

**IN THE DISTRICT COURT OF PAWNEE COUNTY  
STATE OF OKLAHOMA**

**JAMES ADAMS, on behalf of himself  
and other Oklahoma citizens similarly  
situated,**

**Plaintiff,**

**Case No. CJ-2016-00078**

**v.**

**(1) EAGLE ROAD OIL LLC,  
(2) CUMMINGS OIL COMPANY,  
(3) TERRITORY RESOURCES, LLC,  
(4) ENERVEST OPERATING, L.L.C.,  
(5) PETRO WARRIOR, L.L.C.,  
(6) PETROQUEST ENERGY, LLC, and  
(7) TRINITY OPERATING (USG), LLC,**

**Defendants.**

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**SETTLEMENT AGREEMENT**

**Between the Class Representative and the Settlement Class,  
and Defendant Eagle Road Oil LLC**

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The undersigned Parties hereby stipulate and agree, subject to the approval of the Court pursuant to 12 Okla. St. Ann. § 2023, that this Action, as defined herein below, shall be partially settled, compromised, and dismissed with prejudice as to Eagle Road Oil, LLC ("Eagle Road"), pursuant to the terms and conditions set forth in this Settlement Agreement.

## RECITALS

WHEREAS James Adams is the named Plaintiff and the Class Representative in the Action and seeks to recover damages on behalf of himself and similarly situated persons arising from earthquakes that have occurred in and around the Pawnee, Oklahoma area.

WHEREAS on November 17, 2016, Class Representative James Adams brought this suit against Defendants Eagle Road Oil LLC and Cummings Oil Company, and John Does 1-25.

WHEREAS on August 27, 2018, Plaintiff amended his petition naming other companies as an additional Defendants Territory Resources, LLC, EnerVest Operating, L.L.C., Petro Warrior, L.L.C., Petroquest Energy, LLC and Trinity Operating (USG), LLC;

WHEREAS, Eagle Road is also named as a defendant in several individually brought mass actions, which are as follows (hereafter, "Individual Actions"):

*Robert W. Mottinger, et al v. Crown Energy Company, et al.,* Kay County, OK, Case No. CJ-2021-18 – Judge Lee Turner;

*James Butler, et al. v. Berexco LLC, et al.,* Payne County, OK, Case No. CJ-2017-469 – Judge Phillip C. Corley

*Aaron Matthew Caldwell, et al. vs. Berexco LLC, et al.,* Payne County, OK. Case No. CJ-2018-499 - Judge Phillip C. Corley

*Jarrold James Cooper, et al. vs. Berexco LLC, et al.,* Payne County, K. Case No. CJ- 2018-500 - Judge Phillip C. Corley

*David Bonar, et al. vs. Berexco LLC, et al.,* Oklahoma County, OK. Case No. CJ- 2018-5145 - Judge Natalie Mai

*Michelle Harvey, et al. vs. Cher Oil Company Ltd., et al.,* Oklahoma County, OK. Case No. CJ-2018-5146 - Judge Richard Ogden

*A. J. James, et al. vs. Cher Oil Company Ltd., et al.*, Oklahoma County, OK. Case No. CJ-2020-4852 - Judge Richard Ogden

*Susan L. Jones, et al. vs. Berexco LLC, et al.*, Oklahoma County, OK. Case No. CJ- 2018-5141 - Judge Sheila Stinson

*Karen Nelson, et al. vs. Cher Oil Company Ltd., et al.*, Oklahoma County, OK. Case No. CJ-2020-4854 - Judge K. Nikki Kirkpatrick

*George L. Oravetz, et al. vs. Cher Oil Company Ltd., et al.*, Oklahoma County, OK. Case No. CJ-2020-4853 - Judge Don Andrews

*Carol Steele, et al. vs. Cher Oil Company Ltd., et al.*, Oklahoma County, OK. Case No. CJ-2020-4850 - Judge Anthony L. Bonner

*Adrian Anderson, et al. vs. Cher Oil Company Ltd., et al.*, Tulsa County, OK. Case No. CJ-2020-3579 - Judge Doug Drummond

*Dorothy Dooley, et al. vs. Cher Oil Company Ltd., et al.*, Tulsa County, OK. Case No. CJ-2020-3578 - Judge William D. LaFortune

Leroy Peters. et al. vs. Berexco, LLC, et al., Tulsa County, OK. Case No. CJ-2018-5139 – Judge Caroline Wall

WHEREAS, each of the individual Plaintiffs named in the Individual Actions is included in the definition of “Plaintiffs” in this Agreement, and further, are members of the Settlement Class as defined herein, and thus, are bound by the terms of this Agreement;

WHEREAS, this Agreement’s purpose is to settle all claims against Eagle Road arising from earthquakes that have occurred to the Effective Date within a radius of 50 miles of Pawnee, Oklahoma, and beginning as early as November 15, 2014, including all of claims asserted in this Action and the Individual Actions in one global class action resolution pursuant to 12 O.S. §2023;

WHEREAS Eagle Road is a named Defendant in the Action and is engaged in certain wastewater disposal operations in Oklahoma;

WHEREAS the Plaintiffs, the Class Representative and Settlement Class Members (hereafter, collectively defined as the “Plaintiffs”) are persons that owned residential or commercial real estate properties within the borders of Oklahoma from March 3, 2015 through the time the Settlement Class is certified for purposes of this Settlement, (“Settlement Class Period”), and which suffered earthquake damages from earthquakes up to the Effective Date of this Agreement and with epicenters within a 50 mile radius of Pawnee, Oklahoma.

WHEREAS the Plaintiffs and Eagle Road are the only parties to this Agreement (hereafter, the “Parties”).

WHEREAS the Plaintiffs allege, generally, that wastewater disposal wells operated by Eagle Road contributed to causing the earthquakes within 50 miles of Pawnee, Oklahoma and occurring within the Settlement Class Period;

WHEREAS Eagle Road disputes and denies all of the allegations made by the Plaintiffs;

WHEREAS the Parties have had a full and fair opportunity to evaluate the strengths and weaknesses of the claims and defenses against Eagle Road;

WHEREAS the Plaintiffs nevertheless have concluded that, in light of the risks, costs and delay of litigation of the matters in dispute, particularly in class action proceedings, and in the desire to provide relief to the Settlement Class sooner rather than



later, this Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class;

WHEREAS Eagle Road denies the validity of the claims alleged in this Action, denies all allegations of wrongdoing and liability, and denies causation of damages to the Plaintiffs;

WHEREAS Eagle Road nevertheless has concluded that, in light of the risks, costs and disruption of litigation, this Settlement is appropriate on the terms and conditions set forth herein;

WHEREAS the Parties mediated the claims in the Action with Mr. Joseph Paulk of Dispute Resolution Consultants and reached this Settlement, in principle, at the conclusion of mediation, and thereafter, the parties negotiated the specific terms of this Settlement;

NOW, THEREFORE, the Parties stipulate and agree that, in consideration of the agreements, promises, and covenants set forth in this Settlement Agreement; for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged; and subject to the approval of the Court, this Action shall be fully and finally settled and dismissed with prejudice as between the Plaintiffs and Eagle Road only, and pursuant to the following terms and conditions:

#### **ARTICLE I- DEFINITIONS**

As used in this Settlement Agreement and the documents attached hereto as exhibits, the terms set forth below shall have the meanings set forth below. The singular includes the plural and vice versa.

1.1 “Action” means this civil action entitled *Adams v. Eagle Road, et al.*, pending in the District Court of Pawnee County and having the Case No. CJ-2016-78.

1.2 “Individual Actions” shall mean:

*Robert W. Mottinger, et al v. Crown Energy Company, et al.*, Kay County, OK, Case No. CJ-2021-18 – Judge Lee Turner;

*James Butler, et al. v. Berexco LLC, et al.*, Payne County, OK, Case No. CJ-2017-469 – Judge Phillip C. Corley

*Aaron Matthew Caldwell, et al. vs. Berexco LLC, et al.*, Payne County, OK. Case No. CJ-2018-499 - Judge Phillip C. Corley

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*David Bonar, et al. vs. Berexco LLC, et al.*, Oklahoma County, OK. Case No. CJ- 2018-5145 - Judge Natalie Mai

*Michelle Harvey, et al. vs. Cher Oil Company Ltd., et al.*, Oklahoma County, OK. Case No. CJ-2018-5146 - Judge Richard Ogden

*A. J. James, et al. vs. Cher Oil Company Ltd., et al.*, Oklahoma County, OK. Case No. CJ-2020-4852 - Judge Richard Ogden

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*George L. Oravetz, et al. vs. Cher Oil Company Ltd., et al.*, Oklahoma County, OK. Case No. CJ-2020-4853 - Judge Don Andrews

*Carol Steele, et al. vs. Cher Oil Company Ltd., et al.*, Oklahoma County, OK. Case No. CJ-2020-4850 - Judge Anthony L. Bonner

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- Judge Caroline Wall

1.3 “Settlement Class” or “Settlement Class Definition” means:

The Class Representative, Plaintiffs, and all persons municipalities, county governments, or tribal governments, who own or owned real property within the borders Oklahoma or have or had a property interest therein between November 15, 2014 through the Effective Date (the “Settlement Class Period”), and which suffered earthquake damages from earthquakes, foreshocks and aftershocks arising from the Cushing Earthquake and the Pawnee Earthquake with epicenters within 50 miles of Pawnee, Oklahoma.

Excluded from the Settlement Class are the following:

- a) Any of the Settling Defendant or its owners, directors, officers, employees, and/or agents, the judge presiding over this action and his immediate family members;
- b) Any person that timely and properly excludes himself/herself/itself pursuant to the orders of the Court.

1.4 The “Settlement Class Period” shall be from November 15, 2014 through the Effective Date.

1.5 “Class Representative” or “Plaintiff” means James Adams.

1.6 “Court” means the District Court of Pawnee County, Oklahoma.

1.7 “Pawnee Earthquake” shall mean the 5.8m earthquake occurring on September 3, 2016, with an epicenter approximately 9 miles to the northwest of Pawnee, Oklahoma.

1.8 “Cushing Earthquake” shall mean the 5.0m earthquake occurring on November 6, 2016, with an epicenter approximately 3 miles to the west of Cushing, Oklahoma.

1.9 “Effective Date” means the first date by which all of the following events shall have occurred: (a) the Court has entered the Preliminary Approval Order; (b) the Court has entered the Final Approval Order; and (c) the Final Approval Order has become Final.

1.10 “Fees and Costs Application” means that written motion or application by which Class Counsel requests that the Court award attorney’s fees and costs.

1.11 “Final” means that the Final Approval Order has been entered on the docket by the Court for this Settlement Agreement as to the parties to this Settlement Agreement and (a) the time to appeal from such order has expired and no appeal has been timely filed, (b) if such an appeal has been filed, it has finally been resolved and has resulted in an affirmation of the Final Approval Order, or (c) the Court, following the resolution of the appeal, enters a further order or orders approving settlement on the terms set forth herein, and either no further appeal is taken from such order(s) or any such appeal results in affirmation of such order(s).

1.12 “Final Approval Hearing” means the hearing at which the Court shall, among other things: (a) determine whether to grant final approval to this Settlement Agreement; (b) consider any timely objections to this Settlement Agreement and all responses thereto; (c) rule on any pending Fees and Costs Application; and (d) rule on any pending Incentive Award Application.

1.13 “Final Approval Order” means the order in which the Court, among other things, grants final approval of this Settlement Agreement and authorizes dismissal of the Action with prejudice as to Eagle Road. See Exhibit B.

1.14 “Incentive Award Application” means that written motion or application by which Class Counsel requests that the Court approve an incentive award to the Class Representative to be paid out of the Settlement Fund.

1.15 “Net Proceeds” of the Settlement Fund shall be that amount existing after the Settlement Administrator is paid its reasonable costs and fees related to notice and claims administration, the Court’s approved Incentive Award and Class Counsel’s fees and litigation expenses are paid, and the Special Master is paid his reasonable fees and expenses.

1.16 “Parties” means the Plaintiffs and Eagle Road.

1.17 “Person” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government, or any political subdivision or agency thereof, any business or legal entity, including their spouses, heirs, predecessors, successors, representatives, or assignees.

1.18 “Plaintiffs” means the Class Representative James Adams and each named individually named Plaintiff in the Individual Actions.

1.19 “Preliminary Approval Order” means the order, substantially in the form of Exhibit A hereto, in which the Court grants preliminary approval of this Settlement Agreement.

1.20 “Released Claims” means all claims, demands, rights, liabilities, actions or causes of action, in law or in equity, damages, losses, obligations, judgments, duties, suits, fees, expenses, costs, matters and issues of any kind or nature whatsoever, whether known or unknown, matured or unmatured, accrued or unaccrued, fixed or contingent, suspected or unsuspected, disclosed or undisclosed, direct, individual or representative, that have been, could have been or in the future can or might be asserted in the Action or in any court, tribunal or proceeding (including but not limited to any claims arising under federal, state, local, statutory or common law or any other law, rule or regulation, including the law of any jurisdiction outside the United States) by or on behalf of any Releasing Party, against any of the Released Parties, whether or not any such Released Parties were named, served with process or appeared in the Action, which have arisen, could have arisen, arise now or hereafter arise out of, or relate in any manner to, the allegations, facts, events, matters, acts, occurrences, statements, representations, omissions or any other matter, thing or cause whatsoever, or any series thereof, embraced, involved or set forth in, or referred to or otherwise related, directly or indirectly, in any way to the Action. It is the intent of the Parties that this Settlement resolves any and all claims alleged to arise from earthquakes from March 3, 2015 up to the Effective Date with epicenters within a 20 mile radius of Pawnee, Oklahoma, and that are allegedly attributed to Eagle Road’s oil and gas exploration and production activities, including their use of wastewater disposal wells.

1.21 “Released Parties” means Eagle Road and any and all of its present or past heirs, executors, estates, administrators, predecessors, successors, assigns, parents,

subsidiaries, associates, affiliates, employers, employees, agents, consultants, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, investment bankers, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and Persons, firms, trusts, corporations, officers, directors, other individuals or entities in which Eagle Road has a controlling interest or which is related to or affiliated with it, or any other representatives of any of these Persons and entities.

1.22 “Releasing Parties” means the Class Representative, the Plaintiffs and any Settlement Class Member (whether individual, direct, class, derivative, representative, legal, equitable or any other type in any other capacity).

1.23 “Settlement Agreement” or “Settlement” means this Settlement Agreement, including the exhibit hereto.

1.24 “Settlement Fund” shall mean the consideration recovered as described in Article II below.

1.25 “Counsel for Eagle Road” means Steven J. Adams of the law firm Gable Gotwals.

## **ARTICLE II- SETTLEMENT CONSIDERATION**

2.1 Cash Consideration. In consideration of and solely for purposes of this settlement, and a full, complete, and final settlement, including dismissal of the Action and Individual Actions with prejudice as to Eagle Road, and the releases, and subject to the Court’s approval, Eagle Road will provide \$850,000.00 in cash into the Settlement Fund.

2.2 Underlying Actions. Within seven (7) days of Eagle Road's execution of this Settlement Agreement, Class Counsel shall ensure Eagle Road is dismissed without prejudice in each of the Individual Actions. Should this proposed settlement not become final for any reason, the plaintiffs in the Individual Actions may re-file their claims against Eagle Road and they and Eagle Road shall be deemed to have reverted to their respective status as of the date and time immediately preceding the execution of this Settlement Agreement and prior dismissals of Eagle Road without prejudice. Once this Settlement Agreement is finally approved by the Court and becomes final, Class Counsel shall enter a dismissal of Eagle Road with prejudice in each of the Individual Actions.

2.3 Settlement Fund. Within seven (7) days of the appointment of the Settlement Administrator and entry of the Preliminary Approval Order, Eagle Road shall deposit a total of \$850,000.00 in a Settlement Fund to be held in an interest-bearing escrow account held by the Settlement Administrator to be used to: (1) fund cash payments to Settlement Class Members; (2) pay reasonable fees and expenses of the Settlement Administrator; (3) pay reasonable fees and expenses incurred by the Special Master, and (4) to pay those sums awarded by the Court, if any, in connection with the Fees and Costs Application and Incentive Award Application. Money in the Settlement Fund will be held in trust by the Settlement Administrator until it is distributed in accordance with this Settlement Agreement and the orders of the Court. Any money remaining in the Settlement Fund that is not used in connection with this Settlement shall be returned to Eagle Road.



2.4 Claim Forms. The Settlement Administrator shall cause the Claim Form substantially in the form of Exhibit D hereto to be made available on the Settlement Website, and to provide a Claim Form to anyone requesting one.

2.5 Submission of Claim Forms. A Class Member may submit a Claim Form to the Settlement Administrator either by mail, email, or through the Settlement Website.

2.6 Validity of Claim Forms. A Claim Form shall be valid if (a) it is submitted to the Settlement Administrator by the later of 150 days of Notice first being made (or another reasonable period established by the Court); (b) it contains information sufficient to establish membership in the Class; (c) include the address of the affected property or properties; (d) provides documents evidencing damages due to the earthquakes at issue, to include but not limited to photographs, repair bills, and/or repair estimates; (d) makes a claim for a sum certain against the Settlement Fund not to exceed the repair estimates and/or repair bills submitted with the Claim Form; and (e) is signed under penalty of perjury. The claimant must also provide a current address, current email address and telephone number.

2.7 Objections to Claim Forms. Eagle Road shall have the right to inspect the Claim Forms received by the Settlement Administrator. If Eagle Road determines that any Claim Form is untimely or duplicative of another Claim Form filed, or that a Claim Form is otherwise invalid (such as the claimant is not a Class Member), it shall object to the acceptance of the Claim Form and shall provide Class Counsel with a written list of Claim Forms as to which objection is made, together with the reasons for objecting to the Claim Forms. To the extent these objections cannot be resolved between Class Counsel

and Eagle Road, the Settlement Administrator shall notify each such claimant of the objection and the reasons for such objection in writing by mail and email to the current addresses provided in the Claim Form. If a claimant disputes the objection to their Claim Form, the claimant must serve the Settlement Administrator with their written reasons supporting their dispute of the objection (together with any supporting evidence) within 14 days of service of the Settlement Administrator's notification of the objection. The claimant may use Class Counsel or an attorney of their own choosing to attempt a good faith resolution of the dispute with Eagle Road's Counsel within 14 days after service of the claimant's dispute upon the Settlement Administrator. If the dispute cannot be resolved, the claimant may appeal the adverse determination by filing a motion with the Court requesting its determination as to whether the Claim Form was appropriate by the Special Master. Any such motion shall be determined by the Special Master, and the Special Master's determination of the motion shall be final. Any claim not objected to or determined as proper by the Special Master shall be considered an approved claim.

2.8 Claimant's Evidence of Damages. A Claim Form must provide evidence of the Claimant's damages and make a claim for a sum certain not to exceed the amounts of the provided repair estimates and bills. To the extent that an approved claimant's evidence is deemed insufficient by either the Settlement Administrator, Eagle Road, or Class Counsel, the Settlement Administrator shall notify the claimant in writing of the defect(s) in writing by mail and email to the current addresses in the Claim Form. The approved claimant shall have 14 days to cure the stated deficiencies. If a claimant disputes the stated deficiencies, the claimant must serve the Settlement Administrator

with their written reasons supporting their dispute of the deficiencies (together with any supporting evidence) within 14 days of service of the Settlement Administrator's notification. The claimant may use an attorney of their own choosing to attempt a good faith resolution of the dispute of the stated deficiencies. If the dispute cannot be resolved between the claimant, Eagle Road or Class Counsel, the claimant may appeal the adverse determination by filing a motion with the Court requesting determination of the deficiencies issue by the Special Master. Such a motion must contain all reasons supporting the claimant's objection to the stated deficiencies, and provide any proof supporting those reasons. Eagle Road and/or Class Counsel may file a response to any motion within 14 days of service of the motion. Any such motion shall be determined by the Special Master, and the Special Master's determination of the motion shall be final.

2.9 Allocation of Settlement Fund. The Net Proceeds of the Settlement Fund shall be distributed based upon the sum certain amounts stated in the approved Claim Forms and supported by the submitted evidence approved by Eagle Road and Class Counsel, or for those amounts determined by the Settlement Master on a motion.

(a) Zone A Claimants: Claimants with damaged properties within 25 miles of Pawnee shall have preferred status as their causational damages links, based upon proximity of their properties and Eagle Road's disposal wells, is the strongest of those within the Settlement Class. These claimants shall be placed within Zone A and 50% of the Net Settlement Fund shall be distributed to Zone A claimants based upon their submitted damages evidence.

(b) Zone B Claimants: Claimants with damaged properties within 25 to 50 miles of Pawnee shall have a less-preferred status as their causational damages links, based upon proximity of their properties and Eagle Road's disposal wells, are not as strong as those in Zone A. These claimants shall be placed within Zone B and 25% of the Net Settlement Fund shall be distributed to Zone B claimants based upon their submitted damages evidence.

(c) Zone C Claimants: Claimants with damaged properties within 50 to 100 miles of Pawnee shall have a less-preferred status as their causational damages links, based upon proximity of their properties and Eagle Road's disposal wells, are not as strong as those in Zone A or Zone B. These claimants shall be placed within Zone C and 15% of the Net Settlement Fund shall be distributed to Zone C claimants based upon their submitted damages evidence.

(d) Zone D Claimants: Claimants with damaged properties more than 100 miles of Pawnee shall have a less-preferred status as their causational damages links, based upon proximity of their properties and Eagle Road's disposal wells, are not as strong as those in Zone A, Zone B, or Zone C. These claimants shall be placed within Zone D and 10% of the Net Settlement Fund shall be distributed to Zone D claimants based upon their submitted damages evidence.

2.10 If the total approved claim sum certain amounts do not exceed the Net Proceeds of the Settlement Fund, the Net Proceeds of the Settlement Fund shall be distributed to the approved claimants based upon those sum certain amounts stated in each approved Claim Form with each approved claimant receiving the total amount of

their sum certain claimed amount as to be allocated pursuant to Paragraph 2.09 above. Any excess proceeds shall be returned to Eagle Road. If, however, the total claimed sum certain amounts exceed the Net Proceeds of the Settlement Fund, then the approved claimants shall receive their pro rata share of the Net Proceeds determined by dividing the sum certain claimed submitted by the approved claimant (and supported by the evidence of damages) on their Claim Form by the overall claimed sum certain amounts stated in all of approved Claim Forms and as further allocated pursuant to Paragraph 2.09 above.

2.11 Cash Payments. Within thirty (30) days after the later of (a) the Final Approval Order becoming Final, (b) the deadline for submission of Claims Forms as specified above, or (c) the date that all objections to Claims or evidence deficiencies are finally resolved, the Settlement Administrator will mail a check to each Class Member with an Approved Claim of their distribution as determined by the paragraphs above. Thereafter, the Settlement Administrator will notify Eagle Road and Class Counsel of the claims and amounts paid.

2.12 Negotiability Period. Checks sent to Class Members shall remain negotiable for ninety (90) days from the date of mailing. Checks that are not cashed within ninety (90) days of their issuance will be void and the associated funds will revert to Eagle Road. This provision applies to checks that are returned to the Settlement Administrator by the post office as undeliverable. The Parties agree that such funds represent settlement payments for matters disputed in good faith, not uncontested payments, and they shall not be subject to escheat rules, cy pres, or other distribution not

provided for in this Settlement Agreement. Class Members who fail to negotiate their checks in a timely manner shall remain Class Members for purposes of this Settlement Agreement and the Final Approval Order.

### **ARTICLE III – SETTLEMENT ADMINISTRATION**

3.1 Settlement Administrator. Class Counsel shall select and retain a third-party Settlement Administrator to administer the Class Settlement, subject to Court approval.

3.2 Notice. Within seven (7) days after the Court's entry of the Preliminary Approval Order, the Settlement Administrator shall provide Notice as follows:

(a) Internet Notice. Exhibit C is the agreed Internet Notice. The Settlement Administrator shall cause to be posted the Internet Notice on a website created for this Action and the Settlement.

(b) Publication Notice. The Settlement Administrator shall cause to be published in The Oklahoman, Tulsa World, Shawnee News Star, Cushing Citizen, and the Pawnee Chief a summary of the Internet Notice directing Settlement Class members to the Settlement Website for the complete Internet Notice and a Claim form, and that summarizes the allegations in the Action, the Settlement, and provides the Settlement Class members' rights to exclude themselves from the Settlement or object to the Settlement. The Publication Notice shall also provide the deadlines for exclusion from the Settlement, for the filing of any objection to the Settlement, for the filing of claims against the Settlement, and the date, time, and location of the Final Approval Hearing. The Publication Notice shall provide a toll free number to the Settlement Administrator

to answer any questions a Settlement Class Member may have. This Publication Notice shall run in ¼ page ads in prominent sections of these newspapers on a weekly basis for a period of four weeks.

(c) **Press Release.** Class Counsel shall issue a press release directing Settlement Class members to the Settlement Website for the complete Internet Notice and a Claim Form, and that summarizes the allegations in the Action, the Settlement, and provides the Settlement Class members' rights to exclude themselves from the Settlement or object to the Settlement. The Press Release shall also provide the deadlines for exclusion from the Settlement, for the filing of any objection to the Settlement, for the filing of claims against the Settlement, and the date, time, and location of the Final Approval Hearing. The Press Release shall also provide a toll free number to the Settlement Administrator to answer any questions a Settlement Class Member may have. Class Counsel may also post the same information on his firm's website and publish same on his firm's blog page. Class Counsel will coordinate the substance of the press release with counsel for Eagle Road.

(d) **Press Coverage.** The parties anticipate media coverage of this Settlement, and Class Counsel and Settling Defense Counsel are permitted to discuss the Settlement with reporters to explain the terms of the Settlement and the Settlement Class Members' rights under the Settlement's provisions. Thus, Class Counsel and Settling Defense Counsel are expressly limited to discussing the procedures and potential remedies afforded to class members under the Settlement, and are to focus the claims being settled and the process and procedures related to this Settlement.

3.3 Requests for Exclusion. Class Members may exclude themselves from the Class only by submitting a valid Request for Exclusion. All Class Members who do not submit a valid Request for Exclusion will be included in the Class and will be bound by this Settlement Agreement on the Effective Date.

3.4 Validity of Requests for Exclusion. To be valid, a Request for Exclusion must (a) be submitted by a Class Member; (b) be submitted to the Settlement Administrator and postmarked within the later of thirty (30) days of the later of the first publication of the Internet Notice, Publication Notice, Press Release or Billboard Notice; (c) be signed by the Class Member and clearly request exclusion from the Class; (d) contain the Class Member's name, address and telephone number.

3.5 List of Requests for Exclusion. Within seven (7) days after the last day for Class Members to submit a Request for Exclusion, the Settlement Administrator shall submit to Class Counsel, who shall file it under seal with the Court, and the Settling Defense Counsel a list of Class Members who have submitted timely and valid Requests for Exclusion. Class Members submitting such requests will not be entitled to receive any relief under this Settlement Agreement or to object to this Settlement.

3.6 Declaration of Compliance. The Settlement Administrator shall prepare a declaration attesting to compliance with the Notice requirements set forth in this Article. Such declaration shall be provided to Class Counsel, who shall file it with the Court within seven (7) days of receipt, and the Settling Defense Counsel.

3.7 Best Notice. The Parties agree, and the Preliminary Approval Order shall state, that compliance with the procedures described in this Article is the best notice



practicable under the circumstances and shall constitute due and sufficient notice to the Class of the pendency of the Action, the terms of this Settlement Agreement, and the Final Approval Hearing, and shall satisfy the requirements of the Federal Rules of Civil Procedure, the Oklahoma Constitution, the United States Constitution, and any other applicable law.

3.8 Inquiries. The Settlement Administrator will establish a telephone number for Class Members to call for more information about the Settlement. For questions that cannot be answered by the Settlement Administrator, those callers may be referred to Class Counsel.

3.9 Settlement Administration Fees and Costs. The Settlement Administrator shall be paid its reasonable fees and costs for notice and administration of the Settlement from the Settlement Fund.

3.10 No Liability. The Parties, the Released Parties, and their respective counsel shall have no responsibility or liability whatsoever for the Settlement Administrator's conduct, omissions, or actions, including but not limited to the provision of Notice.

#### **ARTICLE IV - FEES, COSTS, AND INCENTIVE AWARD**

4.1 Fees and Costs Award. Class Counsel in the Action may seek an award of attorneys' fees up 40% of the Settlement Fund, and reasonable litigation expenses not to exceed \$75,000.00.

4.2 Incentive Award. Class Representative and Class Counsel agree not to seek more than \$7,500.00, total, as an incentive award in the Action.

4.3 Payment Date. Within seven (7) days after any order granting attorneys' fees and costs and the incentive award, the Settlement Administrator shall make payment of the approved amount of attorneys' fees and costs awarded to Class Counsel and the incentive award awarded to the Class Representative by electronic wire transfer to the trust account for Poynter Law Group.

4.4 If for any reason, including as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the attorneys' fees and costs awarded by the Court is reversed or modified, then it shall be the obligation of Class Counsel to refund or repay the previously approved Fees and Costs Award and Incentive Award to the Settlement Fund any amount previously paid within seven (7) days of the entry an order of reversal or modification.

4.5 Neither the resolution of, nor any ruling regarding, any award of attorneys' fees and costs shall be a precondition to this Settlement or to the dismissal with prejudice of the Action. Notwithstanding anything in this Settlement Agreement to the contrary, the effectiveness of the releases and the other obligations of the Parties under this Settlement (except with respect to the payment of attorneys' fees and costs) shall not be conditioned upon or subject to the resolution of any appeal from any order, if such appeal relates solely to the issue of any award of attorneys' fees and/or the reimbursement of costs.

#### **ARTICLE V- COURT APPROVAL OF SETTLEMENT**

5.1 Motion for Preliminary Settlement Approval. As soon as practicable after execution of this Settlement Agreement, the Class Representative, through Class Counsel,

shall apply for entry of the Preliminary Approval Order in the form of **Exhibit A** hereto. The Preliminary Approval Order shall include provisions: (a) preliminarily approving this Settlement and finding this Settlement sufficiently fair, and reasonable; (b) approving the form, content, and manner of the Notice; (c) setting a schedule for proceedings with respect to final approval of this Settlement; (d) immediately staying the Action, other than proceedings related to this Settlement; and (e) issuing an injunction against any actions by Class Members to pursue claims released under this Settlement Agreement, pending final approval of the Settlement Agreement.

5.2 Objections. Any Class Member who does not submit a timely and valid Request for Exclusion and who wishes to object to or oppose the approval of (a) this Settlement Agreement, (b) the Fees and Costs Application, (c) the Incentive Award Application, and/or (d) the proposed Final Approval Order shall file a written objection with the Court and serve it on the Parties at least ten (10) days before the Final Approval Hearing. The written objection must include: (1) a statement of the reasons for the objection and any evidence supporting the objection; (2) the objecting Class Member's name, address, and telephone number; (3) proof of the objecting Class Member's Settlement Class membership; (4) a statement regarding whether the objecting Class Member intends to appear at the Final Approval Hearing and whether he or she is represented by counsel; and (5) any other requirements set forth in the Notice. Any Class Member who fails to file a timely written objection that meets the requirements of this paragraph shall be deemed to have waived such objection or opposition and forever shall be foreclosed from making such objection or opposition to the fairness, reasonableness,

or adequacy of the Settlement, the payment of attorney's fees, costs, expenses, and the incentive award, or the Final Approval Order. Any Class Member who makes an objection shall submit to the jurisdiction of the Court and make himself or herself available for deposition by either Party within a reasonable time before the Final Approval Hearing.

5.3 Motion for Final Settlement Approval. The Class Representative, through Class Counsel, shall file with the Court a motion for final settlement approval at least seven (7) days before the Final Approval Hearing.

5.4 Final Approval Hearing. The Parties shall request that the Court conduct a Final Approval Hearing to, among other things: (a) determine whether to grant final approval to this Settlement Agreement; (b) consider any timely objections to this Settlement and the Parties' responses to such objections; (c) rule on the Fees and Costs Application; and (d) rule on the Incentive Award Application. At the Final Approval Hearing, the Class Representative, through Class Counsel, shall ask the Court to give final approval to this Settlement Agreement. If the Court grants final approval to this Settlement Agreement, then the Class Representative, through Class Counsel, shall ask the Court to enter a Final Approval Order, substantially in the form of **Exhibit B** attached hereto, which, among other things, approves this Settlement Agreement, enters final judgment, and dismisses the Action with prejudice.

5.5 Separate Consideration of Applications. The Parties agree that the Fees and Costs Application and Incentive Award Application and any claim or dispute relating thereto will be considered by the Court separately from the remaining matters to be

considered at the Final Approval Hearing as provided for in this Settlement Agreement. Any order or proceedings relating to the Fees and Costs Application and Incentive Award Application, including any appeals from or modifications or reversals of any order related thereto, shall not operate to modify, reverse, terminate, or cancel the Settlement Agreement, affect the releases provided for in the Settlement Agreement, or affect whether the Final Approval Order becomes Final.

#### **ARTICLE VI - TERMINATION**

6.1 Termination Due to Court Action. The Class Representative and Eagle Road each shall have the right to terminate this Settlement Agreement if either (i) the Court denies preliminary approval or final approval of this Settlement Agreement; or (ii) the Final Approval Order does not become Final. If a Party elects to terminate this Agreement under this paragraph, that Party must provide written notice to the other Party's counsel within seven (7) days of the occurrence of the condition permitting termination.

6.2 Effect of Termination. If this Settlement Agreement is terminated pursuant to its terms, then: (i) this Settlement Agreement shall be rendered null and void; (ii) this Settlement Agreement and all negotiations and proceedings relating hereto shall be of no force or effect and without prejudice to the rights of the Parties; (iii) all Parties shall be deemed to have reverted to their respective status as of the date and time immediately preceding the execution of this Settlement Agreement, (iv) all money in the Settlement Fund shall be returned to Eagle Road within ten (10) days; and (v) except as otherwise expressly provided, the Parties shall stand in the same position and shall proceed in all

respects as if this Settlement Agreement and any related orders had never been executed, entered into, or filed. Upon termination of this Settlement Agreement, the Parties shall not seek to recover from one another any costs incurred in connection with this Settlement.

## **ARTICLE VII - RELEASES UPON EFFECTIVE DATE**

7.1 **Binding and Exclusive Nature of Settlement Agreement.** On the Effective Date, the Parties and each and every Settlement Class Member shall be bound by this Settlement Agreement and shall have recourse exclusively to the benefits, rights, and remedies provided hereunder. No other action, demand, suit, or other claim may be pursued by the Settlement Class Members against the Released Parties with respect to the Released Claims.

7.2 **Releases.** On the Effective Date, the Settlement Class Members shall be deemed to have, and by operation of this Settlement Agreement shall have, fully, finally and forever released, relinquished and discharged the Released Parties from any and all Released Claims.

7.3 **Waiver of Unknown Claims.** On the Effective Date, the Settlement Class Members shall be deemed to have, and by operation of this Agreement shall have, with respect to the subject matter of the Released Claims, expressly waived the benefits of any statutory provisions or common law rule that provides, in substance, that a general release does not extend to claims which the party does not know or suspect to exist in its favor at the time of executing the release, which if known by it, would have materially affected its settlement with any other party. The Parties stipulate and agree that, upon

the Effective Date, the Class Representative shall have expressly waived, relinquished and released any and all rights and benefits related to any unknown claims with respect to the subject matter of the Released Claims and each Settlement Class Member shall be deemed to have, and by operation of the Final Approval Order shall have, waived, relinquished and released any and all rights and benefits related to any unknown claims with respect to the subject matter of the Released Claims. The Class Representative acknowledges, and the Settlement Class Members shall be deemed by operation of the entry of a Final Approval Order to have acknowledged, that they may discover facts in addition to or different from those now known or believed to be true with respect to the Released Claims, but that it is the intention of the Class Representative and, by operation of law, the Settlement Class Members, to completely, fully, finally, and forever, compromise, settle, release, discharge, extinguish, and dismiss any and all Released Claims, known or unknown, suspected or unsuspected, contingent or absolute, accrued or unaccrued, apparent or unapparent, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery of additional or different facts. The Class Representative acknowledges, and the Members of the Settlement Class shall be deemed by operation of the entry of a Final Approval order to have acknowledged, that the waiver of unknown claims was separately bargained for, is an integral element of the Settlement, and was relied upon by Eagle Road in entering into this Settlement.

7.4 Assumption of Risk. In entering into this Settlement Agreement, each of the Parties assumes the risk of any mistake of fact or law. If either Party should later

discover that any fact which the Party relied upon in entering into this Agreement is not true, or that the Party's understanding of the facts or law was incorrect, the Party shall not be entitled to modify, reform, or set aside this Settlement Agreement, in whole or in part, by reason thereof.

#### **ARTICLE VIII - MISCELLANEOUS**

8.1 No Admission of Liability. Neither the acceptance by Eagle Road of the terms of this Settlement Agreement nor any of the related negotiations or proceedings constitutes an admission with respect to the merits of the claims alleged in the Action. Eagle Road specifically denies any liability or wrongdoing of any kind associated with the claims alleged in the Action.

8.2 Limitations on Use. Except as set forth herein, this Settlement Agreement shall not be used, offered, or received into evidence in the Action, or in any other action or proceeding, for any purpose other than to enforce, construe, or finalize the terms of the Settlement Agreement, and/or to obtain the preliminary and final approval by the Court of the terms of the Settlement Agreement.

The parties agree that this Settlement Agreement, and any Order (or similar order or ruling) entered by the Court in this Action, is not an admission by Eagle Road of any liability or of any of the elements necessary for class certification and cannot be used for any purpose outside of this Action, except as set out in this Settlement Agreement. The Parties have entered into this Settlement Agreement solely for the purposes of settling the claims in this Action and the Individual Actions, and have agreed to certification of a settlement class solely for the purpose of settling the claims in this Action and any Orders



(or rulings) by the Court in this Action may not be used or construed against Eagle Road for any purpose outside of this Action, and may not support an argument that an element necessary for class action certification has already been met, or can or may be met in any lawsuit, dispute, litigation or proceeding outside of this Action and/or the Individual Actions.

The Parties further agree that the Settlement Agreement is subject to res judicata and collateral estoppel as to all Plaintiffs and Settlement Class Members, who do not opt out of the settlement, and prohibits any Settlement Class Member, who does not opt out of the settlement, from pursuing any Released Claim Outside of this Action. Nothing herein shall prohibit the Settlement Defendants from using this Settlement Agreement and any Agreed Settlement Order (or similar order or ruling) entered in this Action in any other action or actions for any purpose of enforcing this Agreement, including establishing that a claim by a party (plaintiff) in a different lawsuit or action was released by that party's being a Settlement Class Member in this Action or is subject to res judicata and/or collateral estoppel.

8.3 Cooperation. The Parties and their counsel agree to support approval of this Settlement Agreement by the Court and to take all reasonable and lawful actions necessary to obtain such approval.

8.4 No Assignment. Each Party represents, covenants, and warrants that he, she, or it has not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber any portion of any liability, claim, demand, cause of action, or rights that he, she, or it herein releases.

8.5 Binding on Assigns. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, successors, and assigns.

8.6 Captions. Titles or captions contained in this Settlement Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof.

8.7 Construction. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arm's-length negotiations between the Parties, and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party, or his/her or its counsel, participated in the drafting of this Settlement Agreement.

8.8 Counterparts. This Settlement Agreement and any amendments hereto may be executed in one or more counterparts, and either Party may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and both of which counterparts taken together shall constitute but one and the same instrument. A facsimile or PDF signature shall be deemed an original for all purposes.

8.9 Governing Law. Construction and interpretation of this Settlement Agreement shall be determined in accordance with the laws of the State of Oklahoma without regard to the choice-of-law principles thereof.

8.10 Integration. This Settlement Agreement, including the exhibits referred to herein, which form an integral part hereof, contains the entire understanding of the

Parties with respect to the subject matter contained herein. There are no promises, representations, warranties, covenants, or undertakings governing the subject matter of this Settlement Agreement other than those expressly set forth in this Settlement Agreement. This Settlement Agreement supersedes all prior agreements and understandings among the Parties with respect to the settlement of the Action. This Settlement Agreement may not be changed, altered or modified, except in a writing signed by the Parties; if any such change, alteration or modification of the Settlement Agreement is material, it must also be approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

8.11 Jurisdiction. The Court shall retain jurisdiction, after entry of the Final Approval Order, with respect to enforcement of the terms of this Settlement, and all Parties and Settlement Class Members submit to the exclusive jurisdiction of the Court with respect to the enforcement of this Settlement and any dispute with respect thereto.

8.12 No Collateral Attack. This Settlement Agreement shall not be subject to collateral attack by any Settlement Class Member at any time on or after the Effective Date. Such prohibited collateral attacks shall include, but shall not be limited to, claims that a Settlement Class Member's Claim was improperly denied and/or that a Settlement Class Member failed to receive timely notice of the Settlement Agreement.

8.13 Parties' Authority. The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties to the terms and conditions hereof.

8.14 Receipt of Advice of Counsel. The Parties acknowledge, agree, and specifically warrant to each other that they have read this Settlement Agreement, have received legal advice with respect to the advisability of entering into this Settlement, and fully understand its legal effect.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the 9th day of June, 2022.

A handwritten signature in blue ink, appearing to read "Scott Poynter", with a long horizontal flourish extending to the right.

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Scott Poynter  
Class Counsel

A handwritten signature in blue ink, appearing to read "S. Adams", with a stylized, cursive script.

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Steven J. Adams  
Ryan A. Pittman  
Counsel for Eagle Road

# EXHIBIT      A