

## **GENERAL RELEASE AND SETTLEMENT OF ALL CLAIMS**

### **DEFINITIONS:**

A. As used in this Release, “Plaintiff” shall mean TOWN OF MIAMI LAKES (“the Town”), a municipal corporation organized and existing under the laws of the State of Florida, as well as its past, present, and future agents, agencies, officials, commissioners, council members, mayors, employees, boards, representatives, attorneys, successors, and assigns, in both their individual and official capacities, and any entity or person in privity with it, jointly or severally, singular or plural, wherever the context so admits or requires.

B. As used in this Release, the term “Defendant” shall mean PREFERRED GOVERNMENTAL INSURANCE TRUST (“Preferred”), as well as its past, present, and future agents, employees, representatives, attorneys, successors, assigns, and any entity or person in privity with them, jointly or severally, singular or plural, wherever the context so admits or requires, including but not limited to Preferred Governmental Claims Solutions, Inc. (“PGCS”).

C. As used in this Release, the term “Insurer” shall include THE PRINCETON EXCESS AND SURPLUS LINES INSURANCE COMPANY (“PESLIC”), as well as its respective agents, employees, representatives, attorneys, successors, assigns, reinsurers, and any entity or person in privity with them, jointly or severally, singular or plural, whenever the context so admits or requires.

### **RECITALS:**

WHEREAS, Plaintiff alleges that on or about August 21, 2014, former Mayor of the Town Michael A. Pizzi, Jr. (“Pizzi”) filed a Petition for Writ of Mandamus with the Florida Supreme Court (the “Mandamus Action”), seeking an order requiring the Florida Governor to lift an Executive Order suspending Pizzi as Mayor, and on or about December 22, 2014, the Governor revoked the Executive Order of suspension; and

WHEREAS, Plaintiff alleges that on or about January 6, 2015, Pizzi filed a Complaint against Plaintiff seeking a declaration that he was entitled to resume his duties as Mayor through the end of his term, and on or about March 31, 2015, the trial court issued a Final Declaratory Judgment granting this requested relief, and on or about April 24, 2015, an appellate court affirmed this ruling (the “Reinstatement Litigation”); and

WHEREAS, Plaintiff alleges that on or about August 20, 2015, Pizzi filed a Complaint for Declaratory Relief and for Common Law Payment Resulting from Successful Defense to Criminal Charges Arising Out of Duties of Public Office against Plaintiff, seeking reimbursement for legal fees and costs incurred by Pizzi in his defense to certain federal criminal charges (the “Criminal Defense Expenses Suit,” Miami-Dade Circuit Court Case No.: 15-019303-CA (05)); and

WHEREAS, Plaintiff alleges that on or about August 20, 2015, Pizzi filed a Complaint for Common Law Payment and Reimbursement and for Declaratory Relief Arising From Resumption to Elected Office Litigation against Plaintiff, seeking reimbursement for legal fees and costs incurred in the Mandamus Action and the circuit and appellate court Reinstatement Litigation against Plaintiff (the “Reinstatement Litigation Expenses Suit,” Miami-Dade Circuit Court Case No.: 15-019296-CA (25)); and

WHEREAS, Plaintiff alleges that at all material times, it held a Coverage Agreement with Defendant that provided liability coverage to Plaintiff for public officials and employment practices, Agreement Number PK FL1 0132027 14-06 (“Coverage Agreement”); and

WHEREAS, Plaintiff alleges that on or about September 24, 2015, Defendant denied coverage for both the Reinstatement Litigation Expenses Suit and the Criminal Defense Expenses Suit; and

WHEREAS, Plaintiff alleges that on or about December 22, 2015, Plaintiff and Pizzi reached a settlement agreement in the Reinstatement Litigation Expenses Suit; and

WHEREAS, as of this date, the Criminal Defense Expenses Suit remains pending between Plaintiff and Pizzi; and

WHEREAS, Plaintiff alleges that Defendant breached the terms of the Coverage Agreement by failing to provide a defense to the Town in each of the Reinstatement Litigation Expenses Suit and the Criminal Defense Expenses Suit, and by failing to indemnify the Town against damages in each of the Reinstatement Litigation Expenses Suit and the Criminal Defense Expenses Suit; and

WHEREAS, as a result of the aforesaid alleged breaches, Plaintiff claims to have sustained damages, including attorneys’ fees and costs incurred by Plaintiff in the defense of both the Reinstatement Litigation Expenses Suit and the Criminal Defense Expenses Suit, damages sustained in the Reinstatement Litigation Expenses Suit, and damages in the Criminal Defense Expenses Suit that may potentially be suffered in the future; and

WHEREAS, as a result of the aforesaid allegations, alleged breaches, and alleged damages, Plaintiff filed a complaint in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, Case No. 2016-004682-CA-01, naming PREFERRED GOVERNMENTAL INSURANCE TRUST as Defendant (hereinafter “Coverage Case”); and

WHEREAS, Defendant and Insurer have denied and continue to deny any wrongdoing and have denied and continue to deny any liability for the allegations which are the subject matter of the aforesaid Coverage Case, but are desirous of entering into a

compromise settlement of this claim in good faith, to avoid future litigation and attendant costs; and

WHEREAS, Plaintiff has agreed to accept the following sums, in full and final compromise settlement of any and all claims it may have, whether known or unknown, against Defendant and/or Insurer arising out of or resulting from the above-described allegations, alleged breaches, alleged damages, and/or Coverage Case, and any disputes between the parties, including those claims which were or could have been asserted in the aforementioned Coverage Case, and further agrees to dismiss, with prejudice, any and all claims that are currently pending or that may be filed in the future against Defendant and/or Insurer arising out of the above-described allegations, alleged breaches, or alleged damages:

- (1) **GUARANTEED PAYMENT:** Total sum of FIVE HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$500,000.00), representing full and final satisfaction of any and all claims, demands, or causes of action which Plaintiff may have against either Defendant or Insurer for those amounts paid by Plaintiff, to-date, in the form of either damages, attorneys' fees, back pay, costs, indemnity, or settlement, in any way associated with or arising out of any of the claims which were asserted by Pizzi arising out of, related to, or in any way connected to: (a) the federal criminal charges brought against Pizzi; (b) the Mandamus Action; (c) the Reinstatement Litigation; (d) any other efforts engaged in by Pizzi to seek reinstatement to the office of Mayor; (e) Pizzi's efforts to seek reimbursement for his litigation fees and costs for his defense to the aforementioned federal criminal charges; (f) Pizzi's efforts to seek reimbursement for his litigation fees and costs associated with his Mandamus Action; (g) Pizzi's efforts to seek reimbursement for his litigation fees and costs for his Reinstatement Litigation; (h) Pizzi's efforts to seek reimbursement for his litigation fees and costs for any other of Pizzi's efforts to seek reinstatement to the office of Mayor; (i) Plaintiff's filing and prosecution of the above-referenced Coverage Case, including but not limited to those amounts incurred by the Town in its own representation in that Coverage case.
- (2) **CONTINGENT PAYMENT:** Contribution of thirty percent (30%) of the Plaintiff's liability, settlement payment, or attorneys' fees or costs, up to a capped amount not to exceed TWO HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$200,000.00), which directly relate to defending or resolving the pending Criminal Defense Expenses Suit with Pizzi and are incurred by Plaintiff after May 1, 2017.<sup>1</sup>

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<sup>1</sup> It is understood and agreed that any and all litigation costs (attorneys' fees and other attendant litigation expenses)

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That the said and undersigned Plaintiff, for and in consideration of the payment of the total sum of FIVE HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$500,000.00) to him in hand paid, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the promise of payment of the aforementioned CONTINGENT PAYMENT upon satisfaction of the aforementioned contingencies, does hereby remise, release, and forever discharge Defendant and Insurer of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims, and demands whatsoever in law or in equity, whether known or unknown, which Plaintiff ever had, now has, or which any past, present, or future agent, agency, official, commissioner, council member, mayor, employee, board, representative, attorney, successor, or assign of Plaintiff, hereafter can, shall, or may have, against Defendant and Insurer by reason of any matter, cause or thing, related, associated with, or arising out of the above-described allegations, the above-described alleged breaches, the above-described alleged damages, the allegations and claims raised in the Coverage Case, any and all claims which Plaintiff has or could have against Defendant or Insurer arising out of or related to any claim(s) which Pizzi or his counsel have or could have asserted against Plaintiff for any reason, and any and all claims which were or could have been asserted in that certain Coverage Case referenced above, and including, but not limited to, any and all claims for compensatory damages, back pay, injunctive relief, declaratory relief, punitive damages, interest, costs, attorney's fees, breach of contract claims, insurance coverage declaration claims, federal claims, state statutory or common law claims, and any other claim or damage of any nature whatsoever.

As a further consideration and inducement for this compromise settlement, Plaintiff agrees to defend, indemnify, and hold harmless Defendant and Insurer from any and all claims which may be brought against said Defendant or Insurer in the future by Pizzi or Pizzi's various counsel, including their executors, administrators, personal representatives, successors, and assigns, and any entity or person in privity with Pizzi or Pizzi's various counsel, seeking payment of any attorneys' fees, costs, or other amounts arising out of or related to any of the claims or litigation described herein.

As a further consideration and inducement for this compromise settlement, in the event Plaintiff negotiates a compromise settlement of the Criminal Defense Expenses Suit with Pizzi and his various counsel, Plaintiff agrees to include as a condition of said compromise settlement, a full and final release from Pizzi and his various counsel in favor

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incurred by Plaintiff prior to May 2, 2017 related to the direct defense of Plaintiff for the pending Criminal Defense Expenses Suit, are subsumed in the settlement payment described above as the "GUARANTEED PAYMENT."

of Defendant and Insurer, releasing any and all claims which Pizzi or his various counsel, including their executors, administrators, personal representatives, successors, and assigns, and any entity or person in privity with Pizzi or Pizzi's various counsel, may have against Defendant or Insurer, arising out of or related to any claim(s) which Pizzi or his various counsel have or could have asserted against Plaintiff, Defendant, or Insurer, for any reason relating to, or arising out of, any claim and any litigation described herein.

As a further consideration and inducement for this compromise settlement, Plaintiff agrees that upon receipt of the settlement funds and satisfaction of the other settlement terms described herein, Plaintiff will dismiss with prejudice the above-mentioned Coverage Case against Defendant. The parties agree that the Court in the above-mentioned Coverage Case will maintain jurisdiction to enforce the terms of this General Release and Settlement of All Claims.

The parties acknowledge that the above-referenced settlement terms contemplate and are premised upon a global resolution of the entire dispute, with the sole exception being the "CONTINGENT PAYMENT," if necessary, with respect to the pending Criminal Defense Expenses Suit. Accordingly, the payments referenced above are not severable, and, absent a finding of liability or a settlement of the Criminal Defense Expenses Suit brought by Pizzi against Plaintiff, and absent any litigation costs incurred by Plaintiff after May 1, 2017 that are related to the direct defense of Plaintiff for the pending Criminal Defense Expenses Suit, the "CONTINGENT PAYMENT" referenced above shall not be payable.

Defendant and Insurer agree that within twenty (20) days of receipt of the original executed General Release and Settlement of All Claims, Defendant and Insurer will remit to Plaintiff the above-described GUARANTEED PAYMENT.

Defendant and Insurer agree that within twenty (20) days of receipt of proof of full and final satisfaction of the conditions of the above-described CONTINGENT PAYMENT, Defendant and Insurer will remit to Plaintiff the above-described CONTINGENT PAYMENT.

Plaintiff, Defendant, and Insurer agree to otherwise bear their own attorneys' fees and costs associated with this dispute.

This General Release and Settlement of All Claims shall not be construed as an admission of fault, responsibility, or liability by Defendant and/or Insurer but is rather a compromise settlement designed to avoid further litigation and attendant costs. Defendant

and Insurer specifically deny liability for the claims brought by Plaintiff, deny all allegations of Plaintiff and deny any wrongdoing whatsoever. Plaintiff, Defendant, and Insurer agree that neither the fact that a settlement has been reached, nor the terms of said settlement, may be admissible in any future proceeding, except a proceeding to enforce the terms of this General Release and Settlement of All Claims.

Plaintiff acknowledges and agrees that this is a General Release and Settlement of All Claims. Plaintiff expressly waives and assumes the risk of any and all claims for damages which exist as of this date, which Plaintiff does not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise and which if known, would materially affect the Plaintiff's decision to enter into this settlement and provide this General Release and Settlement of All Claims. Plaintiff has accepted payment of the sums specified herein as a complete compromise of all disputed issues of law and fact addressed and contemplated herein.

The undersigned further warrants that no promise or inducement not herein expressed has been made; that payment of above-mentioned sums is in full and final compromise settlement and full and final satisfaction of all the aforesaid actions, claims, and demands whatsoever; that this Release is given in good faith and discharges Defendant and Insurer from all liability; that the undersigned is over 18 years of age, legally competent to execute this Release, has read the contents of this Release, and signs this General Release and Settlement of All Claims with advice of counsel and full knowledge and appreciation of its meaning.

IN WITNESS WHEREOF, the undersigned hereby sets his hand and seal to this General Release and Settlement of All Claims this \_\_\_\_\_ day of June, 2017.

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Witness:

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_  
TOWN OF MIAMI LAKES, FLORIDA,  
By its duly authorized representative

The foregoing General Release and Settlement of All Claims was acknowledged before me this \_\_\_\_\_ day of June, 2017, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification and who did/did not take an oath.

My Commission Expires:

\_\_\_\_\_  
Print:

(Seal)