

## SCHEDULE "F" - APPROVAL NOTICE

### COURT APPROVAL OF THE SETTLEMENT OF HOUR BANK BENEFIT PLAN CLASS ACTION

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.

#### Why am I receiving this Notice?

Your employer emailed you this Notice because your rights may be affected by the Court's certification of the Hour Bank Benefit Plan Class Action and the Court's approval of the settlement, distribution plan, and legal fees and disbursements (the "**Settlement Agreement**").

#### What happened at the Approval Hearing?

On November 20, 2024, the Court of King's Bench of Alberta Certified the Action as a Class Proceeding pursuant to section 5(1) of the *Class Proceedings Act*, SA 2003, c. C-16.5 ("**CPA**"), and Certified the Class as a Settlement Class, as defined in section 4 of the *CPA*, as follows:

All individuals (1) who were employed on an hourly wage basis by a Participating Firm in the Merit Contractors Association Benefit Plan (the "**Defendants' Benefit Plan**"), (2) who participated in the Defendants' Benefit Plan offered by the Merit Contractors Association Benefit Plan Trust; (3) whose employer ceased to be a Participating Firm in the Merit Contractors Association Benefit Plan Trust in the calendar year 2020 and (4) whose employer then ceased to be a Participating Firm in the Defendants' Benefit Plan in 2020 and moved directly to become a Participating Firm in any of the Saskatchewan Construction Industry Plan, the Manitoba Construction Industry Plan, the Ontario Construction Industry Benefit Plan, or the Nova Scotia Construction Industry Plan (collectively, the "**New Plans**") in 2020; and (5) the individual hourly employee continued to be employed by that Participating Firm on a continuous basis to the time that the Approval Order is granted (6) excluding any Opt-Outs.

The Court **has approved the Settlement Agreement** and declared that it is fair, reasonable and in the best interests of the Class Members. Under the Settlement Agreement, the Defendants will pay the sum of \$450,000.00 (the "**Settlement Amount**") in full and final settlement of all claims of Plaintiffs in the Class Action including the Class Members against the Defendants. The Settlement Amount includes all legal fees, disbursements, taxes, and Administration Expenses and in return for the Settlement Amount, the Defendants will receive Releases and a dismissal of the Class Action.

The Court also awarded Class Counsel their legal fees in the total amount of \$151,200, plus disbursements actually incurred \$133,362.19 plus applicable taxes ("**Class Counsel Fees**"). As is customary in such cases, Class Counsel conducted the Class Action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. This amount will be the only compensation Class Counsel receives for conducting the Class Action. Class Counsel Fees will be deducted from the Settlement Amount before the Settlement Amount is distributed to Class Members.

Expenses incurred or payable relating to the approval, notification, implementation and administration of the Settlement ("**Administration Expenses**") will also be paid from the Settlement Amount before it is distributed to Class Members.

### **Will I receive any money if I am a Class Member?**

Class Members receive **no money** under the Settlement Agreement.

Instead, the Settlement Amount, less (i) Administration Expenses as approved by the Court; (ii) Class Counsel Disbursements as approved by the Court; and (iii) Class Counsel Fees as approved by the Court (the “**Net Settlement Amount**”) will be distributed as Honorarium and donated to certain organizations (the “**Distribution Plan**”), as follows:

- (a) \$10,000 will be distributed evenly between the Representative Plaintiffs, Michael Rempel and Evan Martindale as Honorarium for their efforts in advancing the litigation (“**Honoraria**”);
- (b) The remaining Net Settlement Amount, after deduction of Honorarium will then be distributed as follows:
  - a. 37% to **Saskatchewan Polytechnic** for their trades’ programs School of Construction (saskpolytech.ca), with 2/3 to be split between the Saskatoon Campus and the Regina Campus and the remaining 1/3 to be split between the Moose Jaw Campus and Prince Albert Campus;
  - b. 34% to the **Red River Scholarship Fund for apprentices** (<https://www.rrc.ca/future-students/awards/>);
  - c. 12% to **Build a Dream** (<https://www.webuildadream.com/donate/> in Ontario);
  - d. 17% to **Techsploration** (<https://www.techsploration.ca/>) and **Skills Canada Nova Scotia** (<https://www.skillsns.ca/>)

### **Why am I not receiving any money?**

The Action was prosecuted by Class Counsel and Affidavits (sworn statements of evidence) were filed by the Plaintiffs, an expert for the Plaintiffs, and others. Counsel for the Defendants cross-examined most of the individuals who swore those Affidavits as part of the Certification Application.

During this process, it became evident to Class Counsel that they would have **significant difficulty proving the allegations** that have been made in the action, including the allegation that employees (the proposed individual Class Members) suffered a loss of their hour banks after transferring from the Merit Benefit Plan to their new benefit plans – a core claim in the Action.

The Defendants filed a series of Applications with the Court including an Application to have the Action dismissed. Rather than face the risk that such an Application could be successful leaving the Plaintiffs (and the proposed Class) with nothing, the Plaintiffs, through their counsel, chose to negotiate a resolution of the Action. The terms of that resolution are set forth in the Settlement Agreement.

### **What if I want to start my own lawsuit?**

Class Members will be bound by the terms of the Settlement Agreement unless they complete the Opt-Out Form and submit to Class Counsel by December 2, 2024. Class Members who do not submit an Opt-Out Form cannot start any other claim or legal proceeding against the

Defendants or any other person released by the Settlement Agreement in relation to the claims advanced in this Class Action, and/ or claims that could have been advanced in this Class Action.

Any Class Member who elects to Opt Out of the proposed settlement of this Action and does so successfully (the “**Opt Out Individuals**”), will have the option to commence their own individual action against the Defendants **at their sole expense**.

Class Counsel warns those individuals who are contemplating Opting Out that if they choose to opt out and pursue their own individual lawsuit at their own cost, they will likely face significant problems proving their case, as did the Plaintiffs in the Action. If unsuccessful in prosecuting their own individual action, the Opt Out Individuals may be responsible for the payment of costs to the Defendants. Such costs will be the sole responsibility of the Opt Out Individuals.

If you wish to Opt Out, you must complete the **OPT OUT FORM** attached to this Notice and send to Class Counsel by mail, fax or email by **December 2, 2024** .

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### **IMPORTANT DEADLINE**

**Opt Out Deadline: DECEMBER 2, 2024**

### **COPIES OF THE SETTLEMENT DOCUMENTS**

Copies of the Settlement Agreement and the Distribution Plan may be found on the website of Class Counsel at:

<https://rhelaw.com/class-action/mercon-class-action/>  
or by contacting Class Counsel at the contact information provided below.

**INTERPRETATION**

If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

**DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED**

**BY THE COURT OF KING'S BENCH OF ALBERTA**

**SCHEDULE "G" – OPT-OUT FORM**

**HOUR BANK BENEFIT PLAN CLASS ACTION SETTLEMENT OPT-OUT FORM**

Complete this form only if you want to **OPT OUT** of the Hour Bank Benefit Plan Class Action.

If you Opt Out, you will not be bound by the terms of the Settlement Agreement.

If you Opt Out, you can start your own claim or legal proceeding at your **own expense** and **without the assistance of Class Counsel**, against the Defendants, or any other person released by the Settlement Agreement in relation to the claims advanced in this Class Action, and/ or claims that could have been advanced in this Class Action.

\_\_\_\_\_  
Last Name

\_\_\_\_\_  
First Name

\_\_\_\_\_  
Current Address

\_\_\_\_\_  
City                          Prov./State                  Postal  
   Code/Zip  
   Code

\_\_\_\_\_  
Date of Birth

\_\_\_\_\_  
Telephone Number (Work)    Telephone Number (Home)

\_\_\_\_\_  
Telephone Number (Cell)

**For the purpose of opting out of the settlement of the Class Action, you must complete the form and have it submitted to Class Counsel no later than DECEMBER 2, 2024. If you meet those terms, you will not be part of the settlement or bound by it.**

**Please check one of the following:**

My current intention is to begin individual litigation against the Defendants.



I am opting out of the class action for a reason other than to begin individual litigation against the Defendants. I am opting out for the following reason(s):

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**I UNDERSTAND THAT BY OPTING OUT, CLASS COUNSEL CANNOT REPRESENT ME IN ANY INDIVIDUAL ACTION I MAY BRING.**

**I FURTHER UNDERSTAND THAT BY OPTING OUT, I WILL BE RESPONSIBLE FOR ALL LEGAL FEES AND COSTS THAT MAY BE INCURRED BY ME IF I CHOOSE TO PURSUE MY OWN INDIVIDUAL CLAIM AND LITIGATION.**

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

This completed Opt-Out Form must be received by Class Counsel by email, regular mail or fax no later than **December 2, 2024**.

Class Counsel can be reached at:

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Vancouver, BC V6Z 0C8  
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