

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)
JUSTICE GRAY)

FRIDAY, THE 21ST
DAY OF JUNE, 2019

B E T W E E N:

MICHAEL BOZSIK

Plaintiff

and

LIVINGSTON INTERNATIONAL INC.

Defendant



Proceeding under the *Class Proceedings Act, 1992*

**ORDER
(Settlement Approval)**

THIS MOTION, made by the Plaintiff for an Order approving the settlement agreement entered into by the parties and dismissing this action as against the Defendant, was heard this day at the court house, 491 Steeles Avenue East, Milton.

ON READING the materials filed, including the settlement agreement dated February 1, 2019 attached to this Order as **Schedule "A"** (the "Settlement Agreement"), and on hearing the submissions of the counsel for the parties and *Amicus Curiae*;

AND ON BEING ADVISED that the deadline for objecting to the Settlement Agreement has passed and there has been one written objection to the Settlement Agreement;

AND ON BEING ADVISED that the deadline for opting out of the Proceeding has expired and that 84 Persons have validly and timely exercised the right to opt-out;

AND ON BEING ADVISED that the parties consent to this Order:

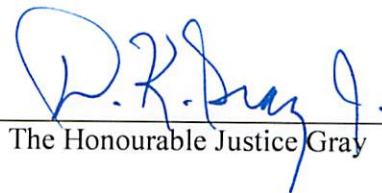
1. THIS COURT ORDERS that, in addition to the definitions used elsewhere in this Order, for the purposes of this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. THIS COURT ORDERS that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. THIS COURT ORDERS that this Order, including the Settlement Agreement, 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 the Proceeding.
4. THIS COURT ORDERS that the Settlement Agreement is fair, reasonable and in the best interests of the Class.
5. THIS COURT ORDERS that the Settlement Agreement is hereby approved pursuant to section 29 of the *Class Proceedings Act, 1992* and shall be implemented and enforced in accordance with its terms.
6. THIS COURT ORDERS that, upon the Effective Date, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Matters.

7. THIS COURT ORDERS that, for the purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role.

8. THIS COURT ORDERS that, in the event that the Settlement Agreement is terminated in accordance with its terms, this Order shall be declared null and void on subsequent motion made on notice.

9. THIS COURT ORDERS that this action be and is hereby dismissed against the Defendant, without costs and with prejudice.

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JUN 21 2019
SUPERIOR COURT OF JUSTICE
MILTON


The Honourable Justice Gray

SCHEDULE "A"

**LIVINGSTON UNPAID OVERTIME CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

Made as of February 1, 2019

Between

MICHAEL BOZSIK

(the "Plaintiff")

and

LIVINGSTON INTERNATIONAL INC.

(the "Defendant")

**LIVINGSTON UNPAID OVERTIME CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

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**LIVINGSTON UNPAID OVERTIME CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

RECITALS

- A. WHEREAS the Plaintiff was an employee of the Defendant until November 2012;
- B. WHEREAS the Proceeding was commenced by the Plaintiff, and the Plaintiff claims entitlement to unpaid overtime compensation;
- C. WHEREAS by Order of the Honourable Justice Gray, the Proceeding was, after a contested motion, certified as a class proceeding on the Certification Date;
- D. WHEREAS extensive documentary productions have been made, and the parties were preparing to proceed with examinations for discovery;
- E. WHEREAS the Parties attended a one-day mediation with Joel Wiesenfeld on December 10, 2018, where the Parties reached an agreement to resolve the Proceeding and entered into Minutes of Settlement;
- F. WHEREAS the Minutes of Settlement contemplated the Parties executing this Settlement Agreement;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed that, subject to the approval of the Court, the Proceeding be settled on the following terms and conditions:

SECTION 1 – DEFINITIONS

For the purposes of this Settlement Agreement only, including the recitals and schedules hereto:

- (1) ***Administration Expenses*** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiff, Class Counsel or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices, but excluding Class Counsel Fees and Class Counsel Disbursements.
- (2) ***Administration Form*** means the form provided for in Section 8.1(2) of this Settlement Agreement.

- (3) ***Certification Date*** means November 17, 2016.
- (4) ***Claim Fund*** means the Settlement Amount remaining after deductions in respect of Administration Expenses, Class Counsel Disbursements, Class Counsel Fees, CPF Levy and representative plaintiff honorarium, if any, to be paid out to Class Members pursuant to the Distribution Protocol.
- (5) ***Claims Administrator*** means the firm proposed by Class Counsel and appointed by the Court to administer the Claims Fund in accordance with the provisions of this Settlement Agreement and the Distribution Protocol, and any employees of such firm.
- (6) ***Class*** 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 otherwise subject to the Defendant's overtime policy or policies, who have not opted-out of this Proceeding.
- (7) ***Class Counsel*** means Sotos LLP, Roy O'Connor LLP and Goldblatt Partners LLP.
- (8) ***Class Counsel Disbursements*** include the disbursements and applicable taxes incurred by Class Counsel in the prosecution of the Proceeding.
- (9) ***Class Counsel Fees*** means the fees of Class Counsel, and any applicable taxes or charges thereon, including any amounts payable as a result of the Settlement Agreement by Class Counsel or the Class Members to any other body or Person.
- (10) ***Class Member*** means a member of the Class.
- (11) ***Class Period*** means August 15, 2007 to April 28, 2017.
- (12) ***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.
- (13) ***CPF Levy*** means a levy from the Settlement Amount equal to the amount of financial support paid to the Plaintiff by the CPF plus 10% of the balance of the Settlement Amount (net

of Class Counsel Disbursements, Class Counsel Fees and taxes and Administration Expenses) to which the CPF is entitled pursuant to Ontario Regulation 771/92 after it approved the Plaintiff for financial support in 2016.

(14) *Counsel for the Defendant* means Torys LLP.

(15) *Court* means the Ontario Superior Court of Justice.

(16) *Date of Execution* means the date on which the Parties execute this Settlement Agreement.

(17) *Defendant* means Livingston International Inc.

(18) *Distribution Protocol* means the plan for distributing the Claim Fund described in general terms in Section 9.1 of this Settlement Agreement, and as approved by the Court.

(19) *Effective Date* means the date of a Final Order from the Court approving this Settlement Agreement.

(20) *Final Order* means a final order, judgment or equivalent decree entered by the Court approving this Settlement Agreement in accordance with its terms, once the time to appeal such order has expired without any appeal being taken, if an appeal lies, or if the order is appealed, once there has been affirmation of the order upon a final disposition of all appeals.

(21) *Holdback Fund* means 20% of the Claim Fund to be paid out to Class Members pursuant to the Distribution Protocol once the period for Class Members to claim or be paid from the Holdback Fund as described in Section 9.1(1)(g) has expired.

(22) *Minutes of Settlement* means the agreement reached by the Parties with the assistance of Joel Wiesenfeld, the terms of which were stipulated in the Minutes of Settlement dated December 10, 2018, a copy of which is attached to this Settlement Agreement as **Schedule “[A]”**.

(23) *Party and Parties* means the Defendant, the Plaintiff, and, where necessary, the Class Members.

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

(25) **Plaintiff** means Michael Bozsik.

(26) **Proceeding** means the action commenced in the Court bearing Court File No. 5270/14.

(27) **Released Matters** means, up to the date of the execution of this Settlement Agreement, any and all actions, causes of action, suits, debts, claims and demands, howsoever arising, by the Releasors as the result of, relating to, or arising from the matters raised in the Proceeding or which could have been raised in the Proceeding relating to unpaid overtime or hours of work, whether known or unknown, or by reason of any cause, matter or thing whatsoever relating to unpaid overtime or hours of work and in particular, but without limiting the generality of the foregoing, from any and all claims up to the date of execution of this Settlement Agreement which were advanced in the Proceeding or could have been advanced in the Proceeding relating to unpaid overtime or hours of work.

(28) **Releasees** means Livingston International Inc. and its predecessors, successors, assigns and all related entities in the Livingston group of companies, including but not limited to affiliates, parents, and subsidiaries, and their respective present and former officers, directors, employees and agents and their heirs, executors, successors and assigns.

(29) **Releasors** means the Class Members in the Proceeding, for themselves, their heirs, executors, successors and assigns.

(30) **Settlement Agreement** means this agreement, including the recitals and schedules.

(31) **Settlement Amount** means CAD\$19,000,000.

(32) **Trust Account** means a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, S.C. 1991, c. 46) held at a Canadian financial

institution under the control of Sotos LLP or the Claims Administrator, once appointed, for the benefit of the Class Members or the Defendant, as provided for in this Settlement Agreement.

(33) *U.S. GAAP* means accounting principles generally accepted in the United States of America (U.S. GAAP).

SECTION 2– SETTLEMENT APPROVAL

2.1 Best Efforts

The Parties shall use their best efforts to implement the terms and conditions of this Settlement Agreement and the settlement.

2.2 Motion Seeking Approval of Notice

The Plaintiff shall file a motion before the Court for an order approving the notices described in Section 7.1(1) as soon as reasonably practicable after the Date of Execution.

2.3 Motion Seeking Approval of the Settlement, Distribution Protocol and Class Counsel Fees

The Plaintiff shall file a motion before the Court for an order approving this Settlement Agreement no later than five (5) days following the last to occur of:

- (a) the order referred to in Section 2.2 has been granted; and
- (b) the notices described in Section 7.1(1) have been published.

2.4 Pre-Motion Confidentiality

Until the motion material required to obtain the notice order referred to in Section 2.2 is filed or provided to the Court, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior consent of Counsel for the Defendant and Class Counsel, as the case may be, except as required for the purposes of retaining a Claims Administrator, financial reporting, the preparation of financial records (including tax returns and financial statements), as necessary to give effect to its terms, as otherwise required by law or requested by regulatory authorities, or in the case of the Defendant, to pursue strategic financing activities and communicate with its bankers, financial advisors, agents, parties conducting due diligence, and the like, provided, that any such parties are subject to written confidentiality

agreements with the Defendant. Notwithstanding anything to the contrary contained in the immediately preceding sentence, Defendant shall be permitted to make such disclosures within its consolidated financial statements as are needed to ensure compliance with the requirements of U.S. GAAP, the basis upon which such consolidated financial statements are prepared.

SECTION 3 – SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

(1) Absent an agreement by the Defendant to do so earlier, the Defendant shall pay the Settlement Amount to Sotos LLP, for deposit into the Trust Account on a day that is no later than thirty (30) days following the Effective Date. The Defendant shall have no reversionary interest in, or reversionary claim to, the Settlement Amount.

(2) Payment of the Settlement Amount shall be made by wire transfer. Prior to the Settlement Amount becoming due, Sotos LLP will provide, in writing, the following information necessary to complete the wire transfer: name of bank, address of bank, ABA number, SWIFT number, name of beneficiary, beneficiary's bank account number, beneficiary's address, and bank contact details.

(3) The Settlement Amount shall be provided in full satisfaction of the Released Matters against the Releasees.

(4) The Settlement Amount shall be all-inclusive of all amounts, including, without limitation, taxes, including the withholdings and remittances referred to below in 9(1)(e) and (f), interest, costs, Administration Expenses, Class Counsel Fees and Class Counsel Disbursements.

(5) The Defendant shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement, the Proceeding, or any other actions related to the Released Matters, including in respect of any amount for employees' deductions and withholdings, including employer remittances, relating to payments made to Class Members in accordance with this Settlement Agreement.

(6) Once a Claims Administrator has been appointed, Sotos LLP shall transfer control of the Trust Account to the Claims Administrator.

(7) Sotos LLP and the Claims Administrator shall maintain the Trust Account as provided for in this Settlement Agreement.

(8) Sotos LLP and the Claims Administrator shall not pay out all or any part of the monies in the Trust Account, except in accordance with the Settlement Agreement, the Distribution Protocol, or an order of the Court obtained after notice to the Parties.

3.2 Taxes and Interest

(1) Except as hereinafter provided, all interest earned on the Settlement Amount in the Trust Account shall accrue to the benefit of the Class and shall become and remain part of the Trust Account.

(2) Subject to Section 3.2(3), all taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be paid from the Trust Account. Sotos LLP or the Claims Administrator, as appropriate, shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Trust Account.

(3) The Defendant shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned on the Settlement Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Defendant who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Sotos LLP or the Claims Administrator.

SECTION 4 – TERMINATION OF SETTLEMENT AGREEMENT

4.1 Right of Termination

(1) In the event that:

(a) the Court declines to approve this Settlement Agreement;

- (b) the Court issues a settlement approval order that is materially inconsistent with the terms of the Settlement Agreement; or
- (c) any order approving this Settlement Agreement made by the Court does not become a Final Order.

The Plaintiff and the Defendant shall each have the right to terminate this Settlement Agreement by delivering a written notice pursuant to Section 11.17, within thirty (30) days following an event described above.

(2) In addition, if the Settlement Amount is not paid in accordance with Section 3.1(1), the Plaintiff shall have the right to terminate this Settlement Agreement, at his sole discretion, by delivering a written notice pursuant to Section 11.17.

(3) Except as provided for in Section 4.3, if the Settlement Agreement is terminated, the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason.

4.2 If Settlement Agreement is Terminated

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; and
- (b) the Parties will cooperate in seeking to have any issued order approving this Settlement Agreement set aside and declared null and void and of no force or effect, and any Party shall be estopped from asserting otherwise.

4.3 Survival of Provisions After Termination

If this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the provisions of Sections 3.1(8), 3.2(3), 4.1(3), 4.2, 4.3, 6.1, 6.2, 7.1(2) and 7.2(4), and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of

the interpretation of Sections 3.1(8), 3.2(3), 4.1(3), 4.2, 4.3, 6.1, 6.2, 7.1(2) and 7.2(4) within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

SECTION 5 – RELEASES AND DISMISSALS

5.1 Release of Releasees

(1) The Releasors covenant, represent and warrant that, as of the date of the execution of the Settlement Agreement, they have no further claims against the Releasees for, or arising out of, the Released Matters. In the event that the Releasors have made or should make any claims or demands or commence or threaten to commence any actions, claims or proceedings or make any complaints against the Releasees arising out of the Released Matters, this Release may be raised as an estoppel and complete bar to any such claim, demand, action, proceeding or complaint.

(2) The Releasors acknowledge and agree that the gross sum of the Settlement Amount to be paid by the Defendant in respect of the Settlement is inclusive of all amounts owing by the Releasees or otherwise to be paid by the Releasees in respect of the Settlement Amount or the administration of the Settlement, including in respect of costs (including fees and disbursements), taxes and interest.

(3) The Releasors agree and undertake that they will not make any claim or commence or maintain any proceeding, complaint, action or claim against any Person in which any claim could arise against the Releasees for contribution or indemnity or any other relief over in respect of any of the actions, causes of action, claims, debts, suits or demands of any nature or kind that has been released by this Release. In the event that the Releasors make any claim or commence any proceeding in respect of the Released Matters against any person or entity which might make a claim, whether for contribution or indemnity or declaratory or other relief, from the Releasees or any of them, or which might result in a claim, whether for contribution or indemnity or declaratory or other relief, being made against the Releasees or any of them, this Release may be raised as an estoppel and complete bar to any such claim, demand, action, proceeding or complaint.

(4) This release is conditional upon the Court's approval of the Settlement Agreement. In the event that that the Settlement Agreement is not approved by the Court, the Releasors will not be bound by the terms of this Release.

5.2 Dismissal of the Proceeding

Upon the Effective Date, the Proceeding shall be dismissed with prejudice and without costs as against the Defendant.

SECTION 6 – EFFECT OF SETTLEMENT

6.1 No Admission of Liability

(1) Nothing in the Settlement Agreement amounts to an admission of liability by the Defendant or any of the Releasees.

(2) The Plaintiff, the Defendant, and all Releasees expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason.

(3) Regardless of whether this Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasees, or of the truth of any of the claims or allegations contained in the Proceeding.

6.2 Agreement Not Evidence

The Parties agree that, regardless of whether it is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve, enforce, or some

combination thereof this Settlement Agreement, to defend against the assertion of Released Matters, as necessary in any insurance-related proceeding, or as otherwise required by law.

SECTION 7- NOTICE TO CLASS

7.1 Notices Required

(1) The Class shall be given a single notice of: the hearing at which the Court will be asked to approve the Settlement Agreement, Distribution Protocol, and Class Counsel Fees and Class Counsel Disbursements.

(2) If following notice being given in accordance with Section 7.1(1), this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect, the Class shall be given notice of such event.

7.2 Form and Distribution of Notices

(1) The notices shall be in a form agreed upon by the Parties and approved by the Court or, if the Parties cannot agree on the form of the notices, the notices shall be in a form ordered by the Court.

(2) The notices shall be disseminated by:

- (a) direct mailings to the Class Members using regular mail and e-mail (where available);
- (b) publication on Class Counsel's websites; and
- (c) such other means as may be reasonably necessary after consultation with the Claims Administrator to ensure that Class Members receive actual notice.

(3) The Defendant shall provide to Class Counsel and the Claims Administrator a list of Class Members (in Excel format) listing the individuals' first name, middle name, last name, last known mailing address, last known phone number, last known e-mail addresses for current employees, and whether they are a former or current employee of the Defendant.

(4) Class Counsel may disclose all information provided by the Defendant pursuant to Section 7.2(3) to the Claims Administrator, to the extent reasonably necessary for the purposes

enumerated in Sections 7.2, 8.1 and 9.1. If this Settlement Agreement is terminated, no record of the information so provided shall be retained by Class Counsel or the Claims Administrator in any form whatsoever.

(5) The Defendant will make itself reasonably available to respond to questions respecting the information provided pursuant to Section 7.2(3) from Class Counsel or the Claims Administrator. The Defendant's obligation to make itself reasonably available to respond to questions as particularized in this Section shall not be affected by the release provisions contained in Section 5 of this Settlement Agreement. Unless this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the Defendant's obligation to cooperate pursuant to this Section 7.2 shall cease when all settlement funds or court awards have been distributed.

(6) The information required under Section 7.2(3) shall be delivered to Class Counsel no later than thirty (30) days following the Date of Execution or at a time mutually agreed upon by the Parties.

(7) The Claims Administrator will take the following steps to locate Class Members for the purposes of delivery of the notices:

- (a) the Claims Administrator will cross-reference the addresses of all former employees of the Defendant identified by the Defendant pursuant to Section 7.2(3) above against the National Change of Address Database produced by Canada Post;
- (b) the Claims Administrator will consult and use the address for any Class Members who have contacted the Claims Administrator; and
- (c) the Claims Administrator will otherwise take whatever reasonable steps it deems necessary, as agreed to by the Parties or as directed by the Court, to most effectively locate Class Members.

SECTION 8– ADMINISTRATION AND IMPLEMENTATION

8.1 Mechanics of Administration

(1) The mechanics of the implementation and administration of this Settlement Agreement shall be in accordance with the Distribution Protocol, as approved by the Court, which shall be drafted in accordance with Section 9.1.

(2) Class Members who are former employees of the Defendant will be required to complete and return an Administration Form or otherwise advise the Claims Administrator of the information set out in the Administration Form, to receive any payment. An incomplete or improperly completed Administration Form will not be grounds to deny a Class Member compensation under this Settlement Agreement. The Claims Administrator will, upon receipt of any incomplete or improperly completed Administration Form, contact the Class Member and use good faith efforts to correct any deficiencies with the Administration Form.

(3) Class Members who are current employees of the Defendant will not be required to do anything to receive any payment.

(4) The Claims Administrator will send the Administration Forms to Class Members who are former employees of the Defendant by regular mail and e-mail (as available) to the addresses used for the distribution of the notice set out in Section 7.2, subject to any updated contacts received by the Claims Administrator through the searches conducted in accordance with Section 7.2(7) or as provided by Class Counsel and the Defendant.

SECTION 9 – DISTRIBUTION OF THE SETTLEMENT AMOUNT AND ACCRUED INTEREST

9.1 Distribution Protocol

(1) Class Counsel, with the Defendant's approval, will prepare the Distribution Protocol. In general terms, the Distribution Protocol will specify the following:

- (a) the division of the balance of the Settlement Amount remaining after deductions in respect of Administration Expenses, Class Counsel Disbursements, Class Counsel Fees, CPF Levy and representative plaintiff honorarium (if any) into two funds for payment to Class Members: the Claim Fund and the Holdback Fund;

- (b) the methodology for allocating the Claim Fund among Class Members identified by the Defendant pursuant to Section 7.2(3);
- (c) the plan for providing notice to Class Members of the Distribution Protocol;
- (d) the methodology by which Class Members who are former employees of the Defendant may elect to receive payment from the Claim Fund by completing an Administration Form;
- (e) the methodology by which Class Members who are former employees of the Defendant and who have completed an Administration Form may receive payment from the Claims Administrator, subject to the deduction and remittance to the Canada Revenue Agency of withholding tax at the rate applicable to the highest personal marginal tax rate by the Claims Administrator and the deduction and remittance to the CPF Levy. Payment of valid claims will be allocated and paid proportionally from the Claim Fund and the Holdback Fund;
- (f) the methodology by which Class Members who are current employees of the Defendant and identified by the Defendant as holding valid claims may receive payment directly from the Defendant, subject to the deduction and remittance to the Canada Revenue Agency of withholding tax at the applicable rate by the Defendant and the deduction and remittance to the CPF Levy. Payment of valid claims will be allocated and paid proportionally from the Claim Fund and the Holdback Fund;
- (g) the methodology by which Class Members may claim from the Holdback Fund;
and
- (h) the methodology for distributing the balance of the Holdback Fund to Class Members once the deadline to make a claim or be paid from the Holdback Fund as described in Section 9.1(1)(g) has closed.

(2) Class Counsel's preparation of the Distribution Protocol and representation of the Class generally does not in any way extend to tax inquiries or tax advice relating to this Settlement Agreement, settlement payments to Class Members, or the Distribution Protocol. Class Counsel

is not providing tax advice to the Class or any Class Member. Class Members will be advised to seek independent tax advice.

9.2 Court Approval of Distribution Protocol

Class Counsel will seek the Court's approval of the Distribution Protocol contemporaneous with seeking approval of this Settlement Agreement.

SECTION 10- CLASS COUNSEL FEES, DISBURSEMENTS AND ADMINISTRATION EXPENSES

10.1 Responsibility for Fees, Disbursements and Taxes

(1) The Defendant shall not be liable for any Class Counsel Fees, Class Counsel Disbursements, or taxes of any of the lawyers, experts, advisors, agents, or representatives retained by Class Counsel, the Plaintiff or the Class Members, or any lien of any Person on any payment to any Class Member from the Settlement Amount.

(2) The Defendant recognizes that Class Counsel Fees and Class Counsel Disbursements payable are a matter between Class Counsel and the Class, subject to approval by the Court. The Defendant agrees that it will not object to or oppose Class Counsel's request for approval of Class Counsel Fees so long as it does not exceed the maximum payable under the retainer agreement with Class Counsel. The Defendant further agrees that it shall not, unless otherwise directed by the Court, make any submissions to the Court on Class Counsel's request for approval of Class Counsel Fees.

10.2 Responsibility for Costs of Notices and Translation

Sotos LLP or the Claims Administrator shall pay the costs of the notices required by Sections 7.1 and 9.1(1)(c) and any costs of translation required by Section 11.11 from the Trust Account, as they become due. The Defendant shall not have any responsibility for the costs of the notices or translation.

10.3 Court Approval of Class Counsel Fees and Disbursements

Class Counsel will seek the Court's approval to pay Class Counsel Disbursements and Class Counsel Fees contemporaneous with seeking approval of this Settlement Agreement. Class Counsel Disbursements and Class Counsel Fees shall be reimbursed and paid solely out of the

Trust Account after the Effective Date. Except as provided herein, Administration Expenses may only be paid out of the Trust Account after the Effective Date. No other Class Counsel Disbursements or Class Counsel Fees shall be paid from the Trust Account prior to the Effective Date.

SECTION 11 – MISCELLANEOUS

11.1 Motions for Directions

- (1) Class Counsel or the Defendant may apply to the Court as may be required for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.
- (2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties.

11.2 Headings, etc.

In this Settlement Agreement:

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

11.3 Computation of Time

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

- (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and

- (b) only in the case where the time for doing an act expires on a holiday as “holiday” is defined in the *Rules of Civil Procedure*, RRO 1990, Reg 194, the act may be done on the next day that is not a holiday.

11.4 Ongoing Jurisdiction

The Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement, and the Plaintiff, Class Members and Defendant attorn to the jurisdiction of the Court for such purposes.

11.5 Governing Law

This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

11.6 Entire Agreement

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

11.7 Amendments

This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto, and any such modification or amendment must be approved by the Court.

11.8 Binding Effect

This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiff, the Class Members, the Defendant, the Releasors, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiff shall be binding upon all Releasors and each and every covenant and agreement made herein by the Defendant shall be binding upon all of the Releasees.

11.9 Counterparts

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

11.10 Negotiated Agreement

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

11.11 Language

The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais. Nevertheless, if required to by the Court, Class Counsel a translation firm selected by Class Counsel, or some combination thereof shall prepare a French translation of the Settlement Agreement, the cost of which shall be paid from the Settlement Amount. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

11.12 Transaction

The present Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Civil Code of Quebec*.

11.13 Recitals

The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

11.14 Schedules

The schedules form part of this Settlement Agreement.

11.15 Acknowledgements

Each of the Parties hereby affirms and acknowledges that:

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

11.16 Authorized Signatures

Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified above their respective signatures and their law firms.

11.17 Notice

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

For the Plaintiff and for Class Counsel in the Proceeding:

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lcentury@goldblattpartners.com

For the Defendant:

Linda Plumpton, Lisa Talbot and
Sarah Whitmore
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Box 270, TD South Tower
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Fax: 416.865.7380
Email: lplumpton@torys.com
ltalbot@torys.com
swhitmore@torys.com

11.18 Date of Execution

The Parties have executed this Settlement Agreement as of the date on the cover page.

MICHAEL BOZSIK, on his own behalf and on behalf of the Class, by his counsel

Name of Authorized Signatory:

Louis Sokolow

Signature of Authorized Signatory:

[Signature]

Sotos LLP
Class Counsel

Name of Authorized Signatory:

J. ADAM DEWAR

Signature of Authorized Signatory:

[Signature]

Roy O'Connor LLP
Class Counsel

Name of Authorized Signatory:

Daniel Tomy

Signature of Authorized Signatory:

[Signature]

Goldblatt Partners LLP
Class Counsel

LIVINGSTON INTERNATIONAL INC., by its counsel

Name of Authorized Signatory:

Brian Henderson

Brian D. Henderson
Chief Legal Officer

Signature of Authorized Signatory:

[Signature]

Torys LLP
Counsel for the Defendant

SCHEDULE "A"

Court File No. 5270/14

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

MICHAEL BOZSIK

Plaintiff

- and -

LIVINGSTON INTERNATIONAL INC.

Defendant

MINUTES OF SETTLEMENT

WHEREAS on October 1, 2014, the plaintiff commenced a proposed class action seeking to represent current and former non-managerial employees of Livingston International Inc. claiming among other things, general damages for the Class including in respect of unpaid wages (the "Class Action");

WHEREAS Justice Gray of the Ontario Superior Court of Justice certified this claim on November 17, 2016;

NOW THEREFORE for good and valuable consideration, the Parties, MICHAEL BOZSIK, as representative plaintiff of the certified class (the "Class"), and LIVINGSTON INTERNATIONAL INC. ("Livingston"), agree to settle this Class Action fully and finally on the following terms:

1. Livingston agrees to pay the gross sum of CDN\$19,000,000 (the "Settlement Amount"), inclusive of all amounts owing by Livingston or otherwise to be paid by Livingston in respect of the Settlement Amount or the administration of this settlement, including in respect of costs (including fees and disbursements), tax and interest.

2. Paragraph 1 is conditional upon the parties negotiating in good faith, with a view to concluding by no later than January 31, 2019, a settlement agreement which will provide, among other things, for the following:
 - a. the method of distribution of amounts to be paid to the Class;
 - b. the payment of the Settlement Amount on a date that is no earlier than 30 days after final approval by the Court of this settlement;
 - c. notice of the settlement to the Class;
 - d. dismissal of the Class Action as against Livingston;
 - e. a full and final release and bar against claims over, in the customary form, of all claims by the Class, known and unknown, relating to all matters raised or that could have been raised in this Class Action up to and including the date of the execution of the settlement agreement; and
 - f. review and approval by Livingston acting reasonably of all materials filed with the Court, and all public statements made by or on behalf of the Class or class counsel, in relation to this settlement.
3. The settlement agreement will set out the mechanism for determination and payment of class counsel fees, subject to approval by the Court.
4. This settlement and the terms to be set out in the settlement agreement are conditional upon approval by the Court. In the event that the settlement agreement is not approved by the Court, neither party will be bound by the terms of this settlement or the settlement agreement.

5. It is understood and agreed that nothing in this settlement constitutes an admission of liability or obligation on the part of Livingston and any liability is, in fact, denied.

Signed this 10th day of December, 2018

FOR LIVINGSTON INTERNATIONAL INC.

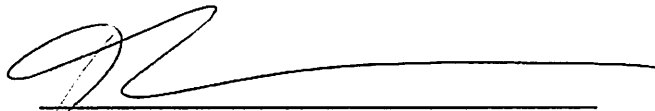


Brian Henderson
General Counsel & Corporate Secretary

FOR THE PLAINTIFF CLASS



Sotos LLP



Roy O'Connor LLP



Goldblatt Partners LLP

MICHAEL BOZSIK
Plaintiff

-and- **LIVINGSTON INTERNATIONAL INC.**
Defendant

Court File No. 5270/14

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT MILTON

Proceeding under the *Class Proceedings Act, 1992*

ORDER
(Settlement Approval)

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