

November 28, 2017

Re: Marion Independent Community School District's Insurer Settles Lawsuits Filed By Parents.

The Marion Independent Community School District ("the District"), upon advice from and through its insurance carrier (Employers Mutual Casualty Company) and its legal counsel, has resolved three lawsuits filed by the parents of minor students involved in the Logan McMurrin abuse case. The insurer negotiated settlements with three families for \$600,000 each in exchange for a release of all claims against the District and teacher Diane Graham. However, one of the families opted to spread the payment of the settlement over time through the use of an annuity.

These lawsuits have been dismissed. Both the district and its insurance carrier believe it was in the best interests of the students and families involved, as well as the rest of the District's students and staff to resolve these cases now and avoid prolonged litigation.

The District continues to believe in the value of student and adult volunteers to serve the community and to offer expanded learning opportunities for all students. The District always had internal review processes for volunteers in place, but the District identified and implemented policy changes related to those procedures in December 2016. The District always has and will continue to take seriously its responsibility under state and federal laws and board policy to provide a safe and healthy learning environment for its students.

## RELEASE AND INDEMNITY AGREEMENT

For and in consideration of delivery of payment in the sum of Six Hundred Thousand Dollars (\$600,000.00), the receipt of which is hereby acknowledged, the undersigned,

1. Individually, as natural parents of [REDACTED], being of lawful age, hereby release, acquit, forever discharge, and covenant to hold harmless the Marion Independent School District, Diane Marie Graham, EMC Insurance Companies, and their heirs, executors, administrators, Board, elected officials, agents, representatives, employees, and assigns of and from any and all actions, causes of action, claims, demands, damages, and costs on account of, or in any way growing out of, any and all known or unknown personal injuries to [REDACTED] and the expenses and loss of consortium, services, companionship, and society resulting from or to result from an occurrence on or about August – October 2016 in Linn County, Iowa, which is the subject of Iowa District Court for Linn County Law No. LACV087438;
2. Stephanie Fritz, as court-appointed conservator of [REDACTED], hereby releases, acquits, forever discharges, and covenants to hold harmless the Marion Independent School District, Diane Marie Graham, EMC Insurance Companies, and their heirs, executors, administrators, Board, elected officials, agents, representatives, employees, and assigns of and from any and all actions, causes of action, claims, demands, damages, and costs on account of, or in any way growing out of, any and all known or unknown personal injuries to [REDACTED] resulting from or to result from the same occurrence on or about August – October 2016 in Linn County, Iowa, which is also the subject of Iowa District Court for Linn County Law No. LACV087438.

The undersigned Stephanie Fritz warrants she is the duly appointed and acting Conservator of [REDACTED], and that her act in executing and delivering to the released persons, parties, and entities this Release and Indemnity Agreement on behalf of said minor child has been specifically authorized by the Iowa District Court for Linn County, probate case no. GCPR040788, in orders dated October 10 and 25, 2017, copies of which are attached hereto and incorporated by reference herein.

It is hereby declared and represented by the undersigned that the injuries sustained may be or are permanent and progressive and that recovery therefrom is uncertain and indefinite, and that this Release and Indemnity Agreement is given wholly upon the judgment, belief, and knowledge of the undersigned as to the nature, extent, and duration of said injuries; further, the giving of this Release and Indemnity Agreement has not been influenced to any extent whatsoever by any representations or statements regarding said injuries, or regarding any other matters, made by the parties, persons, or entities who are hereby released, or by any person or persons representing them or employed by them.

In consideration of the sum set forth above and the payment thereof, the undersigned and [REDACTED] will never hereinafter make any claim, nor will their heirs, descendants,

representatives, assigns, and successors, make any claim against the above released parties, persons, or entities by reason of the alleged injuries or alleged loss of consortium, services, companionship and society, or bring any action therefor. Payment of the above sum will forever bar and estop the undersigned, [REDACTED], and their heirs, descendants, representatives, assigns, and successors from maintaining any action in court or prosecuting any claim for the alleged injuries or alleged loss of consortium, services, companionship and society. The undersigned agree to indemnify and hold harmless the released parties, persons, and entities against loss, including counsel fees, in the event any of their heirs, representatives, assigns, or successors, or [REDACTED], her heirs, representatives, assigns or successors, should make a claim against said parties, persons, or entities arising out of or associated with the occurrence of August – October 2016.

The undersigned, in their individual capacities, agree to satisfy any liens arising from any hospital expense, medical expense, physician expense or other health care provider expense or any other lien of any kind or character, including but not limited to claims or liens under 42 U.S.C. § 2651, et seq., or Chapters 249A and 582 of the Code of Iowa, or the Crime Victim Compensation Program, arising from the occurrence of August – October 2016. The undersigned agree to defend, indemnify and hold harmless the released parties, persons, and entities against loss, including counsel fees, from any claim or demand which may be asserted against the released parties, persons, or entities by reason of any such liens arising from the occurrence of August – October 2016, and injuries or damages sustained as a result thereof.

The undersigned, in their individual capacities, agree to satisfy any subrogation claims owned by any and all third parties arising from any hospital expense, medical expense, physician expense or other health care provider expense of any kind or character arising from the occurrence of August – October 2016. The undersigned agree to defend, indemnify and hold harmless the released parties, persons, and entities against all such claims, demands, obligations, actions, and causes of action of every kind or character which may be asserted by another insurance carrier, or any other third party, by reason of any such subrogation claim arising from the occurrence of August – October 2016, and injuries or damages sustained as a result thereof.

The undersigned expressly warrant that they have the sole right and exclusive authority to execute this Release and Indemnity Agreement, and have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demand, obligations, or causes of actions against the released parties and entities.

It is further understood and agreed that this settlement is the compromise of a doubtful and disputed claim, and that the payment is not to be construed as an admission of liability on the part of the parties, persons and entities named above, by whom liability is expressly denied.

This Release and Indemnity Agreement contains the entire agreement between the parties hereto, and the terms of this Release and Indemnity Agreement are contractual and not a mere recital.

This and Indemnity Agreement shall be construed and interpreted in accordance with the



## RELEASE AND INDEMNITY AGREEMENT

For and in consideration of delivery of payment in the sum of Six Hundred Thousand Dollars (\$600,000.00), the receipt of which is hereby acknowledged, the undersigned,

1. Individually, as natural parents of [REDACTED], being of lawful age, hereby release, acquit, forever discharge, and covenant to hold harmless the Marion Independent School District, Diane Marie Graham, EMC Insurance Companies, and their heirs, executors, administrators, Board, elected officials, agents, representatives, employees, and assigns of and from any and all actions, causes of action, claims, demands, damages, and costs on account of, or in any way growing out of, any and all known or unknown personal injuries to [REDACTED] and the expenses and loss of consortium, services, companionship, and society resulting from or to result from an occurrence on or about August – October 2016 in Linn County, Iowa, which is the subject of Iowa District Court for Linn County Law No. LACV087205;
2. Whitney Larimer, as court-appointed conservator of [REDACTED], hereby releases, acquits, forever discharges, and covenants to hold harmless the Marion Independent School District, Diane Marie Graham, EMC Insurance Companies, and their heirs, executors, administrators, Board, elected officials, agents, representatives, employees, and assigns of and from any and all actions, causes of action, claims, demands, damages, and costs on account of, or in any way growing out of, any and all known or unknown personal injuries to [REDACTED] resulting from or to result from the same occurrence on or about August – October 2016 in Linn County, Iowa, which is also the subject of Iowa District Court for Linn County Law No. LACV087205.

The undersigned Whitney Larimer warrants she is the duly appointed and acting Conservator of [REDACTED], and that her act in executing and delivering to the released persons, parties, and entities this Release and Indemnity Agreement on behalf of said minor child has been specifically authorized by the Iowa District Court for Linn County, probate case no. GCPR040787, in orders dated October 10 and 25, 2017, copies of which are attached hereto and incorporated by reference herein.

It is hereby declared and represented by the undersigned that the injuries sustained may be or are permanent and progressive and that recovery therefrom is uncertain and indefinite, and that this Release and Indemnity Agreement is given wholly upon the judgment, belief, and knowledge of the undersigned as to the nature, extent, and duration of said injuries; further, the giving of this Release and Indemnity Agreement has not been influenced to any extent whatsoever by any representations or statements regarding said injuries, or regarding any other matters, made by the parties, persons, or entities who are hereby released, or by any person or persons representing them or employed by them.

In consideration of the sum set forth above and the payment thereof, the undersigned and [REDACTED] will never hereinafter make any claim, nor will their heirs,

descendants, representatives, assigns, and successors, make any claim against the above released parties, persons, or entities by reason of the alleged injuries or alleged loss of consortium, services, companionship and society, or bring any action therefor. Payment of the above sum will forever bar and estop the undersigned, [REDACTED], and their heirs, descendants, representatives, assigns, and successors from maintaining any action in court or prosecuting any claim for the alleged injuries or alleged loss of consortium, services, companionship and society. The undersigned agree to indemnify and hold harmless the released parties, persons, and entities against loss, including counsel fees, in the event any of their heirs, representatives, assigns, or successors, or [REDACTED], her heirs, representatives, assigns or successors, should make a claim against said parties, persons, or entities arising out of or associated with the occurrence of August – October 2016.

The undersigned, in their individual capacities, agree to satisfy any liens arising from any hospital expense, medical expense, physician expense or other health care provider expense or any other lien of any kind or character, including but not limited to claims or liens under 42 U.S.C. § 2651, et seq., or Chapters 249A and 582 of the Code of Iowa, or the Crime Victim Compensation Program, arising from the occurrence of August – October 2016. The undersigned agree to defend, indemnify and hold harmless the released parties, persons, and entities against loss, including counsel fees, from any claim or demand which may be asserted against the released parties, persons, or entities by reason of any such liens arising from the occurrence of August – October 2016, and injuries or damages sustained as a result thereof.

The undersigned, in their individual capacities, agree to satisfy any subrogation claims owned by any and all third parties arising from any hospital expense, medical expense, physician expense or other health care provider expense of any kind or character arising from the occurrence of August – October 2016. The undersigned agree to defend, indemnify and hold harmless the released parties, persons, and entities against all such claims, demands, obligations, actions, and causes of action of every kind or character which may be asserted by another insurance carrier, or any other third party, by reason of any such subrogation claim arising from the occurrence of August – October 2016, and injuries or damages sustained as a result thereof.

The undersigned expressly warrant that they have the sole right and exclusive authority to execute this Release and Indemnity Agreement, and have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demand, obligations, or causes of actions against the released parties and entities.

It is further understood and agreed that this settlement is the compromise of a doubtful and disputed claim, and that the payment is not to be construed as an admission of liability on the part of the parties, persons and entities named above, by whom liability is expressly denied.

This Release and Indemnity Agreement contains the entire agreement between the parties hereto, and the terms of this Release and Indemnity Agreement are contractual and not a mere recital.

This and Indemnity Agreement shall be construed and interpreted in accordance with the



## Settlement Agreement and Release

This Settlement Agreement and Release (the "Settlement Agreement") is made and entered into by and among:

**"Claimants"** Jason Chappell and Heather Chappell, Individually and as the Parents and Natural Guardians of [REDACTED], a minor, and as court-appointed Conservators of [REDACTED]

**"Defendants"** Marion Independent School District and Diane Marie Graham

**"Insurer"** Employers Mutual Casualty Company

### Recitals

A. Claimants allege that between August 2016 and October 2016 [REDACTED] was injured in the State of Iowa, and that such injuries arose out of certain alleged negligent acts or omissions of the Defendants. Claimants filed a lawsuit against Defendants seeking damages for [REDACTED] personal and physical injuries, as well as Claimants' loss-of-consortium damages. Said lawsuit was filed in the Iowa District Court for Linn County, Iowa, and is denominated as Case No. LACV087474.

B. Insurer is the liability insurer of the Defendants, and as such, would be obligated to pay any claim made or judgment obtained against Defendants, which is covered by its policy with Defendants.

C. The parties desire to enter into this Settlement Agreement in order to provide for certain payments in full settlement and discharge of all claims which have, or might be made, by reason of the incident described in Recital A above, upon the terms and conditions set forth below.

D. The Iowa District Court for Linn County, probate case number GCPR040778, pursuant to Iowa Code §633.647, in an order dated October 27, 2017, a copy of which is attached hereto, has authorized the court-appointed Conservators of [REDACTED] a minor, to settle and release the claims of [REDACTED] in accordance with the terms set forth below.

### Agreement

The parties agree as follows:

#### 1.0 Release and Discharge

1.1 In consideration of the payments set forth below, Claimants hereby completely release and forever discharge Defendants and Insurer from any and all past, present or future

claims, demands, obligations, actions, causes of actions, wrongful death claims, rights, damages, costs, losses of services, expenses and compensation of any nature whatsoever, whether based on a tort, contract or other theory of recovery, which the Claimants now have, or which may hereafter accrue or otherwise be acquired, on account of, or may in any way grow out of the incident described in Recital A above, including, without limitation, any and all known or unknown claims for bodily and personal injuries to Claimants, any consortium claims, or other claims resulting from the alleged acts or omissions of the Defendants.

1.2 This release and discharge shall also apply to Defendants' and Insurer's past, present and future officers, elected officials, Board, directors, stockholders, heirs, successors, assigns, attorneys, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors and successors in interest, and assigns and all other persons, firms or corporations with whom any of the former have been, are now, or may hereafter be affiliated.

1.3 This release, on the part of the Claimants, shall be a fully binding and complete settlement among the Claimants, the Defendants and the Insurer, and their heirs, assigns and successors.

1.4 The Claimants acknowledge and agree that the release and discharge set forth above is a general release. Claimants expressly waive and assume the risk of any and all claims for damages which exist as of this date, but of which the Claimants do not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect Claimants' decisions to enter into this Settlement Agreement. The Claimants further agree the Claimants have accepted payment of the sums specified herein as a complete compromise of matters involving disputed issues of law and fact. Claimants assume the risk that the facts or law may be other than Claimants believe. It is understood and agreed to by the parties that this settlement is a compromise of a doubtful and disputed claim, and the payments are not to be construed as an admission of liability on the part of the Defendants, by whom liability is expressly denied.

1.5 Payments Not Income: The Future Payments required to be paid hereunder are not, nor are they intended by the parties to be, compensation for lost income, and the provisions of this instrument shall be construed to give affect to such intent.

## **2.0 Payments**

In consideration of the release set forth above, the Insurer on behalf of the Defendants agrees to pay the sums outlined below:

2.1 Payments due at the time of settlement as follows:

\$260,000.00 payable to the Brady Preston Gronlund P.C. Client Trust Account on behalf of Claimants, from which the individual claims of Jason

Chappell and Heather Chappell and attorneys' fees and expenses of all Claimants will be paid.

2.2 Periodic payments made according to the schedule as follows (the "Periodic Payments"):

Payee: [REDACTED]

\$ 50,000.00 guaranteed lump sum due 07/29/2032

\$125,000.00 guaranteed lump sum due 07/29/2035

\$200,000.00 guaranteed lump sum due 07/29/2040

\$358,000.00 guaranteed lump sum due 07/29/2045

The future payment amounts outlined in section 2.2 are guaranteed based upon a projected annuity purchase date of November 10, 2017. Any delay in funding the annuity may result in a delay of the payment dates or change in payment amounts that shall be recorded in the settlement agreement and release, qualified assignment document and annuity contract without the need of obtaining an amended Petition/Court Order/New Infants Compromise Order up to 180 days after original purchase date.

All sums set forth herein constitute damages (other than punitive damages) on account of physical personal injuries and sickness, within the meaning of Section 104(a)(2) of the Internal Revenue Code of 1986, as amended.

### 3.0 Claimants' Right to Periodic Payments

The Periodic Payments and rights to or interest in any of the Periodic Payments (all of the foregoing being hereinafter collectively referred to as "Payment Rights") **cannot be:**

- i. Accelerated, deferred, increased or decreased by the Claimants; nor shall the Claimants have the power to sell, mortgage, encumber, or anticipate the Periodic Payments, or any part thereof, by assignment or otherwise.
- ii. Sold, assigned, pledged, hypothecated or otherwise transferred or encumbered, either directly or indirectly, unless such sale, assignment, pledge, hypothecation or other transfer or encumbrance (any such transaction being hereinafter referred to as a "Transfer") has been approved in advance in a "Qualified Order" as defined in Section 5891(b)(2) of the Code (a "Qualified Order") and otherwise complies with applicable state law, including without limitation any applicable state structured settlement protection statute.

No Claimant or Successor Payee shall have the power to effect any Transfer of Payment Rights except as provided in sub-paragraph (ii) above, and any other purported Transfer of Payment Rights shall be wholly void. If Payment Rights under this Agreement become the subject of a Transfer approved in accordance with sub-paragraph (ii) above the rights of any direct or indirect transferee of such Transfer shall be subject to the terms of this Agreement and any defense or claim to recoup arising hereunder.

#### **4.0 Payee's Beneficiary**

Any guaranteed payments to be made after the death of Payee [REDACTED] pursuant to the terms of the Settlement Agreement shall be made to such person or entity as shall be designated in writing by Claimants to the Insurer or the Insurer's Assignee. If no person or entity is so designated by Claimants, or if the person designated is not living at the time of Payee [REDACTED] death, such payments shall be made to the Estate of Payee [REDACTED]. No such designation, nor any revocation thereof, shall be effective unless it is in writing and delivered to the Insurer or the Insurer's Assignee. The designation must be in a form acceptable to the Insurer or the Insurer's Assignee before such payments are made.

#### **5.0 Consent to Qualified Assignment**

5.1 Claimants acknowledge and agree that the Defendants and/or the Insurer may make a "qualified assignment" within the meaning of Section 130(c) of the Internal Revenue Code of 1986, as amended, of the Defendants' and/or the Insurer's liability to make the Periodic Payments set forth above to BHG Structured Settlements, Inc. (the "Assignee"). The Assignee's obligation for payment of the Periodic Payments shall be no greater than that of Defendants and/or the Insurer (whether by judgment or agreement) immediately preceding the assignment of the Periodic Payments obligation.

5.2 Any such assignment, if made, shall be accepted by the Claimants without right of rejection and shall completely release and discharge the Defendants and the Insurer from the Periodic Payments obligation assigned to the Assignee. The Claimants recognize that, in the event of such an assignment, the Assignee shall be the sole obligor with respect to the Periodic Payments obligation, and that all other releases with respect to the Periodic Payments obligation that pertain to the liability of the Defendants and the Insurer shall thereupon become final, irrevocable and absolute.

#### **6.0 Right to Purchase an Annuity**

The Defendants themselves or through the Assignee reserve the right to fund liability to make the Periodic Payments through the purchase of an annuity policy from Berkshire Hathaway Life Insurance Company of Nebraska. Assignee shall be the sole owner of the annuity policy and shall have all rights of ownership. The assignee may have Berkshire Hathaway Life Insurance Company of Nebraska mail payment directly to the Payee. The Payee shall be responsible for maintaining a current mailing address with the Assignee.

#### **7.0 Discharge of Obligation**

The obligation of the Defendants, the Insurer and/or Assignee to make each Periodic Payment shall be discharged either upon the mailing of a valid check in the amount of such payment to the designated address of the Payee named in Section 2.2 of the Settlement

Agreement, or the transmission by electronic funds transfer in the amount of such payment to an account designated by the Payee identified in section 2.2.

### **8.0 Representation of Comprehension of Document**

In entering into the Settlement Agreement the Claimants represent that Claimants have relied either upon the advice of his/her attorney, who is the attorney of their own choice, or another trusted source of their choice including (but not limited to) themselves, a parent or natural guardian, a legal guardian, a conservator, a tax advisor, a financial advisor or a friend, colleague or other family member concerning the legal and income tax consequences of the Settlement Agreement; that the terms of this Settlement Agreement have been completely read and explained to Claimants either by their attorney or other trusted source; and that the terms of the Settlement Agreement are fully understood and voluntarily accepted by Claimants.

**8.1** If Claimants have chosen not to retain legal counsel, Claimants acknowledge that they have completely read this document; and that the terms of the Settlement Agreement are fully understood and voluntarily accepted by Claimants.

### **9.0 Warranty of Capacity to Execute Agreement**

Claimants represent and warrant that no other person or entity has, or had, any interest in the claims, demand, obligations, or causes of action referred to in this Settlement Agreement, except as otherwise set forth herein; that Claimants have the sole right and exclusive authority to execute this Settlement Agreement and receive the sums specified in it; and that Claimants have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Settlement Agreement.

### **10.0 Additional Documents**

All parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions, which may be necessary or appropriate to give full force and effect to the basic terms and intent of the Settlement Agreement.

### **11.0 Entire Agreement and Successors in Interest**

This Settlement Agreement contains the entire agreement between the Claimants and the Insurer with regard to the matters set forth in it and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each.

### **12.0 Final Release**

Claimants intend to release the Defendants and Insurer thereby terminating all of the disputes, controversies, claims and causes of action which exist or have existed as of the

date of this agreement or which may exist after the date of this agreement and this release should be interpreted and construed broadly to accomplish such intent and purpose. Therefore, in consideration of the agreements made hereunder by Defendants, and for other good and valuable consideration the receipt and sufficiency of which is acknowledged, Claimants, for themselves individually and their descendants, heirs, successors and assigns, and for [REDACTED], her descendants and heirs, successors and assigns, do expressly release and forever discharge the Defendants and their respective officers, elected officials, Board, employees, agents, descendants, heirs, successors, assigns, insurer, attorneys, and personal representatives from all action or actions, cause or causes of action, suits, claims or demands of whatsoever kind or character, at law or in equity, whether the liability be joint or several, known or unknown, which exists or may exist on the date hereof or which may exist in the future, for, upon, or by reason of any transaction, matter, occurrence, statements heretofore made by a party or her attorney, or act, omission, cause or thing whether related directly or indirectly to the subject matter made the basis of the claims herein.

### **13.0 Liens / Subrogation**

Claimants agree to satisfy any liens arising from any hospital expense, medical expense, physician expense or other health care provider expense or any other lien of any kind or character, including but not limited to claims or liens under 42 U.S.C. § 2651, et seq., or Chapters 249A and 582 of the Code of Iowa, or the Crime Victim Compensation Program, arising from the incident described in Recital A above. Claimants agree to defend, indemnify and hold harmless the released parties against loss, including counsel fees, from any claim or demand which may be asserted against the released parties by reason of any such liens arising from the incident described in Recital A above, and injuries or damages sustained as a result thereof.

Claimants agree to satisfy any subrogation claims owned by any and all third parties arising from any hospital expense, medical expense, physician expense or other health care provider expense of any kind or character arising from the incident described in Recital A above. Claimants agree to defend, indemnify and hold harmless the released parties against all such claims, demands, obligations, actions, and causes of action of every kind or character which may be asserted by another insurance carrier, or any other third party, by reason of any such subrogation claim arising from the incident described in Recital A above, and injuries or damages sustained as a result thereof.

### **14.0 Governing Law**

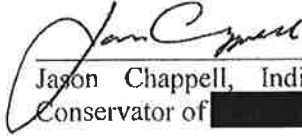
This Settlement Agreement shall be construed and interpreted in accordance with the laws of the State of Iowa.

### **15.0 Effectiveness**


This Settlement Agreement shall become effective immediately following execution by each of the parties.

CLAIMANTS:

Date: 11/6/17

  
\_\_\_\_\_  
Jason Chappell, Individually and as court-appointed  
Conservator of [REDACTED], a minor

Date: 10/31/17

  
\_\_\_\_\_  
Heather Chappell, Individually and as court-appointed  
Conservator of [REDACTED], a minor

Employers Mutual Casualty Company:

BY: David Link

TITLE: Claim Supervisor

DATE: 11-9-2017