

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

JAMES YEO

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

Defendant

Proceeding under the Class Proceedings Act, 1992

SETTLEMENT AGREEMENT

WHEREAS the Plaintiff brought this class action under the *Class Proceedings Act, 1992* for alleged negligence and breach of fiduciary duty in respect of the Defendant's operation and management of the Child and Parent Resource Institute ("CPRI");

AND WHEREAS counsel for the parties to this Agreement have conducted a thorough analysis of the claims, and they have also taken into account the extensive burdens and expense of litigation, including the risks of going to trial;

AND WHEREAS in consideration of all of the circumstances and after extensive arms' length negotiations, both directly and with the assistance of a mediator, the parties to this Agreement wish to settle any and all issues among themselves in any way relating to the within action;

AND WHEREAS after their investigation, the parties and their respective counsel have concluded that this Settlement Agreement provides substantial benefits to the Class Members and is fair, reasonable and in the best interests of the Class Members;

NOW THEREFORE the parties to this Agreement agree to settle the issues in dispute in this Class Action relating to the operation and management of CPRI on the following terms and conditions:

DEFINITIONS

- 1) For the purposes of this Settlement Agreement, the following definitions apply:
 - a) “Action” means the class proceeding in the Superior Court of Justice against Her Majesty the Queen in right of Ontario, as Court File No. CV-16-547155-00CP, and certified as a class proceeding by this Court;
 - b) “Administration Costs” means all costs to administer and distribute the Settlement Fund (and Contingency Fund if applicable) including the costs and professional fees of the Claims Administrator;
 - c) “Approval Hearing” means the hearing at the Court to approve the Settlement of the Action;
 - d) “Approval Order” means the Order of the Court approving the Settlement;
 - e) “Approved Claims” means Claims assessed by the Claims Administrator pursuant to the Compensation Plan and, after the conclusion of all requests for reconsideration, approved by the Claims Administrator for payment from the Settlement Fund (and from the Contingency Fund if applicable);
 - f) “Claim” means the claim made by a Claimant by filing a Claim Form with the Claims Administrator in accordance with the procedure in this Settlement Agreement;

- g) “Claimant” means any Class Member who resided at CPRI during the time periods set out in the Certification Order, who files a Claim Form pursuant to the terms of this Settlement Agreement;
- h) “Claims Administrator” means the persons or entities agreed by the parties or appointed by the Court to administer the claims process in accordance with the Compensation Plan;
- i) “Claim Form” means a form for the written claim from a Class Member seeking compensation from the Settlement Fund (and Contingency Fund if applicable) agreed to by the parties and to be approved by the Court;
- j) “Class” or “Class Members” is defined as per the Certification Order of Justice Belobaba dated December 22, 2016 (being all persons, who were alive as of February 22, 2014, who were inpatients of and resided at CPRI during the time period from September 1, 1963 to July 1, 2011, exclusive of any time for which an individual was an inpatient and resided in the Glenhurst or Pratten 1 units), except that it excludes any person who validly opted out of the Class Proceeding pursuant to that Order;
- k) “Class Counsel” means Koskie Minsky LLP;
- l) “Compensation Plan” means the plan detailing how compensation to Class Members shall be made, attached as Schedule “A” to this Settlement Agreement;
- m) "Contingency Fund" means the \$2,000,000 HMQO has agreed to make available for:
 - i) payment of Approved Claims in the event that the total value of Approved Claims exceeds the amounts available for payment from the Settlement Fund; and

- ii) payment of any applicable CPF Levy on individual claims amounts paid to Claimants from the Contingency Fund;
- n) “Counsel Fee” means an amount awarded to Class Counsel as approved by the Court, which shall not exceed 27.5% of the Settlement Fund plus applicable taxes and disbursements approved for reimbursement by the Court;
- o) “Court” means the Ontario Superior Court of Justice;
- p) “Court Approval Date” means the later of:
 - i) 31 days after the date on which the Court issues the Approval Order; and
 - ii) The date of disposition of any appeals from the Approval Order or the expiry of any applicable appeal periods if no appeal is initiated;
- q) "CPF Levy" means the Class Proceedings Fund levy applicable to compensation payable to the Class Members pursuant to O. Reg. 771/92.
- r) "CPRI" means the Child and Parent Resource Institute, formerly known as the Children's Psychiatric Research Institute;
- s) “HMQO” means Her Majesty the Queen in right of Ontario;
- t) “Mediator” means the Honourable Justice Todd Archibald;
- u) “Notice of Approval of Settlement” means the Court approved notice to the Class Members advising that the Court has approved the Settlement and advising of the claims process;

- v) “Notice of Settlement Approval Hearing” means the notice to the Class Members that the proposed Settlement will be considered by the Court, as agreed to by the parties and approved by the Court;
- w) “Notice Plan” means the plan and notices created by agreement of the parties and approved by the Court to disseminate the Notice of Approval of Settlement and Notice of Settlement Approval Hearing to the Class. Any dispute between the parties in reaching an agreement on a Notice Plan shall be referred to the Mediator for mediated assistance;
- x) “Notice Plan Costs” means cost of disseminating notice in accordance with the Notice Plan;
- y) “Releasees” means HMQO and each of its employees, servants, agents, Ministers, members of the Executive Council under the *Executive Council Act*, insurers, representatives and assigns;
- z) "Settlement" means this Settlement Agreement reached between the parties to resolve all issues in the Action as approved by the Court.
- aa) “Settlement Agreement” means this agreement, as executed by the parties or their representatives, including the attached schedules; and “Settlement Fund” means the \$10,000,000 HMQO has agreed to pay to settle the Action, inclusive of payment of Approved Claims, CPF Levy, Counsel Fee, disbursements, Administration Costs and Notice Plan Costs, interest, and all applicable taxes.

SETTLEMENT FUND AND CONTINGENCY FUND

- 2) The Settlement Fund will be used to pay the Approved Claims, CPF Levy, Counsel Fee, disbursements, Administration Costs and Notice Plan Costs and all applicable taxes, and in accordance with this Settlement Agreement in full and final settlement of the Action.

HMQO shall pay to Class Counsel the Counsel Fees, disbursements and applicable taxes as approved by the Court, either within fourteen (14) days of the Court Approval date or within fourteen (14) days of the Court's approval of Counsel Fees, whichever is later.

Administration Costs and Notice Plan Costs will be paid by HMQO out of the Settlement Fund as the payments to the Claims Administrator come due. HMQO shall pay one cheque to the Administrator for the payment of global compensation to all Claimants in accordance with the Compensation Plan when calculated and determined and one cheque for payment of the CPF Levy when calculated and determined.
- 3) The Claims Administrator shall ensure sufficient reserve of the Settlement Fund is maintained in order to satisfy full payment of all Notice Costs and payment of all Administration Costs and applicable taxes. The Claims Administrator will be mutually agreed upon by the parties and approved by the Court.
- 4) Where this Settlement Agreement and Compensation Plan requires a Claimant to provide supporting documentation from a doctor, psychologist, social worker, counsellor, or therapist, the Claimant may apply to the Claims Administrator to have the Claims Administrator pay any reasonable fee charged by the doctor, psychologist, social worker, counsellor, or therapist for the provision of the supporting documentation. Such fees shall not exceed \$500 total per Claimant and may be paid by the Claims Administrator out of the Settlement Fund in the following two scenarios:

- i) Upon presentation of receipt(s) of payment issued by the doctor, psychologist, social worker, counsellor, or therapist, for payment already made by the Claimant, the fees shall be payable by the Claims Administrator directly to the Claimant; and
 - ii) Where payment has not yet been rendered by the Claimant, upon receipt by the Claims Administrator of a written confirmation from a doctor, psychologist, social worker, counsellor, or therapist indicating that a request for supporting documentation has been made, and the amount required for payment, the fees shall be paid directly by the Claims Administrator to the doctor, psychologist, social worker, counsellor, or therapist.
- 5) The Notice Plan will provide for Notice of Settlement Approval Hearing and Notice of Approval of Settlement, and Claim Form, all of which will be mutually agreed upon by the parties and approved by the Court. Any dispute between the parties in reaching an agreement in this respect shall be referred to the Mediator for mediated assistance.
- 6) In the event the Court approves the Settlement of the Action, all costs of the Notice of Settlement, the Approval Hearing and Administration Costs incurred to that date, shall be paid from the Settlement Fund. The Claims Administrator appointed will account for these costs in this manner.
- 7) The Settlement Fund shall be paid as follows:
 - a) First, to satisfy the Counsel Fees, Class Counsel's disbursements and applicable taxes in the amount approved by the Court;
 - b) Second, to pay Administration Costs and Notice Plan Costs and applicable taxes relating to both the Settlement Fund and Contingency Fund;

- c) Third, to pay the CPF Levy; and
 - d) Fourth, the remainder of the Settlement Fund will then be used to compensate Claimants in accordance with the Compensation Plan.
- 8) In the event that the total compensation required to pay all Approved Claims is determined to exceed the amount of the Settlement Fund available for payment of Claims pursuant to paragraph 7 such that subparagraph 15(b) of the Compensation Plan would be triggered, the Crown shall make the Contingency Fund available to the Claims Administrator to be paid as follows:
- a) to satisfy all Approved Claims on a pro rata basis up to the maximum amounts set out in the Compensation Plan, up to a total maximum of 90% of the Contingency Fund; and
 - b) The CPF Levy with respect to the amounts to be paid from the Contingency Fund pursuant to subparagraph 8(a) shall be paid to the CPF. The amounts paid in respect of Approved Claims are net of the CPF Levy, therefore the CPF Levy on amounts to be paid pursuant to subparagraph 8(a) would be equal to the amount of the Contingency Fund needed to pay Approved Claims pursuant to subparagraph 8(a) divided by 9/10 multiplied by the CPF Levy. To be clear, at no point shall the combined amounts of Approved Claims and CPF Levy exceed the value of the Contingency Fund.
- 9) Any amounts remaining in the Settlement Fund and Contingency Fund after all of the above payments have been made will be returned to HMQO.
- 10) HMQO confirms that no compensation received by individual Class Members pursuant to this Settlement Agreement will affect eligibility for or the amount, nature and/or duration of

social assistance programs administered by or on behalf of the Ministry of Children, Community and Social Services.

11) HMQO shall also send a letter to the federal government and other provincial governments to request their agreement that any social assistance benefits available to Class Members from those other governments will not be affected by any settlement funds received by individual Class Members. The letter shall be in the form attached as Schedule “B”. It is expressly acknowledged and understood by the parties that while HMQO has power and control with respect to social assistance programs administered by HMQO, any final decision made by the federal government or another provincial government is not within the power or control of HMQO and therefore HMQO’s obligations in this regard will be satisfied upon delivery of the letter.

COMMUNICATIONS

- 12) The parties, counsel and representative plaintiff agree that, in the event they are commenting publicly on the Action or this Settlement Agreement, they shall only:
- a) Inform the inquirer that the Action has been settled to the satisfaction of all parties;
 - b) Inform the inquirer that it is the view of the parties that the settlement of the Action is fair, reasonable and in the best interests of the Class; and
 - c) Decline to comment in a manner that casts the conduct of any party or its representatives, including CPRI and its employees, in a negative light or reveals anything said during the settlement negotiations.
- 13) By executing this Settlement Agreement, Class Counsel undertakes to make no public comment, in accordance with paragraph 12 c) above, or comment on any matter relating to

CPRI apart from the specific comments permitted in paragraph 12 a) or 12 b) above, or as required during attendances before the Court.

- 14) Any dispute over compliance with the agreement on communications or breach of these terms may be referred to the Mediator for a determination.

COURT APPROVAL

- 15) The parties agree to adjourn the common issues trial in the Action (currently scheduled to commence March 8, 2021) pending a determination by the Court on whether to approve the Settlement. In the event the Settlement is not approved by the Court the parties shall immediately advise the Court and seek the first available trial date to continue the Action.

- 16) It is understood and agreed that Court Approval of this Settlement Agreement and Compensation Plan is required.

- 17) As soon as practical after execution of this Settlement Agreement, the parties shall immediately advise the Court, seek to schedule a motion to approve the Settlement and to seek court approval of the Notice Plan and timing of the dissemination of Notice of Settlement Approval Hearing. The parties shall move before the Court with the greatest dispatch to have the Settlement approved by the Court at the earliest possible opportunity.

- 18) The parties agree to file motion materials, as necessary, with respect to the motion to approve the Settlement and counsel shall act reasonably and in good faith on the content of such motion materials.

- 19) Class Counsel shall bring a motion for court approval of their requested Counsel Fees and reimbursement of disbursements, and all applicable taxes, at the time of Settlement approval

or shortly thereafter. The Defendant shall take no position on the quantum of fees sought by Class Counsel.

RELEASES

20) On the Court Approval Date, each Class Member, whether or not he or she submits a claim or otherwise receives compensation in accordance with the Compensation Plan, will be deemed by this Settlement Agreement to have completely and unconditionally released, remised and forever discharged the Releasees of and from any and all actions, counterclaims, causes of action, claims, whether statutory or otherwise and demands for damages, indemnity, contribution, costs, interest, loss or harm of any nature and kind whatsoever, known or unknown, whether at law or in equity, and howsoever arising which they may heretofore have had, may now have or may hereafter have whether commenced or not in connection with all claims relating to or arising out of the Amended Statement of Claim with respect to the operation and management of CPRI, except for any Claimant's entitlement to be paid in respect of an Approved Claim pursuant to the terms hereof. The Amended Statement of Claim is attached as Schedule "C".

21) On the Court Approval Date, each Class Member will be forever barred and enjoined from commencing, instituting, prosecuting, or continuing any action, litigation, investigation or other proceeding in any Court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum or any other forum, directly, representatively, or derivatively, asserting against the Releasees any claims relating to or arising out of the Amended Statement of Claim.

22) On the Court Approval Date, each Class Member will be forever barred and enjoined from commencing, instituting, prosecuting or continuing any action, litigation, investigation or other proceeding in any Court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum or any other forum, directly, representatively, or derivatively, against any person or entity that could or does result in a claim over against the Releasees or any of them for contribution, indemnity in common law, or equity, or under the provisions of the *Negligence Act* and the amendments thereto, or under any successor legislation thereto, or under the *Rules of Civil Procedure*, relating to or arising out of the Amended Statement of Claim. It is understood and agreed that if such Class Member commences such an action or takes such proceedings, and the Releasees or any of them, are added to such proceeding in any manner whatsoever, whether justified in law or not, such Class Member will immediately discontinue the proceedings and claims or otherwise narrow the proceedings and claims to exclude the several liability of the Releasees. This Agreement shall operate conclusively as an estoppel in the event of any claim, action, complaint or proceeding which might be brought in the future by such Class Member with respect to the matters covered herein. This Agreement may be pleaded in the event that any such claim, action, complaint or proceeding is brought, as a complete defence and reply, and may be relied upon in any proceeding to dismiss the claim, action, complaint or proceeding on a summary basis and no objection will be raised by such Class Member in any subsequent action that the parties in the subsequent action were not privy to the formation of this Agreement.

23) On the Court Approval Date, Class Counsel undertakes not to commence or advise on any future class proceedings in respect of anything that may have occurred at CPRI up to the

Court Approval Date and undertakes not to represent any individuals who opted out of the Action in any other action, claim, application, or matter against or involving CPRI in respect of any claim related to or arising out of the Amended Statement of Claim. Nothing in this agreement prevents Class Counsel from assisting with the administration of the Settlement Agreement, informing Class Members of the provisions of the Settlement Agreement or assisting Class members with their Claims under the Settlement Agreement.

NO ADMISSIONS, NO USE

24) This Settlement Agreement, whether or not consummated, and any proceedings taken pursuant to this Settlement Agreement, are for settlement purposes only. Neither the fact of, nor any provision contained in this Settlement Agreement or its Schedules, or any action taken hereunder, shall be construed as, offered in evidence as, and/or deemed to be evidence of a presumption, concession or admission of any kind by the parties of the truth of any fact alleged or the validity of any claim or defence that has been, could have been or in the future might be asserted in any litigation, Court of law or equity, proceeding, arbitration, tribunal, government action, administrative forum, or any other forum, or of any liability, responsibility, fault, wrongdoing or otherwise of any parties except as may be required to enforce or give effect to the Settlement and this Settlement Agreement. For greater clarity, HMQO denies the truth of the allegations in the Action and denies any liability whatsoever.

TERMINATION

25) This Settlement Agreement shall, without notice, be automatically terminated if the Court does not approve this Settlement Agreement. In the event of termination, this Settlement Agreement shall have no further force or effect, save and except for this section, which shall survive termination.

GENERAL

26) This Settlement Agreement shall be governed, construed and interpreted in accordance with the laws of the Province of Ontario.

27) This Settlement Agreement constitutes the entire agreement between the parties and may not be modified or amended except in writing, on consent of the parties, and with Court approval.

28) This Settlement Agreement may be signed by the parties in counterpart which shall have the same effect and enforceability as a single executed document.

IN WITNESS WHEREOF, each of the parties has caused this Settlement Agreement to be executed on his/her/their behalf by his/her/their duly authorized counsel of record, effective as of February 22, 2021.

February 22, 2021

Date



KOSKIE MINSKY LLP
Counsel for the Plaintiffs

Date

James Yeo, Representative Plaintiff



February 22, 2021

Date

Per: Sean Kearney
Counsel for the Defendant HMQO

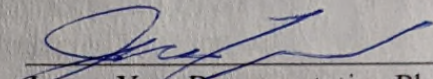
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Date

Feb 19 2021

Date

KOSKIE MINSKY LLP
Counsel for the Plaintiffs



James Yeo, Representative Plaintiff

Date

Per:
Counsel for the Defendant HMQO

Schedule “A” – Compensation Plan

- 1) All defined terms in the Settlement Agreement are applicable to the Compensation Plan. In addition, the following definitions apply in this Schedule:
 - a) “Approval Order” means the order approving settlement of this Action.
 - b) “Claim Form” means the Claim Form as described herein.
 - c) “Claimant” means a Class Member who files a Claim Form pursuant to the terms hereof.
 - d) “Excluded Claims” means a Claim by a person who has previously and validly opted out of the Action in writing or who has previously settled claims against the Defendant and has executed a release in favour of HMQO in relation to matters that are the subject of this Action.
 - e) "Compensation Allocation System" means the method of determining the compensation to be allocated to each Claimant for the harms described in the Claim Form as set out in paragraph 33, which compensation to be paid to Claimants is subject to paragraph 15(b).
 - f) “Serious Sexual Assault” means non-consensual oral, vaginal or anal penetration.
- 2) HMQO shall make one global payment to the Claims Administrator to carry out distributions to the Claimants in accordance with the determinations made by the Claims Administrator as set out below.
- 3) Any person who wishes to claim compensation shall deliver to or otherwise provide the Claims Administrator with a completed Claim Form and all supporting documentation no

later than nine (9) months after the Court Approval Date. If the Claims Administrator does not receive a completed Claim Form and supporting documentation from a Class Member by the deadline, then the Class Member shall not be eligible for any compensation whatsoever, subject to paragraph 28. The Claims Administrator shall review each Claim Form for completeness and shall advise a Claimant, no later than 5 business days after receipt of the Claim Form, when their Claim Form is incomplete. The Claimant shall complete the Claim Form within the later of (i) thirty days (30) days from the date that the Claims Administrator advises them that their Claim Form is incomplete or (ii) the deadline to submit a Claim Form and supporting documentation set out in the first sentence of this paragraph.

- 4) The Claimant's CPRI inpatient file ("Inpatient File") will not be required to make a claim. While the Class Member's Inpatient File will not be required to make a claim, it may be that Class Members will wish to obtain a copy of their Inpatient File in order to support their claim. Any Inpatient File requests made on or after the date of the Approval Order and within 3 months of the Court Approval date will be considered a request under the Inpatient File Request Process as defined below.
- 5) The Parties will seek to implement the following system to expedite the processing of requests and the delivery of Inpatient Files during the claims period herein as follows ("Inpatient File Request Process"):
 - a) The Parties will jointly seek an Order of the Youth Court permitting production of the Inpatient Files substantially in the form attached as Schedule "D" ("Youth Court Order");

- b) HMQO shall be responsible for the preparation of any motion record and affidavit relating to seeking and obtaining the Youth Court Order. Class Counsel will prepare the factum and make submissions with respect to same. HMQO will consent to this motion;
- c) The Plaintiff shall not be required to appeal a refusal by the Youth Court to provide the Youth Court Order;
- d) The Parties will seek permission from the Court in the Approval Order to deliver the Inpatient Files to Class Counsel in accordance with rule 30.1.01(3) of the *Rules of Civil Procedure* ("Inpatient File Production Order");
- e) Class Member requests for Inpatient Files pursuant to this Inpatient File Request Process must be made to the Claims Administrator or CPRI by the Claimant or their legal guardian in writing. These requests must be made beginning on the date of the Approval Order and within three (3) months after the Court Approval Date;
- f) If a Class Member requests an Inpatient File within the timeframe set out in subparagraph (e), HMQO will produce the Inpatient File to Class Counsel (in electronic format) or the Public Guardian and Trustee, if appropriate, in accordance with the Inpatient File Production Order and the Order of the Youth Court before six (6) months after the Court Approval Date on a rolling basis as requests are received and processed;
- g) Class Counsel shall bring to the Class Member's attention the "Resources Support and Information Sheet" substantially in the form attached as Schedule "E" when providing the Inpatient File to the Class Member;

- h)* Any request made for an Inpatient File that is received by CPRI before the date of the Approval Order is a request made under the *Personal Health Information Protection Act, 2004, S.O. 2004, c. 3, Sched. A* (“*PHIPA*”) and shall be treated as outside of the Inpatient File Request Process. Requests for Inpatient Files received by CPRI or the Claims Administrator after the deadline set out in subparagraph (e) shall be converted to a request under the *PHIPA* to be addressed outside the Inpatient File Request Process. The delivery of Inpatient Files under *PHIPA* will have no bearing on the Claims Administration Process and will not be grounds for an extension of time to submit a claim;
- i)* In the event that the Youth Court Order or the Inpatient File Production Order are not granted by the respective courts, all requests for Inpatient Files received by the Claims Administrator shall automatically be referred to CPRI by the Claims Administrator and converted to a request under *PHIPA* to be addressed outside Inpatient File Request Process and the Claims and the Claims Administrator will advise the Class Member accordingly; and
- j)* Any Inpatient file request treated as a request pursuant to the *PHIPA* according to paragraph *h)* and *i)* of this section is to be treated as outside of the Claims Administration Process and will not be grounds for an extension of the Claims Period or a basis for failing to meet the deadlines under the Claims Process.
- 6) The conversion of a request for an Inpatient File to a *PHIPA* request in accordance with the Inpatient File Request Process according to paragraph 5(h) and (i) is not a basis for a request for reconsideration to the Claims Administrator. The parties agree that there is no review or

appeal to the Court of the conversion of a late request of an Inpatient File to a *PHIPA* request or the timing relating to the release of any inpatient file pursuant to *PHIPA* to be addressed outside of the Inpatient File Request Process.

- 7) The paragraphs above are not intended to impact any individual's ability to request his/her Inpatient File pursuant to *PHIPA* or any other legislation outside of this proceeding.
- 8) The Claim Form requires the Claimant to provide identifying information and to specify the category and level of harm for which they are claiming. The Claim Form will provide instructions as to what supporting evidence is required in respect of each compensation level. The Claim Form will instruct Claimants to attach the supporting evidence to the Claim Form. The supporting evidence required in respect of each compensation level is set out in paragraph 34 of this Compensation Plan.
- 9) A Claimant shall submit one Claim Form that comprises all claims that he or she may have individually at CPRI. If more than one Claim Form is submitted the Claims Administrator will treat them as one Claim Form.
- 10) The Claims Administrator shall review each Claim Form and attached supporting documents and verify that the Claimant is eligible for compensation, within 5 business days of receipt of the Claim, as follows:
 - a) For a Claimant claiming as a Class Member, the Claims Administrator shall be satisfied that (i) the Claimant is a Class Member by virtue of being on the class list, and did not opt out of the action. The class list will be provided to the Claims Administrator by HMQO by the Court Approval Date; (ii) the claim is not an Excluded Claim; (iii) the

harm is alleged to have occurred during the time period from September 1, 1963 to July 1, 2011; and (iv) the harm is not alleged to have occurred while the Claimant was an inpatient resident of the Pratten 1 unit or was an inpatient resident of the Glenhurst unit.

b) For an individual claiming on behalf of a Class Member or a Class Member's estate, the Claims Administrator shall be satisfied that (i) the individual has legal authority to act on behalf of the Class Member or the Class Member's estate in respect of financial affairs; (ii) the person or estate on whose behalf the claim submitted is a Class Member by virtue of being on the class list and there was no valid opt out submitted for that person or estate; (iii) the claim is not an Excluded Claim; (iv) the harm is alleged to have occurred during the time period from September 1, 1963 to July 1, 2011; and (v) the harm is not alleged to have occurred while the Claimant was an inpatient resident of the Pratten 1 unit or was an inpatient resident of the Glenhurst unit.

c) If a determination is made by the Claims Administrator that the Claimant is not eligible for compensation for reasons set out in 10(a) or (b), the Claims Administrator shall send out a notice, with a copy of the notice and Claim Form to HMQO, advising of this determination to the Claimant or to the individual making a claim on behalf of the Class Member or Class Member's estate, within 5 business days of receipt of the Claim.

11) Once the Claims Administrator has verified that the Claimant is eligible for compensation in accordance with s. 10 and the Claim Form is complete, the Claims Administrator shall within 2 business days, forward a copy of the Claim Form and supporting documentation to HMQO. HMQO may, within 60 days of receiving the Claim Form, submit to the Claims Administrator any documentation from the Claimant's inpatient file (without argument) that

HMQO determines in its sole discretion is relevant to the determination of the Claim. Any documents provided to the Claims Administrator shall be copied to Class Counsel at the same time as they are provided to the Claims Administrator. Additionally, at the same time that HMQO provides such documents to the Claims Administrator, HMQO shall produce to Class Counsel the entirety of the Claimant's resident file. Class Counsel shall have the right to submit any further documentation (without argument) from the Claimant's Inpatient File within 15 days of receipt of HMQO's submission. Where HMQO determines it will not submit any documentation, it will advise the Claims Administrator and the Claims Administrator will forthwith proceed with its review and consideration of the Claim.

- 12) The Claims Administrator shall review the Claim Form, any supporting documentation, and the documentation submitted, if any, by HMQO and Class Counsel to determine the compensation level, if any, for which a Claimant is eligible pursuant to the Compensation Allocation System. The Claims Administrator shall make its determination based on the type of harm alleged and whether the related documentary requirements are met. Where a Claim Form expressly identifies a Sexual Assault Level 3 claim is being advanced and the Claims Administrator determines that a Sexual Assault Level 3 claim is not made out in the Claim Form, the Claims Administrator shall send a notice of this determination to the Claimant or individual with legal authority to make the claim on behalf of a Class Member or his/her estate within 5 business days of coming to that determination.
- 13) The Claims Administrator shall take reasonable measures to verify that the Claimants are eligible in the compensation scheme and that the information in the Claim Forms is accurate. The Claims Administrator may make inquiries of the Claimant or HMQO in the event of any

concerns, ambiguities or inconsistencies in the Claim Forms, the Claimant's supporting documents or any documents submitted by HMQO.

14) The Claim Form requirements in respect of each compensation level of the Compensation Allocation System are set out in paragraphs 33 and 34.

15) As soon as possible after (i) all timely Claim Forms have been processed (ii) the time to request a reconsideration has expired; and (iii) all requests for reconsideration have concluded, the Claims Administrator shall allocate amounts to the Claimants from the Settlement Fund (and from the Contingency Fund if applicable) subject to the following limitations:

- a) There will be no compensation for an Excluded Claim; and
- b) If there are not enough funds in the Settlement Fund and Contingency Fund to compensate all Claimants on the basis of the Compensation Allocation System, the amount of compensation for all Claimants shall be adjusted downward such that each Claimant receives the proportionate share of the Settlement Fund and Contingency Fund based on the relative values of each compensation level.

16) The Claims Administrator shall advise HMQO and Class Counsel of the amounts to be awarded to each Claimant and the global compensation amount required to satisfy those payments. HMQO shall provide a cheque for the global compensation amount to the Claims Administrator and the Claims Administrator shall mail the individual compensation cheques to the Claimants at the postal addresses indicated in the Claim Forms, within 30 days, and shall provide a copy to Class Counsel. If, for any reason, a Claimant does not cash a cheque

within six (6) months after the date of the cheque, the Claimant shall forfeit the right to compensation and the funds shall be returned to HMQO in accordance with paragraph 8 of the Settlement Agreement. Thirty days prior to the expiry of the six (6) month period described above, the Claims Administrator shall:

- a) provide Class Counsel with a list of Claimants who have not cashed their compensation cheques;
- b) send the Claimant a further letter (copied to Class Counsel) and attempt to contact the Claimant by telephone advising the Claimant that they have 30 days to cash the compensation cheque; and
- c) provide an accounting to HMQO of any interest accrued by the Claims Administrator in relation to any monies it has held pending the clearance of expiration of all cheques and direct all interest accrued back to HMQO.

17) If a Class Member is unable to execute a Claim Form due to lack of legal capacity, a Claim Form may be executed by the Public Guardian and Trustee as authorized to act on behalf of the Class Member or other legally recognized guardian.

18) The claims process is intended to be expeditious, cost effective and "user friendly" and to minimize the burden on Class Members. The Claims Administrator shall, in the absence of reasonable grounds to the contrary, assume the Class Members to be acting honestly and in good faith. The Claims Administrator shall nonetheless require that each claimant meet the documentary requirements in respect of each claim.

- 19) Where a Claim Form contains minor omissions or errors, the Claims Administrator shall correct such omissions or errors if the information necessary to correct the error or omission is readily available to the Claims Administrator.
- 20) The claims process is also intended to prevent fraud and abuse. If, after reviewing any Claim Form, the Claims Administrator believes that the claim contains unintentional errors which would materially exaggerate the amount of compensation to be awarded to the Claimant, then the Claims Administrator may disallow the claim in its entirety or make such adjustments so that an appropriate amount of compensation is awarded to the Claimant. If the Claims Administrator believes that the claim is fraudulent or contains intentional errors which would materially exaggerate the amount of compensation to be awarded to the Claimant, then the Claims Administrator shall disallow the claim in its entirety.
- 21) Where the Claims Administrator disallows a claim in its entirety, the Claims Administrator shall send to the Claimant at the Claimant's postal or email address as indicated in the Claim Form and to Class Counsel, a notice advising the Claimant of the decision and that he or she may make a request for reconsideration to the Claims Administrator.
- 22) Where a claimant is of the view that the Claims Administrator wrongly failed to assess their Claim as a Level 3 Sexual Assault as defined in the Compensation Allocation System the Claimant may make a request for reconsideration to the Claims Administrator.
- 23) For greater certainty, a Claimant is only entitled to notice of or to request reconsideration by the Claims Administrator of a decision to disallow a claim in its entirety, of a determination of ineligibility, or a decision that a claim does not satisfy the requirements for a Level 3 Sexual Assault claim, if the Claim Form specified that compensation for Level 3 Sexual Assault was sought. No other decision of the Claims Administrator relating to the

application of the Compensation Allocation System, including decisions relating to any other category and level of claim, is subject to notice, review or reconsideration. The failure of the Claims Administrator to provide notice is not the subject of review or appeal to a Court.

- 24) Any request for reconsideration must be received by the Claims Administrator within 21 days of the date of the notice advising of the disallowance of a claim in its entirety, the determination that the Claimant is ineligible or that the award is not a Level 3 Sexual Assault. If no request for reconsideration is received by the Claims Administrator within this time period, the Claimant shall be deemed to have accepted the Claims Administrator's determination and the determination shall be final and binding and not subject to further appeal or review by any court or other tribunal.
- 25) Where a Claimant files a timely request for reconsideration with the Claims Administrator in accordance with paragraph 24 above and subject to paragraph 30, the Claims Administrator shall advise Class Counsel and HMQO of the request and conduct a review of the Claimant's request for reconsideration. The Claims Administrator must issue its decision on the reconsideration to the claimant, class counsel and HMQO within fourteen (14) days of receipt of the request for reconsideration.
- 26) Following its determination on a request for reconsideration, the Claims Administrator shall advise the Claimant of its determination of the request for reconsideration. In the event the Claims Administrator reverses a disallowance or agrees to award Level 3 Sexual Assault compensation, the Claims Administrator shall send the Claimant at the Claimant's postal or email address as indicated in the Claim Form (copied to Class Counsel), a notice specifying the revision to the Claims Administrator's disallowance or decision.

- 27) The determination of the Claims Administrator in response to request for reconsideration is final and binding and is not subject to further review by or appeal to any court or other tribunal.
- 28) The Claims Administrator may consider a Claim Form submitted on a date later than the deadline set out in paragraph 3 (“Late Claim Forms”) if the completed Claim Form and all necessary supporting documentation are received by the Claims Administrator within two (2) months after the deadline set out in paragraph 3 and if:
- a) the Claimant has provided written reasons for failing to submit the Claim Form and is able to demonstrate that he/she intended to submit the Claim Form before the applicable deadline; or
 - b) the parties consent to have such Claim Form be assessed by the Claims Administrator.
- 29) For any “Late Claim Forms” accepted by the Claims Administrator, in accordance with paragraph 28, such Late Claim Forms shall be otherwise treated as any other Claim, except as provided in this paragraph, and the Claims Administrator will make an assessment of the Late Claim Form as filed. Notwithstanding paragraph 3, the Claims Administrator shall review each Late Claim Form for completeness and shall advise a Claimant and Class Counsel, no later than 2 business days after receipt of the Late Claim Form when the Claimant's Late Claim Form is incomplete. In that event, the Claimant shall complete the Late Claim Form within fourteen (14) days from the date of the written or verbal notice of the Claims Administrator advising the Claimant or individual with legal authority to make a claim on behalf of a Claimant or his/her estate, that the Claim Form is incomplete.
- 30) The Claims Administrator may consider a request for reconsideration on a date later than the deadline set out in paragraph 24 (“Late Request for Reconsideration”) if the request is

received by the Claims Administrator within thirty (30) days of the deadline set out in paragraph 24 and if:

- a) the Claimant has provided written reasons for failing to submit the request for reconsideration by the deadline set out in paragraph 24 and is able to demonstrate that he/she intended to submit the request for reconsideration before the applicable deadline; or
- b) the parties consent to have such request for reconsideration be assessed by the Claims Administrator.

31) For any Late Request for Reconsideration accepted by the Claims Administrator in accordance with paragraph 30, such Late Request for Reconsideration shall be treated as any other request for reconsideration and the Claims Administrator will make an assessment of the Late Request for Reconsideration as filed.

32) All determinations of the Claims Administrator are final and there is no further appeal or review of any decision of the Claims Administrator whatsoever to the Court, except for determinations on eligibility pursuant to paragraph 10(a) or (b) and reconsiderations related to eligibility pursuant to paragraph 24. There shall be no costs awarded in the event the Claims Administrator's determination on eligibility is put before the Court on appeal or review and each party shall bear their own costs. To be clear, except for the determination of whether an individual claim is "eligible" all decisions of the Claims Administrator relating to *inter alia*, any claims assessment, sufficiency of a claim, sufficiency of the supporting documents, timelines, late delivery of any claim or component of a claim or supporting documentation, any matter relating to the Inpatient File Request process, or any other matter

relating to the claims process are final and the parties expressly agree that these decisions may not be appealed to or put before the Court for any review or a determination.

33) The Compensation Allocation System is as follows:

Categories of abuse	Compensation Level
Sexual Assault	
<u>Level 3 Sexual Assault:</u> <ul style="list-style-type: none"> • One or more incidents of “Serious Sexual Assault” on a Claimant while the Claimant was admitted to CPRI 	\$30,000
<u>Level 2 Sexual Assault:</u> <ul style="list-style-type: none"> • Repeated non-consensual sexual touching of a Claimant, while the Claimant was admitted to CPRI, of the Claimant's breasts, genitals or buttocks that is not a Serious Sexual Assault; OR • A single non-consensual act of forcible sexual touching to attempt oral, vaginal, or anal penetration of a Claimant while the Claimant was admitted to CPRI 	\$15,000
<u>Level 1 Sexual Assault:</u> <ul style="list-style-type: none"> • Any sexual touching or exposure of genitals by a staff member employed by CPRI on or toward a Claimant, or any sexual touching or exposure of genitals carried out by a Claimant at the direction of staff, while the claimant was admitted to CPRI that is not a Serious Sexual Assault 	\$3,500
Physical Assault	
<u>Physical Assault:</u> <ul style="list-style-type: none"> • Physical assault(s) on a Claimant, while the claimant was admitted to CPRI, causing a serious physical injury that led to: <ul style="list-style-type: none"> ○ hospitalization; ○ permanent or demonstrated long term physical or psychological injury (other than PTSD or any form of anxiety disorder), impairment or disfigurement; ○ broken or fractured bones; OR ○ a serious but temporary incapacitation such that bed rest or infirmary care at CPRI of four or more days duration was required. 	\$15,000

Claimants may claim only for one compensation level of each of the sexual assault or physical assault categories.

In the event that a Claimant claims for more than one compensation level within the sexual assault category, he/she shall only receive the value of the highest level claim within the category for which they qualify (i.e. the Claimant can only recover for one of level 3 or level 2 or level 1 sexual assault).

For greater clarity, in respect of a single incident, a Claimant may be compensated for Physical Assault as well as one of Level 1 Sexual Assault or Level 2 Sexual Assault or Level 3 Sexual Assault if the facts asserted and documentation provided satisfy the criteria for both.

34) The supporting evidence required in respect of each compensation level is:

a) Level 3 Sexual Assault

Commissioned Affidavit of the Claimant setting out, to the best of their recollection, the nature of the incident alleged to have been experienced by the Claimant while admitted to CPRI, along with all details relating to the time period, specific date of incident(s), unit/location, individuals involved, reports made to staff and any other pertinent information, and

Supporting Documentation from a doctor, psychologist, social worker, counsellor, or therapist setting out the professional's knowledge of (1) the incident alleged by the Claimant and (2) the nature of the harm caused by the incident on the Claimant.

b) Level 2 Sexual Assault

Commissioned Affidavit of the Claimant setting out, to the best of their recollection, the nature of the incident alleged to have been experienced by the Claimant while admitted to CPRI, including details regarding the time period, specific date of incident(s), unit/location, individuals involved, reports made to staff and any other pertinent information relating to the alleged incident, and

Supporting Documentation from a doctor, psychologist, social worker, counsellor, or therapist setting out the professional's knowledge of (1) the incident alleged by the Claimant and (2) the nature of the harm caused by the incident on the Claimant.

c) Level 1 Sexual Assault

Sworn statement/solemn affirmation of the Claimant setting out, to the best of their recollection, the nature of the incident alleged to have been experienced by the Claimant while admitted to CPRI, including details regarding the time period, specific date of incident(s), unit/location, individuals involved, reports made to staff and any other pertinent information relating to the alleged incident.

d) Physical Assault

Commissioned Affidavit of the Claimant setting out, to the best of their recollection, the nature of the incident alleged to have been experienced by the Claimant while admitted to CPRI, along with all details relating to the time period, specific date of incident(s), unit/location, individuals involved, reports made to staff and any other pertinent information, and

Supporting Documentation from a doctor, setting out their professional knowledge of (1) the incident alleged by the Claimant and (2) the nature of the harm caused by the incident on the Claimant.

Schedule “B” – Form of Letter to Other Governments

Dear _____

Ontario has recently settled the class action *Yeo v. Her Majesty the Queen in Right of the Province of Ontario* which involved claims by former inpatients of the Child and Parent Resource Institute, formerly known as the Children's Psychiatric Research Institute ("CPRI") relating to negligence and breach of fiduciary duty in the operation and management of CPRI. Pursuant to the terms of settlement, the Province has agreed to pay compensation to individual Class Members who file claims demonstrating that they were harmed; and has further agreed that any settlement funds received by those Class Members will not affect eligibility for, the amount, nature and/or duration of social assistance programs administered by or on behalf of the Ministry of Children, Community and Social Services. We are writing to request your agreement that any social assistance benefits available to Class Members from your government will not be affected by any settlement funds received by individual Class Members. Please let us know if you are agreeable.

Yours truly
KM-2876207v15