

## **MEMORANDUM OF SETTLEMENT**

of all outstanding matters in dispute

### **(Society-Represented Lawyers' Collective Agreement)**

Between:

**Legal Aid Ontario**

("the Employer")

- and -

**The Society of United Professionals**

("the Society")

1. The Parties agree, subject to ratification by both parties, to the terms and conditions of the Collective Agreement as amended by the following agreed to items. Ratification by both parties shall be deemed to have occurred on the latest date on which ratification occurs by the employees in the bargaining unit and by the Employer. The ratification process will be completed by both parties on or before December 14, 2018, unless the Parties agree otherwise.
2. The Collective Agreement shall be effective on the date of ratification by both parties and shall expire on March 31, 2022.
3. Except as provided otherwise in the terms of this Memorandum of Settlement, any changes to benefits shall be effective on the first day of the month following the month in which ratification by both parties occurs.

4. Except as provided otherwise in the terms of this Memorandum of Settlement, all provisions of the Collective Agreement shall be effective on the date of ratification by both parties.
5. The implementation of salary increases set out in Appendix 1 (Salary Schedules) will be applied as set out in Appendix 1 and will be retroactive, as applicable, to April 1, 2018.
6. The Collective Agreement shall be in the form of the attached, unless the Parties agree otherwise. It is understood that some editing and renumbering may be necessary and the parties shall appoint an editing committee for that purpose.
7. The undersigned unanimously agree to recommend these terms of settlement attached as Appendix A to their respective principals and, in the case of the signatories for the Society, to the bargaining unit employees.
8. All other issues in dispute are hereby withdrawn without prejudice to the positions of the parties.

Dated at Toronto, this 1<sup>st</sup> day of November, 2018:

For the Society:



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For the Employer:

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# Appendix A

## SECTION I - GENERAL TERMS AND CONDITIONS

### Article 1 – Purpose

- 1.1 Both parties to this Collective Agreement recognize its object is to promote harmonious relations between the Employer and Society-represented lawyers. To serve this end, it is understood that both parties acknowledge the value of joint discussions, fair negotiations and the importance of mutual respect in all dealings.
- 1.2 The parties will create and maintain a fair, transparent and collaborative work environment at LAO and will strive to respect any cultural and regional differences and differences in abilities. In addition, the parties will work towards the shared goal of promoting access to justice throughout Ontario for low-income individuals and disadvantaged communities in Ontario in a cost-effective and efficient manner.
- 1.3 This work environment shall promote the morale, well-being, security, employment and professional responsibilities of all Society-represented lawyers.
- 1.4 The parties agree that the following principles will be respected:
  - (a) provide orderly Collective Bargaining and harmonious relations between the Employer and Society-represented lawyers covered by this Agreement,
  - (b) to promote the morale, well-being and security of all Society-represented lawyers through the prompt and fair disposition of grievances, and
  - (c) to provide efficiency of operations and fair wages, hours and working conditions for the Society-represented lawyers.

### Article 2 – Scope and Recognition

- 2.1 This Agreement shall apply to all lawyers employed by LAO in the province of Ontario engaged in the practice of law (the “Bargaining Unit”), save and except lawyers employed in the General Counsel’s Office, lawyers in the labour relations and human resources department, the Senior Advisor Clinics, Special Advisors, Investigators, Supervisory Duty Counsel, Managers and any other person above the rank of Manager.
- 2.2 The Employer recognizes the Society as the sole Bargaining Agent for all employees of the Employer in the Bargaining Unit defined above.

### **Article 3 – Management Rights**

- 3.1 The Society acknowledges that it is the right of the Employer to manage its operations and to direct Society-represented lawyers except as limited by the terms of this Collective Agreement. The Society recognizes the exclusive function of the Employer to make, alter and enforce from time to time reasonable rules, regulations and policies that are not inconsistent with the provisions of this Collective Agreement and that are to be observed by Society-represented lawyers.
- 3.2 The Employer agrees to notify the Society ten (10) working days in advance of any proposed implementation of any such rule, regulation or policy that will impact the terms and conditions of employment of Society-represented lawyers. Management decisions impacting the terms and conditions of employment of Society-represented lawyers may be the subject of a grievance and dealt with as hereinafter provided.

### **Article 4 – Letters of Understanding**

- 4.1 Intent: Letters of Understanding may serve the following purposes:
- (a) amend or add to the current provisions of the Agreement;
  - (b) elaborate/clarify the intentions of a provision of the Collective Agreement;
  - (c) establish provisions for issues not covered by the Agreement.
- 4.2 Grievance/Arbitration: Letters of Understanding are subject to the same grievance and arbitration provisions as the other items in the Collective Agreement.
- 4.3 Approval: Letters of Understanding must bear the signatures of both the Co-Chairs of the ESRC or their designates.
- 4.4 Duration: The parties agree that, for the most part, Letters of Understanding should contain "sunset clauses". In those cases where such a clause has not been put into a Letter of Understanding, the Society and the Employer will at some time during Collective Agreement negotiations determine the status of each such Letter of Understanding (e.g., incorporate into the Collective Agreement, delete it, extend it, etc.).

4.5 The Parties recognize that in the event of a conflict between this Collective Agreement or any Letter of Agreement with the Employer's policies or procedures, the terms of this Collective Agreement (or LOA) shall govern.

#### **Article 5 – Bargaining Unit Information**

5.1 The Employer shall provide the Society with copies of letters of employment for each new Society-represented lawyer hired into the bargaining unit within ten (10) working days of hire. For clarity, this will include copies of employment contracts for fixed term lawyers.

5.2 The Employer shall provide the Society, within ten (10) working days, with the name and position of each Society-represented lawyer who leaves the bargaining unit and the cause of the change. This shall include, but not be limited to, retirement, resignation, termination, layoff, movement to a permanent excluded position, and secondment to excluded positions with the expected date of return to the bargaining unit.

5.3 On a semi-annual basis and upon request, the Employer agrees to provide the Society with the following:

(a) detailed records of dues deducted;

(b) detailed information on the membership, including:

(i) name, job title, job description, classification, office, department, region, employment status, date of hire or commencement and expiry dates of contracts for all Society-represented lawyers, LAO email address,

(ii) work location, work mailing address, phone number (office and work cellular), and year of call.

5.4 The Employer will also notify the Society of any change in office location or workplace contact information of Society-represented lawyers within a reasonable time.

#### **Article 6 – Managing Jurisdictional Disputes**

6.1 Should a dispute arise as to the inclusion/exclusion of any Society-represented lawyer, the following procedure shall be used to manage the dispute:

- (i) The Employer will notify the Society of Society-represented lawyer positions that become excluded as per the provisions of Article 2 (Scope and Recognition) before finalization. For further clarification, if the Employer proposes to remove a job from the Society jurisdiction, notification and documents will be sent to the Society before finalization.
- (ii) Should a dispute arise as to the inclusion/exclusion of any Society-represented lawyer, the parties will use up to ten (10) working days to attempt to resolve the dispute.
- (iii) If the two parties are not able to resolve the dispute, the Society has the right to file a grievance over the jurisdiction of the position.
- (iv) Until such time as the matter is resolved, the Society-represented lawyer whose position is in dispute shall maintain all benefits and responsibilities under the Collective Agreement as had been the case prior to the dispute arising. The Parties acknowledge that there may be exceptional circumstances where in the interests of confidentiality, and with the agreement of the Society, some of the benefits and responsibilities under the Collective Agreement may be modified until the dispute is settled.
- (v) If required as set out in the Letter of Understanding regarding a Tri-Partite Discussion on Jurisdictional Matters, LAO will notify the Society of any jurisdictional grievance filed by another trade union against a Society-represented position and will advise the Society of any change in status (e.g., referred to next step, resolved, withdrawn). Where the jurisdictional dispute involves movement of a position into or out of Society jurisdiction, the Society shall have a right to attend at any negotiation or mediation. If the matter proceeds to arbitration, the Employer will not oppose any request for standing by the Society to the arbitrator and will consult with the Society with respect to the selection of any mediator or arbitrator to be appointed in respect of the grievance.

## **Article 7 – Union Activity**

- 7.1 LAO shall not discriminate against a Society-represented lawyer on the basis of membership or activity in the Society, including exercising any rights related to representation or engaging in union-related activities. A Society-represented lawyer who has a complaint of such discrimination shall have the right to seek redress under Article 22 (Complaints, Grievance, Mediation and Arbitration Process).

## **Article 8 – Use of LAO Facilities for Society Business**

### **8.1 Society Meetings**

The Society will not, nor will any Society-represented lawyer, engage in activities organized by the Society during working hours or hold meetings at any time on the premises of the Employer without the permission of the Employer. Such permission must be requested at least five (5) working days prior to the planned union activity or at the earliest possible opportunity and shall not be unreasonably withheld.

### **8.2 Representation Issues**

The Employer also agrees that:

- (a) Society-represented lawyers shall be permitted to contact and/or meet with their elected Society Representatives during working hours to discuss issues or concerns that require immediate attention; and
- (b) Society-represented lawyers who are elected as Society Representatives will be permitted to contact and/or meet with Bargaining Unit members with reasonable notice during working hours to discuss issues or concerns that require immediate attention.

8.2.1 It is understood that all Society-related activities referred to above will not interfere with the effective day-to-day operations of the Employer.

### **8.3 Use of Employer Resources**

8.3.1 The Society shall have the ability to physically post hard notices relating to the Society's legitimate business affairs in the Employer's premises. Upon request, the Society shall have access to and the ability to post at any and all sites where Society-represented lawyers work. Access to said locations for the purpose of posting shall not be unreasonably denied. The exact locations within the worksite for posting shall be mutually agreed upon by the Employer and the Society.

8.3.2 Where available, the Employer will provide dedicated office space with secure storage space for the Society's use. Where dedicated office space is not available, the Employer shall ensure that the Society Representatives have access to secure storage space within their workplace.



- 8.3.3 In order that the Society can properly represent the lawyers in Labour Management-Relations, upon request by the Society and on an as required basis, the Employer will provide confidential space for meetings to take place with the Employer and/or with Society-represented lawyers and/or to caucus. The location and requirements of the confidential meeting space shall be mutually agreed upon by the Employer and the Society and will vary from region to region and time to time on an as needed basis.
- 8.3.4 Society-represented lawyers and Society representatives shall be permitted by the Employer to use the Employer's communication devices and means (including but not limited to cellular devices, computers, email servers) to communicate and conduct legitimate Society affairs. Such use must be in accordance with the Employer's IT Policies.
- 8.8 The Employer will provide the Society-represented lawyers with restricted access pages on LAO's intranet (currently, "The Source") for legitimate business affairs of the Society. The Employer will not have access to these pages and, apart from LAO access required to maintain the requirements of the Employer's IT assets, only Society-represented lawyers will have access to the pages. Local elected Society representatives will maintain and post to these pages and maintain responsibility for the content of the pages. The Employer will advise all Society-represented lawyers of the existence of the site upon hire. Such use must be in accordance with the Employer's IT Policies.

## **Article 9 - Secondments to Society Positions**

### 9.1 Types of Society Secondments

#### A. Secondments to Society Staff positions

At the request of the Society, a leave of absence up to eighteen (18) months may be granted to a Society-represented lawyer who is offered a Society staff position.

#### B. Secondments to a Society Principal Officer position

At the request of the Society, a leave of absence up to three (3) years may be granted to a Society-represented lawyer who is elected to a Society Principal Officer position.

### 9.2 Salary and Benefits During Society Secondments

9.2.1 During the period of the leaves in 9.1A and 9.1B, the Society will assume:

- (a) Cost of salary;
- (b) The Employer's cost of contributions to the Pension and Insurance Plan, and the LTD Plan;
- (c) The responsibility and cost of providing Health, Dental and Sick Leave Insurance/coverage; and
- (d) The responsibility for any other employee contributions related to employee wages and benefits provided by the Society.

9.2.2 Membership in the pension plan continues while on leave of absence for secondment to the Society.

### 9.3 Reinstatement to Former Position

Upon the expiry of any leave of absence, the Society-represented lawyer will be returned to their former position and location if such position and location still exists. If the position does not exist, the lawyer shall be reinstated in accordance with the lay-off/redeployment provisions in place at the time that the leave expires. At the end of the leave of absence, the Employer is obligated to relocate the Society-represented lawyer within LAO at a position as close as possible to the position held at the time the leave of absence was granted. A Society-represented lawyer on leave will be neither advantaged nor disadvantaged in a surplus situation.

## **Article 10 – Society-Represented Lawyers Temporarily Excluded From Society Jurisdiction**

10.1 The Society shall be given prior notice of any temporary assignment exceeding three months' duration to an unrepresented position that the Employer considers outside the bargaining unit, along with a rationale for the proposed exclusion.

10.2 The Society shall continue to represent lawyers who have been temporarily removed from their regular positions to perform work outside the bargaining unit for the first eighteen (18) months of the temporary assignment. Dues shall be deducted and remitted to the Society for the eighteen (18) month period.

10.3 Except where otherwise specified in this Agreement, Society-represented lawyers who are temporarily assigned to positions outside the bargaining unit shall have access to all benefits,

plans or entitlements under the Collective Agreement for the first eighteen (18) months of the assignment.

10.4 Where necessary and with the consent of the Society, measures may be undertaken in order to ensure any confidentiality requirements of non-bargaining unit positions.

10.5 Employees Temporarily Included in Society Jurisdiction

10.5.1 LAO personnel from outside the Society's bargaining unit who are temporarily assigned work within Society jurisdiction shall be represented by the Society for that portion of the assignment extending beyond three months, and dues shall be deducted for the period beyond three months.

10.5.2 During the period of Society representation, temporarily included lawyers shall be subject to the provisions of the Collective Agreement.

**Article 11 – Release of Society Representatives**

11.1 Full-time Leave

11.1.1 The Employer agrees to provide a full-time leave of absence with continuation of all salary, benefits and service/seniority on the request of the Society for one (1) Society-represented lawyer to conduct business of the Society.

11.1.2 The Society shall reimburse the Employer for fifty percent (50%) of the salary and other costs associated with the leave.

11.2 Part-Time Leave

11.2.1 The Employer agrees to provide a leave of absence for two (2) days each week for each of two positions with continuation of all salary, benefits and service/seniority on the request of the Society, for the Society positions of Unit Director. The Society shall reimburse the Employer for fifty percent (50%) of the salary and other compensation costs associated with the leaves.

11.3 Upon the expiry of the above-noted leaves of absence, the Society-represented lawyers will be returned to their former position and location if such position and location still exists. If the position does not exist, the provisions of Article 32 (Layoff, Redeployment and Recall) shall apply. Notwithstanding the above, the Employer and the Society may agree on a suitable alternate

position to which the Society-represented lawyer will be returned, subject to the requirements of the collective agreement.

- 11.4 With notice, Society-represented lawyers acting as Society representatives may request and be approved for time off with no loss of pay or credits if engaged in:
- meetings with the Employer on issues relating to labour relations;
  - joint processes or committees and business related to Society/Employer relations; and/or
  - a reasonable amount of time to prepare for any of these activities.
- 11.5 With two weeks notice, Society Representatives may request and be approved for time off with no loss of pay or benefits to attend Society related business, conferences and/or education. Said requests will not be unreasonably denied. The Society shall reimburse the Employer for the salaries and other costs associated with any time off taken under these provisions.
- 11.6 With notice, the Society Bargaining Team, of up to five (5) Society-represented lawyers, are entitled to take time off with no loss of pay and no loss of credits for the purpose of renegotiating this Collective Agreement and/or the Framework Agreement. The Society shall reimburse the Employer for fifty percent (50%) of the salaries and other costs associated with the leaves.
- 11.7 Absence from work due to Society activity as set out in this Article shall be provided with no loss of seniority and should not negatively impact on the Society-represented lawyer's performance review.

#### **Article 12 – Publication of Collective Agreement**

- 12.1 The Employer shall acquaint each new lawyer hired into a Society-represented position of the fact that a Collective Agreement is in effect and shall advise the new Society-represented lawyer of the names, contact information and work locations of the Society representatives.
- 12.2 The Employer shall also post the Collective Agreement on the intranet and advise the new Society-represented lawyer of how to access the Collective Agreement online. This shall be done within ten (10) working days of the new Society-represented lawyer commencing employment.

- 12.3 The Society agrees to provide the Employer, from time to time, with an updated list of the names, contact information and work locations of Society representatives to be provided by the Employer to new lawyer hires.
- 12.4 Subject to operational requirements, the Employer agrees that Society representatives will be given the opportunity, including adequate travel time, to meet with all new Society-represented lawyers, without loss of pay, for one hour during the lawyer's first thirty (30) days of employment. These meetings are expected to be cost effective and should leverage technology where possible to minimize travel time and expenses. Where travel time and expenses are required, they will be submitted under the terms of this Collective Agreement and the Employer's Travel, Meal and Hospitality Expenses Policy.
- 12.5 A Society Representative will be invited to present at all new-hire orientation sessions that include new Society-represented lawyers. It is understood that this will be done in a cost-effective manner.

### **Article 13 – Dues Deduction**

- 13.1 Once each pay period, the Employer will deduct from the pay of each Society-represented lawyer who is covered by this Agreement, starting with the pay period nearest to the lawyer's date of hire, an amount equal to their regular bi-weekly Union dues as prescribed by the Society. The Society shall notify the Employer in writing of the amount of such dues from time to time. Where there is a change in the amount of such dues the change shall be implemented within two (2) full pay periods after the Society having given said notice.
- 13.2 All dues so deducted shall be remitted to the Society not later than the fifteenth (15) day of the month following the month in which such deductions are made, together with a list of the names and addresses of all Society-represented lawyers from whose pay dues were so deducted. The aforesaid list shall indicate the amount deducted for each lawyer and the period covered for the deduction.
- 13.3 The Society agrees to indemnify and save the Employer harmless with respect to all claims and demands made against the Employer by a Society-represented lawyer as a result of the deductions and remittance of dues by the Employer pursuant to this Article.

- 13.4 The Employer agrees to report total dues deducted annually on each Society-represented lawyer's T-4 slip.
- 13.5 The Employer agrees that the current formula of Society dues deduction will be applied to all retroactive wage increases.
- 13.6 Lawyers from outside the Society bargaining unit temporarily assigned to a Society-represented position will commence paying dues after three (3) months.
- 13.7 When a Society-represented lawyer is temporarily assigned to a non-bargaining unit position, including a management/excluded position, they shall continue to pay dues to the Society.

#### **Article 14 – No Strikes or Lockouts**

- 14.1 There will be no strikes or lockouts so long as the Collective Agreement continues to operate.

#### **Article 15 – Crossing Picket Lines of Other Unions**

##### 15.1 Crossing a Picket Line

- (a) Where it is safe to do so, Society-represented lawyers are expected to cross picket lines of other unions to perform work at their regular/temporary work locations.
- (b) Society-represented lawyers may request to work from home rather than cross a picket line where doing so would not interfere with the Employer's operations. Requests for such arrangements shall be made to their direct manager and shall not be unreasonably withheld by the Employer.
- (c) Society-represented lawyers may request to take an unpaid leave to cover their absence rather than cross a picket line where doing so would not interfere with the Employer's operations. Requests for such leaves shall be made to their direct manager and shall not be unreasonably withheld by the Employer.

##### 15.2 Inability to Cross a Picket Line

- (a) If a Society-represented lawyer is prevented from crossing a picket line due to picket action, their salary shall be maintained, so long as they make a good faith effort to arrive to work on time.

- (b) In the event that a Society-represented lawyer is physically unable to cross a picket line at their workplace, the Employer shall:
- (i) ensure that Society-represented lawyers have a way to contact their manager;
  - (ii) maintain normal working relationships with those picketing;
  - (iii) not personalize any comments or events,
  - (iv) expect that members may be delayed; and
  - (v) when appropriate and feasible, make arrangements for employees to work from home or an alternative location.

## **Article 16 - Employer and Society Relations**

### **16.1 Changes in Policy, Programs or Procedures**

- (a) In advance of making final decisions regarding a new or revised policy, program or procedure that impacts the working conditions of Society-represented lawyers, the Employer will solicit and meaningfully consider input from the Society through its elected representatives. Any questions or concerns that the Society may have with regard to the change will be raised in a timely manner and will be responded to by the Employer in a timely manner.
- (b) In addition, the Employer will notify the Society of any new province-wide policies, procedures, or programs which may significantly impact the direct clients of Society-represented lawyers in advance of the implementation of such policy, procedure or program.

16.2 There shall be a committee consisting of an equal number of Society representatives and Employer representatives (Employer Society Relations Committee). All Society-representatives on the committee are to be appointed or elected by the Society.

16.3 When local, regional or district-specific issues are raised at Employee Society Relations Committee (ESRC) meetings, efforts shall be made, when appropriate, to ensure representatives from that area can meaningfully participate in that portion of the committee's discussions, in person or in a manner that ensures their ability to contribute and be engaged. The Parties agree that the use of technology will assist with achieving this.

- 16.4 The ESRC shall establish its own terms of reference, procedures, sub-committees and other bodies or include individuals that may be required to assist the ESRC to carry out its functions. These functions may include conducting research, gathering information, reviewing other practices and making presentations to the ESRC.
- 16.5 The ESRC shall have no power to add, remove or modify the terms of the Collective Agreement or the Framework Agreement.
- 16.6 The attached Appendix 2 (ESRC Terms of Reference) includes the initial terms of reference for the ESRC which may only be altered with the agreement of the Parties and is subject to the grievance and arbitration procedure.

#### **Article 17 – Technological Change**

- 17.1 The Employer shall notify the Society, in accordance with Article 16.1 (Changes in Policy, Programs or Procedures), of any planned technological change which will affect the working conditions of Society-represented lawyers.
- 17.2 The Parties agree that the impacts of any planned technological change affecting the working conditions of Society-represented lawyers will be reviewed by the Employer Society Relations Committee and the Committee will discuss how the changes affect Society-represented lawyers and will explore ways to minimize the adverse impact on lawyers, if any, including addressing training needs.
- 17.3 The elimination of any Society-represented lawyer positions caused by the introduction of new technology shall be considered an Adverse Impact triggering the process in Article 32 (Layoff, Redeployment and Recall).

#### **Article 18 – Probation**

- 18.1 Newly hired Society-represented lawyers shall serve a probationary period of six (6) calendar months duration.
- 18.2 Society-represented lawyers on probation shall receive a performance review every two (2) months that includes both a development plan and an assessment of core competencies. The



results of this performance review shall be provided, in writing, to the lawyer. Reasonable training will be provided to the Society-represented lawyer as outlined in the development plan.

- 18.3 If the Employer wants to extend the probationary period of the Society-represented lawyer, the probationary period may be extended for no more than an additional three (3) calendar months with the consent of the Society. The performance reviews in Article 18.2 will continue throughout this period.
- 18.4 The termination of a probationary Society-represented lawyer shall fall within management discretion and will be grievable on a reasonableness standard.
- 18.5 Where there has not been a break in service for thirteen (13) or more consecutive weeks, no Society-represented lawyer shall be required to serve more than one probationary period. In addition, Society-represented lawyers on the Recall List shall not be required to serve an additional probation period.
- 18.6 The probationary period of a Society-represented lawyer may be temporarily suspended in exceptional circumstances with the consent of the Parties.

## **Article 19 - Seniority**

### 19.1 Definitions

“Break in Service” means the termination of the employment relationship with LAO and does not include secondments or paid or unpaid leaves.

“Seniority” shall mean a Society-represented lawyer's length of continuous service with LAO including all secondments, paid and unpaid leaves and time spent as an articling student.

- 19.2 Society-represented lawyers shall accumulate seniority on the basis of years, months and days since the lawyer's date of hire. Seniority shall not accrue during any breaks in service or any unpaid leaves except for unpaid leaves that are the result of disability or legislated entitlements, and leaves for Society business regardless of the length of the leave.
- 19.3 Except for lawyers and Articling Students in the Hireback Pool or on the Recall List, lawyers who return to employment with LAO following a break in service shall not receive consideration for previous continuous service.

19.4 The Employer shall provide the Society with a list of all Society-represented lawyers and their length of seniority every six (6) months.

19.5 Temporary Assignments Outside of the Bargaining Unit

(a) Society-represented lawyers who are assigned or voluntarily accept a temporary position with the Employer that is outside of the bargaining unit will retain the seniority earned prior to their assignment.

(b) For voluntary assignments of three (3) years or less, the time spent in their assignment will be counted towards their seniority up to three (3) years.

(c) Non-voluntary assignments outside of the bargaining unit shall not exceed three (3) months unless with the consent of the Society. Seniority shall accrue during this period.

19.6 Retroactivity

(a) Seniority shall include service with LAO that is accrued prior to the date of ratification of this collective agreement or the date of an interest arbitration award, as applicable, subject to the provisions in this Article.

(b) Time spent working in the LAO clinic system prior to the date of the ratification of this collective agreement or the interest-arbitration award, as applicable, shall be considered as employment with LAO for the purpose of this retroactivity clause.

(c) For the purposes of clarity, there shall be no consideration for time spent working in the LAO clinic system for any seniority calculations after the date of ratification of this collective agreement or the date of an interest arbitration award, as applicable.

**Article 20 – No Discrimination and No Harassment**

20.1 Definitions

In this Collective Agreement,

“Discrimination” is defined as any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group based on one or more of the prohibited grounds of discrimination in employment under the *Ontario Human Rights Code* (“Code”), except where the conduct is permitted under the *Code*. Discrimination may arise due to treatment which though applied equally has an unequal effect on an individual or group protected from discrimination under the *Code*.

“Workplace harassment” is defined as engaging in a course of vexatious comment or conduct against an employee or other worker in the workplace that is known or ought reasonably to be known to be unwelcome or workplace sexual harassment.

“Workplace sexual harassment” is defined as:

- Engaging in a course of vexatious comment or conduct against an employee or other worker in the workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, and/or
- Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the employee or other worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

## 20.2 Principles

- (a) The parties recognize the dignity and worth of every individual and seek to create a climate of understanding and mutual respect in the workplace.
- (b) The parties agree not to engage in or tolerate discrimination or workplace harassment on any prohibited ground.
- (c) The parties recognize the right of employees to work in an environment free from discrimination or workplace harassment.

## 20.3 Complaints

Any Society-represented lawyer who experiences personally or observes others experiencing discrimination or harassment who wishes to make a complaint may use the following procedure for reporting and resolution:

- a) Society-represented lawyers may report incidents or complaints of harassment and/or discrimination verbally or in writing to their manager, or to Human Resources.
- b) Society-represented lawyers have the right to Society representation throughout the complaints process.

- c) The Employer will ensure that all complaints or incidents of workplace harassment and discrimination are investigated fairly, and in a manner that is appropriate in the circumstances as per the Workplace Harassment, Sexual Harassment, and Discrimination Prevention policy as of the date of ratification or an interest arbitration award, as applicable (“The Policy”) or any updates to the Policy that are agreeable to the Parties. All investigations will be conducted in a timely manner.
- d) The investigation may include, but is not limited to, interviewing the complainant(s), respondent(s) and any witnesses, and preparing a written report with respect to their findings.
- e) A Society-represented lawyer filing a complaint will be informed in writing of the outcome of the investigation and, if appropriate, any resulting corrective actions.
- f) Society-represented lawyers shall have the right to confidentiality in the complaints process. Information related to complaints of workplace harassment or discrimination, including identifying information about the individuals involved, will be kept confidential except as necessary for the purposes of investigating the complaint, taking corrective action with respect to the complaint, or as required to meet the Employer’s obligations under the *Occupational Health and Safety Act* or any other relevant legislation including the *Legal Aid Services Act*.
- g) Society-represented lawyers who are the complainant, respondent, or witness shall have the right to be accompanied by a support person and/or Society representative, during this process.
- h) Where there has been a complaint of sexual harassment involving a Society-represented lawyer, the Employer will take reasonable steps, where appropriate, to prevent contact between the parties to the complaint throughout the process. The Society will be consulted in the development of this plan. Either party to the complaint may request the discontinuation of contact with the other party while the complaint is ongoing. Where such a request is made, the request will be reasonably considered in the development of the plan.
- i) Neither the complainant nor the respondent shall be subjected to any workplace reprisal. The Parties agree that accommodating such a request to prevent contact between the complainant and respondent will not be a disciplinary measure. The Employer and the Society agree to treat requests to discontinue contact as confidential to those directly involved.

- 20.4 No adverse action will be taken against a Society-represented lawyer who makes a complaint of workplace harassment, workplace sexual harassment or discrimination in good faith.
- 20.5 A Society-represented lawyer can exercise rights outside of this process which may include filing a grievance with respect to workplace harassment or discrimination, or seeking recourse under the *Human Rights Code*.
- 20.6 It is understood that the normal timelines for the grievance arbitration procedure are suspended while the above complaints procedure is utilized as set out in Article 22.5.1 (Complaints/Grievance/Mediation/Arbitration Procedure).

#### **Article 21 – Duty to Accommodate and Disability**

- 21.1 The Parties recognize their respective obligations to ensure that efforts are made to address the needs of Society-represented lawyers who require workplace accommodation as set out in the *Code*. The Parties also acknowledge that individual lawyers also have obligations with regard to workplace accommodation.
- 21.2 Such accommodation shall be reasonable and shall be provided unless there is undue hardship, as defined by law.
- 21.3 “Disability” has the same meaning as is found in s. 10 of the *Ontario Human Rights Code* (“*Code*”).
- 21.4 When a workplace accommodation arrangement is in place, the Employer will meet with the Society-represented lawyer at agreed upon intervals to monitor progress and duties as required until the Society-represented lawyer is able to resume their regular duties. The lawyer has the right to Society representation throughout this process.
- 21.5 Where a Society-represented lawyer identifies a need for workplace accommodation related to a chronic or episodic illness, the terms of the accommodation arrangement may include consideration using Short-Term Disability benefits in place of the use of Incidental Illness days.
- 21.6 All workplace accommodation arrangements will be documented in writing and communicated with the Society-represented lawyer and the Society (at the request of the Society-represented lawyer).

- 21.7 Before posting a potential vacancy, the Employer, in conjunction with the Society, will examine all potential vacancies to determine if they can be used to accommodate a Society-represented lawyer who requires accommodation but cannot return to their home position.
- 21.8 The Employer shall designate a liaison person to work with the Society to coordinate workplace accommodations for Society-represented lawyers requiring such accommodation. The contact information of this liaison shall be made available to all Society-represented lawyers.

## **Article 22 – Complaints, Grievance, Mediation and Arbitration Process**

### 22.1 Principles

- (a) The Parties support early discussions and resolutions at the lowest level possible because this leads to addressing issues before a grievance is lodged, and are key to maintaining a positive working relationship.
- (b) The Parties recognize the need to share information and openly discuss options for resolution at all levels of the complaint and grievance process to ensure a common understanding of all the facts and to enhance the chance of a mutually acceptable resolution.
- (c) The Parties agree that proposals for settlement discussed during Steps 1 and 2, or during attempts at mediated resolutions, will not prejudice either Party at the arbitration stage.
- (d) The Parties support a complaints and grievance process that is flexible and promotes a problem-solving approach to dispute resolution.
- (e) The Parties acknowledge and support the ability of Society-represented lawyers to discuss workplace issues with their managers – whether or not the subject of the discussion meets the requirements of an individual complaint. In cases where there is an allegation of unfair treatment that is not covered by the Collective Agreement, the Society-represented lawyer will have a right to Society representation throughout the process and either party may request facilitation/mediation services to assist in coming to resolution.
- (f) The Parties recognize the right and responsibility of the Society and its representatives to fairly represent its members through the complaint, grievance, mediation and arbitration procedures contemplated by this Collective Agreement and recognize that sections 88, 89 and

90 of the *Legal Aid Services Act* (“*LASA*”) apply to the Employer and to Society-represented lawyers.

- (g) The parties also agree that they will ensure that privileged communications and confidential client information will be protected as set out in this Article so that the provisions of *LASA* are adhered to and that measures being taken are reasonably applied and are exercised where no other options are reasonably available.
- (h) The Society shall have the right to unilaterally withdraw a grievance and will advise the Employer of same in writing.

## 22.2 Participation in the Complaints/Grievance/Arbitration Procedure

- (a) A Society representative will be granted reasonable time off from normal duties with no loss of pay or credits while acting as a Society representative in any of the steps of the grievance procedure or when required by Management to be a participant in arbitration proceedings.
- (b) Society represented lawyers who have filed or who are the subject of a complaint/grievance shall not suffer any loss of pay or benefits for any time spent attending necessary meetings with Society representatives and/or employer representatives, related to the resolution of complaints and/or grievances.

## 22.3 Types of Complaints/Grievances

### (a) Individual Complaint

An individual complaint is a claim by a Society-represented lawyer where the Society-represented lawyer has a belief that a provision of the Collective Agreement has been violated or that management has unreasonably exercised its discretion in the administration or application of the Collective Agreement. In discussing an individual complaint with their manager, the Society-represented lawyer will have a right to Society representation throughout the process.

### (b) Individual Grievance

An individual grievance is a dispute between the Society and the Employer related to an allegation by a Society-represented lawyer concerning the application, administration, interpretation or alleged violation of the Collective Agreement, or unreasonable exercise of management discretion in the administration and application of the Collective Agreement. An individual

grievance includes an individual complaint that has not been resolved at Step 1 of the complaints/grievance process.

An individual grievance shall be filed at Step 2, normally following consideration of an individual complaint at Step 1. Note: Some grievances are typically filed at Step 2. These include, but are not limited to, matters related to discipline and human rights/ harassment/discrimination.

(c) Group Grievance

A Group grievance is a dispute between the Employer and The Society arising from the application, administration or alleged violation of the Collective Agreement, or unreasonable exercise of management discretion in the administration and application of the Collective Agreement relating to the same dispute by more than one Society-represented lawyer. A Group grievance shall be filed at Step 2.

(d) Policy Grievance

A Policy grievance is a dispute between the Employer and The Society arising from matters of application, administration, interpretation, or alleged violation of the Collective Agreement. A Policy grievance shall be filed at Step 2.

(e) Management Grievance

A Management grievance is a dispute between the Employer and the Society arising from matters of application, administration, interpretation, or alleged violation of the Collective Agreement or any complaint with respect to the conduct of The Society. A Management grievance shall be filed at Step 2.

22.4 Protection of Privileged Communications and Confidential Client Information

(a) In order to facilitate the sharing of information, openly discuss options and have a common understanding of the facts as contemplated by Article 22.1(b), the Parties agree that the following non-exhaustive list of measures may be utilized during the Complaints/Grievance/Mediation/Arbitration Process where the protection is reasonably required in order to fulfill the Employer's and/or a Society-represented lawyer's obligations under sections 88, 89 or 90 of *LASA* and under the Collective Agreement and Framework Agreement:

1. excluding legal communications addressed by sections 89(1) or 89(2) of *LASA* ("Privileged Communications") from production or disclosure;



2. excluding information or material furnished, obtained, made or received in the performance of the Employer's or the Society-represented lawyer's duties under *LASA* ("Confidential Client Information") from production or disclosure;
3. redacting Privileged Communications or Confidential Client Information;
4. anonymizing the Confidential Client Information disclosed;
5. in the case of a Society-represented lawyer, obtaining the authorization of the Employer to disclose specific Confidential Client Information or, in the case of the Employer, authorizing the disclosure of specific Confidential Client Information;
6. obtaining the consent of the Client(s) to whom the Privileged Communication or Confidential Client Information relates prior to its disclosure; and/or
7. ensuring that any records of discussions, disciplinary action or similar reports related to a Society-represented lawyer's performance exclude any Privileged Communications and Confidential Client Information that violate sections 88, 89 or 90 of *LASA*.

The Parties agree that any dispute associated with the use of the measures set out above can be submitted at any time to an arbitrator under the grievance arbitration process for decision.

Nothing in this provision should be construed as detracting from the parties' existing rights or obligations under this Collective Agreement.

- (b) The parties agree that in the event either party wishes to adduce evidence during a legal proceeding before the courts that includes Privileged Communications or Confidential Client Information contrary to 88, 89 or 90 of *LASA*, the parties shall cooperate to obtain a sealing order protecting such information or communications or materials.

## 22.5 Complaints/Grievance/Mediation/Arbitration Process

### 22.5.1 General:

- (a) Where a grievance has been filed alleging a Human Rights violation, harassment and/or workplace discrimination, the time limits associated with each Step of this process will be suspended while the matter is addressed through the process in Article 20 (No Discrimination and No Harassment) or is raised with the Human Rights Tribunal. The grievance must either be withdrawn or escalated to the next step within ten (10) working days following the disposition under the applicable LAO policy or the process in Article Z of this collective agreement.

- (b) The complaint and grievance procedure shall proceed without unnecessary delay and the Parties acknowledge the importance of adhering to the time limits set out in this Article. It is recognized that in some cases strictly enforced time limitations may interfere with a mutually acceptable process of fact finding or problem resolution and, in these cases, the parties may seek an extension of the time limits where there is mutual agreement.
- (c) At any stage of the process below, and with mutual agreement, the Parties may arrange for the use of a qualified mediator to assist in coming to resolution. Where such mediation is arranged, it will be performed within ten working (10) days of the request. The Parties will agree to extend the timelines for processing the grievance accordingly. The parties will equally share the expense of any mediation that is arranged under this provision.

#### 22.5.2 Step 1 – Complaint:

- (a) Where appropriate, complaints should be raised with the Society-represented lawyer's manager and all reasonable efforts should be made to resolve it informally. Where the complaint is with regard to the conduct or a decision made by the immediate manager, the Society-represented lawyer may make the complaint to the next level manager and/or Human Resources.
- (b) Subject to the provisions of Appendix 4 (Grievance Resolution Working Group), a complaint must be raised within thirty (30) working days of the incident giving rise to the complaint, or the date the Society-represented lawyer ought reasonably to have become aware of the circumstances giving rise to the complaint. The time limit for filing a complaint may be extended with the consent of the parties and such consent shall not be unreasonably denied.
- (c) The Society Office will provide a form outlining the Society-represented lawyer's complaint, proposed resolution and identifying the lawyer's Society representative. Management's representative will be identified by Human Resources.
- (d) Within ten (10) working days of the filing of the complaint, the manager shall meet with a Society-representative in an attempt to resolve the issue. Where mutually agreeable, the Society-represented lawyer may attend this meeting.
- (e) The Employer must respond to the individual complaint in writing within ten (10) working days of the meeting.
- (f) Subject to the provisions of Appendix 4 (Grievance Resolution Working Group), within twenty (20) working days of the manager's response, the Society may advance the matter to Step 2 of the process if no satisfactory resolution is reached.

- (g) If the Employer fails to reply to the Society-represented lawyer's complaint within the timelines set out in this Article, the Society may submit their complaint to the next step of the grievance procedure.
- (h) The Employer will supply the necessary facilities for meetings related to complaints under this Step of the process.

#### 22.5.3 Step 2 - Individual/Group/Policy/Management Grievances:

- (a) Individual grievances must be submitted within the timelines set out in Step 1 of the grievance process. Subject to the provisions of Appendix 4 (Grievance Resolution Working Group), group, policy or management grievances must be submitted within thirty (30) working days of the incident giving rise to the complaint, or the date the Society became aware or ought reasonably to have become aware of the circumstances giving rise to the complaint. The time limit for filing a grievance may be extended with the consent of the parties.
- (b) Grievances at Step 2 will be submitted to the Director of Human Resources and/or their delegate or the Society's representative, as appropriate.
- (c) Within ten (10) working days of the receipt of a grievance, the responding party shall meet with a representative of the grieving party in an attempt to resolve the issue. The responding party shall respond with regard to the grievance within ten (10) working days of the meeting.
- (d) Subject to the provisions of Appendix 4 (Grievance Resolution Working Group), within twenty (20) working days of the receipt of the responding party's response, the grieving party may advance the matter to Step 3 of the process if no satisfactory resolution is reached.
- (e) If the responding party fails to reply to the grieving party within the timelines set out in this Article, the grieving party may submit their complaint to the next step for grievance procedure.

#### 22.5.4 Step 3 - Grievance Mediation/Arbitration:

- (a) Failing agreement being reached in Step 2, the grievance may be referred to mediation/arbitration by the grieving party. The grieving party shall notify the responding party of its intention to seek mediation or arbitration by written notice within thirty (30) working days after the receipt of the decision to deny the grievance.

(b) Unless the parties otherwise agree, the grievance will be submitted to a single mediator/arbitrator for determination. Unless the parties otherwise agree, the mediator/arbitrator shall be jointly selected from the following list:

Chris Albertyn	Bill Kaplan
Randi Abramsky	Brian McLean
Ian Anderson	Kathleen O'Neil
Eli Gedalof	Jasbir Parmar
Diane Gee	Sheri Price
Dan Harris	Barry Stephens
Jim Hayes	John Stout
Janice Johnston	Tatiana Wacyk

(c) The fees and expenses of the arbitrator or mediator/arbitrator shall be borne equally by the Employer and the Society.

(d) Where the differences between the parties have not been resolved with the mediator/arbitrator, the mediator/arbitrator will resolve the dispute through final and binding arbitration.

(e) The arbitrator shall have all the powers under the *Ontario Labour Relations Act 1995, S.O. 1995, C. 1, Sched. A*, and may determine the manner in which the grievances shall be resolved with or without an oral hearing except that in the limited circumstances where either the Society or the Employer wishes to adduce evidence that includes Privileged Communications or Confidential Client Information which could jeopardize the party's obligations under sections 88, 89 or 90 of *LASA*, the arbitrator shall first determine whether any of the measures set out in Article 22.4(a) are appropriate in the circumstances and, in the event that those measures cannot be relied upon without depriving a party from the full opportunity to present arguably relevant evidence or representations:

(i) the arbitrator will hear that portion of the evidence *in camera*, meaning that only the parties to the arbitration and their agents shall be permitted to hear that evidence;

(ii) the arbitrator will require any persons who are not already bound by a duty to protect the Privileged Communications and Confidential Client Information by virtue of sections 88, 89 or 90 of *LASA* to enter into a non-disclosure agreement with respect to any Privileged Communications and Confidential Client Information;

- (iii) the arbitrator has a duty to protect and preserve any Privileged Communications and Confidential Client Information from disclosure to any person who is not a party to the *in camera* proceeding, and such duty shall continue following any such proceedings; and
  - (iv) where the reasons for the arbitrator's decision include reference to any Privileged Communications or Confidential Client Information, the disclosure of which would be contrary to a party's obligations under sections 88, 89 or 90 of *LASA*, the arbitrator will issue two separate sets of reasons for his or her decision: (i) one version of the reasons for the decision will include full reasons, shall be marked strictly confidential and will not be distributed except to the parties to the proceeding (the "Confidential Decision"); and (ii) the second version of the reasons shall exclude any Privileged Communications and Confidential Client Information and it shall include specific mention to the fact that it was prepared in compliance with these provisions. In the event of any dispute regarding the arbitrator's reasons for decision or the interpretation of those reasons, the parties agree that the Confidential Decision shall govern.
- (f) The arbitrator has the jurisdiction to determine any dispute between the parties as to whether the evidence that a party wishes to adduce in the arbitration is a Privileged Communication or Confidential Client Information. The arbitrator will determine their own procedure for resolving any such dispute, subject to ensuring that appropriate measures are implemented to protect and preserve the confidentiality of any Privileged Communications or Confidential Client Information.

## 22.6 Grievances Regarding Posting and Filling of Vacancies

22.6.1 The Parties acknowledge that disputes regarding the posting and filling of Society-represented lawyer vacancies have unique aspects with regard to the issues being raised, the potential impact on other Society-represented lawyers and the need to share information related to the issue in dispute. As such and notwithstanding the provisions of this Article, the following provisions apply where a Society-represented lawyer, a group of Society-represented lawyers or the Society itself allege a violation of Article 24 of the Collective Agreement (Posting and Filling of Vacancies):

- (a) In the event that a Society-represented lawyer has a complaint regarding a job competition for a Society-represented position, the Society-represented lawyer or a Society representative shall notify the hiring manager or the Director of Human Resources within five (5) working days of receiving notice of being unsuccessful in the competition or the announcement of the successful candidate, whichever is later. The notice provided to the unsuccessful candidates shall highlight the timelines of this expedited process.
- (b) Within five (5) working days of notification of a complaint, a meeting will be arranged between the hiring manager and the Society-represented lawyer to review the competition process and the assessment of the lawyer's results in the competition.
- (c) Within five (5) working days of the meeting referred to in Article 22.6.1(b), the Society, at its discretion, may submit an Individual Grievance at Step 2 of the complaint/grievance process.
- (d) Where more than one Society-represented lawyer has a complaint regarding the same job competition, the meeting referred to in Article 22.6.1(b) will be arranged for each Society-represented lawyer. If, following the meeting(s), more than one (1) individual has a dispute regarding the competition, the Society will, at its discretion, submit the matter within five (5) working days of the meeting(s) referred to in Article 22.6.1(b) as a Group grievance at Step 2 of the complaint/ grievance process.
- (e) Where a complaint is filed regarding the posting and filling of a vacancy, the Employer agrees that the following information will be provided to the Society for the purposes of disclosure at Step 1 of the process:
  - 1. A copy of the job posting;
  - 2. Copies of applications for the grievor and the successful candidate(s);
  - 3. Copies of the criteria used for the screening and/or selection of candidates in the job competition;
  - 4. Copies of the scoring records for the grievor and the successful candidate(s); and
  - 5. A reporting of how the grievor and the successful candidate(s) scored on the metrics.

22.6.2 The Parties acknowledge that the above-noted information includes personal and confidential documents and should be protected. The Society commits to protecting the confidentiality of the information and shall not copy or distribute the information and shall not utilize the information for any purpose other than for processing the grievance(s) related to the competition.



## **SECTION II - GENERAL WORKING CONDITIONS**

### **Article 23 – Performance Reviews and Employment Records and Personal Files**

- 23.1 The Society recognizes the Employer's right to administer performance reviews. In the event that performance reviews are conducted, the Parties agree that the intent of the performance reviews are to provide constructive feedback, support professional development and identify training needs, if any. The Society-represented lawyer must be provided with a record of the performance review and, in accordance with this Article, will be given the opportunity to provide a response.
- 23.2 Upon written request to Human Resources, each Society-represented lawyer (or the Society-represented lawyer's designate) shall have access to their personnel file(s). The file will be produced within a reasonable period of time not to exceed three (3) business days after receipt of the request. A Society-represented lawyer shall have the right to receive a copy of any material contained in their personnel file upon request.
- 23.3 A copy of any document or other information placed in any Society-represented lawyer's file which is disciplinary in nature or refers to a performance concern shall be supplied concurrently to the Society-represented lawyer or their Society representative as designated in writing. This includes annual performance reviews. The Society-represented lawyer shall have the right to respond in writing to such document being placed on their personnel file. Such response shall be placed on their personnel file.
- 23.4 A letter of resolution will be placed in a Society-represented lawyer's file once a disciplinary matter has been resolved. The letter will explain how and when the matter was resolved.
- 23.5 Any letter of discipline or document referenced in Articles 31 (Discipline and Discharge), shall be automatically removed from the Society-represented lawyer's file after twelve (12) months from the date the most recent letter was filed provided no further disciplinary action has been taken.
- 23.6 The Parties agree that best efforts will be made by the Employer to ensure that the personnel files of Society-represented lawyers will be complete and kept up-to-date.
- 23.7 When implementing progressive discipline, the Employer cannot rely upon previous discipline or documentation of performance unless such documents appear in the Society-represented lawyer's personnel file. The parties understand that there may be rare cases where, due to administrative



errors, such documents failed to be included in the lawyer's file. In these situations, the Employer will notify the Society and the affected lawyer as soon as possible of the missing documentation and will provide the Society and the lawyer with these documents forthwith.

- 23.8 Where the Employer demonstrates that these documents were not included in the file simply as a result of an administrative error, and not associated with negligence or bad faith, then the Employer may use the document as grounds for discipline with notification to the Society and the affected lawyer. It is further understood that the time limits associated with the disciplinary process may be extended as a result of the delayed disclosure.
- 23.9 No record of a complaint will be maintained in a Society-represented lawyer's personnel file, except in the case of individuals who have received disciplinary action.

## **Article 24 – Posting and Filling of Vacancies**

### 24.1.1 Posting of Vacancies

- 24.1.1 When a vacancy is required to be filled, the Employer shall post a notice of the vacancy for a period of at least ten (10) working days. The notice will specify the title and duties of the position, the qualifications required, the location, the rate of pay, the application deadline and that the position is represented by the Society. Anyone who wishes to be considered for the posted position shall signify their desire by making formal application in accordance with the provisions of the posting.
- 24.1.2 All job postings shall contain the following statement: "Legal Aid Ontario encourages applicants from equity-seeking groups, including but not limited to individuals who are of First Nations, Inuit or Metis descent, persons with disabilities, members of racialized communities and women." The parties agree that the contents of this statement may be modified based on discussions held at the LAO Inclusion and Diversity Committee.
- 24.1.3 The Employer shall also make the job postings available to all Society-represented lawyers by means of an "intranet" and "internet" system.
- 24.1.4 The Employer shall notify all Society-represented lawyers on the Recall List of any posted vacancies, as long as such lawyers have provided LAO with an email address.

24.1.5 Society-represented lawyers on extended leave and those in the Hireback Pool may request and shall receive access to job postings during the period of their absence and it is the Society-represented lawyer's responsibility to provide an email address.

24.1.6 The Employer shall provide copies of all job postings for Society-represented positions to the Society as soon as possible but no later than the posting date.

## 24.2 Accommodations Not a Vacancy

The requirement to post a vacancy does not apply when a Society-represented lawyer is assigned to a position as a result of a workplace accommodation arrangement.

## 24.3 Order of Placement/Eligibility

24.3.1 At each stage of the process below, candidates in a job competition shall undergo a merit-based assessment to determine whether they have demonstrated the best qualifications and ability to perform the responsibilities of the posted position. The selection criteria would normally include but not be limited to the following:

- (a) the extent to which the candidate meets the qualifications outlined in the job posting;
- (b) the candidate's past performance and what they bring to the position;
- (c) the need to balance the overall requirements of the work unit; and
- (d) understanding and sensitivity to our clients' needs.

24.3.2 Subject to the provisions above, the successful candidate(s) in a job competition shall be determined as follows:

Stage 1: candidates on the Redeployment/Recall List will be assessed ahead of other candidates;

Stage 2: internal candidates will be assessed ahead of external candidates; and

Stage 3: Any other candidates will be assessed.

24.3.3 For clarification, "internal candidates" shall be defined as all Society-represented lawyers and all lawyers and students in the Hireback Pool.

24.3.4 The Employer may only consider candidates at a subsequent stage of the process above if, based on the qualifications of the candidate(s), it has determined that all candidates in the current stage are not qualified based on their ability to perform the responsibilities of the position within a

reasonable period of time. The parties recognize that a reasonable period of time will normally not exceed three (3) months and will vary depending on the requirements of the position.

#### 24.4 Competition Principles

The procedure for competitions for vacancies set out in Article 24.3, will be conducted in accordance with the following principles:

- (a) The contents of job postings will be based on a description of the actual duties and responsibilities, skills, competencies and ability required for the position being posted;
- (b) The assessment of candidates who are selected for an interview and the selection of successful candidates in the competition will be based on rating methods which reasonably measure the skills, competence and ability required for the position being posted, which are consistently applied within that competition;
- (c) Where requested, a Society-represented lawyer will receive feedback with regard to their performance in the competition regarding screening and selection.

#### 24.5 Permanent Lawyers in Temporary Assignments

The parties acknowledge that, where a permanent Society-represented lawyer is the successful candidate in a competition for a temporary assignment, they shall be treated as permanent lawyers for all purposes and shall retain the right to return to their original permanent position at the end of their temporary assignment.

### **Article 25 – Job Trading**

#### 25.1 Procedure

- (a) Permanent Society-represented lawyers who would like to be considered for a specific job trade shall make an application to their Society representative, copying Human Resources. Applications shall include information about the applicant's current home position, classification, area of practice, and work location as well as the work location they wish to be considered for and the proposed duration of the trade.
- (b) The Society shall share any new job trade requests with the Co-Chairs of the ESRC.
- (c) Once a suitable job trade match has been identified, Human Resources shall consult with the relevant managers to assess the respective applications and determine if the Society-represented lawyers are Qualified for the positions they would be filling, in

accordance with Article 24 (Posting and Filling of Vacancies). Both the Employer and the Society must approve the proposed job trade.

#### 25.2 Time-frame

The duration of the job trade shall be a minimum of six (6) months and shall not exceed two (2) years. Once a job trade is in place, the time-frame will be maintained unless exceptional circumstances arise. The ESRC may consider and agree to altering the time duration of a job trade.

#### 25.3 Best Qualified Standard

Where more than one (1) Society-represented lawyers have requested a job trade to the same work location and are Qualified for the position as defined in Article 24 (Posting and Filling of Vacancies), the best qualified lawyer will be selected.

#### 25.4 Posting and Filling of Vacancies

The Parties agree that, where a job trade is conducted in accordance with this Article, the provisions of Article 24 (Posting and Filling of Vacancies) shall not apply.

#### 25.5 Relocation Expenses

There will be no entitlement to relocation expenses for any Society-represented lawyers who are moved to a different work location in accordance with this process.

### **Article 26 – Temporary Assignments**

#### 26.1 Definitions:

For the purposes of this Article:

“Temporary Assignment” refers to the assignment of a permanent Society-represented lawyer to another position with the Employer whether within or outside the bargaining unit.

26.2 Where a permanent Society-represented lawyer is assigned to a temporary position, they shall continue to be treated as a permanent lawyer for all purposes of employment and shall retain the right to return to their home position.

### 26.3 Posting and Filling Temporary Assignments

- (a) In order to fill temporary assignments that are known at the time of posting to be for a duration of three (3) months or longer but less than six (6) months, the Employer shall determine if any of the Society-represented lawyers on the Redeployment and Recall Lists are Qualified for the position and if so, they shall offer the position to those lawyers in accordance with the provisions in Article 32 (Layoff, Redeployment and Recall). If there are no Qualified candidates on the Redeployment and Recall Lists, then the Employer shall use their discretion to fill the position as follows:
- (i) where a job competition was held for a substantially similar position that had substantially similar qualifications within the same district in the previous six (6) months of the position being filled, utilizing the next most qualified internal candidate in that job competition; or
  - (ii) the position shall be filled in accordance with the provisions of this Article.
- (b) Where the Employer exercises its discretion to fill the position in accordance with (i) above, the Employer will notify the Society of this choice.
- (c) Temporary assignments that are known at the time of posting to be for a duration of six (6) months or longer will be posted and filled in accordance with the provisions of this Article.

## **Article 27 – Professional Responsibilities**

### 27.1 Commitment to Professionalism

The Employer recognizes the ethical obligations of Society-represented lawyers as members of the Law Society of Ontario and that they are subject to its Rules of Professional Conduct (“Rules”).

### 27.2 Rules of Professional Conduct

Where a Society-represented lawyer believes that a conflict exists between their duties and the Rules, the lawyer shall, under normal circumstances, raise the issue with their direct manager and may seek advice from a representative of the Society. Should the issue remain unresolved, the lawyer, in consultation with a Society representative, may utilize the complaints/grievance procedure and the issue shall be reported to the Professional Responsibilities Committee.

## **Article 28 – Education and Professional Development**

28.1 The parties agree that it is in the interests of the Employer and the Society to value and support ongoing individual, team and organizational learning. The parties recognize the need to work together to meet their mutual interests in a manner that maximizes the professional development of Society-represented lawyers while balancing operational requirements, cost-efficiency and resource availability.

28.2 Specifically, the parties shall work towards:

- (a) ensuring that all new hires receive on-the-job training in order to ensure high quality of legal services are consistently provided. The content and duration of this training shall depend on the skill level, needs and practice area of the new hire;
- (b) ensuring that education programs are provided to Society-represented lawyers to fulfill their annual mandatory Law Society of Ontario continuing professional development (CPD) requirements. This shall include increasing opportunities for those Society-represented lawyers who work outside of the Greater Toronto Area to attend relevant, in-person CPD training in other locations in the province when needed;
- (c) ensuring Society-represented lawyers are provided with adequate time and support to complete any training deemed mandatory by the Employer during regular working hours. If this is not possible, managers may approve this activity to occur outside of regular working hours and, where this occurs, Society-represented lawyers shall be compensated for the time spent completing this training in accordance with the terms of this collective agreement;
- (d) promoting access to external training that supports excellence in the provision of legal services in accordance with the Employer's client service requirements;
- (e) promoting and supporting the availability of mentoring opportunities for Society-represented lawyers; and
- (f) ensuring that Society-represented lawyers who are required by the Employer to provide service in French receive relevant legal training and/or professional development in the French language that supports their ability to provide services in French.

28.3 Education/Training for Non-GTA Lawyers

Subject to operational and budget requirements and cost-efficiency, Society-represented lawyers who:

- (a) work outside of the Greater Toronto Area (GTA), and

(b) have limited access to practice-relevant in-person CPD courses/programs in their home location,  
may travel to and attend, at least once per year, in-person CPD training in another location within the province. It is understood that this training may be offered by the Employer or by an external organization. It is further understood that attendance at such training may require time off from work and that the Employer shall bear the costs associated with the lawyer's attendance at this training in accordance with the terms of this collective agreement and the Employer's Travel and Expenses policy.

#### 28.4 Professional Development Committee

28.4.1 In order to support the mutual goals set out in Article 28.1, the Parties agree to the formation of the Professional Development Committee (PDC), in order to effectively review, discuss and advise with regard to training and professional development activity for Society-represented lawyers. The Employer and the Society shall have an equal number of representatives on the PDC which shall make recommendations to the Employer as necessary to fulfill its mandate and the goals of Article 28.1.

28.4.2 Without limiting the generality of the foregoing, the role of the Professional Development Committee shall include the following:

- (a) Review whether access to professional development is equitable for all Society-represented lawyers, with particular consideration given to lawyers living outside of the GTA;
- (b) Review the provision of French language training and provisions for professional memberships, including but not limited to l'Association des juristes d'expression française (l'AJEFO) for Society-represented lawyers in designated bilingual positions as well as other Society-represented lawyers that wish to be considered for French language training;
- (c) Research best practices on training and development including a review of training provided by other relevant organizations;
- (d) Review the training curriculum for new hires, including the on-the-job component;
- (e) Develop and make proposals regarding mentorship activities for Society-represented lawyers including: the scope of the mentorship relationship, processes for selection of mentors and mentees, support for mentorship activity, and best practices for mentorship in the workplace;

- (f) Review information related to training and development activity for Society-represented lawyers including but not limited to: the requirements for mandatory training, statistics regarding the delivery of training activity and statistics regarding the granting and denial of training requests;
- (g) Promote and raise awareness among Society-represented lawyers and their managers of the availability of educational/development opportunities; and
- (h) Develop and make proposals which will increase the ability of Society-represented lawyers who work outside the Greater Toronto Area and who have limited access to practice-relevant in-person CPD courses/programs in their home location to travel to and attend in-person CPD training.

28.4.3 Any other Terms of Reference for this committee shall be established by joint agreement of the PDC subject to ratification by the ESRC. These terms shall emphasize the importance for both parties to include sufficient in-person representation and participation from members from outside of the GTA.

#### **Article 29 – Professional Fees and Other Expenses**

- 29.1 Society-represented lawyers shall continue to be entitled to payment of professional dues and professional insurance in accordance with the Employer’s Payment of Professional Dues policy.
- 29.2 All Society-represented lawyers who the Employer determines are required to appear in Superior Court shall be provided with a one-time stipend of \$350.00 to offset the cost of court robes. Payment will be made within thirty (30) days of being hired or assigned to a position where appearances in Superior Court are required.

#### **Article 30 – Provision of French Language Services**

- 30.1 Upon request, or on an annual basis, the Employer shall provide an up-to-date version of the list of all designated bilingual positions and the Society-represented lawyers who occupy these positions. This list shall include which positions are designated bilingual positions, the names of the Society-represented lawyers occupying those positions and whether or not those lawyers are bilingual in the French language.



- 30.2 Where the Employer changes the means by which it fulfills its obligations under the *French Language Services Act* and this impacts the training needs of Society-represented lawyers, the Employer shall notify the Society within a reasonable time.
- 30.3 In addition to the normal selection criteria, French language competency is deemed to be a legitimate qualification as defined in Article 24 (Posting and Filling of Vacancies) for positions where the lawyer will be required by the Employer to provide services in the French language.

### **Article 31 – Discipline and Discharge**

#### 31.1 Principles

- (a) Society-represented lawyers shall not be disciplined without just cause.
- (b) In cases of discipline, suspension or dismissal, the burden of proof of just cause shall be on the Employer.
- (c) Society-represented lawyers have the right to have a Society representative present at meetings with management that involve the investigation of incidents that are likely to lead to discipline or where discipline is being communicated to the Society-represented lawyer.

#### 31.2 Procedure

- (a) Where the Employer has determined that the imposition of a disciplinary measure is appropriate, up to and including termination, the Employer shall provide the Society and the Society-represented lawyer with three (3) working days' notice of the meeting at which the disciplinary measure is imposed. The Society-represented lawyer is entitled to be accompanied by a Society representative and shall be responsible for arranging a representative for the meeting. Where the Society-represented lawyer requests an opportunity to meet with the Society representative prior to this meeting, the Employer will provide reasonable arrangements. The above-noted notice period may be truncated in exceptional circumstances and in these cases the Society shall be notified as soon as practicable.
- (b) The Employer shall meet with the Society-represented lawyer and, at the lawyer's option, a Society representative to deliver the disciplinary measure in writing along with all supporting documentation and clear reasons for imposing the disciplinary measure.
- (c) The process for filing a complaint/grievance regarding the imposition of discipline or discharge is described in Article 22 (Complaints/Grievance/Mediation/ Arbitration).

- (d) The discipline, discharge or termination of a probationary Society-represented lawyer shall fall within management discretion and will be grievable on a reasonableness standard.

## **Article 32 – Layoff, Redeployment and Recall**

### 32.1 Definitions

In this Section,

“Adverse Impact” means an organizational change that results in:

- (a) the elimination of one or more Society-represented lawyer positions, and/or
- (b) a substantial change of a Society-represented lawyer’s job duties that would amount to a constructive dismissal, and/or
- (c) the forced relocation of a Society-represented lawyer to another Default Area of Impact or to a work location greater than 125km away, whichever is smaller.

“Area of Impact” means the geographical area affected by the Adverse Impact. Unless otherwise determined by the Joint Redeployment Planning Team (JRPT), the Default Area of Impact will be one of the following geographic areas (as described in Appendix 9 - List of Regions and Districts):

- Central district
- Eastern district
- Essex, Lambton & Kent district
- GTA Peel York
- Hamilton-Kitchener district
- London district
- Northeast district
- Northwest district
- A combination of Toronto Central district, Toronto North district, and Provincial Office

The Default Areas of Impact described above shall apply regardless of any changes that the Employer may make regarding the organization of districts.

No Society-represented lawyer shall be forced to relocate except as a result of an organizational change.

Where the forced relocation constitutes an Adverse Impact as set out in Article 32.1(c), the provisions of this Article shall apply.

For the purposes of this provision, Provincial Office, Toronto Central and Toronto North shall be considered a single District.

“Displacement” means the ability to be permanently placed in a position held by another Society-represented lawyer following receipt of Notice of Layoff.

“Layoff” means the reduction of the workforce because of shortage of work, economic or fiscal conditions, or any other reasons unrelated to discipline, but does not include the termination or failure to renew the contract of a fixed term lawyer.

“Qualified” means having the skills, competence, experience and ability to perform the work within a period of reasonable training, support, mentoring and familiarization, not normally to exceed three (3) calendar months, as determined by the Employer.

“Recall” means the ability to be considered for employment following a layoff.

“Redeployment” means the ability to be permanently placed in a Society-represented lawyer vacancy during the period of notice immediately preceding a layoff.

“Seniority” means continuous service as set out in Article 19 (Seniority).

“Payment in Lieu of Notice” refers to a payment amount as described in Article 32.3(a)(ii) which the affected Society-represented lawyer(s) may choose to receive in lieu of their Working Notice period and entitlements to displacement, redeployment and recall as set out in this Article.

“Working Notice” refers to the period during which the affected Society-represented lawyer(s) may seek continued employment through displacement and redeployment as set out in this Article. Payment in lieu of this notice period is not available.

## 32.2 Sequence of Events

32.2.1 In accordance with Article 33.2, the Employer shall notify the Society of an organizational change that will lead to an Adverse Impact and the Joint Redeployment Planning Team shall be convened and shall perform the activities as set out in Article 33.3.

32.2.2 The Parties recognize that s. 14(1) of the *Legal Aid Services Act* provides for legal aid services to

be provided by any appropriate method including, but not limited to, the use of legal aid staff offices. Notwithstanding this provision, the Employer agrees that it will not seek to use external service providers with the intention to unduly impact the job security of Society-represented lawyers.

### 32.3 Notice of Layoff

32.3.1 When the Employer determines that a layoff is required, the following provisions shall apply:

(a) The least senior Society-represented lawyer(s) in positions directly impacted by the layoff will receive a Notice of Layoff in accordance with the following:

(i) Working Notice:

I. the Employer shall give at least 9 months' of Working Notice of the lay-off to any Society-represented lawyer with five (5) or more years of seniority; and

II. the Employer shall give at least 4 months' of Working Notice of the lay-off to any Society-represented lawyer with less than five (5) years of seniority.

(ii) Payment In-Lieu of Notice: the affected Society-represented lawyer may choose to take payment in lieu of their working notice. Such pay shall be equal to one half (½) of the respective Working Notice remaining at the time that the Society-represented lawyer exits employment.

(b) The Notice of Layoff shall be in writing and shall include the following:

(i) a statement of the reason for the layoff;

(ii) the date upon which the layoff will take effect; and

(iii) a full description of the Society-represented lawyer's entitlements under this section, including their Payment In-Lieu of Notice and Severance entitlements.

(c) Within three (3) working days of the Notice set out in Article 32.3(a) being issued, all Society-represented lawyers within the Area of Impact will receive notification that a layoff is taking place including the work location(s) and the position(s) being laid off.

(d) Within twenty (20) working days of receiving a Notice of Layoff, the Society-represented lawyer(s) shall select:

- (i) To remain employed in which case they shall be entitled to accept a position created by a voluntary exit or exercise their rights under the provisions of Articles 32.4 (Displacement), 32.5 (Redeployment) and 32.6 (Recall); or
  - (ii) To exit employment in which case they shall be entitled to their Payment in Lieu of Notice (in accordance with Article 32) as well as the provisions of Article 32.7 (Severance Pay).
- (e) Within ten (10) working days of receiving the notification set out in Article 32.3 (a), a Society-represented lawyer that is within the Area of Impact where the layoff is taking place and is not affected by the layoff may request a voluntary exit from employment under the terms of this Article.
- (f) In order for a voluntary exit request to be approved, a lawyer that received Notice of Layoff:
- (i) must select redeployment as set out in Article 32.3(d)(i);
  - (ii) must be Qualified to be assigned to the position and the area of practice of the lawyer volunteering to exit; and
  - (iii) the work location of the volunteering lawyer must be within the Area of Impact or any other distance agreed to by the JRPT.
- (g) Where there are multiple voluntary exits that are eligible for approval, voluntary exits will be approved in order of decreasing seniority.
- (h) Once a voluntary exit is approved, the lawyer volunteering to exit will be entitled to the provisions of this Article except for the provisions under Articles 32.4 (Displacement), 32.5 (Redeployment) and 32.6 (Recall).

## 32.4 Displacement

32.4.1 Where a lawyer has received a Notice of Layoff and has selected to remain employed as set out in Article 32.3(d)(i), the Joint Redeployment Planning Team shall identify whether there is an opportunity for the lawyer who has received Notice of Layoff to displace another Society-represented lawyer.

32.4.2 A Society-represented lawyer can be displaced by a lawyer who has received Notice of Layoff if:

- (a) the lawyer's work location is in the Area of Impact,
- (b) the lawyer that received Notice of Layoff is Qualified (as defined in Article 32.1) to be assigned to the position and the area of practice of the lawyer, and
- (c) the lawyer is the least senior in the Area of Impact.

32.4.3 Upon request, the Employer will share with the JRPT and the affected Society-represented lawyer its reasons for determining whether a Society-represented lawyer is qualified or not for a position.

32.4.4 A lawyer that has been displaced will be entitled to the provisions of this Article except that they may not displace another lawyer.

### 32.5 Redeployment

32.5.1 The Employer shall maintain a Redeployment List which shall contain the following for each lawyer that is current during the notice of layoff period and who has selected to remain employed as set out in Article 32.3.1(d)(i):

- (a) the lawyer's name;
- (b) the lawyer's work location;
- (c) the lawyer's area(s) of practice;
- (d) the dates on which the notice period commenced and is scheduled to end; and
- (e) the lawyer's seniority date.

32.5.2 The Employer shall provide the Society with the Redeployment List on a monthly basis. The parties recognize that the confidentiality of the information on the Redeployment List shall be protected and the information will be used solely to assist with redeployment efforts and to determine lawyer entitlements under this Article.

32.5.3 Lawyers on the Redeployment List have a right to priority consideration in the filling of vacancies that they apply for as set out in Article 24 (Posting and Filling of Vacancies).

32.5.4 A lawyer who accepts a temporary assignment during the notice of layoff period may continue in the temporary assignment if the assignment extends beyond the layoff date.

### 32.6 Recall

- 32.6.1 If a lawyer is laid off, the lawyer may opt to be considered for recall to employment in a Society-represented position with Legal Aid Ontario. Lawyers who opt to remain on recall will defer the payment of severance payments set out in Article 32.7 (Severance Pay) for a period of up to eighteen (18) months.
- 32.6.2 The Employer shall maintain a Recall List which shall contain the following for each lawyer that is current during the recall period:
- (a) the lawyer's name;
  - (b) the lawyer's most recent work location;
  - (c) the lawyer's area(s) of practice;
  - (d) the dates on which the recall period commenced and is scheduled to end; and
  - (e) the lawyer's seniority date.
- 32.6.3 The Employer shall provide the Society with the Recall List on a monthly basis. The parties recognize that the confidentiality of the information on the Recall List shall be protected and the information will be used solely to assist with recall efforts and to determine lawyer entitlements under this Article.
- 32.6.4 Lawyers on the Recall List have a right to priority consideration in the filling of vacancies that they apply for as set out in Article 24 (Posting and Filling of Vacancies).
- 32.6.5 A Society-represented lawyer who is assigned to and accepts a position with LAO during the recall period will have no entitlement to any deferred severance payments set out in Article 32.6.1.

### 32.7 Severance Pay

- 32.7.1 Society-represented lawyers who have less than three (3) years of service shall receive a lump sum payment equivalent to twelve (12) weeks' salary.
- 32.7.2 Society-represented lawyers who have three (3) or more years of service are entitled to severance pay at a rate of four (4) weeks for each year of service at the termination of employment date to a maximum of eighty (80) weeks. Credit will be given on a prorated basis for any continuous service with LAO as determined in Article 19 (Seniority) and will be calculated at the lawyer's rate of pay as of the date of layoff.

32.7.3 Society-represented lawyers are entitled to either Severance Pay as set out in this Article or Payment In-Lieu of Notice as set out in Article 32.3 (ii), but not both.

32.7.4 Society-represented lawyers opting for Severance Pay or Payment In-Lieu of Notice must duly execute a release form, agreed upon by the Parties, before any monies will be paid by the Employer.

### **Article 33 – Joint Redeployment Planning Team**

#### 33.1 Preamble

The Employer and the Society share a joint interest in and a commitment to exploring options which minimize the impacts of organizational changes on the job security of Society-represented lawyers, and in retaining and promoting a stable workforce.

#### 33.2 Notification

The Employer shall notify the Society of an organizational change that will lead to an Adverse Impact as per Article 32 (Layoff, Redeployment and Recall) as soon as practicable and at least twenty (20) working days prior to the communication of this information to Society-represented lawyers.

#### 33.3 Joint Redeployment Planning Team Activities

33.3.1 Upon the notification as set out in Article 33.2, the Employer and the Society will establish a Joint Redeployment Planning Team (JRPT) which will engage in the following activities:

(a) The Employer and the Society will establish a JRPT which will discuss and review the planned initiative under consideration. The activities of the JRPT will be carried out with the goals of achieving the organizational objectives of the Employer while minimizing the adverse impact on Society-represented lawyers. The JRPT shall perform one or more of the following activities, as needed:

(i) Determine whether the affected Default Area of Impact is the appropriate Area of Impact or whether a different geographical area is more appropriate in the circumstances. In determining the appropriate Area of Impact, the JRPT will balance the needs of providing a fair opportunity for affected Society-represented lawyers to find alternate employment while minimizing the impact on non-affected Society-represented lawyers;



- (ii) Determine the Society-represented lawyers who may be affected;
  - (iii) Analyze current collective agreement provisions to assess the entitlements of affected Society-represented lawyers;
  - (iv) Consider the Employer's determinations of whether or not a Society-represented lawyer is qualified for a position as set out in Article 32 (Layoff, Redeployment and Recall);
  - (v) Consider whether other factors should be addressed including, but not limited to: special occupational qualifications, French language service delivery or special programs;
  - (vi) Explore and develop alternate approaches that achieve the goals of the JRPT;
  - (vii) With agreement of the Parties, negotiate provisions for impacted Society-represented lawyers that may vary from the collective agreement entitlements; and
  - (viii) For cases of adverse impact involving relocation as defined in Article 32.1(c), the JRPT will design a process based on seniority.
- (b) Any alternate approaches developed by the JRPT as set out in Article 33.3(a)(vi) will be recommended to the Employer and decisions regarding any recommendations will be at the Employer's sole discretion.
- (c) The JRPT shall only be composed of representatives of the Employer and appointees of the Society with consideration given to those with sufficient familiarity and/or experience with the District(s) impacted. It will have equal representation from the Employer and the Society and will meet as often as it determines necessary, recognizing that the activities set out in Article 33.3 above must be completed within twenty (20) working days following the notice given in Article 33.2 above, unless the Parties mutually agree to extend such time limit.
- (d) A standing arbitrator will be appointed at the beginning of each process to sit within the twenty (20) working days, if needed.

#### 33.4 Confidentiality

The parties agree that any discussions, disclosure or information revealed as part of or in any way related to this Article shall remain confidential as between the parties and shall not be communicated,

disclosed, disseminated or publicized in any manner by the Society or the Employer except as necessary in the grievance/arbitration procedure or as required by law.

### 33.5 Arbitrability

33.5.1 The Parties agree to make good faith efforts to reach a consensus where required, and to support the collaborative process to achieve the joint interests set out in Article 33.1.

33.5.2 In the event that the JRPT is unable to reach agreement regarding the Area of Impact, the issue will be submitted by either party to the standing arbitrator referred to in Article 33.3(d). Unless otherwise agreed to by the Parties, the following rules shall apply to these arbitrations:

- (a) the arbitration must be completed within twenty (20) working days of the impasse;
- (b) the arbitrations will not include viva voce evidence and will rely solely on an agreed statement of facts and oral submissions; and
- (c) the arbitrator shall deliver their decision verbally on the day of the arbitration with written reasons to follow.

33.5.3 The Parties further agree that if the arbitration process above, excluding the written decision, is not completed within twenty (20) working days, that the Area of Impact will be defined as per the definition in Article 32.1.

33.5.4 The Parties agree that the only aspects of this Article that will be grievable or arbitrable by an individual Society-represented lawyer are:

- (a) the Employer's determination of qualification of a Society-represented lawyer to be placed in a position as set out in Article 32 (Layoff, Redeployment and Recall); and
- (b) allegations of a failure to follow the processes set out in Article 33.2, Article 33.3 (with the exception of 33.3(a)(i)) and Article 33.4 of this Article.

### **Article 34 – Pay Administration**

34.1 For the purposes of this section, “Year of Call” is the calendar year during which a Society-represented lawyer was called to the bar of a Canadian jurisdiction. Where a Society-represented lawyer was called to the bar of a different jurisdiction prior to being called to

the bar of a Canadian jurisdiction, they may make a request to the Employer-Society Relations Committee (ESRC) for consideration for an earlier Year of Call.

- 34.2 Upon hire, a Society-represented lawyer will be placed on the salary schedule in effect on the date of hire as set out in Appendix 1 (Salary Schedules) based on their respective Year of Call.
- 34.3 Progression through the salary grid shall occur on April 1st of each year.
- 34.4 Part-time Society-represented lawyers and Society-represented lawyers working less than full-time hours will have their salary pro-rated to reflect the proportion of their weekly hours of work as compared with full-time weekly hours.
- 34.5 Where a Society-represented lawyer is temporarily assigned to perform the duties of a position outside of the bargaining unit, with a higher maximum salary for a continuous period of more than ten (10) working days, they shall receive pay at the higher level. This level is either 3% above the Society-represented lawyer's regular rate of pay or the minimum salary for the temporary position, whichever is higher. Society-represented lawyers shall be paid from the day they commenced performing the duties of the position with the higher salary. Notwithstanding the above, where a Society-represented lawyer is temporarily to perform said duties for ten (10) or more consecutive working days, they shall receive the higher rate of pay for all subsequent assignments of ten (10) or more consecutive working days that occur within twelve (12) months of first receiving the higher rate of pay in the same position.
- 34.6 All Society-represented lawyers whose current salary is higher than the salary they would receive on the salary grid shall have their salaries maintained at their current salary until the salary grid escalation and their movement on the salary grid based on year of call is sufficient to surpass their present salary.

### **Article 35 – Hours of Work**

- 35.1 The regular work week shall consist of thirty-six and one quarter (36.25) hours, worked in five (5) days, seven and one quarter (7.25) hours per day, Monday to Friday. The regular work day shall be from 8:30am-4:45pm. It is understood that there may be regional, local and/or operational variations that may result in different ordinary work day arrangements. Such variations shall be agreed upon between the Employer and the Society.

35.2 In addition to arrangements established in accordance with Article 36 (Flexible Work Arrangements), the parties recognize that Society-represented lawyers and their managers may agree upon different individual work day schedules. Such negotiated differences in workday schedules may be cancelled by the Employer or the respective manager based on operational cause.

35.3 Where differences arise between Society-represented lawyers and their managers on work day schedules, the default regular work day shall apply.

35.4 Lunch and Breaks

35.4.1 Society-represented lawyers shall be entitled to a 60-minute (1 hour) unpaid lunch period during each work day. Failure by a Society-represented lawyer to take such breaks shall not result in any adverse impacts for the lawyer. Society-represented lawyers may take a shorter unpaid lunch period, such period shall not be less than thirty (30) minutes, when reasonable.

35.4.2 Society-represented lawyers shall be entitled to two (2) fifteen (15) minute paid break periods with one taken in the first half of the day and the second break in the second half of the day.

35.5 Work in Excess of Regular Hours

35.5.1 Where the Employer authorizes a Society-represented lawyer to work in excess of 36.25 hours per week or on a scheduled day off, the lawyer shall receive compensating leave of one (1) hour for each hour worked in excess of 36.25 hours per work week or for each hour worked on a scheduled day off. Compensating leave shall normally be used within two (2) weeks of when it is earned and shall be taken at a time that is mutually agreed upon by the lawyer and the Employer.

35.5.2 Compensating leave that is earned under this Article that is not taken by the end of the financial quarter in which it was earned will be paid out at the end of the following financial quarter.

**Article 36 – Flexible Work Arrangements**

36.1 The Parties support voluntary flexible work arrangements (FWAs) where practicable and in building a flexible workplace culture that demonstrates flexibility in when, where, and how people work.

- 36.2 Flexible Work Arrangements may include but are not limited to: flexible work hours with alternate or fluctuating start and end times, job sharing, compressed work weeks, pre-retirement part-time employment, or telecommuting/telework.
- 36.3 Consideration of a FWA may be requested by an individual Society-represented lawyer or a group of Society-represented lawyers assigned to the same work unit. In reviewing a request for a FWA, the manager will consider, in good faith, the operational feasibility of the FWA for the work unit as well as the benefits to the Society-represented lawyer(s). If a request is not approved, reasons shall be provided.
- 36.4 If approved, the details of the FWA shall be documented in the form of a written agreement and shall include the names and positions of Society-represented lawyers participating in the FWA, the start and end date of the FWA, the details of any changes in work schedules, work locations or provisions for work equipment arising from the FWA. The FWA Agreement shall be signed by the manager, all affected Society-represented lawyers as well as the Director of Human Resources or their delegate, and a representative of the Society.
- 36.5 A manager seeking to cancel or modify a FWA shall provide notice to the affected Society-represented lawyer(s) in writing at least one (1) month prior to the proposed cancellation or modification. Where the cancellation or modification would have a significant impact on the affected Society-represented lawyer(s), more notice shall be provided.

### **Article 37 – Health and Safety**

- 37.1 In addition to the provisions under the *Occupational Health and Safety Act R.S.O. 1990, CHAPTER O.1*, the Employer and the Society mutually agree that they share a concern for the health and safety of Society-represented lawyers and Society-represented lawyers are encouraged to make suggestions to the Employer respecting safety.
- (a) The parties agree to establish and maintain a Province-wide Joint Health & Safety Committee (JHSC) comprised of at least three (3) Society-appointed Representatives and three (3) Employer Representatives.
- (b) This Committee shall review health and safety issues that impact multiple workplaces, will review means of improving health and safety programs and will make recommendations to the Employer regarding actions to be taken to address health and safety concerns.

- (c) This Committee shall also review health and safety issues that are raised in local workplaces and have not been resolved following full consideration on a local level.
- (d) This Committee shall also maintain a master set of local site JHSC records for the organization including schedules of meetings, meeting agendas, minutes, and inspection and investigation reports, and Ministry of Labour orders and reports. They shall also submit an annual report to the ESRC regarding compliance and any general issues regarding occupational health and safety. This report will be submitted in January of every year.
- (e) The Employer agrees to cooperate in providing necessary training and information to enable the Committee to be effective.
- (f) Attendance at Committee meetings for bargaining unit members, including any other staff members required by the Committee, shall be with no loss of regular pay or credits. Reasonable travel and caucus time will be provided.
- (g) All Committee members shall hold in confidence information of a private, personal nature concerning a Society-represented lawyer or manager that comes to its attention and shall only disclose it when necessary to ensure the health and safety of employees or as otherwise required by law.
- (h) The Parties recognize that health and safety issues within the workplace impact all employee groups. The Parties shall investigate the feasibility of and support establishing a Province-wide Joint Health & Safety Committee that includes representatives of all LAO employees, whether represented by a bargaining agent or not. If established, this committee would operate on similar terms as those set out in this Article.
- (i) This Committee shall conduct a review of all LAO workplaces in the province with Society-represented lawyers to ensure compliance with the *Occupational Health and Safety Act R.S.O. 1990, CHAPTER O.1*. This review shall be commenced within twenty (20) working days of the ratification of this Collective Agreement or the date of the interest-arbitration decision, as applicable.

## **Article 38 – Travel, Meal, Hospitality and Relocation Expenses**

### **38.1 Designation of Home Location**

38.1.1 For the purposes of establishing expenses and provisions for travel time, each Society-represented lawyer will be assigned one (1) "Home location". The Home Location shall be determined by the Employer based on the primary location of the Society-represented lawyer's employment.

38.1.2 The designation of a home location does not restrict the Employer's ability to assign a Society-represented lawyer to more than one place of work on an occasional or ongoing basis.

### 38.2 Applicable Policies

38.2.1 The Employer's policies with regard to Travel, Meal and Hospitality Expenses, and Relocation Expenses that are in effect as of the date of ratification of this agreement or the date of an interest arbitration award, as applicable, shall continue to apply to Society-represented lawyers for the term of this collective agreement without alteration. In the event that LAO-wide changes to provisions for these expenses are improvements to the Employer's policies, the improvements shall be applied to Society-represented lawyers.

38.2.2 For the purposes of clarity, the meal reimbursement rates in place at the time of ratification of this collective agreement are: breakfast - \$10.00; lunch - \$12.50; dinner \$22.50. The kilometric rates in place at the time of ratification of this collective agreement are: Ontario - \$0.40; Northern Ontario - \$0.41.

38.2.3 Proof of payment must be submitted with all claims except under exceptional circumstances.

### 38.3 Travel Time

38.3.1 All Society-represented lawyers who are required to travel for work and/or training purposes shall be paid mileage, and/or reimbursed for the reasonable travel costs associated with such travel, including parking and public transit, in accordance with the policy. The Employer shall consider a Society-represented lawyer's safety when making decisions concerning mode of travel.

38.3.2 When authorized by the Employer, a Society-represented lawyer is entitled to travel time when they are required to travel to a location different than their home location and time spent travelling is outside of their work hours on the day of travel and in excess of one hour at the beginning or one hour at the end of their normally scheduled day.

38.3.3 Travel time shall be compensated by an equivalent amount of compensating leave to be taken at a time that is mutually agreeable, within the fiscal quarter. Compensating leave that is earned under this Article that is not taken by the end of the financial quarter in which it was earned, will be paid out at the end of the following financial quarter at the lawyer's basic hourly rate.

38.3.4 Society-represented lawyers should, whenever possible, make arrangements to travel during regular business hours and the Employer may require that a Society-represented lawyer make arrangements for travel to minimize the cost and/or impact on LAO operations.

38.3.5 The Parties agree that the use of a privately owned vehicle is not a condition of employment.

#### 38.4 Relocation Assistance

38.4.1 If a Society-represented lawyer is transferred/redeployed and/or relocated to another work location, the eligibility and entitlement to reimbursement of expenses related to this relocation shall be provided as per the Employer's Relocation Policy.

### **Article 39 – Office Closure**

39.1 Where the Employer closes an office or determines that Society-represented lawyers are not required to attend work due to severe weather conditions or other emergency situations, alternate work arrangements may be made. Where these arrangements cannot be made, Society-represented lawyers will not be required to make up the work hours missed, nor will the closure time be deducted from their earned time off. Lawyers included in an authorized closure will have their pay maintained for the duration of the closure.

### **Article 40 – Witness Duty**

40.1 A Society-represented lawyer who is subpoenaed to appear as a witness in any court proceedings on a day on which they would normally have worked shall continue to receive full pay. Where a full-time or part-time regular lawyer or a full-time lawyer on contract is absent by reason of a summons or subpoena to attend as a witness, the lawyer may at their option:

- (a) treat the absence as leave without pay and retain any fee the Society-represented lawyer receives as a witness;



- (b) deduct the period of absence from their vacation credits and retain any fee the Society-represented lawyer receives as a witness; or
- (c) treat the absence as leave with pay and pay to the Minister of Finance any fee the Society-represented lawyer has received as a witness.

40.2 The Society-represented lawyer must provide Human Resources with a copy of the summons or subpoena, or other reliable documentation verifying the witness duty in order to receive compensation while absent from work. Written proof in the form of the summons or subpoena or other reliable documentation verifying the witness duty must be provided to the Employer at the earliest possible opportunity.

## **Article 41 – Legal Indemnification**

### 41.1 Process for Indemnification

#### A. Civil Action

Where a Society-represented lawyer is a defendant or co-defendant in a civil action for damages arising out of acts done in good faith in the performance of their duties, the lawyer shall be indemnified for the necessary and reasonable legal costs incurred in defending the action. In such case, the Employer shall:

- (a) provide counsel of the Employer’s choice and at the Employer’s expense to represent the lawyer throughout the proceeding and on any appeal; independent counsel will be remunerated by Lawyer’s Professional Indemnity Company (“LawPRO”) (if LawPRO provides coverage), or, at rates which shall not exceed those set by the Ministry of the Attorney General for retention of private sector counsel;
- (b) pay any sum of money the lawyer becomes liable to pay in connection with the matter, including any LawPRO deductible or increased premium;and
- (c) agree to have any dispute as to the need for independent counsel to be subject to the grievance procedure as set out in this Collective Agreement.

#### B. Law Society Investigation or Complaint

Where a law society commences an investigation against a lawyer or a lawyer is otherwise advised that a law society complaint has been made against them, and the complaint arises out of acts done in

good faith in the performance of his/her duties, the Employer will provide assistance through counsel of the Employer's choice.

Determining counsel will include consideration of the complexity of the matter, and any potential conflicts arising from representation by counsel internal to LAO. Any concerns which the Society-represented lawyer or the Society have as to the appropriateness of the counsel assigned, including whether or not independent counsel is required, will be raised by the Society-represented lawyer in a timely manner and will be reviewed by the Employer in making its decision.

Independent counsel will be remunerated at rates which shall not exceed those set by the Ministry of the Attorney General for retention of private sector counsel, or, in the alternative, the Employer will set a maximum amount to be paid at its discretion.

Where the Employer has agreed to pay the cost of independent counsel, in a situation where a law society commences an investigation against a Society-represented lawyer or a lawyer is otherwise advised that a law society complaint has been made against them, the lawyer shall enter into a written retainer agreement with counsel retained by the lawyer. The form and substance of the retainer, including the terms and conditions of the agreement, shall be subject to the approval of the Employer, and any account submitted by counsel retained by the employee is subject to review and approval of the Employer.

Any dispute as to the appropriateness of counsel assigned including whether or not independent counsel is required shall be subject to the grievance procedure as set out in this Collective Agreement.

#### 41.2 Situations where Society-represented Lawyer not Indemnified

Lawyers shall not be indemnified for legal costs arising from:

- (a) Grievances or complaints or court actions between the Employer and the Society;
- (b) The actions or omissions of employees acting in their capacity as private citizens;
- (c) Investigations, complaints and internal disciplinary hearings related to workplace allegations or conduct; or
- (d) Where the Society-represented lawyer does not cooperate with assigned counsel in efforts to represent the lawyer in the matter.

### 41.3 Limitation Payments

The Employer is not required to make any payments under Article 41.1 and any sum already paid is recoverable where the Court or a law society finds that the lawyer has been deliberately dishonest or has committed a criminal offence in relation to the matter.

## **Article 42 – Weekend and Statutory Holidays Court**

42.1 In providing assignments to Weekend and Statutory Holiday (WASH) Court, the Employer, at its option, may make the assignment available to Society-represented lawyers and, where this occurs, a Society-represented lawyer may, at their option, accept the assignment. Where more than one Society-represented lawyer expresses interest in being assigned to WASH Court, the Employer will develop methods of providing an equitable method of distributing these assignments.

42.2 Society-represented lawyers accepting a WASH Court assignment will be reimbursed at the following rates:

- (a) \$325 per day effective the date of ratification of this collective agreement or date of interest arbitration award, as appropriate;
- (b) \$350 per day effective April 1, 2019;
- (c) \$375 per day effective April 1, 2020; and
- (d) \$400 per day effective April 1, 2021.

42.3 This payment will be subject to legislated deductions but does not constitute pensionable earnings.

42.4 The provision in Article 38 (Travel, Meal, Hospitality and Relocation Expenses) shall apply to travel to and from WASH court.

42.5 Where the Employer determines that training of a Society-represented lawyer with regard to being assigned to WASH court is required, the training will be completed during work hours or as part of a paid WASH court assignment, as appropriate.

**SECTION III – BENEFITS AND LEAVES**

**Article 43 – Statutory and Other Holidays**

43.1 A Society-represented lawyer shall be entitled to the following paid holidays each year:

- |                  |                 |
|------------------|-----------------|
| New Year's Day   | Labour Day      |
| Family Day       | Christmas Day   |
| Victoria Day     | Boxing Day      |
| Civic Holiday    | Easter Monday   |
| Thanksgiving Day | Remembrance Day |
| Good Friday      |                 |
| Canada Day       |                 |

and any other statutory holiday that may be declared by Provincial or Federal legislation

43.2 In the event that a holiday falls on a Saturday or Sunday, then the holiday is to be observed on the day taken by the Ontario courts.

43.3 Except as set out in Article 42 (Weekend and Statutory Holiday Court), Society-represented lawyers shall not be required to work on a statutory holiday. Where the Employer authorizes a Society-represented lawyer to work on a statutory holiday, the lawyer shall receive lieu time at a rate of one (1) hour for each hour worked.

43.4 The Employer's current practice of scheduling of work and vacation time on Christmas Eve and New Year's Eve shall be continued.

**Article 44 – Vacation**

44.1 Society-represented lawyers are entitled to allotted vacation days in respect of a month or part thereof in which they are at work or on a leave of absence with pay.

44.2 A Society-represented lawyer shall be credited with their vacation day allotment January 1<sup>st</sup> of each calendar year, or the date of hire, whichever is earlier.

- 44.3 All Society-represented lawyers will be entitled to vacation according to the schedule below:
- (a) 17 working days (123.25 hours) vacation per calendar year upon hire,
  - (b) 22 working days (159.5 hours) vacation per calendar year commencing in the year in which four (4) years of service are completed,
  - (c) effective January 1, 2019, 25 working days (181.25 hours) vacation per calendar year commencing in the year in which eight (8) years of service are to be completed,
  - (d) 28 working days (203 hours) vacation per calendar year commencing in the year in which twelve (12) years of service are to be completed,
  - (e) 30 working days (217.5 hours) vacation per calendar year commencing in the year in which twenty-five (25) years of service are to be completed,
- 44.4 For clarity, years of service is based on the Society-represented lawyer's seniority as defined in Article 19 (Seniority).
- 44.5 The vacation allotment for a Society-represented lawyer will be adjusted for any period in which the lawyer:
- (a) is not an employee;
  - (b) is on leave of absence without pay; or
  - (c) receives Long-Term Disability benefits.
- 44.6 Vacation Preference
- 44.6.1 Society-represented lawyers may submit vacation requests to their manager for approval. Managers will make reasonable efforts to approve requests subject to operational requirements and client service considerations. The Employer will make reasonable efforts to distribute vacation approvals in an equitable manner.
- 44.6.2 Society-represented lawyers who are on vacation shall not be contacted except in exceptional circumstances.

44.6.3 When a Society-represented lawyer may be qualified for sick leave, bereavement, or any other approved leave with pay during their vacation period, they may request leave under these alternate provisions and, if approved, shall have their vacation credits reinstated.

44.7 Vacation Carryover

44.7.1 Society-represented lawyers are expected and encouraged to utilize their vacation allotment in the year that it is earned. In situations where a Society-represented lawyer has vacation credits remaining at the end of the year, the lawyer may carryover unused vacation days equivalent to up to one (1) year's vacation allotment into the following calendar year. Any vacation credits remaining at the end of the calendar year that are in excess of this amount will be paid out.

**Article 45 – Paid Leaves of Absence**

45.1 General Entitlements

45.1.1 Society-represented lawyers will be provided with any new or revised policies return from any leave of four (4) or more months.

45.1.2 Society-represented lawyers shall continue to have remote access to the Employer's internal online platform (The Source) and HR Connect. Society-represented lawyers may apply for new positions at LAO while on leave.

45.1.3 Unless stated otherwise in this Collective Agreement, pension contributions and benefits shall continue throughout all paid leaves.

45.1.4 While on unpaid leave, Society-represented lawyers will be given the option to maintain their benefit plan at their own cost subject to approval of the third-party benefits provider.

45.2 Bereavement Leave

45.2.1 A Society-represented lawyer is entitled to up to three (3) days leave of absence with pay in the case of the death of their spouse, common law spouse, mother, father, mother-in-law, father-in-law, stepmother, stepfather, child or step child, son-in-law, daughter-in-law, brother, sister, brother-in-law, sister-in-law, grandparent, grandparent-in-law, grandchild, ward or guardian, niece, nephew, aunt and uncle.

### 45.3 Special and Compassionate Leave

45.3.1 Society-represented lawyers are entitled to up to three (3) days leave of absence per year with-pay on special or compassionate grounds. This includes time for difficult personal situations which may include: additional time for bereavement, bereavement related to the death of an individual not listed in Article 45.2.1, travel to and from a funeral or celebration of life, or time required to spend with a relative with a severe or continuous illness.

45.3.2 Society-represented lawyers will not be paid for any special and compassionate leave days taken until after the successful completion of their probationary period.

### 45.4 Discretionary/Personal Days

45.4.1 Society-represented lawyers who have completed three (3) months of employment are entitled to up to four (4) discretionary/personal days with pay in each calendar year. Partial days may be taken.

45.4.2 When requesting an absence using discretionary/personal day(s), a Society-represented lawyer shall provide as much advance notice as possible.

## **Article 46 – Unpaid Leaves of Absence**

46.1 A Society-represented lawyer may request and be considered for a leave of absence in excess of vacation entitlement, without pay and not to exceed twenty-four (24) months. Such leave may be granted at the discretion of the Employer. Such approval shall not be unreasonably denied. In exceptional circumstances, the Employer and the Society may agree to grant leaves of absence in excess of twenty-four (24) months duration. In considering the request, the Employer may require the Society-represented lawyer to take the remainder of their currently accrued vacation time prior to taking a leave of absence.

46.2 If the leave being requested is related to obtaining temporary employment for an Employer other than LAO, the Society-represented lawyer must disclose to the Employer where the work is to take place, the proposed terms of that employment, and the specific nature of the work at the time that the request for leave is being made. In approving leaves without pay for other employment, the Employer may place conditions on the terms of the employment to ensure that the employment does not interfere with the legitimate interests of LAO.

- 46.3 In approving a leave of absence without pay, the Employer shall provide the approval in writing including the start and end date of the leave, and the terms and/or conditions upon which the leave is being approved.
- 46.4 During a leave of absence approved under this Article, an employee's entitlement to accrue vacation will be suspended for the duration of the leave, their entitlements to accumulate seniority will be governed by Article 19 (Seniority) and the Society-represented lawyer may, at their option, continue membership in benefit plans if they make arrangements to continue to make both the employee portion and the Employer portion of benefit premium payments for the duration of the leave.

#### **Article 47 - Pregnancy/Parental Leave**

- 47.1 Society-represented lawyers will be entitled to Pregnancy/Parental/Adoptive leave and the Employer top-up plan in accordance with Appendix 10 (Federal and Provincial Leaves).
- 47.2 A Society-represented lawyer who is unable to perform regular duties due to pregnancy will be accommodated as per Article 21 (Duty to Accommodate and Disability).

#### **Article 48 - Deferred Salary Leave Plan**

- 48.1 The Employer will, for the life of this Collective Agreement and subject to continuing provisions of a Deferred Salary Leave Plan by the current plan trustee, provide the Society-represented lawyers with access to LAO's Deferred Salary Leave Plan policy in effect as of the date of ratification of this collective agreement or the date of an interest arbitration, as appropriate.
- 48.2 For the purposes of this collective agreement, a leave of absence under the Deferred Salary Leave Plan is considered to be an unpaid leave.

#### **Article 49 – Illness and Short-Term Disability**

##### **49.1 Incidental Illness**

- 49.1.1 An Incidental Illness is defined as a personal absence due to illness, injury or disability of a short term and/or episodic nature or time.



- 49.1.2 Society-represented lawyers—who have completed three (3) months or more of employment and who are unable to perform their duties due to illness or injury may take up to six (6) incidental illness days per calendar year with pay and benefits and, effective January 1, 2019, will increase to seven (7) incidental illness days per calendar year with pay and benefits.
- 49.1.3 The allotment of incidental illness days for a Society-represented lawyer will be pro-rated for lawyers who work less than full-time hours and will be adjusted for any period of time in which the lawyer:
- (a) is not an employee;
  - (b) is on leave of absence without pay; or
  - (c) receives Long-Term Disability payments.
- 49.1.4 Incidental illness days are paid at one hundred percent (100%) of salary as of the date of the absence and may not be carried over from one year to the next.
- 49.1.5 A Society-represented lawyer seeking approval for the use of incidental illness benefits may, at the request of the Employer, be required to provide satisfactory documentation to substantiate the absence.

## 49.2 Short-term Disability

- 49.2.1 Short-Term Disability supports Society-represented lawyers who are unable to perform the normal duties of their own occupation for a period of five (5) or more consecutive working days. On approval of Short-Term Disability, Society-represented lawyers will have any Incidental Illness days restored that they may have used for the period covered by Short-Term Disability.
- 49.2.2 Society-represented lawyers who have completed three (3) months of employment and who are absent five (5) or more consecutive working days due to illness, injury, medical condition, or a disability shall be entitled to Short-Term Disability leave at one hundred percent (100%) of their salary, with vacation accrual, benefits, pension entitlements and contributions, as of the date of the absence to a maximum of eighty-five (85) working days, subject to approval as set out in this Article.

49.2.3 The allotment of Short-Term Disability leave for a Society-represented lawyer will be pro-rated for lawyers who work less than full-time hours and will be adjusted for any period of time in which the lawyer:

- (a) is not an employee;
- (b) is on leave of absence without pay; or
- (c) receives Long-Term Disability payments.

49.2.4 Short-Term Disability leave is paid at one hundred percent (100%) of salary as of the date of the absence and may not be carried over from one year to the next.

49.2.5 A Society-represented lawyer seeking approval for the use of Short-Term Disability benefits may, at the request of the Employer, be required to provide satisfactory documentation to substantiate the absence.

49.2.6 When a Society-represented lawyer utilizes Short-Term Disability benefits, they shall not qualify for reinstatement of their full Short-Term Disability benefits of up to an additional eighty-five (85) working days until they have:

- (a) returned to work for at least thirty (30) consecutive calendar days in the event of a new illness; or
- (b) returned to work for at least ninety (90) consecutive calendar days in the event of a recurring illness.

49.2.7 A Society-represented lawyer who is in receipt of Short-Term Disability benefits will maintain insured benefits in accordance with Article 50.4 (Long-Term Disability Plan).

49.2.8 All decisions related to eligibility, coverage and/or compensation for the Short Term Disability plan will be grievable and arbitrable in accordance with the provisions of Article 22 (Complaints, Grievances, Mediation and Arbitration).

### 49.3 General

49.3.1 In this Article, “legally qualified medical practitioner” means a physician, physician assistant, dentist or nurse practitioner practising within their respective scope of practice.

- 49.3.2 A Society-represented lawyer seeking approval for an absence utilizing Short-Term Disability benefits of five (5) consecutive days or more is required to provide documentation to substantiate the absence in accordance with the provisions of this Article.
- 49.3.3 Notwithstanding this provision, the Employer may request documentation of an absence that is less than five (5) days where it is suspected that there may be abuse of sick leave.
- 49.3.4 Where documentation is initially required to substantiate an absence due to illness or injury, it shall be provided by a legally qualified medical practitioner and shall include:
- (a) confirmation that the lawyer is incapable of fulfilling their duties due to illness or injury;
  - (b) date that the illness or incident began;
  - (c) date of assessment by attending medical practitioner;
  - (d) date of anticipated return to work; and
  - (e) if known, potential restrictions/limitations that may affect the lawyer's ability to return to work.
- 49.3.5 Where a Society-represented lawyer's absence due to injury, illness or disability is of an extended nature, additional information may be required in order to assess the anticipated length of the absence, the possibility of a return to work and the ability to accommodate a lawyer's medical restrictions.
- 49.3.6 All personal, medical and health-related information will be kept in the strictest of confidence.
- 49.3.7 Where the Employer requests medical information for the purposes of approving an absence utilizing Short-Term Disability benefits, the Employer shall reimburse the Society-represented lawyer for the cost of the medical information to a maximum of fifty dollars (\$50.00) per note.

#### **Article 50 – Long Term Disability Plan**

- 50.1 The Long Term Disability Plan provides financial security and rehabilitative employment features to Society-represented lawyers during their absence from work due to extended sickness or injury. It is an insured benefit provided through the Employer's Group Insurer and the benefits are payable by the insurer and not by the Employer. The details of the Long-Term Disability plan provided are as set out in the insurance plan; and provide for payments of sixty-six and two-thirds

percent (66-2/3%) of the Society-represented lawyers' wage rate at the time of eligibility to a maximum of \$8,000 per month.

- 50.2 The insurer is the sole party responsible for determining eligibility for long-term disability benefits. The Employer's sole obligation under the Collective Agreement is to exercise good faith in obtaining coverage for the specified benefit provisions and to pay the required premiums. Any dispute as to whether or not a particular Society-represented lawyer is entitled to receive such benefits is a matter between such Society-represented lawyer and the carrier.
- 50.3 Eligibility for Long Term Disability will be determined by the insurer and commences seventeen (17) weeks from the date that the lawyer becomes totally disabled.
- 50.4 Society-represented lawyers who are absent from the workplace due to illness or injury shall maintain insured benefits for up to seventeen (17) calendar weeks per period of absence and this period may be extended for a period of time if the Society-represented lawyer has applied for Long-Term Disability benefits and one of the following conditions applies:
- (a) a decision with regard to entitlements has not yet been made; or
  - (b) an initial denial of entitlements has occurred and this decision is being appealed by the Society-represented lawyer and a decision on the appeal has not yet been made.

For purposes of clarity, the provisions for continuation of benefits do not apply to any subsequent appeals of an entitlement decision.

- 50.5 The application for Long Term Disability benefits will be sent to the Society-represented lawyer at least eight (8) weeks prior to the expiry of the seventeen (17) week qualification period.
- 50.6 When applying for Long Term Disability, the cost, if any, of all documentation (medical notes/forms) required to be completed by a health care provider will be paid for by the Society-represented lawyer. Following approval, all medical documentation required by the insurer related to Long Term Disability benefits will be paid for by the insurer.
- 50.7 A Society-represented lawyer on Long Term Disability will not accrue vacation entitlements. Any outstanding accrued vacation will be paid out to the Society-represented lawyer on the first pay following the approval of their Long Term Disability claim.

- 50.8 While in receipt of Long Term Disability benefits, a Society-represented lawyer will:
- (a) remain a member of the LAO Pension Plan and the Employer pension contributions will continue;
  - (b) continue to be in receipt of basic or employee optional life insurance and the employee portion of premiums will be waived by the insurance carrier;
  - (c) continue to be in receipt of Accidental Death and Dismemberment insurance and the employee portion of premiums will be waived by the insurance carrier; and
  - (d) continue to be in receipt of health and dental benefits and the employee portions of premiums will be paid for by the Employer.
- 50.9 When requested by the Society-represented lawyer, or their Society representative, the Employer, in conjunction with the insurer's rehabilitation specialist, if applicable, shall negotiate a return to work protocol where a Society-represented lawyer is returning to work after illness or injury.

#### **Article 51 – Benefits**

- 51.1 Society-represented lawyers shall continue to receive benefits coverage from SunLife Financial as set out in: “Your Group Benefits: LEGAL AID ONTARIO” (SunLife Financial: Contract Number 50898, BSC 9104743 and PAI 9104744). The Employer will arrange additional benefits coverage that at all option levels as follows:
- (a) effective January 1, 2019, additional mental health benefits with an annual claim limit of \$500 per year;
  - (b) effective January 1, 2020, additional mental health benefits with an annual claim limit of \$750 per year;
  - (c) effective January 1, 2021, additional mental health benefits with an annual claim limit of \$1,000 per year; and
  - (d) effective January 1, 2021, additional mental health benefits with an annual claim limit of \$1,250 per year.

- 51.2 All insured benefits are payable by the insurer and not by the Employer. The Employer's sole obligation is to pay the required premiums. In the event the Employer changes carriers, no existing benefit coverage will decrease.
- 51.3 The insurer is the sole party responsible for determining eligibility for insured benefits. The Employer's sole obligation under the collective agreement is to exercise good faith in obtaining coverage for the specified benefit provisions and to pay the required premiums. Any dispute as to whether or not a particular employee is entitled to receive such benefits is a matter between such Society-represented lawyer and the carrier.
- 51.4 Except as stated in this agreement, the benefits provided to Society-represented lawyers under the group insured benefits coverages shall be those set out in the existing insurance plan as of the date of this collective agreement. This insurance plan shall not be varied without the consent of the Society.
- 51.5 The Employer will have the right to select the carrier of its choice in respect of these benefits provided that in the event that any carrier is changed, an equivalent level of benefits will be maintained.
- 51.6 The Employer will pay 100% of the monthly premium for the following benefits:
- (a) Basic Life Insurance; and
  - (b) Basic Accidental Death & Dismemberment (AD&D) Insurance.
- 51.7 Society-represented lawyer may elect, at their option, to purchase the following additional insurance:
- (a) Life and Spousal Life Insurance (medical submission is required);
  - (b) Accidental Death & Dismemberment (AD&D) Insurance; and/or
  - (c) Dependent Life Insurance.
- 51.8 Society-represented lawyers have three options for Health and Dental benefits, with the following cost sharing arrangements for Society-represented lawyers:

- (a) Option 1 – Society-represented lawyers are responsible for 20% of health and dental premium;
- (b) Option 2 – Society-represented lawyers are responsible for 40% of health and dental premium; or
- (c) Option 3 – Society-represented lawyers are responsible for 50% of health and dental premium.

51.9 Benefits coverage for new lawyers begins on the first of the month following three (3) months of continuous service.

**Article 52 – Employee Assistance Program**

52.1 The Employer shall provide an Employee Assistance Program (EAP) which can be utilized by Society-represented lawyers as well as their spouses and eligible dependents. Where there is a change in carrier, the overall benefit levels will not be reduced.

**Article 53 – Pension Plan**

53.1 The Employer shall not make any changes to the current Defined Contribution Pension Plan for the life of this Collective Agreement without the explicit agreement of the Society.

53.2 The contribution rates to be made by Society-represented lawyers and the Employer with regard to the pension plan will be in accordance with the chart below:

Effective Date	Society-Represented Lawyer Contribution	Employer Contribution
January 5, 2018	8% or 9%	9%
January 4, 2019	9%	9%
January 1, 2021	9%	9%
January 7, 2022	9%	9%

53.3 The Society will identify up to two (2) Society-represented lawyers who will represent the Society at Pension Plan Advisory Committee meetings.

## SECTION IV – EMPLOYEE GROUPS

### Article 54 – Fixed-Term Lawyers

54.1 A fixed-term Society-represented lawyer is a lawyer who is hired for a defined period of time, and whose employment ceases upon the expiry of that period of time.

54.2 A fixed-term Society-represented lawyer shall not be assigned to a position for a period exceeding 24 months.

#### 54.3 Benefits and Working Conditions

54.3.1 Fixed-term Society-represented lawyers who are hired for a contract of one (1) year or more will be entitled to the group benefits, with the exception of Long-Term Disability Insurance, after an initial waiting period of three (3) months.

54.3.2 Fixed-term Society-represented lawyers who are hired for a contract of one (1) year or more will be entitled to vacation on the same basis as regular Society-represented lawyers.

54.3.3 Fixed-term Society-represented lawyers who have been hired on contracts of less than one (1) year and who subsequently have their contract(s) renewed or accept a new contract with no break in service exceeding thirteen (13) weeks will also be entitled to the group benefits with the exception of Long-Term Disability Insurance, provided that the end-date of the new contract is in excess of twelve (12) months from their original date of hire. In such cases, Society-represented lawyers will become eligible for benefits coverage on the first day of the month following the date of their new contract providing they have completed three (3) months of continuous service.

54.4 The only terms of this Collective Agreement that apply to fixed-term Society-represented lawyers are those that are set out in this Article.

54.5 The following Articles of the Agreement shall not apply to fixed term lawyers:

Article 32 (Layoff, Redeployment and Recall)

Article 47 (Pregnancy/Parental Leave) - Top-up provisions

Article 48 (Deferred Salary Plan)



Article 50 (Long-Term Disability)

54.6 Conversion of Fixed-term Positions

Where a position has been filled by fixed-term Society-represented lawyers for a period of at least thirty-six (36) consecutive months, with no break in staffing exceeding thirteen (13) weeks, and where there is an ongoing staffing requirement, the temporary position shall be converted to a permanent position and shall be posted as per Article 24 (Posting and Filling of Vacancies).

54.7 Applying to Posted Vacancies

Society-represented fixed term lawyers may apply for posted vacancies within LAO at any point during the term of their contract. If the candidate is successful, the Employer may delay their release date up to two (2) months due to legitimate operational requirements.

54.8 Contract Extensions, Terminations

As soon as practicable, the Employer shall advise Society-represented fixed-term lawyers whether or not their contracts will be extended. Should the Employer decide to terminate early the contract of a Society-represented fixed-term lawyer for any reason other than for cause, they shall provide working notice as soon as reasonably possible.

54.9 Contract Renewal Not a Vacancy

54.9.1 Where a fixed term lawyer, who was hired through the posting, interview and selection procedure in Article 24 (Posting and Filling of Vacancies), is employed in an office and the Employer renews the lawyer's contract for the lawyer to continue to work in the same office, in the same position, the expiry of the prior contract shall be deemed not to be a vacancy.

54.9.2 If a fixed-term Society-represented lawyer has been employed by LAO for twelve (12) consecutive months and is the successful candidate in a competition for a permanent position, the Society-represented lawyer shall not be subjected to a probationary period for the permanent position.

54.9.3 Fixed-term contracts shall not be used as a replacement for permanent positions, nor should they be used as extended probationary periods.

54.10 Hireback Pool for Fixed Term Lawyers

All Society-represented fixed-term lawyers with at least eighteen (18) months of cumulative service with LAO shall be eligible to apply for competitions for Society-represented positions and be considered on the same basis as internal candidates not on the redeployment/recall list for a minimum period of twelve (12) months following the expiration of their fixed-term contract.

**Article 55 – Part-Time Lawyers**

55.1 A part-time lawyer means a Society-represented lawyer who is appointed to a permanent position regularly working fewer than 36¼ hours per week.

55.2 Permanent part-time lawyers must work a minimum of twenty (20) hours per week in order to maintain eligibility for group benefits as per the requirements of the Employer's insurance carrier.

55.3 The following Articles of the Agreement shall also apply to Part-Time lawyers on a prorated basis:

Article 32 (Layoff, Redeployment and Recall): Regarding severance and pay-in-lieu entitlements

Article 43 (Statutory and Other Holidays)

Article 44 (Vacation)

Article 45 (Paid Leaves of Absence)

Article 49 (Illness and Short-Term Disability)

Article 50 (Long Term Disability Plan)

Article 51 (Benefits)

Article 57 (Salary)

55.4 All other articles of this collective agreement shall apply to part-time Society-represented lawyers in full.

55.5 This article does not apply to Society-represented lawyers who are working reduced hours as part of a workplace accommodation.

55.6 Society-represented lawyers working less than half-time shall have their seniority pro-rated with the exception of lawyers employed at the time of ratification of this agreement, who shall be treated as if they were full-time employees.

#### **Article 56 – Volunteers**

56.1 “Volunteers” as used in the collective agreement refers to any individuals who are shadowing, working or completing an educational or Law Practice Program placement without compensation in an LAO office that is staffed primarily with Society-represented lawyers.

56.2 In the event that Society-represented lawyers are expected to supervise and/or evaluate volunteers in their workplace, the Employer shall ensure that they have adequate time and resources in order to ensure no interruption to client service.

56.3 Volunteers shall be advised of all applicable Employer policies including, but not limited to those related to workplace health and safety and discrimination/ harassment.

#### 56.4 Volunteers Not to Replace Society-Represented Lawyers

56.4.1 Volunteers shall not perform the work of Society-represented lawyers except with the consent of the Society.

56.4.2 Volunteers shall not be used to replace staff during labour disputes, nor shall the number of Society-represented staff lawyers be reduced through the use of volunteers.

## **SECTION V – SALARY AND TERM OF AGREEMENT**

### **Article 57 – Salary**

57.1 The salary rates in effect during the term of this Collective Agreement are contained in the salary schedules in Appendix 1 (Salary Schedules).

### **Article 58 – Term of Agreement**

58.1 This Collective Agreement covers the period from April 1, 2018 to March 31, 2022 and shall become effective the date of ratification by both parties or the date of an interest arbitration award, as appropriate.

58.2 This agreement shall be automatically renewed, effective April 1, 2022 and from year to year thereafter, subject to such changes and alterations as may be negotiated from time to time. Notice may be given by either party to the other party, of intent to bargain, electronically, by hand or by registered mail, within 90 days of the expiration of this agreement or within 90 days of the end of any subsequent year. Negotiations shall begin within thirty (30) days following receipt of notification with the exchange of proposals, followed by meetings at such time as mutually agreed upon by the two (2) parties.

**SECTION VI – APPENDICES**

**Appendix 1 – Salary Schedules**

<b>2018-19</b>		<b>2019-20</b>		
<b>YOC</b>	<b>1-Apr-18</b>	<b>YOC</b>	<b>1-Apr-19</b>	<b>1-Oct-19</b>
2018	\$79,000	2019	\$79,711	\$80,422
2017	\$81,600	2018	\$82,335	\$83,069
2016	\$85,200	2017	\$85,967	\$86,734
2015	\$88,800	2016	\$89,599	\$90,398
2014	\$92,400	2015	\$93,232	\$94,063
2013	\$96,000	2014	\$96,864	\$97,728
2012	\$99,600	2013	\$100,497	\$101,393
2011	\$103,200	2012	\$104,129	\$105,058
2010	\$106,800	2011	\$107,761	\$108,722
2009	\$108,950	2010	\$109,931	\$110,911
2008	\$111,100	2009	\$112,100	\$113,100
2007	\$113,250	2008	\$114,270	\$115,289
2006	\$115,400	2007	\$116,439	\$117,477
2005	\$117,550	2006	\$118,608	\$119,666
2004	\$119,700	2005	\$120,778	\$121,855
2003	\$120,720	2004	\$121,807	\$122,893
2002	\$121,740	2003	\$122,836	\$123,931
2001	\$122,760	2002	\$123,865	\$124,970
2000	\$123,780	2001	\$124,894	\$126,008
1999	\$124,800	2000	\$125,923	\$127,046
1998	\$125,820	1999	\$126,953	\$128,085
1997	\$126,840	1998	\$127,982	\$129,123
1996	\$127,860	1997	\$129,011	\$130,161
1995	\$128,880	1996	\$130,040	\$131,200
1994	\$129,900	1995	\$131,069	\$132,238
1993	\$130,920	1994	\$132,099	\$133,277
1992	\$131,940	1993	\$133,128	\$134,315
1991	\$132,960	1992	\$134,157	\$135,353
1990	\$133,980	1991	\$135,186	\$136,392
1989	\$135,000	1990	\$136,215	\$137,430

2020-21		
YOC	1-Apr-20	1-Oct-20
2020	\$81,146	\$81,870
2019	\$83,817	\$84,564
2018	\$87,515	\$88,295
2017	\$91,212	\$92,026
2016	\$94,910	\$95,756
2015	\$98,608	\$99,487
2014	\$102,306	\$103,218
2013	\$106,004	\$106,949
2012	\$109,701	\$110,679
2011	\$111,909	\$112,907
2010	\$114,118	\$115,136
2009	\$116,327	\$117,364
2008	\$118,535	\$119,592
2007	\$120,743	\$121,820
2006	\$122,952	\$124,048
2005	\$123,999	\$125,105
2004	\$125,047	\$126,162
2003	\$126,095	\$127,219
2002	\$127,142	\$128,276
2001	\$128,190	\$129,333
2000	\$129,238	\$130,390
1999	\$130,285	\$131,447
1998	\$131,333	\$132,504
1997	\$132,381	\$133,561
1996	\$133,428	\$134,618
1995	\$134,477	\$135,676
1994	\$135,524	\$136,733
1993	\$136,572	\$137,790
1992	\$137,620	\$138,847
1991	\$138,667	\$139,904

2021-22		
YOC	1-Apr-21	1-Oct-21
2021	\$82,607	\$83,343
2020	\$85,325	\$86,086
2019	\$89,090	\$89,884
2018	\$92,854	\$93,682
2017	\$96,618	\$97,480
2016	\$100,383	\$101,278
2015	\$104,147	\$105,076
2014	\$107,912	\$108,874
2013	\$111,676	\$112,672
2012	\$113,924	\$114,940
2011	\$116,172	\$117,208
2010	\$118,420	\$119,476
2009	\$120,668	\$121,744
2008	\$122,917	\$124,013
2007	\$125,165	\$126,281
2006	\$126,231	\$127,357
2005	\$127,298	\$128,433
2004	\$128,364	\$129,509
2003	\$129,431	\$130,585
2002	\$130,497	\$131,661
2001	\$131,564	\$132,737
2000	\$132,630	\$133,813
1999	\$133,697	\$134,889
1998	\$134,764	\$135,966
1997	\$135,830	\$137,042
1996	\$136,897	\$138,118
1995	\$137,964	\$139,194
1994	\$139,030	\$140,270
1993	\$140,097	\$141,346
1992	\$141,163	\$142,422

## **Appendix 2 – Employer and Society Relations Committee Term of Reference**

The parties agree to the establishment of an Employer/Society Relations Committee (ESRC) which shall have the ability to establish its own terms of reference, procedures, sub-committees and other bodies or include individuals that may be required to assist the Committee to carry out its functions. Any changes made to the terms of reference shall be reflected in future collective agreements.

Subject to the ESRC's review of its terms of reference and any decisions to make changes to the terms of reference, the following Terms of Reference shall apply to the ESRC and similar Terms of Reference will apply to all of its sub-committees, as appropriate. Any changes to these Terms of Reference shall be approved by the ESRC and shall be recorded in the form of a signed and dated agreement.

### Membership

1. Membership on the ESRC shall consist of an equal number of Society representatives and Employer representatives. All Society representatives on the ESRC are to be appointed or elected by the Society.
2. The ESRC shall ensure sufficient in-person representation and participation from members from outside the Greater Toronto Area (GTA).
3. The ESRC shall have a process of alternating chairs: one representing the Employer and one representing Society-represented lawyers.

### Meetings

1. The ESRC will meet a minimum of once every two (2) months with standing dates agreed to on a consensus basis. Additional meetings may be scheduled if required and mutually agreed to. It is understood that in exceptional cases meetings may be postponed with the consent of the Parties if needed to maintain client service and/or other operational needs.
2. ESRC meetings will be conducted in a manner where everyone is free to participate.

3. The location of meetings will alternate between a location chosen by the Employer and one chosen by the Society.
4. The agenda will include a review of all outstanding items from the previous agenda.
5. Upon request of either ESRC co-chair, the agenda will include a review of any potential changes as set out in Article 16.1(a) or changes as set out in Article 16.1(b).
6. ESRC co-chairs will exchange suggested agenda items at least ten (10) working days before the meeting.
7. An agenda is to be finalized and circulated together with any relevant materials at least five (5) working days in advance of the meeting.
8. The responsibility for distributing any materials for review or discussion at meetings will be shared by the ESRC co-chairs.
9. Matters for discussion will be limited to items on the agenda unless the parties mutually agree prior to the commencement of the meeting that additional matters may be discussed.
10. Society-represented lawyers participating in ESRC meetings shall be provided with sufficient time to meaningfully participate in ESRC meetings without loss of pay or credits. If the Employer determines that there is a requirement to backfill Society-represented lawyers who participate in ESRC meetings, reasonable efforts will be made to do so.

#### Minutes of Meetings

1. Minutes of ESRC meetings will reflect action required, responsibilities and timelines. Meeting minutes will be prepared and distributed to ESRC members no later than ten (10) working days following the meeting. Meeting minutes will be reviewed, amended as agreed, and adopted at the start of the next scheduled ESRC meeting.
2. Following adoption by the ESRC, meeting minutes will be shared with all Society-represented lawyers.



3. Apart from information contained in meeting minutes, all discussions held at ESRC meetings as well as Local Committees and Subcommittees, will be non-prejudicial and will not be relied upon by either Party with regard to a complaint, grievance or formal dispute of any kind.

#### Local Committees and Subcommittees

1. The ESRC may establish and direct the activity of local Employer/Society Relations Committees and/or subcommittees where there is mutual agreement to do so. Where additional committees are established, the approval of the mandate of those committees, membership and other terms of reference for the committees are subject to the ESRC's review and approval.
2. The Parties agree that a Professional Responsibilities Committee shall be established as a subcommittee of the ESRC. This committee's mandate shall be to identify and discuss matters related to the Law Society of Ontario Rules of Conduct and Guidelines vis-à-vis the professional responsibilities of Society-represented lawyers and make recommendations to senior management as necessary.

### **Appendix 3 – Tri-Partite Discussion on Jurisdictional Matters**

#### **LETTER OF UNDERSTANDING**

<Date of Ratification>

**RE: Tri-Partite Discussion on Jurisdictional Matters**

LAO and the Society commit to pursuing a tri-partite discussion with OPSEU within sixty (60) working days of the ratification of the collective agreement or the date of the arbitrated award, as applicable, to address how to manage inter-union jurisdictional disputes.

Should the parties not reach an agreement, the language in Article 6.1(v) (Managing Jurisdictional Disputes) shall govern.

Lynn McDougall

Rosanne De Lio

**Appendix 4 – Grievance Resolution Working Group**

**MEMORANDUM OF UNDERSTANDING**

**Between**

**Legal Aid Ontario  
 (“the Employer”)**

**- and –**

**the Society of United Professionals  
 (“the Society”)**

**WHEREAS** the Parties are desirous of making joint efforts to achieve mutually agreeable resolutions to grievances that are filed by or on behalf of Society-represented lawyers; and

**WHEREAS** the Parties recognize that the successful resolution of grievances requires open discussion, sharing of information and mutual respect of each other’s positions; and

**WHEREAS** the Parties are seeking an efficient means to resolve disputes including the timely review of grievance issues and the timely implementation of agreements made by the Parties;

**THEREFORE**, the Parties agree to the following provisions for the establishment and operation of a Grievance Resolution Working Group (‘GRWG’):

1. Upon ratification of this Collective Agreement and for the period set out in this Memorandum, the parties agree to establish a Grievance Resolution Working Group (GRWG) for the purposes of managing and resolving grievances that have been filed at or escalated to Step 2 of the process.
2. Referral and efforts to resolve grievances utilizing the GRWG will occur in place of the provisions set out in Articles 22.5.2 and 22.5.3 (Complaints, Grievances, Mediation and Arbitration Process).
3. Any grievances not resolved by the GRWG will be referred to Step 3 of the grievance process.
4. Each party will have a minimum of two (2) appointed members on the GRWG.
5. The GRWG will keep accurate records of each matter submitted to the committee including:

- The name of the individual(s) that filed the individual complaint or group grievance, if applicable
  - The nature of each complaint
  - Efforts to manage the complaint prior to reaching Step 2
  - Any resolution to the complaint agreed upon by the committee
  - An action tracking function that accurately records the status of any actions committed to by the parties in resolution of the grievance
  - These records will be jointly held and accessed by the Employer and the Society.
6. The GRWG will meet on a monthly basis, or more often if needed and agreed to by the Parties, to hear new grievances, review the status of grievances and the disposition of any undertakings related to resolution of the grievances. It is understood that the GRWG may need to meet more frequently in order to ensure the timeliness of grievances filed under Article 22.6 (Grievances Regarding Posting and Filling of Vacancies).
7. Grievances that require further review may be deferred to the next GRWG meeting.
8. If the parties are unable to reach a mutually agreeable resolution regarding a grievance, the grievance will be considered “denied” by the Employer and the Society is entitled to advance the matter to Step 3.
9. The GRWG will review the timelines associated with all steps of the grievance process with the intent of ensuring that grievance matters are raised and addressed in an efficient and deliberate manner. Recommendations to changes to the timelines will be referred to the Employer Society Relations Committee (ESRC).
10. The Employer will supply the necessary facilities for GRWG meetings.
11. The terms of this Memorandum of Agreement will expire effective twenty-four (24) months from date of ratification or date of interest-arbitration award as applicable unless the Parties provide written agreement to extend the terms of this Memorandum for a further period of time. It is understood that, in addition to extending the current terms of the Memorandum, either Party may propose and/or agree to modifications to these terms which may be modified with the express written agreement of the Parties.



## **Appendix 5 – Special Programs and Equity Protections**

### **LETTER OF UNDERSTANDING**

The Parties are committed to promoting employment equity and agree that a diverse workforce adds value to service delivery and the overall health of the organization.

In the spirit of section 14 of the *Ontario Human Rights Code, R.S.O. 1990, Chapter H.19* the Employer, in consultation with the Society, shall conduct a review to identify historically disadvantaged and/or underrepresented groups. In conducting the review, the Employer shall identify and consider groups that are over-represented in the judicial system and determine if there is a need for a special program. The timelines for this review shall be communicated to the Employer Society Relations Committee (“ESRC”) at or before the third scheduled ESRC meeting with updates to be provided on a regular basis.

The ESRC may develop recommendations for employment practices to improve the opportunities for individuals from any historically disadvantaged and/or underrepresented groups that are identified. Such practices may relate to recruitment, retention, job security, and/or any other practice that affects Society-represented lawyers that the ESRC deems appropriate.

Any implementation of recommendations will be reviewed by the ESRC and any changes requiring modification of Collective Agreement provisions shall be negotiated by the Parties.

Understanding that populations and needs shift over time, these programs shall be reviewed on an ongoing basis to address the changing needs at LAO, in the population and the clients served by LAO.

## **Appendix 6 – Workload and Workspace Discussions**

### **Letter of Understanding**

Lynn McDougall  
2239 Yonge St.,  
Toronto, ON M4S 2C7

#### **Re: Workload and Workspace Discussions**

The parties agree that lawyers who have concerns regarding workload may raise these concerns with their immediate manager for review, discussion and possible resolution.

Should a lawyer, or group of lawyers, have a concern regarding their workspace which impacts on the ability to carry out their duties or adhere to their professional responsibilities, they may raise these concerns with their immediate manager for review, discussion and possible resolution.

A Society-represented lawyer or group of lawyers may, at their option, be represented by a Society representative for discussions with their manager on workload and workspace issues.

Any unresolved issues may be referred to the Employer Society Relations Committee for further discussion.

Yours truly,

Rosanne De Lio

## **Appendix 7 – Joint Pay Equity Steering Committee**

### **Letter of Understanding**

Lynn McDougall  
2239 Yonge St.,  
Toronto, ON M4S 2C7

Re: **Joint Pay Equity Steering Committee**

The parties agree that, within three (3) months of the ratification of this Collective Agreement or date of interest arbitration award, as appropriate, they will establish a Joint Pay Equity Steering Committee (“JPESC”) composed of three (3) members representing the Employer and three (3) members representing the Society.

The mandate of the JPESC shall be to recommend to the respective parties for approval a pay equity plan, including a joint pay equity maintenance process and job evaluation tool that applies to Society-represented lawyers. The JPESC will endeavour to establish a pay equity plan within six (6) months of being established unless otherwise agreed to.

Society-represented lawyers participating in JPESC meetings shall be provided with sufficient time to meaningfully participate in JPESC meetings without loss of pay or credits.

Yours truly,

Rosanne De Lio



## **Appendix 8 – Full Time Paid Leave for Society Activity**

### **Letter of Understanding**

Lynn McDougall  
2239 Yonge St.,  
Toronto, ON M4S 2C7

Re: **Full-Time Paid Leave for Society Activity**

In consideration of the initial activity related to implementing this Collective Agreement, the parties agree that, notwithstanding the provisions of Article 11 (Release of Society Representatives), the full-time leave of absence set out in Article 11.1 shall be provided with no requirement for the Society to reimburse the Employer for the first year following ratification of this agreement or interest arbitration award, as appropriate. Following the first year, the reimbursement provisions set out in Article 11.1 will be applied.

Additionally, prior to the expiry of the arrangements in the above paragraph, the Employer-Society Relations Committee will review the provisions for release of Society representatives and, in particular, the number of individuals who can be released for paid leaves and the level of reimbursement to be provided by the Society and will make recommendations to their respective principals regarding any changes to the provisions of Article 11 (Release of Society Representatives). The parties agrees that, in the event that the parties agree to changes in these provisions, these changes may be made prior to the expiry of this Collective Agreement. For clarity, the provisions contained in Article 11 (Release of Society Representatives) regarding the level of reimbursement of the Society cannot be reduced to less than fifty (50%) and the number of paid leaves for Society business cannot be reduced to less than three (3).

Yours truly,

Rosanne De Lio

## **Appendix 9 – List of Regions and Districts**

The following list of Regions and Districts shall be used in Article 32 (Layoff, Redeployment and Recall). The Parties agree that nothing in this Appendix restricts the Employer's ability to alter work locations or reorganize the regions and/or districts of Legal Aid Ontario.

### **Southwest Region**

#### **● Essex, Lambton & Kent District**

- Kent county (Chatham)
- Lambton county (Sarnia)
- Essex county (Windsor)

#### **● London District**

- Grey county (Owen Sound)
- Bruce county (Walkerton)
- Perth county (Stratford)
- Huron county (Goderich)
- Elgin county (St. Thomas)
- Middlesex county (London)
- Oxford county (Woodstock)

#### **● Hamilton-Kitchener District**

- Wellington county (Guelph)
- Haldimand county (Hagersville/Cayuga)
- Waterloo region (Kitchener)
- Halton region (Oakville)
- Norfolk county (Simcoe)
- Niagara region (Welland, St. Catharines)
- Brant county (Brantford)
- Hamilton

### **Greater Toronto Area (GTA) Region**

#### **● GTA Peel York**

- Amaranth
- Aurora
- Brampton
- Caledon

- East Garafraxa
- East Gwillimbury
- East Luther Grand Valley
- Georgina
- King
- Markham
- Melancthon
- Mississauga
- Mono
- Mulmur
- Newmarket
- Orangeville
- Richmond Hill
- Shelburne
- Vaughan
- Witchurch-Stouffville

- **Toronto North District**

- East York
- Etobicoke
- North York
- Scarborough
- York

- **Toronto Central District**

- Old Toronto

- **Provincial Office**

**Central and Eastern Region**

- **Central District**

- Muskoka district (Bracebridge, Gravenhurst, Huntsville, Georgian Bay, Lake of Bays, Muskoka Lakes, Wahta Mohawke Territory, Moose Point 79)
- Parry Sound district
- Simcoe county
- City of Kawartha Lakes
- Durham region (Pickering, Ajax, Oshawa, Whitby, Clarington, Uxbridge, Brock, Scugog)

- Haliburton county
- Peterborough county
- Northumberland county

● **Eastern District**

- City of Ottawa
- Lanark county
- Renfrew county
- United counties of Leeds-Grenville
- United counties of Prescott-Russell
- United counties of Stormont-Dundas
- Frontenac county
- Hastings and Prince Edward counties
- Lennox and Addington counties

**North Region**

● **Northeast District**

- Algoma district
- Nipissing district
- Sudbury-Manitoulin district
- Temiskaming district
- Timmins-Cochrane district

● **Northwest District**

- Kenora district (Dryden, Kenora, Red Lake, Sioux Lookout, Ear Falls, Ignace, Machin, Pickle Lake, Sioux Narrows-Nestor Falls)
- Rainy River district (Fort Frances, Rainy River, Alberton, Atikokan, Chapple, Dawson, Emo, La Vallee, Lake of the Woods, Morley)
- Thunder Bay district (Thunder Bay, Greenstone, Marathon, Conmee, Dorion, Gillies, Manitouwadge, Nipigon, O'Connor, Oliver Paipoonge, Red Rock, Schreiber, Shuniah, Terrace Bay)
- Nishnawbe-Aski Nation (NAN)

## Appendix 10 – Federal and Provincial Leaves

### LETTER OF UNDERSTANDING

Lynn McDougall  
2239 Yonge St.,  
Toronto, ON M4S 2C7

**Re: Federal and provincial leaves**

The parties agree that, in the event that each of the following events occurs:

1. there are any amendments to federal or provincial legislation related to employee leaves and that occur during the term of this Collective Agreement; and
2. the amendments to the legislation are enacted after the date of ratification or after the date of an interest arbitration award for this Collective Agreement, as applicable; and
3. the amendments to the legislation would otherwise reduce the leave entitlements of a Society-represented lawyer;

that the leave entitlements, including the respective Employer policies and enhancements, in place as of the date of ratification or the date of an interest arbitration award, as applicable, will continue to apply to Society-represented lawyers until the expiry of this Collective Agreement.

This Letter of Understanding will not be extended beyond the expiry of this Collective Agreement. Any changes in leave provisions proposed by either party, whether related to an amendment to federal or provincial legislation or not, will be subject to negotiation between the parties.

Entitlements arising from this Letter of Understanding will continue for all Society-represented lawyers whose leaves have been approved prior to the expiry of this Letter of Understanding until one of the following occur:

- (a) The entitlement end date agreed upon between the Employer and the Society-represented lawyer is reached, or
- (b) A subsequent Collective Agreement which results in the continuation of the leave entitlements for the Society-represented lawyer comes into effect.

Yours truly,

**The following contents do not form part of the Collective Agreement:**

**MEMORANDUM OF AGREEMENT**

Between

**LEGAL AID ONTARIO**

(“the Employer”)

and

**THE SOCIETY OF UNITED PROFESSIONALS**

(“the Society”)

The Parties agree to the following provisions for positions that are being filled by Society-represented fixed-term lawyers as of the date of ratification of this collective agreement or the date of an interest arbitration award, as applicable:

- (1) Where a position has been filled by an existing fixed-term lawyer prior to the date of ratification of this collective agreement or the date of an interest arbitration award, as applicable, the provisions under Article 54.6 (Conversion of Fixed-Term Positions) will be applied to the position. Notwithstanding this provision, the time that the position has been filled by a Society-represented fixed-term lawyer prior to ratification or the date of an interest arbitration award will be counted up to a maximum of twelve (12) months towards the thirty-six (36) month requirement.
- (2) Notwithstanding the provisions of paragraph (1), any Society-represented fixed-term lawyers who, as of the date of ratification of this collective agreement or the date of an interest arbitration award, as applicable, have been employed as a Society-represented fixed-term lawyer and/or articling student for a minimum period of thirty-six (36) consecutive months with no break in service exceeding thirteen (13) weeks shall be entitled to apply for and be considered for future Society-represented lawyer positions that are posted for competition. In being considered for these

positions, Society-represented lawyers that meet these requirements will be considered at Stage 2 of the process set out in Article 24.3.2 (Posting and Filling of Vacancies) but will be considered ahead of other internal candidates.

Disputes relating to the Memorandum of Agreement can be referred to the grievance/arbitration procedure.

Dated this XX day of XX, 2018

For The Society

For The Employer

**Letter of Understanding**

Lynn McDougall  
2239 Yonge St.,  
Toronto, ON M4S 2C7

**Re: Provisions for Salary Protection**

During the term of this Collective Agreement, a Society-represented lawyer who, as of April 1st of each year, has a current salary that is higher than the salary they would otherwise receive on the salary grid set out in Appendix 1 (Salary Schedules) shall maintain their current salary and shall receive a lump sum payment of \$1200.

These provisions will expire upon the expiry of the Collective Agreement.

Yours truly,

Rosanne De Lio



**MEMORANDUM OF SETTLEMENT**

**Between**

**Legal Aid Ontario**

**(“the Employer”)**

**- and -**

**the Society of United Professionals**

**(“the Society”)**

**- and -**

**Kendall Yamagishi, Dana Suvagau, Linh Le**

**(“the Complainants”)**

**WHEREAS** two (2) pay equity complaints (Files 16-22902 and 18-23674) have been filed by the Complainants and by the Society (“the Complaints”); and

**WHEREAS** the Complaints are currently before the Ontario Pay Equity Commission; and

**WHEREAS** the Parties are seeking to address pay equity issues during the current round of collective bargaining and resolve any outstanding pay equity matters;

**NOW THEREFORE**, the Parties agree as follows to a full and final settlement of the Complaints without precedent or prejudice to any future and/or similar matter:

1. The Employer agrees to make a one-time lump sum payment of five hundred dollars (\$500) to each current member of the bargaining unit subject to the terms of this agreement. The payments will be subject to statutory deductions.
2. The Society and each of the three Complainants agree to withdraw the Complaints within thirty (30) days of executing this agreement and will notify the Pay Equity Commission of this withdrawal.
3. In the event that either the Society or any one of the Complainants do not notify the Pay Equity Commission of the withdrawal of their complaint as set out in paragraph 2, this Memorandum of Settlement shall be considered to be negated and the payments set out in paragraph 2 will not be made.

4. The Parties agree that this agreement is not an admission or concession of liability or wrongdoing on the part of either party, and that any payments made under this agreement are made without prejudice to its position regarding compliance with the Pay Equity Act.
5. The Parties agree that this Settlement constitutes the entire agreement between the Parties with respect to this matter and supersedes any and all prior oral or written agreements, arrangements or understandings between them.

Dated this XX day of XX, 2018

For the Society

For The Employer

**Letter of Understanding**

Lynn McDougall  
2239 Yonge St.,  
Toronto, ON M4S 2C7

Re: **Pension Review**

The Parties agree, within twelve (12) months of the ratification of this collective agreement or date of an interest arbitration award, as appropriate, to investigate the potential of moving from a Defined Contribution Pension Plan to the Public Service Pension Plan or another mutually acceptable Defined Benefit Pension Plan.

Yours truly,

Rosanne De Lio