BOZSIK V. LIVINGSTON INTERNATIONAL INC.

ADMINISTRATION AND DISTRIBUTION PROTOCOL

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A. DEFINITIONS

1. For the purpose of this Administration and Distribution Protocol the following definitions will apply:

   (a) *"Administration Form"* means the form developed for the administration process that a Former Employee must complete and submit by the Filing Deadline.

   (b) *"Claims Administrator"* means the entity appointed by the Court to administer the Settlement Agreement and the Distribution Protocol in accordance with this Protocol as approved by the Court, and any employees of such firm.

   (c) *"Class Counsel"* means Sotos LLP, Roy O'Connor LLP, and Goldblatt Partners LLP.

   (d) *"Class Members"* means all current or former non-management employees of the Defendant in its offices across Canada, who are or were employed, at any time between August 15, 2007 to April 28, 2017 in administrative, clerical, technical, and supervisory job classifications or who were otherwise subject to the Defendant's overtime policy or policies, who have not opted-out of this Proceeding.

   (e) *"Class Period"* means August 15, 2007 and April 28, 2017.

   (f) *"Court"* means the Ontario Superior Court of Justice.

   (g) *"Current Employee Class Members"* means Class Members who are currently employed by Livingston International Inc., or were employed as of February 1, 2019.

   (h) *"Estimated Overtime Hours"* means the amount of uncompensated hours that Class Members are estimated to have worked during the Class Period.

   (i) *"Estimated Uncompensated Overtime"* means the Estimated Overtime Hours multiplied by the Hourly Rate.

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(j)   ***"Filing Date"*** means the date by which Former Employee Class Members are directed to electronically submit Administration Forms.

(k)   ***"First Distribution"*** means the distribution of the first 80% of the Net Proceeds.

(l)   ***"Former Employee Class Members"*** means Class Members who were employed by the Livingston International Inc. prior to February 1, 2019.

(m)   ***"Hourly Rate"*** means the average hourly wage that a Class Member received during the Class Period.

(n)   ***"Net Proceeds"*** means the portion of the Proceeds remaining after the payments contemplated by the Settlement Agreement and Orders of the Courts (which payments will include approved Class Counsel Fees and disbursements, administrative expenses and Class Proceedings Fund levy).

(o)   ***"Notification Letters"*** means letters provided to each Class Member describing their Relative Share of the Net Proceeds, and the hourly rate and dates or periods of employment within the Class Period used to calculate their Relative Share, as well as the process to correct any errors in the hourly rate and/or dates or periods of employment within the Class Period used to calculate their Relative Share.

(p)   ***"Paid Hours"*** means the hours for which Class Members were paid during the Class Period (e.g. 37.5 hours per week in many cases).

(q)   ***"Pre-Limitation Work"*** means work performed prior to October 1, 2012 in all provinces except Quebec and Manitoba. In Quebec it means work performed prior to October 1, 2011. In Manitoba it means work performed prior to October 1, 2008.

(r)   ***"Proceeds"*** means the nineteen (19) million dollars (CAD) paid by the Defendant.

(s)   ***"Relative Share"*** means the proportion of the Net Proceeds that individual Class Members will be entitled to.

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(t)   ***"Second Distribution"*** means the distribution of the remaining 20% of the Net Proceeds.

(u)   ***"Settlement Agreement"*** means the settlement agreement as approved by the Court.

(v)   ***"Time Records"*** means electronic time-stamped data that indicate times that Class Members logged-on and logged-off electronic systems.

B.   GENERAL PRINCIPLES OF THE ADMINISTRATION

2.   This Administration and Distribution Protocol is intended to govern the administration process to distribute the Net Proceeds recovered in *Bozsik v. Livingston International Inc.* (the "Action"). This protocol is reasonably designed and intended to result in payment to the highest possible proportion of Class Members. To this end, those Class Members who are current employees of the Defendant will not be required to do anything to receive payment. Those Class Members who are former employees of the defendant (the Former Employee Class Members) will need only to verify their identity, Social Insurance Number and address, and submit an Administration Form to be entitled to payment.

3.   This protocol is further designed and intended to calculate, as accurately as possible given the available Time Records, the amount of actual overtime worked by Class Members. For Class Members for whom Time Records exist, they will be used as the basis to calculate the Estimated Overtime Hours and Estimated Uncompensated Overtime. For Class Members for whom Time Records do not exist, provincial average overtime hours will be used.

C.   THE CLAIMS ADMINISTRATOR'S DUTIES AND RESPONSIBILITIES

4.   The Claims Administrator shall administer this Administration and Distribution Protocol in accordance with the provisions of the Orders of the Court, the Settlement Agreement and the ongoing authority and supervision of the Court.

5.   The Claims Administrator's duties and responsibilities shall include the following:

(a)   providing notice(s) to the Class Members as may be required;

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(b)   receiving information from the Defendant, including Class Members' identifying information, dates of employment, place of employment, position and average wage rate;

(c)   developing, in consultation with the defendant's experts, the algorithm(s) for calculating Class Members' Relative Share of the Net Proceeds pursuant to this protocol;

(d)   developing, implementing and operating the administration process including a bilingual administration website;

(e)   making timely calculations of Class Members' Relative Share of the Net Proceeds and notifying Class Members of their Relative Share, the Class Member's hourly rate and their dates of employment within the Class Period;

(f)   arranging payment to Class Members in a timely fashion;

(g)   reporting the results of the administration process and the intended distributions to Class Counsel in a timely fashion;

(h)   performing such recalculation of the distributions as may be required by Class Counsel or if ordered by the Court;

(i)   maintaining the administration information so as to permit Class Counsel to audit the administration at the discretion of Class Counsel or if ordered by the Court;

(j)   dedicating sufficient personnel to respond to Class Members inquiries in English or French, as the Class Member elects;

(k)   calculating the withholding of both employee and employer portions of CPP, EI and income tax and remitting same;

(l)   preparing and distributing T4A forms to Class Members;

(m)   remitting amounts payable to the Class Proceedings Fund;

(n)   arranging payments of Class Counsel fees and disbursements and administration expenses, as ordered or approved by the Court;

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(o)   reporting to Class Counsel respecting Claims received and administered and administration expenses;

(p)   holding the Net Proceeds in an interest-bearing trust account at a Canadian Schedule 1 bank in Canada and making all payments from the Net Proceeds from that account as authorized;

(q)   cash management and audit control; and

(r)   preparing and submitting reports and records as directed by Class Counsel or the Court.

D.   CALCULATION OF ESTIMATED OVERTIME HOURS

6.   Estimated Overtime Hours will be calculated in general as follows:

(a)   for Class Members for whom there exists Time Records for all pay periods during the Class Period, the Time Records will be used to calculate the total number of hours worked, from which the Paid Hours will be deducted;

(b)   for Class Members for whom Time Records exist for some, but not all, of the pay periods during the Class Period, the Time Records for that person will be extrapolated over the entire period of employment during the Class Period to calculate the total number of hours worked, from which the paid hours will be deducted; and

(c)   for Class Members for whom no Time Records exist during the Class Period, provincial averages will be extrapolated or used to estimate total number of hours worked during the entire period employment during the Class Period, from which the paid hours will be deducted.

7.   Estimated Overtime Hours will be adjusted to discount Pre-Limitation Work by 50%.

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8. The Estimated Overtime Hours for each Class Member will be multiplied by his/her Hourly Rate to calculate the Estimated Uncompensated Overtime for each Class Member.

E.   THE ADMINISTRATION PROCESS

9. Generally, the Claims Administration Process will be as follows:

    (a)   **Step 1: Calculation of Initial Relative Share**

    The estimated Relative Share of the Net Proceeds that Class Members are entitled to will be calculated by calculating the Estimated Uncompensated Overtime of each Class Member as a fraction of the total Estimated Uncompensated Overtime of all Class Members.

    (b)   **Step 2: Notification Letters**

    The Claims Administrator will prepare Notification Letters individualized for each Class Member describing: (i) the Class Member's respective Relative Share, (ii) the Class Member's hourly rate and their dates or periods of employment within the Class Period (iii) the payment that each Class Member is estimated to receive (assuming full take-up of the settlement), (iv) in the case of Former Employee Class Members, the process to electronically file an Administration Form verifying their identity, address and Social Insurance Number, and the Filing Deadline for the Administration Form, and (v) where applicable, the process for Class Members to follow to correct any errors in the Class Member's hourly rate and his/her dates or periods of employment within the Class Period.

    Current Employee Class Members will receive Notification Letters via email to their corporate email accounts.

    Former Employee Class Members will receive Notification Letters via direct mail.

    (c)   **Step 3 – Deficiency and Error Correction**

    If the Claims Administrator finds that deficiencies exist in an Administration Form, the Claims Administrator shall forthwith notify the Class Member of

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the deficiencies. The Class Member will have thirty (30) days after being informed of a deficiency to correct the deficiencies to the satisfaction of the Claims Administrator.

(d) **Step 4 – Calculation of Each Class Member's Relative Share**

The Claims Administrator will then re-calculate the Relative Share of the Net Proceeds. This Relative Share will be multiplied by the Net Proceeds and adjusted so that no Class Member will be allotted less than $250 (total minimum allotment). A further adjustment may be made, if necessary, to provide for a maximum amount of overtime per pay period or otherwise.

(e) **Step 5 – First Distribution**

Class Members will be provided with cheques consisting of 80% of their Relative Share of the Net Proceeds, less employee and employer portions of CPP, EI and income tax withholding.

(f) **Step 6 – Second Distribution**

Within a set time after the First Distribution, the Claims Administrator will process the Second Distribution and distribute cheques to Class Members consisting of the remaining 20% of their Relative Share, less employee and employer portions of CPP, EI and income tax withholding. The Relative Shares of the Second Distribution may be adjusted to account for, among other things, any errors identified following the First Distribution.

(g) **Step 7 – Remittance**

The Claims Administrator will remit Canadian Pension Plan, Employment and income tax and provide T4A forms to Class Members.

(h) **Step 8 – Report**

The Claims Administrator will provide a report on the results of the Administration and Distribution to Class Counsel, who will report to the Court.

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F.   CLASS COUNSEL

10.   Class Counsel shall oversee the claims process and provide advice and assistance to the Claims Administrator regarding this Administration Protocol and Distribution Protocol and the claims process.

G.   RESIDUAL DISCRETION

11.   Notwithstanding the foregoing, if, during the Administration Process, Class Counsel have reasonable and material concerns that the Administration and Distribution Protocol is producing an unjust result on the whole or to any material segment of the Class Members or that a modification is required or recommended, they shall move to the Court for approval of a reasonable modification to this Administration and Distribution Protocol or for further directions with respect to the distribution of the Net Proceeds.

12.   In arriving at a determination that an unjust result is occurring or that a modification is required or recommended, and in considering what modification may be required, Class Counsel shall seek comments or input from the Defendant and the Claims Administrator.

H.   RESIDUAL DISTRIBUTION

13.   If there remains any amount of the Net Proceeds after the distribution has been made to all valid claims in accordance with the provisions of this Administration and Distribution Protocol (as modified, if applicable), Class Counsel will make an application to the Court to determine how such funds shall be distributed. In preparing a proposal in respect of how to distribute any excess monies, Class Counsel will consider all relevant factors, including the utility and efficacy of a *cy près* distribution, if appropriate.

I.   CONFIDENTIALITY

14.   All information received from the Defendant or the Class Members is collected, used, and retained by the Claims Administrator pursuant to, *inter alia,* the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 for the purposes of administering their Claims.

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