 -05'00'

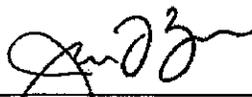
Thomas Macmillan
Rogers Partners LLP

THE CORPORATION OF THE CITY OF ELLIOT LAKE

Per: 

Graham M. Bennett
Lerners LLP

**M.R. WRIGHT & ASSOCIATES CO. LTD., R.G.H. WOOD and G.J.
SAUNDERS**

Per: 

James A. LeBer
Advocates LLP

HIS MAJESTY THE KING IN RIGHT OF ONTARIO (FORMERLY "HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO")



Per: _____

Antonin I. Pribetic, Ministry of the Attorney General,
Crown Law Office-Civil

ALGOMA CENTRAL PROPERTIES INC.



Per: _____

Paul Tushinski
Dutton Brock LLP

CORESLAB STRUCTURES (ONT) INC.

Per: _____

Ian P. Newcombe
Agro Zaffiro LLP

JAMES KEYWAN

Per: _____

Eric Baum
Lundy Levy Eski Baum

HIS MAJESTY THE KING IN RIGHT OF ONTARIO (FORMERLY "HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO")

Per: _____
Antonin I. Pribetic, Ministry of the Attorney General,
Crown Law Office-Civil

ALGOMA CENTRAL PROPERTIES INC.

Per:  _____
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Dutton Brock LLP

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Per:  _____
Ian P. Newcombe
Agro Zaffiro LLP

JAMES KEYWAN

Per: _____
Eric Baum
Lundy Levy Eski Baum

HIS MAJESTY THE KING IN RIGHT OF ONTARIO (FORMERLY "HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO")

Per: _____
Antonin I. Pribetic, Ministry of the Attorney General,
Crown Law Office-Civil

ALGOMA CENTRAL PROPERTIES INC.

Per:  _____
Paul Tushinski
Dutton Brock LLP

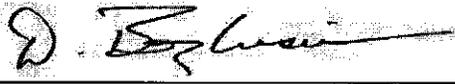
CORESLAB STRUCTURES (ONT) INC.

Per: _____
Ian P. Newcombe
Agro Zaffiro LLP

JAMES KEYWAN

Per:  _____
Andrew Lundy
Lundy Levy & Eski Barristers LLP

**NON-PROFIT RETIREMENT RESIDENCES OF
ELLIOT LAKE INC. (carrying on business as RETIREMENT LIVING)**

Per: 

David Boghosian
Boghosian + Allen LLP

1425164 ONTARIO LIMITED (carrying on business as NORDEV)

Per: _____
David S. Young
Benson Percival Brown LLP

**NON-PROFIT RETIREMENT RESIDENCES OF
ELLIOT LAKE INC. (carrying on business as RETIREMENT LIVING)**

Per: _____
David Boghosian
Boghosian + Allen LLP

1425164 ONTARIO LIMITED (carrying on business as NORDEV)

Per: David S Young
David S. Young
Benson Percival Brown LLP

Schedule A – Proposed Form of Settlement Approval Order

Court File No. CV-12-458218-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE)
)
JUSTICE GLUSTEIN)
)

B E T W E E N:

ELAINE QUINTE, JOHN QUINTE and 1358896 ONTARIO INC. (CARRYING ON BUSINESS AS HUNGRY JACK'S)

Plaintiffs/Moving Parties

-and-

EASTWOOD MALL INC., BOB NAZARIAN, THE CORPORATION OF THE CITY OF ELLIOT LAKE, M.R. WRIGHT & ASSOCIATES CO. LTD., R.G.H. WOOD, G.J. SAUNDERS, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, ALGOMA CENTRAL PROPERTIES INC., CORESLAB STRUCTURES (ONT) INC., JOHN KADLEC, JAMES KEYWAN, NON-PROFIT RETIREMENT RESIDENCES OF ELLIOT LAKE INC. (CARRYING ON BUSINESS AS RETIREMENT LIVING), AND 1425164 ONTARIO LTD. INC. (CARRYING ON BUSINESS AS NORDEV)

Defendants/Responding Parties

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT, 1992*

ORDER
(Class Action Settlement Approval)

THIS MOTION, made by the Plaintiffs, on their own behalf and on behalf of the Class, for an Order approving the class action settlement agreement entered into between the Plaintiffs and the Settling Defendants, dated effective as of October 21, 2025 (the "**Settlement Agreement**") as being fair, reasonable and in the best interests of the Class, was heard this day by videoconference in Toronto, Ontario.

ON READING all materials filed, on being advised of the consent of the Settling Defendants, on hearing submissions of counsel for all Parties, and on reading or hearing any submissions of Class Members,

1. **THIS COURT ORDERS AND DECLARES** that the Settlement Agreement, a copy of which is attached to this Order as Schedule "A" and incorporated herein, is fair, reasonable and in the best interests of the Class and is hereby approved pursuant to s. 29 of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, and shall be implemented and enforced in accordance with its terms.
2. **THIS COURT ORDERS** that, except to the extent they are modified by this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
3. **THIS COURT ORDERS** that this Order is binding upon each member of the Class including those persons who are minors or mentally incapable and the requirements of *Rules 7.04(1)* and *7.08(4)* of the *Rules of Civil Procedure* are dispensed with in respect of this Proceeding.
4. **THIS COURT ORDERS** that • ("Settlement Administrator") is appointed to administer and oversee implementation of the Settlement Agreement in accordance with its terms.
5. **THIS COURT ORDERS AND DIRECTS** that the approval of the Distribution Protocol, Notice of Approved Settlement, any honorarium and Class Counsel Fees be subject to a separate or further Order of this Court.

6. **THIS COURT ORDERS** that the Administration Expenses shall be paid from the Settlement Fund without further approval of the Court.
7. **THIS COURT ORDERS AND DECLARES** that, for the purposes of the administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and jurisdiction as set out in the Settlement Agreement.
8. **THIS COURT ORDERS AND DIRECTS** that, pursuant to section 10(1)(b) of the *Law Society Amendment Act (Class Proceedings Fund), 1992*, the Settlement Administrator shall deduct 10% from any compensation payable to Class Members under the Settlement and hold that money in trust pending the final determination of the quantum of the Class Proceeding Fund's section 10(1)(b) levy.
9. **THIS COURT ORDERS, DECLARES AND DIRECTS** that this Action as against the Defendant John Kadlec, including all claims, crossclaims, third party claims or other claims as against him, are hereby discontinued on a without costs basis, and that service of the within Order on John Kadlec shall be carried out by the Plaintiffs (through Class Counsel) sending a copy of the within Order by courier to the last known address of John Kadlec, with such service effective and hereby deemed validated on the third Business Day after the Order is so delivered by courier.
10. **THIS COURT ORDERS, DECLARES AND DIRECTS** that, on the consent of the Settling Defendants, any stay of this Action as against the Defendant James Keywan, now deceased, is deemed to have been lifted and the proceedings shall continue as against him/his Estate

(subject, for clarity, to the immediately following dismissal of the Action as against all Defendants pursuant to paragraph 13 of this Order below).

11. THIS COURT FURTHER ORDERS, DECLARES AND DIRECTS that all references to James Keywan in the Settlement Agreement, the pleadings in this Action and all orders (or any other documents) issued, served or filed in this Action or as part of this now approved settlement may continue to expressly refer to James Keywan but all such references shall be treated, interpreted and deemed effective as if they expressly named the Executor, Administrator or Estate Trustee (or such other authorized estate representative) of the Estate of the Late James Keywan.

12. THIS COURT FURTHER ORDERS, DECLARES AND DIRECTS that the Settlement Agreement and all such orders or other documents (including but not limited to this Order) shall be binding upon and enure to the benefit of the Estate of the Late James Keywan, its representatives and beneficiaries.

13. THIS COURT ORDERS that the Action is hereby dismissed as against the Settling Defendants without costs and with prejudice.

14. THIS COURT ORDERS that there be no costs of this motion.

Schedule "A" to the Settlement Approval Order – Class Action Settlement Agreement

(to be attached)