

SETTLEMENT AGREEMENT

This Settlement Agreement (the "**Settlement Agreement**") is dated for reference March 7, 2023, by and between:

- (a) GX, by their Guardian ad litem, YY and TA by their Guardian ad litem BB (the "**Plaintiffs**") in a representative capacity on behalf of all students and former students of Jack Hulland Elementary School who were subject to holds and restraints and/or who were locked in a room and/or placed in seclusion between January 1, 2002 and June 30, 2022 (the "**Settlement Class**"); and
- (b) Jack Hulland Elementary School Council of Attendance Area #22 (the "**Council**");
(collectively, the "**Parties**").

I. RECITALS

WHEREAS the Plaintiffs have commenced the Supreme Court of Yukon Action No. 22-A0097 (the "**Action**") as a proposed class proceeding, which alleges that the defendants in the Action (the "**Defendants**"), including the Council, are liable in negligence, were reckless, breached their fiduciary duty, and are vicariously liable for the torts of assault, battery, unlawful confinement and false imprisonment committed at Jack Hulland Elementary School, where the plaintiffs allege staff engaged in the systemic use of holds, restraints, and involuntary seclusion to control students behavior at the school;

WHEREAS, the Council denies all of the allegations in the Action;

WHEREAS the Council believes that they are not liable in respect of the claims as alleged in the Action and believe that they have good and reasonable defences in respect of the certification of the Action as a class proceeding and in the merits in the Action;

WHEREAS the Parties agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Council or evidence of the truth of any of the Plaintiffs' allegations against the Council, which allegations are expressly denied by the Council;

WHEREAS the Council asserts that they would actively pursue their defences during the course of certification, any discoveries and at any trial if the Plaintiffs continued the Action as against them;

WHEREAS, the Parties desire to compromise and settle all claims made, and which could have been made, against the Council in the Action;

WHEREAS, in addition, the Plaintiffs and their counsel have determined that there would be substantial benefits for the Settlement Class in securing access to cooperation from the Council;

WHEREAS, despite their belief that they have good and reasonable grounds to oppose certification of the Action as a class proceeding, and have good and reasonable defences in respect of the merits, the Council has negotiated and entered into this Settlement Agreement to avoid the further expense, inconvenience, and burden of this litigation, and any other present or future litigation arising out of the facts that gave rise to this litigation, and to achieve a resolution of all claims asserted or which could have been asserted against them by the Plaintiffs on their own behalf and on behalf of the class they seek to represent, and to avoid the risks inherent in uncertain, complex and protracted litigation, and thereby to put to rest this controversy involving the Council;

WHEREAS as part of this resolution, the Council has agreed to cooperate with the Plaintiffs and their counsel by providing truthful information (to the extent that such information is in the possession, custody or control of the Council) related to the allegations made in the Action against the Government of Yukon, the remaining defendant in the Action;

WHEREAS the Plaintiffs have agreed to accept this settlement, in part, because of the value of the cooperation the Council agrees to render or make available to the Plaintiffs and their counsel, pursuant to this Settlement Agreement, as settling defendants at an early stage of this Action, as well as the attendant litigation and other risks in light of the potential defences that may be asserted by the Council;

WHEREAS, the Council has provided an affidavit, in a form reviewed and approved by Class Counsel, concerning the financial circumstances of the Council and the absence of

any insurance policy available to satisfy all or part of a judgement against Council in the Action;

WHEREAS, as a result of the Action, the Parties are reasonably familiar with the factual and legal issues presented by their respective claims and defenses in the Action, and recognize the uncertainties as to the ultimate outcome in the Action, the likelihood that any final result could require years of further complex litigation and substantial expense, including with respect to appeals and enforcement of any judgment that may ultimately be rendered, and the uncertainty of recovery of any such judgment against the Council, in light of its financial circumstances;

WHEREAS, this Settlement Agreement was entered into after arm's length discussions and negotiations between counsel for the Plaintiffs and counsel for the Council;

WHEREAS, the Parties and their counsel agree that the Settlement represents a fair, reasonable, and adequate resolution of the claims advanced, and which could have been advanced, against the Council in the Action;

WHEREAS, the Parties desire and intend to seek court approval of the Settlement as set forth in this Settlement Agreement;

WHEREAS, the Council does not admit through the execution of this Settlement Agreement or otherwise any of the unlawful conduct alleged, or which could have been alleged, in the Action;

WHEREAS the Council is entering into this Settlement Agreement in order to achieve a full, final resolution of all claims asserted or which could have been asserted against them by the Plaintiffs in the Action or claims which could in the future be brought on the basis of the same or similar events, actions and omissions underlying the Action, and to avoid further expense, inconvenience and the distraction of burdensome, complex and protracted litigation; and

NOW, THEREFORE, for value received, the Parties stipulate and agree, subject to Court approval, to the following.

II. DEFINITIONS

1. As used in the Settlement Agreement, including the Recitals and Schedules hereto, in addition to any definitions elsewhere in the Agreement, the following terms shall have the meanings set forth below:
 - (a) **"Class Counsel"** means the law firms of Camp Fiorante Matthews Mogerman LLP and Tucker Carruthers;
 - (b) **"Council Settlement Class"** means all students and former students of Jack Hulland Elementary School who were subject to holds and restraints and/or who were locked in a room and/or placed in seclusion between January 1, 2002 and June 30, 2022;
 - (c) **"Class Period"** means from January 1, 2002 until June 30, 2022;
 - (d) **"Court"** means the Supreme Court of Yukon;
 - (e) **"document"** means any document that is relevant to the claims made in this Action and has an extended meaning, as under Rule 1(13) of the *Yukon Court Rules*, and includes a photograph, film, recording of sound, any record of a permanent or semi-permanent character and any information recorded or stored by means of any device;
 - (f) **"Effective Date of Settlement"** means the next calendar day after the day on which all appellate rights with respect to the Settlement Approval Order have expired or have been exhausted or such other date as may be agreed upon by all of the Parties in writing;
 - (g) **"Settlement"** means the settlement described in this Settlement Agreement;
 - (h) **"Settlement Approval Hearing"** means the date the Court is scheduled to consider the Settlement Approval Order;

- (i) **“Settlement Approval Order”** means the order made by the Court in the Action approving the Settlement Agreement, which order shall be substantially in the form attached as Schedule “A”;

III. APPROVAL PROCESS

2. The Parties shall respectively take all reasonable steps to expeditiously effectuate this settlement and to secure the prompt dismissal of the Action as against the Council, who shall cooperate in the Plaintiffs' efforts to obtain any order required from the Court and to implement the Settlement Agreement, including the Settlement Approval Order.
3. As soon as is reasonably practical, the Plaintiffs shall apply to the Court for certification of the Action as a class proceeding on behalf of the Council Settlement Class as against the Council for settlement purposes only and for approval of the Settlement Approval Order.
4. On the Effective Date of Settlement the Plaintiff shall file an amended statement of claim that shall include the following plea:

xx. Effective [DATE] , the Plaintiffs and the Council Settlement Class entered into a Settlement Agreement with the former defendant, the Jack Hulland Elementary School Council of Attendance Area #22 (the “Council”). The Settlement Agreement was approved by the Yukon Supreme Court by order made [date], 2023.

xx. Pursuant to the Settlement Agreement, the Plaintiffs and Council Settlement Class waive all rights to recover from the Council, any portion of their damages which are attributable to any fault of the Council, and for which the Government of Yukon could claim for contribution, indemnity and/or other relief pursuant to the *Contributory Negligence Act*, R.S.Y. 2002, c. 42, any successor legislation, or otherwise.

5. As soon as reasonably possible after the Effective Date, and within no more than fifteen (15) days, the Plaintiffs and Council Settlement Class Members shall promptly dismiss the Action as against the Council without costs.

IV. COOPERATION – SCOPE OF COOPERATION

6. The Council agrees to provide reasonable cooperation to the Plaintiffs and Class Counsel in accordance with the requirements of this Part IV.
7. The Parties respectively acknowledge and agree that all information and Documents provided by the Council to the Plaintiffs under this Settlement Agreement may be used by the Plaintiffs in connection with the investigation, prosecution and settlements of the claims in the Action including, without limitation, the prosecution of the claims in the Action against the defendant Government of Yukon, provided that such information and Documents shall not be used directly or indirectly for any other purpose. The Parties further acknowledge and agree that all information and Documents provided by the Council to the Plaintiffs under this Settlement Agreement shall be held and treated in strict confidence in accordance with this Settlement Agreement, and shall not be otherwise disclosed to any person in any manner, directly or indirectly, by the Plaintiffs in any way for any reason except in accordance with this Settlement Agreement or with the express prior written consent of the Council. The Plaintiffs shall take all reasonable steps and precautions to ensure and maintain the confidentiality of the information and Documents.
8. The Parties expressly recognize that nothing in this Settlement Agreement shall be construed as requiring Council or its lawyers to provide information or documents covered by any privilege, including but not limited to solicitor-client privilege, litigation privilege, settlement privilege, or joint defence or common-interest privilege.
9. The cooperation that is to be provided by the Council under this Settlement Agreement shall be limited strictly to the allegations currently contained in the Action, as set out in the Amended Statement of Claim, filed February 23, 2023.

10. A material factor influencing the Council's decision to enter into this Settlement Agreement is their desire to limit the burden and expense of the Action. Accordingly, the Plaintiffs agree to exercise good faith in seeking cooperation from the Council, and to avoid seeking information that is unnecessary, cumulative or duplicative and agree otherwise to avoid imposing undue or unreasonable burden or expense on the Council.
11. In accordance with paragraph 40, the Plaintiffs may seek directions and/or orders from the Court relating to their rights under this Part IV should the Council not act reasonably in terms of its/their obligations under this Part IV, or act in a manner that is inconsistent with the spirit and intent of this Part IV, including, but not limited to, the resolution of any dispute concerning any claim of privilege by the Council over any Document. Likewise, the Council may seek directions and/or orders from the Court relating to their rights under this Part IV should the Plaintiffs or Class Counsel not act reasonably under this Part IV, or act in a manner that is inconsistent with the spirit and intent of this Part IV.
12. The Council's obligation to cooperate under this Settlement Agreement shall cease at the date of final judgment in the Action as against all Defendants (or, if applicable, the date of any settlement approval order that disposes of the Action).
13. For greater clarity, Council's sole cooperation obligation after the representative interview and counsel proffer are completed, or the Plaintiff's right to such interview and proffer lapse, will be to continue to produce documents in the circumstances described in Part IV(A) below. However, nothing in this agreement prevents Plaintiffs or Class Counsel from seeking the voluntary cooperation of the Council or its current or former members at any time.

A. Production of Documents

14. Within seven (7) days of the Settlement Approval Order the Council will serve the Plaintiffs with an Affidavit of Documents consistent with the requirements of Rule 25 of the *Yukon Court Rules*.

15. The Council is not obliged to produce documents covered by a recognized ground of legal privilege, including but not limited to solicitor-client privilege, litigation privilege, settlement privilege, or joint defence or common-interest privilege.
16. Within thirty (30) days of serving the Affidavit of Documents described at paragraph 14, the Council will provide the Plaintiffs with the documents listed in its affidavit of documents over which it claims no privilege.
17. To the extent the Council subsequently become aware of additional relevant documents in the possession or control of the Council, Council will make supplemental production of documents on the same basis as provided for under Rules 25(21) or (22) of the Rules of Court and this Settlement Agreement.
18. To the extent that Class Counsel subsequently becomes aware of additional relevant documents that may be in the possession or control of the Council, Class Counsel will ask the Council to locate and produce the documents and the Council will make best efforts to locate and produce the documents.
19. At the request of Class Counsel, a representative from School Council will be a witness before the Yukon Supreme Court in the Action or will provide an affidavit or testimony to establish the authenticity and admissibility of any Council documents required as evidence at the trial of this matter.

B. Proffer of Information Relevant to the Action by a Council Representative

20. The Council will make available a knowledgeable representative to meet with Class Counsel by videoconference or in person at mutually convenient times and places in order to state truthfully the representative's knowledge of the matters at issue. The representative shall not answer any question calling for information or relating to information or documents covered by a recognized ground of legal privilege, including but not limited to solicitor-client privilege, litigation privilege, settlement privilege, or joint defence or common-interest privilege. Lawyers for the Council will have the right to object to such questions during the interview. The

interview will be limited to 3 hours in duration and will occur with counsel for the Council present.

21. Class Counsel may provide a list of topics to be discussed and/or questions to the Council's representative in advance of the meeting with Class Counsel. The representative will make reasonable efforts to inform themselves of matters in issue that are outside of their personal knowledge or memory.
22. Class Counsel acknowledge that, owing to the structure and history of Council, no single representative will possess knowledge relating to all questions that may be asked by Class Counsel. Class Counsel further recognize that Council cannot guarantee the cooperation of past Council Members. If the representative provided by Council is unable to answer a question during the interview, the representative's only obligation under this Part shall be to make best efforts to provide the name and contact details of the individual who might have an answer to the question posed.
23. Council will make a Council representative available, and Class Counsel will complete the interview with the Council representative within 60 days of the plaintiffs' receipt of the Council's document production as described in paragraph 16. If Class Counsel fail to conduct this interview within 60 days of the receipt of documents, they shall forfeit their right to conduct the interview.

C. Proffer of Information Relevant to the Action by Counsel for the Council:

24. Within sixty (60) days of the day on which documents are provided by Council, or at a time mutually agreed upon by the Parties, and following a request by Class Counsel, counsel for the Council will meet with Class Counsel at a mutually agreeable time or place, to provide an evidentiary proffer. The proffer will consist of information obtained by counsel in the course of investigating the matters at issue in the Action excluding any information that is subject to a recognized ground of legal privilege, including but not limited to solicitor-client privilege, litigation privilege, settlement privilege, joint defence or common-interest privilege.

25. The proffer will be limited to 2 hours in duration.
26. Class Counsel will be free to take notes of their own thoughts and impressions, but no audio or video recording will be permitted.
27. It is agreed that all statements made and information provided by counsel for the Council during the proffer are privileged, will be kept strictly confidential, may not be directly or indirectly disclosed to any other person, and will not be used by Class Counsel for any purpose other than for their own internal use in connection with the prosecution of the Action and for no other purpose whatsoever.
28. The proffer of counsel for the Council will be completed within 60 days of the Plaintiffs' receipt of the Council's document production as described in paragraph 16 failing which, the Plaintiffs and Class Counsel shall forfeit their right to obtain this proffer.

V. COVENANT NOT TO SUE

29. Upon the Effective Date of Settlement, the Plaintiffs and the Council Settlement Class Members, covenant and agree that they will not bring, commence, prosecute or maintain, or cause or permit to be brought, commenced, prosecuted or maintained, or otherwise join, assist, aid or act in concert in any manner whatsoever, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or person, against the Council, any claims, demands, actions, proceedings, suits, causes of action and manners of action that have been brought or could have been brought, are currently pending or were pending, or which could be brought in the future, whether known or unknown, asserted or unasserted, under or pursuant to any statute, regulation, common law or equity, whether civil, criminal, regulatory or otherwise, arising from or in any way relating to the pleaded facts, or the facts which could have been pled, in the Action. The Plaintiffs and Council Settlement Class Members acknowledge that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true regarding the subject matter of the Settlement, and it is

their intention that all these covenants shall be and remain in effect notwithstanding the discovery or existence of additional or different facts.

30. The Parties expressly acknowledge and agree that the covenants set out in paragraph 29 above is not a Release, and shall not be construed to be a Release, and that the Plaintiffs and Council Settlement Class Members expressly reserve all rights of action, claims and demands they have against the remaining defendant in the Action or others concerning the Council, except that the Plaintiffs and Council Settlement Class Members covenant, undertake and agree that they will not seek to recover in the Action, or by any other proceedings or means, any portion of the losses they claim, or could claim, in the Action which a court or other tribunal may attribute to the Council.

VI. TERMINATION

31. The Parties shall, in their respective discretions, have the right to terminate the settlement set forth in this Settlement Agreement by providing written notice of their election to do so to all other Parties within thirty (30) days of the date on which:
- (a) Any Court declines to certify or authorize the Action for the purposes of the Settlement Agreement;
 - (b) Any Court declines to dismiss the Action against the Council;
 - (c) Any Court declines to approve this Settlement Agreement or any material part hereof;
 - (d) Any Court approves this Settlement Agreement in a materially modified form; or
 - (e) Any Court issues a settlement approval order that is not substantially in the form attached to this Settlement Agreement as Schedule A.
32. If the Settlement Agreement is terminated:

- (a) this Settlement Agreement and all orders made pursuant to it shall be null and void, shall have no further force and effect with respect to the Parties, and shall not be offered in evidence or used in any litigation for any purpose; and
- (b) all orders in existence as of the date on which this Settlement was executed shall become operative and fully effective, as if proceedings relating to this Settlement had not occurred. In such event, the Parties reserve all rights to object to or otherwise challenge all such pre-existing orders, including the right to make appropriate scheduling requests and seek extensions of any applicable deadlines (and the Parties agree to provide their consent to any such reasonable requests or extensions).

33. If the Settlement Agreement is terminated, the Plaintiffs and Class Counsel shall destroy all documents, information, notes, or other materials provided by the Council or reflecting information derived from the Council or their lawyers, including Counsel's proffer. Plaintiffs and Class Counsel shall recover and destroy any such documents, information, notes or other materials provided to a third party. Class Counsel shall provide a certification of such destruction within ten (10) days of termination of the agreement.

VII. GENERAL

34. The recitals to this Settlement Agreement are true and accurate, and form part of this Settlement Agreement.

35. This Settlement Agreement and its attachments shall constitute the entire agreement of the Parties and shall not be subject to any change, modification, amendment or addition without the express written consent of counsel on behalf of all Parties to the Settlement Agreement. This Settlement Agreement supersedes and replaces all prior negotiations, discussions, communications and proposed agreements, whether written or oral.

36. 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.

37. Words in the singular include the plural and vice-versa and words in one gender include all genders.
38. In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision if the Parties mutually elect to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement.
39. The Court shall retain continuing jurisdiction over the Parties and over the administration and enforcement of the Settlement and the benefits to the Plaintiffs and Council Settlement Class Members hereunder.
40. Any disputes or controversies arising with respect to the interpretation, enforcement, or implementation of this Settlement Agreement must be addressed at a case management hearing in the Action seeking an order or directions from the case management judge.
41. Class Counsel warrants that they are fully authorized to execute this Settlement Agreement on behalf of the Plaintiffs and the Council Settlement Class Members and to execute and legally bind the Plaintiffs and the Council Settlement Class Members to this Settlement Agreement.
42. George Filipovic and Vincent Larochelle warrant that they are fully authorized to execute this Settlement Agreement on behalf of the Council.
43. This Settlement Agreement may be executed in counterparts by the Parties or their representatives, and a facsimile or electronically transmitted signature shall be deemed an original signature for purposes of this Settlement Agreement and of equally binding force and effect.

44. This Settlement Agreement shall be construed under and governed by the laws of the Yukon territory.
45. The Parties have negotiated and fully reviewed the terms of this Settlement Agreement, and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction of this Settlement Agreement by a court of law or any other adjudicating body.
46. The Agreement, including any addendums thereto, is for settlement purposes only, and conditional upon the making of final orders approving the Settlement in the Action, and neither the fact of, nor any provision contained in, this Agreement nor any action taken hereunder shall constitute, or be construed as, any admission of the validity of any claim or any factual allegation that was or could have been made by the Plaintiffs, Council Settlement Class Members, or by the Council, in the Action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of the Council. The Council expressly denies any and all allegations of wrongdoing, fault, violation of law and liability. The Agreement, including any addendums thereto, shall not be offered or be admissible in evidence by or against the Council or cited or referred to in any other action, investigation or proceeding, except in any action involving the Plaintiffs, Council Settlement Class Members, Council, or any of them, to support a defense of res judicata, estoppel, release, or other theory of claim preclusion, issue preclusion, or similar defense.
47. Whenever, under the terms of this Agreement, a person is required to provide service or written notice to the Plaintiffs, Council Settlement Class Members, Class Counsel or the Council, such service or notice shall be directed to the individuals and addresses specified below, unless those individuals or their successors give notice to the other Parties in writing:

As to the Plaintiffs, Council Settlement Class Members and Class Counsel:

Attention: James Tucker
Tucker Carruthers Law Office
301-303 Alexander Street

Whitehorse, Yukon
Y1A 2L5

As to the Council:

Attention: Vincent Larochelle
201-4133 Fourth Avenue
Whitehorse, Yukon
Y1A 1H8

IN WITNESS THEREOF, the Parties hereto have executed this Settlement Agreement as follows:

Date: 8 March 2023

By: 

James R. Tucker as Class Counsel
on behalf of the Plaintiffs and
Council Settlement Class Members

Date: March 8, 2023

By: 

George Filipovic
on behalf of the Council

Date: 8 March, 2023

By: 

Vincent Larochelle
on behalf of the Council

SCHEDULE "A"

S.C. No. 22-A0097

(Rule 43(3))

SUPREME COURT OF YUKON

Between

GX, by their Guardian ad litem, YY and
 TA by their Guardian ad litem BB in a representative capacity on behalf of
 all students and former students of Jack Hulland Elementary School who were subject
 to holds and restraints and/or who were locked in a room and/or placed in seclusion
 between January 1, 2002 and June 30, 2022

Plaintiffs

and

Government of Yukon, Department of Education
 Jack Hulland Elementary School Council of Attendance Area #22

Defendants

Brought under Rule 5(11) as a proposed class proceeding

ORDER
(Settlement Approval)

<input checked="" type="checkbox"/> BEFORE THE HONOURABLE CHIEF JUSTICE Duncan	} } }	◇ day, the ◇ day of ◇ 2023
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THIS APPLICATION of Plaintiffs, coming for hearing at Whitehorse, Yukon on the ◇ day of ◇, 2023, and on hearing ◇, appearing on their own behalf or lawyer for the ◇, and ◇, appearing on their own behalf or lawyer for the ◇.

THIS COURT ORDERS AND DECLARES that:

1. The Settlement Agreement dated for reference ◇, attached as Schedule "A" to this Order, is approved and is incorporated by reference into this Order.
2. This action is certified as a class proceeding against the Council only for the purpose of, and in accordance with the terms of, the Settlement Agreement.

3. Settlement Class Members are defined for settlement purposes as:

All students and former students of Jack Hulland Elementary School who were subject to holds and restraints and/or who were locked in a room and/or placed in seclusion between January 1, 2002 and June 30, 2022.

4. The Settlement Common Issues certified for determination are whether the Council owed a duty of care to the Settlement Class Members, whether the Council breached a duty of care owed to the Settlement Class Members, whether the Council owed a fiduciary duty to the Settlement Class Members, whether the Council was vicariously liable for the conduct of school staff, and whether the conduct of the Council merited an award of punitive damages.
5. The Plaintiffs are appointed as the Representative Plaintiffs on behalf of the Settlement Class Members.
6. This Order, including the Settlement Agreement, is binding upon each Settlement Class Member who does not validly opt-out of the Settlement in accordance with the terms directed by this Court following the resolution of the Plaintiffs' application for certification as against the Government of Yukon at a later date.
7. Nothing in this Order, the certification of this proceeding as a class action as against the School Council, or the court's reasons and findings on this application—including the class definition, the structure of the notice procedure, and any implicit findings of fact necessary to support the court's jurisdiction to certify—will bind or prejudice the Government of Yukon at any stage of this action.
8. Settlement Class Members, who do not opt out further to paragraph 6, shall not now or hereafter institute, continue, maintain, intervene in or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any proceeding, cause of action, claim or demand against the Council, or any other person who may claim contribution or indemnity, or other claims over relief, from the Council, whether pursuant to legislation or at common law or equity in respect of any claim against Council, which was or could have been brought in this action.

9. All claims for contribution, indemnity, other claims over and other relief, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the claims against the Council, which were or could have been brought in this Action, in any other proceeding, or otherwise by the Government of Yukon against the Council, or by the Council against the Government of Yukon, are barred, prohibited and enjoined in accordance with the terms of this Order (unless such claim is made in respect of a claim by a person who has validly opted out of the Settlement).
10. If this Court ultimately determines that a claim for contribution, indemnity, other claims over or any other relief, whether in equity, in law, by statute, by regulation or otherwise, is a legally recognized claim:
 - a. The Settlement Class shall not be entitled to claim or recover from the Government of Yukon that portion of any damages, interest and costs that corresponds to the proportionate liability of the Council proven at trial or otherwise;
 - b. The Settlement Class shall only be entitled to claim and recover from the Government of Yukon those claims for damages, interest and costs attributable to the aggregate of the several liability of the Government of Yukon; and
 - c. This Court shall have full authority to determine the proportionate liability of the Government and the Council at the trial or other disposition of the action, whether or not the Council appear at the trial, and the proportionate liability of the Council shall be determined as if the Council are parties to this Action and any determination by this Court in respect of the proportionate liability of the Council shall only apply in this Action and shall not be binding in any other proceeding.
11. Nothing in this Order is intended to or shall limit, restrict or affect any arguments that the Government of Yukon may make regarding the reduction of any assessment of damages (including punitive damages, if any), interest and costs or judgment against them in favour of the Settlement Class, or the rights of the

Settlement Class to oppose or resist any such arguments, except as provided for in this Order;

12. The Plaintiffs are granted leave to dismiss the action against the Council without costs, except for the purpose of ongoing settlement administration by the Court.

By the Court:

Approved as the Order made:

Clerk of the Court

James R. Tucker
Counsel for the Plaintiffs
GX, by their Guardian ad litem, YY, and
TA, by their Guardian ad litem, BB

George Filipovic
Counsel for the Defendant,
Government of Yukon, Department of
Education

Vincent Larochelle
Counsel for the Defendant,
Jack Hlland Elementary School Council
of Attendance Area #22