

## **SETTLEMENT AGREEMENT AND RELEASE**

THIS SETTLEMENT AGREEMENT AND RELEASE ("Agreement") is fully effective as of August 4, 2016, and is entered into by the following parties:

1. Brent and Rebecca Meissner, on behalf of themselves and their heirs, personal representatives, successors, assigns, subrogees, and persons identified in interest with all of the foregoing;

2. Safeco Insurance ("Safeco") was the insurer for the home commonly known as 2531 James Drive East, Maplewood, Minnesota owned by Brent and Rebecca Meissner (the "Premises"); and

3. The City of Saint Paul, the St. Paul Regional Water Services and the Board of Water Commissioners of the City of St. Paul (hereinafter "Water").

The parties identified in Paragraphs 1 and 2 above are hereinafter collectively referred to as the "Plaintiffs." The parties identified in Paragraphs 1 through 3 above are hereinafter collectively referred to as the "Parties."

### **RECITALS**

A. The Plaintiffs made claims against Water claiming damages as a result of a fire (the "Fire") on March 7, 2014 to real and personal property at the Premises.

B. Water denied all liability for the claims alleged and damages claimed by Plaintiffs.

C. The Parties now desire to settle all of the Released Claims as that term is hereinafter defined.

FOR GOOD AND VALUABLE CONSIDERATION, the Parties agree as follows:

#### **1. BINDING EFFECT.**

The terms of this Settlement Agreement and Release shall be binding upon and be enforceable against and shall inure to the benefit of the parties hereto jointly and severally and the heirs, successors, personal representatives, insurers, and assigns of each. The parties hereto acknowledge that this Agreement was the result of a mediation session on June 21, 2016 and additional follow-up settlement negotiations conducted by John M. Harens (the "Mediator") and that they each received in writing the statutory mediation disclosures including the following:

- the Mediator has no duty to protect their interests or provide them with information about their legal rights;
- signing a mediated settlement agreement may adversely affect their legal rights; and
- they should consult an attorney before signing a mediated settlement agreement if they are uncertain about their rights.

In entering this Agreement, each party represents that they have relied upon the advice of their attorney, who is the attorney of their own choice, concerning the legal consequences of the Agreement; that the terms of the Agreement have been completely read and explained to each party by their attorney; and that the terms of this Agreement are fully understood and voluntarily accepted.

## **2. RELEASE OF CLAIMS.**

A. In consideration of the sums described in the exhibits identified in Paragraph 2 below, the sufficiency of which is hereby acknowledged, the Plaintiffs and Water hereby unconditionally and mutually release and forever discharge each other, and their respective insurers, successors, parents, affiliates, agents, subsidiaries, dealers and distributors, and the officers, directors and assigns of each including any estates, heirs, or devisees, from any and all claims, past, present and future, known or known, including

but not limited to all claims that were or could have been made as a result of the Fire (“the Released Claims”). The Released Claims shall include all damages, whether known or unknown, foreseen or unforeseen, arising out of Released Claims.

B. The Plaintiffs and Water acknowledge that no promise or inducement has been made or offered except as set forth herein, that the parties execute this Agreement without reliance upon representations or statements by anyone as to the nature and extent of the losses, injuries or damages or the possible consequences thereof.

C. The Parties agree that if any of them bring any action, including, without limitation, a contribution or indemnity action regarding the Released Claims against any third person who is not a Party to this Agreement, the Party asserting such action shall indemnify, defend and hold harmless the other Parties from any claims by such third person. The Parties agree that if one party is obligated to defend and/or indemnify another party under this Agreement, then the party entitled to defense and indemnity shall have the right to select its own counsel subject to the reasonable objection of the party obligated to provide the defense and/or indemnity.

### 3. CONSIDERATION.

A. Consideration for the Plaintiffs. The Plaintiffs agree to accept in full settlement of their claims against the Water and as consideration for the other terms and conditions of this Agreement, the sums set out on the attached Exhibits A and B which will be executed by the respective Plaintiff and shall be held by the Mediator in accordance with the terms of paragraph C. below.

B. Consideration Extended by Water. Water agrees to pay the consideration described in Exhibit C in exchange for the releases given by the Plaintiffs, and such other

terms and conditions of this agreement, which shall be held by the Mediator in accordance with the terms of paragraph C. below.

C. Confidentiality of Consideration. All parties hereto acknowledge the sufficiency of the consideration for this Agreement, but further agree that such consideration shall be kept confidential in accordance with the following terms:

- (1) Exhibits A through C will be separately executed by the respective party identified with said Exhibits.
- (2) Exhibits A through C shall be held in escrow by the Mediator and shall not be disclosed to any of the other parties unless and until the mediator determines, in his sole discretion, that it is necessary to disclose the contents of one or more of said exhibits in order to effectuate and enforce the terms of this Agreement.

Nothing contained in this paragraph shall prevent Water from making any disclosure it is required to make as a matter of law.

D. Timeliness of Consideration. The Parties reached an agreement on the terms of this settlement on August 4, 2016, pending final approval by the Water Board on September 13, 2016. Within 30 days of final approval by the Water Board, the Parties shall send any settlement contribution and their executed signature page to this Agreement to the Mediator, John M. Harens of Harens Mediation Center, LLC (Tax ID. No. 46-0795573), where the money will be held and disbursed according to the terms stated herein.

#### **4. NO ADMISSION OF LIABILITY.**

The Parties recognize and agree that this settlement is the compromise of disputed claims and that the consideration accepted and paid hereunder is not intended nor shall it be construed by anyone to be an admission of liability by or on behalf of any of the Parties, by whom all such liability is expressly denied, said Parties intending by this settlement merely to avoid litigation and buy their peace.

**5. DISMISSAL OF SUIT.**

The Plaintiffs and Water hereby authorize and direct their attorneys of record to dismiss with prejudice all claims, counterclaims or cross claims among and between each other in the Action and without costs or disbursements upon receipt by the Plaintiffs of the consideration described in Paragraph 3 herein.

**6. ENTIRE AGREEMENT.**

The Plaintiffs and Water further understand and agree that this document contains the entire agreement between the Plaintiffs and Water with respect to the Action, and that the terms of this Agreement are contractual and not a mere recital. By their signatures below the Plaintiffs and Water each represent that they have carefully read this document, know and understand the terms and effect hereof, have fully discussed the terms and effect of this document with their attorneys, and have signed this Settlement Agreement as their free and considered act. This Agreement includes three separate signature pages (pages 6 through 8 hereof).

[BALANCE OF PAGE NOT USED]

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

\_\_\_\_\_  
Brent Meissner

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

\_\_\_\_\_  
Rebecca Meissner

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

Safeco Insurance

By \_\_\_\_\_

Its \_\_\_\_\_

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

The City of Saint Paul, the St. Paul Regional  
Water Services and the Board of Water  
Commissioners of the City of St. Paul

By \_\_\_\_\_

Its \_\_\_\_\_