

## **GLOBAL SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS**

This Global Settlement Agreement and Release of All Claims (“**Agreement**”) is made and entered into between Christina Lusk (“**Plaintiff**”), on the one hand, and the Minnesota Department of Corrections (“**DOC**”), an agency of the State of Minnesota (“**State**”), for and on behalf of itself and Paul Schnell, Michelle Smith, and Dr. James Amsterdam (collectively, “**Defendants**”), on the other hand, each of whom is hereinafter referred to singularly as a “**Party**” and all of whom are hereinafter referred to collectively as the “**Parties**” where appropriate.

### **RECITALS**

**WHEREAS**, on June 6, 2022, Plaintiff commenced a civil action against Defendants in Ramsey County District Court styled *Christina Lusk v. Minnesota Department of Corrections, et al.*, Court File No. 62-CV-22-3284 (the “**Action**”); and

**WHEREAS**, Plaintiff seeks in the Action to recover damages and equitable relief for Defendants’ alleged violation of the Minnesota Human Rights Act (“**MHRA**”) and the Minnesota Constitution; and

**WHEREAS**, Defendants filed an Answer in the Action denying all of Plaintiff’s material allegations; and

**WHEREAS**, the Parties participated in mediation on April 28, 2023, and reached an agreement to resolve the Action; and

**WHEREAS**, the Parties intend through this Agreement to memorialize their intent to resolve fully and finally settle any and all claims and disputes between them including, but not limited to, the claims asserted in the Action; and

**WHEREAS**, Defendants expressly deny any unlawful conduct or wrongdoing of any kind with regard to Plaintiff, and further deny any liability to Plaintiff or that Plaintiff is entitled to any damages or equitable relief whatsoever; and

**WHEREAS**, without admitting or conceding any liability or damages, Defendants have entered into this Agreement to avoid the burden, expense, and uncertainty of protracted litigation; and

**WHEREAS**, nothing in this Agreement shall be construed or deemed to be an admission of any liability whatsoever on the part of Defendants; and

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged,

**IT IS AGREED**, by and between the Parties, as follows:

1. **ADDITIONAL DEFINITIONS.** In addition to the terms defined in other parts of this Agreement, these terms have the following meanings as used herein:

1. **“Behavioral Health Staff”** means DOC employees who provide direct mental health care to incarcerated persons.
2. **“Centurion”** means Centurion, LLC, or any successors.
3. **“GAHT”** means gender-affirming hormone therapy deemed medically necessary for transgender incarcerated persons.
4. **“Plaintiff’s Counsel”** means Plaintiff’s counsel of record in the Action.
5. **“Released Parties”** means Defendants, the State and all of its agencies and entities, and all of their respective present and former principals, officers, agents, representatives, employees, attorneys, insurers, predecessors, successors in interest, and assigns, in both their official and individual capacities.
6. **“WPATH”** means the World Professional Association for Transgender Health.
7. **“WPATH Certified Professional”** means a mental health professional who is a member of WPATH in good standing, has obtained certification by the WPATH Global Education Institute, and is competent to diagnose and treat gender dysphoria and assess surgical readiness for gender-affirming surgical procedures.
8. **“WPATH SOC”** means the Standards of Care of the Health of Transgender and Gender Diverse People, Version 8, and any subsequent version(s) thereof.

2. **MONETARY CONSIDERATION.** As consideration for Plaintiff’s full and final release of any and all claims against the Released Parties, and other promises and agreements set forth in this Agreement, DOC will pay to Plaintiff and Plaintiff’s Counsel the total sum of \$495,000.00 (the **“Settlement Amount”**). The Settlement Amount will be paid in three separate payments, as follows: (a) a payment to “Christina Lusk” in the gross amount of \$245,903.72, for which DOC will issue an IRS Form 1099-MISC to Plaintiff; (b) a payment to “Gender Justice” in the gross amount of \$198,000.00 for attorneys’ fees and costs, for which DOC will issue an IRS Form 1099-MISC to Plaintiff’s Counsel and Plaintiff; and (c) a payment to “Robins Kaplan LLP” in the gross amount of \$51,096.28 for costs, for which DOC will issue an IRS Form 1099-MISC to Plaintiff’s Counsel and Plaintiff. The Settlement Amount will not be paid until DOC has received completed and signed IRS Form W9s for Plaintiff and Plaintiff’s Counsel and Gender Justice and Robins Kaplan LLP separately register for the State’s SWIFT system. Plaintiff understands and agrees she would not receive the consideration provided for in this Agreement but for her execution of this Agreement and fulfillment of the promises contained herein.

3. **ADDITIONAL CONSIDERATION.** As additional consideration for Plaintiff’s full and final release of any and all claims against the Released Parties arising from the beginning of time to the effective date of this Agreement, and other promises and agreements set forth in this Agreement, Defendants further agree as follows:

A. **Transfer.** DOC will transfer Plaintiff to the Minnesota Correctional Facility in Shakopee, Minnesota within one week of the completion of her current chemical dependency program. Successful completion of this program is not a necessary precondition for Plaintiff to be moved to Shakopee. If Plaintiff wishes to move prior to completion of her programming, she must make her request in writing, and DOC will comply within one week of receiving the written request, provided that if Plaintiff is on administrative segregation at the time of her request or within one week after her request, DOC will comply within one week after Plaintiff is released from administrative segregation.

B. **Evaluation.** DOC will refer Plaintiff to a mutually agreed-to third-party medical professional to evaluate her readiness for vaginoplasty. This professional will not be employed by either DOC or Centurion, absent the express consent of Plaintiff. This professional will also evaluate whether breast revision is medically necessary for Plaintiff under the WPATH SOC and, if so, determine her surgical readiness for breast revision. Defendants will follow this professional's treatment plan for Plaintiff, including as it relates to pre-surgery preparation, post-surgery recovery, and further evaluation as recommended if the professional determines that Plaintiff is not presently ready for vaginoplasty and/or breast revision. In the event vaginoplasty and/or breast revision is part of this professional's plan but is not completed prior to Plaintiff's release from her current period of incarceration, DOC will reimburse Plaintiff for her out-of-pocket expenses associated with that procedure(s), provided that to obtain such reimbursement, Plaintiff must do all of the following: (1) obtain health insurance coverage prior to the procedure(s) through Medical Assistance (MA) or another public health insurance program or private insurer of her choice; (2) obtain preapproval for the procedure(s) from her health insurance provider; (3) ensure that a claim(s) is submitted to her health insurance provider for the procedure(s); and (4) provide DOC records substantiating her out-of-pocket expenses.

C. **WPATH Certified Professional.** DOC will contract with a WPATH Certified Professional who will evaluate the surgical readiness of transgender incarcerated persons for gender-affirming surgical procedures. This WPATH Certified Professional will also: (1) upon a transgender incarcerated person's request, review requests for GAHT that are denied for a reason other than medical contraindication; and (2) upon request from medical and/or mental health professionals employed with DOC or Centurion, consult on requests from transgender incarcerated persons for gender-affirming medical care to determine whether the care requested is medically necessary and appropriate. This WPATH Certified Professional will not be employed with Centurion.

D. **Training.** DOC will contract with a WPATH Certified Professional to administer training on the WPATH SOC to all Behavioral Health Staff, which will be recorded. Behavioral Health staff will also receive training on the DOC policies and practices reaffirmed below in Section 3.F.

E. **DOC Policy and Practice Revisions:**

1. **Policy 202.045.** DOC Policy 202.045—presently entitled “Management and Placement of Incarcerated People Who Are Transgender, Gender Diverse, Intersex, or Nonbinary”—will be revised to: (a) expressly state that DOC provides medical care in accordance

with the WPATH SOC; and (b) provide that the agency and facility gender identity committees will promptly respond to incarcerated persons' requests.

2. **Policy 202.130.** DOC Policy 202.130—presently entitled “Names”— will be revised to provide that transgender incarcerated persons who have received, whether prior to or during their incarceration, a court-ordered legal name change may request and obtain a name change in DOC’s information system and on prison-issued identification materials, irrespective of the names under which they are committed to DOC’s custody.

**F. Reaffirmation of Existing DOC Policies and Practices:**

1. **No Categorical Exclusion.** DOC will continue to ensure that all requests for gender-affirming medical care are assessed on a case-by-case basis. As reflected in DOC Policy 202.045, no form or category of gender-affirming medical care is or will be categorically excluded.

2. **GAHT.** DOC will continue to ensure that transgender incarcerated persons who are prescribed GAHT at the time they are admitted to DOC’s custody may continue their GAHT while incarcerated as long as it is not medically contraindicated. Any transgender incarcerated person may request GAHT while incarcerated regardless of whether they were previously diagnosed with gender dysphoria or prescribed GAHT.

3. **Housing.** DOC will continue to ensure that each housing transfer request by a transgender incarcerated person is assessed under DOC Policy 202.045 and is approved unless, upon consideration of the factors specified in DOC Policy 202.045, it is determined that such placement would pose a heightened risk of physical or sexual harm to the person or others housed in the facility to which the person requests to transfer, or that the person is likely to engage in sexually inappropriate behavior at the facility to which the person requests to transfer. DOC will continue to reassess placements for transgender incarcerated people at least twice per year to review any threats to safety experienced by them.

4. **Personnel Policies.** DOC will continue to address intentional misnaming and misgendering of transgender incarcerated persons, and harassment of incarcerated persons based on their gender identity or expression, under its personnel policies.

5. **Reporting Mental Health Crises and Harassment.** DOC will continue to provide incarcerated persons with non-recorded means to report mental health crises and harassment, including a toll-free mental health hotline and a PREA hotline.

6. **Challenge Incarceration Program.** Transgender incarcerated persons who participate in DOC’s Challenge Incarceration Program will continue to be exempt from the hair style requirement for male participants and may continue wearing their preferred undergarments while participating. DOC staff will be made aware of this

**4. GENERAL RELEASE OF CLAIMS.**

A. This Agreement represents a full, final, and complete settlement of any and all claims, differences, and causes of action, acts, or omissions that currently exist and are asserted by and between Plaintiff and Defendants in the Action, and that could be asserted now or in the future

in any venue by and between Plaintiff and the Released Parties, including but not limited to any and all declaratory and injunctive relief; all attorneys' fees, costs, and disbursements pursuant to any law, regulation, or rule; interest claims; third-party, contribution and subrogation claims, whether arising under common law or statute; claims and causes of action based upon negligence, vicarious liability, contract or alleged contracts; violations of federal and state civil, statutory laws, or ordinances, including, without limitation, the MHRA; civil and constitutional rights under the Minnesota Constitution and U.S. Constitution; the Minnesota Government Data Practices Act, Minn. Stat. ch. 13; violations of common law; equitable claims; tortious conduct whether negligent or intentional; and loss of consortium arising from or in any way related to the facts and circumstances concerning the Action (collectively, "**Released Claims**").

**B.** In consideration of the stipulated relief, the sufficiency of which is acknowledged, Plaintiff, by execution of this Agreement, hereby fully and completely releases the Released Parties of Released Claims that currently exist and that could be brought in the future in any state and/or federal court and/or in any other venue.

**5. DISMISSAL OF THE ACTION.** The Parties agree to take all steps necessary to obtain dismissal of the Action with prejudice and without costs or attorneys' fees to any Party except as provided for in this Agreement. To effectuate dismissal of the Action, the Parties will file/submit the Stipulation of Dismissal With Prejudice and Proposed Order thereon annexed hereto as **Exhibit A and B.**

**6. NO ADMISSION OF LIABILITY.** It is expressly understood and agreed as a condition hereof that this Agreement shall neither constitute nor be construed to be an admission of any wrongdoing or liability on the part of any of the Released Parties.

**7. NO ASSIGNMENT.** This Agreement is not assignable by any Party and any purported assignment is null and void.

**8. TAXABILITY.** Plaintiff represents and agrees that no representation as to taxability, tax treatment, or tax consequences have been made to her by any of the Released Parties or their attorneys. Plaintiff further acknowledges and understands that no taxes, deductions, or other withholdings will be withheld from the Settlement Amount. Plaintiff agrees to pay and bear sole responsibility for all taxes that may be due or payable on her portion of the Settlement Amount.

**9. MODIFICATION OF AGREEMENT AFTER EXECUTION.** This Agreement constitutes the entire agreement between the Parties and no modification to this Agreement shall be binding unless set forth in writing and signed by all Parties. For purposes of this provision, the Commissioner of the Minnesota Department of Corrections is the only person who may modify this Agreement on behalf of DOC.

**10. USE OF AGREEMENT TO OBTAIN DISMISSAL OF CLAIMS.** Plaintiff understands and agrees that this Agreement may be used to secure dismissal with prejudice of this and any related lawsuit and/or other legal action that currently exists or that could be brought in the future against any of the Released Parties regarding any of the Released Claims.

**11. RELEASE OF GOVERNMENT DATA.** The Parties understand and agree that the release of information from any State file pertaining to the Action, including this Agreement, is

governed by Minn. Stat. §§ 13.01, *et seq.* (Minnesota Government Data Practices Act), Minn. Stat. § 15.17 (Official Records Act), and any other applicable law.

12. **AFFIRMATIVE DEFENSE.** This Agreement may be pleaded as a full and complete defense to any action, suit, or other proceeding which may be instituted, prosecuted, or attempted regarding the Released Claims.

13. **SEVERABILITY.** It is understood and agreed that if a court of competent jurisdiction deems any portion of this Agreement invalid, the remaining portions of this Agreement shall remain in full force and effect.

14. **GOVERNING LAW.** This Agreement shall be construed, interpreted, and enforced in accordance with the laws of the State of Minnesota. Any action to enforce this Agreement shall be adjudicated in the state courts of Minnesota.

15. **COMPLETE AGREEMENT.** The Parties acknowledge and agree that there are no other covenants, promises, undertakings, or understandings between them beyond those set forth in this Agreement.

16. **COSTS.** Except as provided for in this Agreement, each Party shall bear their own costs and attorneys' fees. Plaintiff warrants that there are no costs, attorneys' fees, expenses, or disbursements of any kind whatsoever relating to the Action due to any person or attorney other than Plaintiff's Counsel.

17. **KNOWING AND VOLUNTARY EXECUTION.**

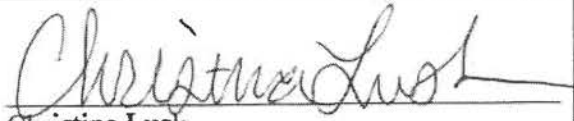
A. This Agreement was drafted by the Parties and will not be construed against one particular Party.

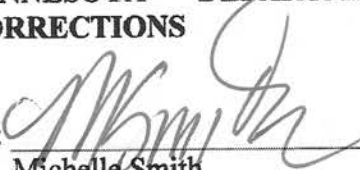
B. This Agreement may be executed in counterparts, each of which constitutes an original and all of which shall constitute one and the same agreement. This Agreement may be executed by facsimile or electronic copy in any image format.

C. Pursuant to the Minnesota Civil Mediation Act, the Parties are advised that: (1) the mediator has no duty to protect the parties' interests or provide them with information about their legal rights; (2) signing a mediated settlement agreement may adversely affect the Parties' legal rights; and (3) the Parties should consult an attorney before signing a mediated settlement agreement if they are uncertain of their rights.

D. The Parties represent and certify that they: (1) have received a copy of this Agreement for review and study; (2) have had adequate time to consider the terms of this Agreement and to consult and review this Agreement with their respective attorneys; (3) have been given a full and fair opportunity to discuss and negotiate the terms of this Agreement; (4) fully understand the provisions of this Agreement; (5) have been advised by an attorney of all the rights and obligations of this Agreement; (6) have determined that it is in their best interest to enter into this Agreement; (7) have not been influenced to sign this Agreement by any statement or representation made by any Party or interested non-party that is not contained in this Agreement; and (8) enter into this Agreement knowingly and voluntarily.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the dates set forth below.

Date: 5-15-23   
Christina Lusk

**MINNESOTA DEPARTMENT OF CORRECTIONS**  
Date: 5/31/23 By:   
Michelle Smith  
Its: Deputy Commissioner