

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (hereinafter, “**Agreement**”) is made between and among **Jeffrey Clay** of Alton, New Hampshire (hereinafter “**Plaintiff**”), and **the Town of Alton, New Hampshire** (hereinafter “**Defendant**”). The Plaintiff and Defendant are collectively referred to herein as the “**Parties.**”

WHEREAS, the Parties have been involved in a dispute against each other, *Clay v. Town of Alton, et al.*, No. 1:15-cv-00279-JL, which was filed on July 14, 2015 in United States District Court for the District of New Hampshire (“**Litigation**”); and

WHEREAS, the Parties desire to resolve all past and present legal claims between and among them arising out of the Litigation subject to the terms and conditions set forth herein.

NOW THEREFORE, the Parties agree to the following terms and conditions as consideration for resolution of their respective claims:

THEREFORE, the Parties agree as follows:

1. Consideration: Within thirty (30) days after the receipt of a copy of this fully-executed Agreement, Primex, Inc. of Concord, New Hampshire—a duly authorized and existing pooled risk management program pursuant to NH RSA 5-B—shall pay on behalf of Defendant the total sum of forty-two thousand five hundred dollars and no cents (\$42,500.00), inclusive of all attorney’s fees and costs, as follows: (i) \$30,000 to Plaintiff Jeffrey Clay; (ii) \$11,583 to the American Civil Liberties Union of New Hampshire; and (iii) \$917 to Attorney Jared Bedrick. These payments will be mailed to the American Civil Liberties Union of New Hampshire, 18 Low Avenue, Concord, New Hampshire 03301.

2. General Release of All Claims by Plaintiff: In exchange for valuable consideration received, Plaintiff—including his heirs, successors, and assigns—hereby fully

remises, releases, and discharges Defendant, Primex, Inc., and all their respective agents, representatives, employers, employees, servants, volunteers, independent contractors, police officers, officials, directors, attorneys, insurers, indemnitors, successors, and assigns, in their individual, business, and official capacities, as well as any other person and/or entity to the extent that such other person and/or entity could be deemed liable, by, through or under them (collectively referred to as "Releasees"), from any and all claims whatsoever, in law or in equity, which he ever had, now has, or which he can, shall, or may have against Releasees, from the beginning of time to the date of this Agreement, for any matter, cause, or thing arising out of the Litigation.

Without limiting the generality of the foregoing, this release includes all matters arising out of or in connection with the Litigation, from the beginning of time to the date of this Agreement, including but not limited to any rights or claims alleging violation of the United States Constitution, 42 U.S.C. § 1983, intentional infliction of emotional distress, retaliation, defamation, breach of contract, invasion of privacy, and any and all claims that may be asserted under any State or Federal statute or common law arising out of the Litigation. This shall be a full and final release of all claims known and unknown, foreseen and unforeseen, which have accrued to Plaintiff against Defendant arising out of the Litigation, up to and including the date of the Agreement, regardless of the adequacy of the compensation or the extent or character of his injuries and/or damages, known or unknown. Plaintiff expressly acknowledges and assumes all risk, chance, or hazard that any injuries and/or damages may become permanent, progressive, greater, or more extensive than is known, anticipated, or expected.

3. Non-Admission: This Agreement is a compromise of disputed claims. Defendant denies any and all liability, wrongdoing, and culpability regarding the claims in the Litigation,

and further denies that this Agreement should be construed as an admission of any liability, wrongdoing or culpability. Defendant submits that the purpose of this Agreement is to buy peace.

4. Voluntariness of Release: Plaintiff acknowledges that, in exchange for this release, he has received money and other things of value. Plaintiff has had the opportunity to be represented by counsel through the negotiations concerning this Agreement. Plaintiff was given a reasonable period of time within which to consider the Agreement and has accepted its terms. Plaintiff acknowledges and agrees that no promise or inducement which was not expressed herein has been made to him, and that in executing this Agreement, he does not rely upon statements or representations by Defendant concerning liability or the nature and extent of any damages recoverable under Plaintiff's claims. Plaintiff acknowledges and agrees that this Agreement and consideration tendered herewith represents a compromise of disputed claims and that such consideration is paid and accepted in full settlement of all claims. Plaintiff acknowledges that the Defendant does not admit liability.

5. End of Litigation: The parties agree to end the Litigation. Plaintiff agrees to dismiss all claims in the Litigation against Defendant with prejudice and without costs. Accordingly, no later than three (3) days after the execution of this Agreement, the parties will file a Stipulation for Voluntary Dismissal With Prejudice against Defendant under Federal Rule of Civil Procedure 41(a)(1)(A)(ii) with the United States District Court for the District of New Hampshire, Docket No. 1:15-cv-00279-JL. The form of the Stipulation of Dismissal to be filed is attached as Exhibit A.

6. Waiver/Purpose/Representations: Plaintiff acknowledges, agrees, and represents that (a) Plaintiff is not entitled to request or be awarded attorneys' fees, interest or costs under

any Federal, State, or administrative law or regulation; (b) Plaintiff waives any such claims of attorneys' fees, interest, and costs; (c) the purpose of this Agreement is to "buy peace" from further dispute and controversy between and among Plaintiff and Defendant; (d) the consideration herein may or may not fully compensate Plaintiff for alleged losses; (e) court approval is not required for any provision of this Agreement; (f) Plaintiff has executed this Agreement with full knowledge of its legal significance; and (g) Plaintiff has done so to end all claims in the Litigation.

7. Responsibility With Respect to Related Taxes: Plaintiff acknowledges and agrees that should the consideration set forth above, or any part thereof, be subject to any taxes, penalties, or interest, Plaintiff and/or his counsel shall be solely responsible for all such taxes, penalties, or interest. Plaintiff further agrees that he will not assert, file, or make any claims against Releasees for any such taxes, penalties, or interest they may be compelled to pay in connection with any disputes with the Internal Revenue Service or other taxing authority arising out of the claims in the Litigation.

8. Modification: This Agreement may not be amended or supplemented, and no waiver of, or consent to, or departures from provisions hereof shall be effective unless set forth in a writing signed by all parties.

9. Complete Agreement: It is further agreed and expressly understood that there are no other understandings or agreements, verbal or otherwise, in relation to any matter pertaining to this Agreement which are not expressly set forth herein.

10. Consultation With Counsel: This Agreement has been freely, knowingly, and voluntarily executed by Plaintiff and Defendant after consultation with legal counsel.

11. Authorizations: The parties have taken all actions and obtained all authorizations,

consents and approvals as are conditions precedent to their authority to enter into this Agreement and thus warrant that they are fully authorized to act in accordance with this Agreement.

12. Governing Law: This Agreement shall be enforced in accordance with the laws of the State of New Hampshire. In the event of litigation regarding this Agreement, Plaintiff and Defendant expressly submit to the jurisdiction of New Hampshire.

13. Severability. The Parties agree that if any provision of this Agreement is deemed invalid or unenforceable, any such provision shall be divisible, and shall not affect in any way the remainder of this Agreement, which shall remain in full force and effect.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned has set his hand and signature below.

Date: April 6, 2016



Jeffrey Clay

Date: _____

Town of Alton
Duly Authorized

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Date: _____

Jeffrey Clay

Date: 5-2-16

Elizabeth Dionne, T.A.
Town of Alton
Duly Authorized

Exhibit A

Respectfully submitted,

JEFFREY CLAY,

TOWN OF ALTON and
RYAN L. HEATH

By and through his attorneys with the
American Civil Liberties Union of New
Hampshire Foundation,

By their attorney,
Ransmeier & Spellman P.C.

/s/ Gilles R. Bissonnette

Gilles R. Bissonnette (N.H. Bar. No. 265393)
AMERICAN CIVIL LIBERTIES UNION OF NEW
HAMPSHIRE
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/s/ Andrew B. Livernois

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