

**SETTLEMENT AGREEMENT AND RELEASE**

Employee/Claimant: LOUIS KANITSCH  
Employer: CITY OF RIVERA BEACH  
Carrier/Servicing Agent: GALLAGHER BASSETT SERVICES  
OJCC Number: 20-029618CJS and 20-029620CJS  
Social Security Number: 594-09-7720  
Date(s) of Accident: July 9, 2020 and October 13, 2020

THIS AGREEMENT, subject to the terms and conditions as set forth below, is intended to be a complete, entire and final release and waiver of any and all rights, to any and all benefits, past, present and future, that the Employee/Claimant, LOUIS KANITSCH, is, or may be, entitled to under Chapter 440, Florida Statutes, (as more fully set forth below), and any other actions, claims, demands or causes of actions, whatsoever, that the Employee/Claimant may have against the Employer, CITY OF RIVERA BEACH, and the Carrier/Servicing Agent, GALLAGHER BASSETT SERVICES, together with their officers, agents, servants, employees, directors, successors, assigns, insurers, attorneys, and any other person or entity so connected to them (hereinafter collectively referred to as "Employer/Carrier/Servicing Agent").

The parties stipulate that this Agreement does not affect the Employee/Claimant's vested benefits with the City of Riviera Beach.

**I. TERMS OF WORKERS' COMPENSATION SETTLEMENT AGREEMENT AND RELEASE PURSUANT TO 440.20(11)(c)(d) & (e) (2003):**

**A. TOTAL SETTLEMENT AMOUNT:**

The Employer/Carrier/Servicing Agent will pay to the Employee/Claimant, in a lump sum, the amount of **\$15,000.00**, payment of which will be made within thirty (30) days from the date of Certificate of Service on the Order approving the Motion for Approval of Attorney's Fee and Allocation of Child Support Arrearage for Settlement under Section 440.20(11)(c)(d) & (e). It is understood and agreed by the parties that the terms of this agreement are not enforceable until the Judge of Compensation Claims approves the Motion for Approval of Attorney's Fees and Allocation of Child Support Arrearage for Settlement under Section 440.20(11)(c)(d) & (e).

**B. ALL BENEFITS RESOLVED:**

Payment of the aforementioned lump sum is in full satisfaction of the obligation or liability of the Employer/Carrier/Servicing Agent to pay any benefits of whatever kind or classification available under the Florida Workers' Compensation Law including, but not limited to, temporary total and temporary partial disability benefits, impairment benefits, permanent total disability benefits, permanent total supplemental benefits, supplemental benefits, wage loss benefits, rehabilitative temporary total disability benefits, vocational benefits required to be provided by the employer, death

benefits, attorney's fees, past, present and future medical benefits, attendant care, prescriptions, orthotics, prosthetics, transportation, or any other benefit contemplated under Florida Statute 440 relating to the alleged accident or occupational disease arising on account of or in connection with an accident, occurrence, incident, exposure or event which took place on or about July 9, 2020 and October 13, 2020 within the confines of Palm Beach County, Florida. The parties stipulate and agree that this settlement agreement includes not only the above mentioned injury/injuries but any and all injuries and occupational diseases ever incurred by the Employee/Claimant while working for the employer whether, known, revealed, reported, diagnosed, developed or manifested.

The Employee/Claimant acknowledges by his signature below, that upon payment of the consideration referenced in paragraph I.A. herein, he waives all entitlement to any and all further Workers' Compensation benefits and that the Employer/Carrier/Servicing Agent will be fully and forever discharged and released from the obligation or liability to pay any and all benefits of whatever kind or classification payable under the Florida Workers' Compensation Law.

The Employee/Claimant stipulates and the parties agree that this Settlement Agreement and Release shall constitute an election of remedies by the Employee/Claimant with respect to the Employer/Carrier/Servicing Agent herein. As a result of accepting the above referenced sum, the Employee/Claimant relinquishes all rights for recovery for negligence, intentional torts, employer liability under workers' compensation law, bodily injury and any other potential claims arising under the workers' compensation law and employers' liability policy (including Coverage B) in effect for July 9, 2020 and October 13, 2020 date of accident. The Employee/Claimant also stipulates that he has elected Florida Workers' Compensation Law as his exclusive and sole remedy.

The undersigned Employee/Claimant accepts and assumes all risk; chance or hazard that said injuries, damages, manifestations or losses are now or may become greater, more numerous or more extensive than is now known, anticipated or expected; and the undersigned Employee/Claimant agrees that this release applies to all injuries, damages, manifestations or losses of every kind and character which have arisen, or which may hereafter arise, even though now unknown, unanticipated or unexpected. The undersigned Employee/Claimant hereby acknowledges full responsibility for all future medical benefits.

**C. ATTORNEYS FEES:**

**1. Fee/Costs paid by the Employee/Claimant -**

The Employee/Claimant will pay to his attorney the sum of \$3,000.00, out of the above settlement. Additionally, the Employee/Claimant shall pay the sum of \$500.00, as costs. The fee and non-taxable costs shall be paid from the settlement proceeds thereby making the net settlement amount of \$11,500.00.

**2. Prior representation -**

The Employee/Claimant will be responsible for any and all attorney's fee liens filed or held by any prior attorney, for representation of the Employee/Claimant. The Employee/Claimant agrees to indemnify and hold the Employer/Carrier/Servicing Agent harmless as to any attorney fee liens.

**3. Separate Fee Stipulation -**

In addition to the above settlement amount, the Employer/Carrier/Servicing Agent shall pay to the Employee/Claimant's attorney a fee in the amount of \$15,000.00. Said fee is for obtaining the following benefit(s): payment of medical bills. This Settlement Agreement and Release is contingent upon the Judge of Compensation Claims approval of the aforementioned separate fee stipulation.

**D. CHILD SUPPORT ARREARAGE:**

The Employee/Claimant agrees that the sum of \$\_\_\_\_\_ shall be deducted from the lump sum payable pursuant to this agreement, to pay the outstanding child support arrearage for case number \_\_\_\_\_. The Employee/Claimant stipulates and agrees that he is not under any additional child support obligation, other than the aforementioned case number. The Employee/Claimant also stipulates and agrees that the Employer/Carrier/Servicing Agent shall be indemnified and held harmless against any action brought by any third party for payment of child support arrearage.

**E. THIRD PARTY LIENS:**

The Employer/Carrier/Servicing Agent does not waive any lien rights pursuant to Florida Statute 440.39 and the lump sum benefits paid herein shall be included in the amount thereof. The Employee/Claimant agrees to give written notification to the Employer/Carrier/Servicing Agent or their attorney as to the filing of any suit against third parties arising out of the accident or injuries giving rise to this claim and to advise as to any recovery received from third parties arising out of the accident or injuries which are the subject matter of this claim. The Employee/Claimant further agrees that no proceeds from any third party claim shall be dispersed prior to satisfaction of the Employer/Carrier/Servicing Agent's lien.

**II. STIPULATED FACTS:**

**A. MEDICAL CARE:**

The Employee/Claimant acknowledges receipt of authorized medical care by Concentra, Dr. Edward Parra-Davila, Dr. Edward Chung, Good Samaritan Hospital, Gardens Radiology. The Employee/Claimant understands and acknowledges that the aforementioned authorized treatment ceased effective August 17, 2021.

**B. WAIVER OF RECOUPMENT OF OVERPAYMENT:**

The Employer/Carrier hereby waives all claims for recoupment of the overpayment of temporary indemnity benefits made in these claims totaling \$2,028.00.

**III. SPECIFIC WAIVERS AND REPRESENTATIONS:**

**A. WAIVER OF RIGHT TO HAVE CASE HEARD BY JUDGE OF COMPENSATION CLAIMS AND RIGHT TO BRING PETITION FOR MODIFICATION:**

The Employee/Claimant understands that he does hereby relinquish the right to have any unresolved conflicts or disputes involving the right to monetary compensation benefits, impairment benefits, death benefits, attorney's fees, past due medical benefits, future medical benefits, and rehabilitation benefits heard and decided by the Judge of Compensation Claims. The Employee/Claimant also understands that this Settlement Agreement and Release shall not be reviewed by the Judge of Compensation Claims in accordance with Florida Statute 440.20 (11) (c). In addition, the Employee/Claimant also understands that the Order approving the Motion for Approval of Attorney's Fee and Allocation of Child Support Arrearage for Settlement under Section 440.20(11)(c)(d) & (e) is not an award under the Florida Workers' Compensation Act and is not subject to modification or review.

**B. WAIVER OF PENALTIES AND INTEREST:**

The Employee/Claimant does hereby waive any right he may have to any and all penalties and/or interest on account of the alleged accident or occupational disease referenced herein.

**C. RIGHT TO FUTURE MEDICAL CARE CLOSED:**

As provided under F.S. 440.20 (11)(c), the lump sum payable herein will fully discharge and satisfy the Employer/Carrier/Servicing Agent's liability, to provide future remedial and palliative medical care under F.S. 440.13, including, but not limited to, follow up examinations, pain medication, diagnostic testing, attendant care, and surgery. Effective August 17, 2021, the Employer/Carrier/Servicing Agent are no longer liable for any medical benefits resulting from the alleged accident or occupational disease referenced herein. Any further/future medical expenses will be the sole responsibility of the Employee/Claimant. The Employee/Claimant agrees to notify his treating physicians that he is now alone fully financially responsible for any and all medical care and treatment.

The Employee/Claimant has considered or had the opportunity to consider any and all reports submitted by medical providers and rehabilitation providers. In addition, the Employee/Claimant has consulted with or had the opportunity to consult with medical providers and rehabilitation providers. The Employee/Claimant stipulates and agrees that he has determined that the amount of money being proposed to settle medical care and treatment is reasonable and adequate to meet the Employee/Claimant's future

medical needs, in connection with the accident, occurrence, incident, exposure or event, which took place on or about July 9, 2020 and October 13, 2020.

**D. ALL KNOWN ACCIDENTS, INJURIES AND OCCUPATIONAL DISEASES REVEALED AND ALL PENDING CLAIMS AND/OR PETITIONS FOR BENEFITS WITHDRAWN AND/OR ACTIONS WAIVED:**

The Employee/Claimant represents and affirms that all accidents, injuries and occupational diseases known to have occurred or sustained while employed by CITY OF RIVERA BEACH have been revealed to the Employer/Carrier/Servicing Agent. All pending Claims/Petitions for Benefits are hereby voluntarily withdrawn and dismissed, with prejudice. It is stipulated and agreed that no accidental injuries or occupational diseases other than that specifically mentioned herein have been sustained, while the Employee/Claimant was employed at CITY OF RIVERA BEACH. This settlement represents a settlement of any and all claims or actions that may arise from the accident referenced herein and any claims or actions that may have arisen out of the Employee/Claimant's employment with CITY OF RIVERA BEACH.

In addition, as further consideration for such payment, the Employee/Claimant agrees and does hereby release, discharge, and surrender any and all claims, whether or not asserted, against the Employer/Carrier/Servicing Agent of any nature whatsoever, without any limitation thereof.

**E. EMPLOYER/CARRIER/SERVICING AGENT'S PAYMENT OF PAST MEDICAL BILLS:**

The Employer/Carrier/Servicing Agent agrees to pay, in accordance with the Workers' Compensation Fee Schedule, any bills for treatment causally related to work accident or occupational disease, from authorized health care providers/facilities, for dates of service prior to August 17, 2021. The Employer/Carrier/Servicing Agent will pay for such services upon receipt of the authorized treating physician's bills, submitted upon proper form.

The Employer/Carrier/Servicing Agent does not agree to pay any bills from unauthorized health care providers/facilities and the Employee/Claimant stipulates and agrees that he is solely responsible for resolving and satisfying any liens or attachments, filed by any health care provider/facility, not authorized by the Employer/Carrier/Servicing Agent. The Employee/Claimant also stipulates and agrees that he is not aware of any liens or attachments, filed by any health care provider/facility, not authorized by the Employer/Carrier/Servicing Agent. Moreover, the Employee/Claimant stipulates and agrees that the Employer/Carrier/Servicing Agent shall be indemnified and held harmless, against any action brought by any third party, for payment of past medical bills, for medical treatment, not authorized by the Employer/Carrier/Servicing Agent.

**F. FULL AND COMPLETE KNOWLEDGE:**

The Employee/Claimant acknowledges that he has full and complete knowledge of all pertinent and material facts in the instant claim and it is his desire to

settle this claim, fully and finally, consistent with and under the provisions of Section 440.20 of the Florida Statutes. The Employee/Claimant has entered into this agreement after full discussion and consideration of the matter and with full knowledge of the reports and opinions of the Employee/Claimant's treating physicians and rehabilitation counselors, as well as the Employee/Claimant's own estimate of her physical condition. The Employee/Claimant further represents that his rights under the Florida Workers' Compensation Law have been explained to his satisfaction and that he has made independent inquiry concerning the reasonableness of the settlement and his medical and disability status or has waived the opportunity to do so. Moreover, this Settlement Agreement and Release is the by-product of a duly scheduled Mediation which took place on July 12, 2021. The Mediation Agreement which resulted therefrom is incorporated herein by reference.

The Employee/Claimant understands that if this case were not settled, the Employee/Claimant would have a period of time following the date of last payment of compensation or furnishing of medical care in which to make a further claim against the Employer/Carrier/Service Agent herein because of injuries suffered in this accident. The Employee/Claimant feels it is advantageous and in his best interest to terminate this litigation and accept the settlement agreed to hereunder in full and final adjudication and settlement of this claim to compensation and medical benefits. The Employee/Claimant understands that the Employer/Carrier/Service Agent also waive substantial rights in settling this claim. The Employee/Claimant also understands that if he initiates legal proceedings pertaining to this Settlement Agreement and Release, after the Judge of Compensation Claims approves the Motion for Approval of Attorney's Fees and Allocation of Child Support Arrearage for settlement under Section 440.20(11)(c)(d)&(e), the Employee/Claimant shall be liable to the Employer/Carrier/Service Agent for all its' expenses, including reasonable attorney's fees, incurred during the proceeding.

As a further consideration and inducement for this compromise settlement, the undersigned Employee/Claimant agrees to indemnify, protect and hold harmless all parties named in this Settlement Agreement and Release and all other persons, firms and corporations whomsoever, from all judgments, costs, attorney's fees and expenses whatsoever arising on account of any action, claim or demand including but not limited to the following: all claims for subrogation, workers' compensation liens, bills and any and all claims under any Federal, State or local income disability act; any other public programs providing medical expenses, disability payments, or other similar benefits; any and all claims under Medicaid, Medicare; any and all claims for reimbursement or subrogation under any group medical policy, individual medical policy or any health maintenance organization; any and all claims for reimbursement or subrogation under any health, sickness, or income disability insurance, automobile accident insurance, and any other similar insurance that provides health benefits or income disability coverage; any and all claims for reimbursement or subrogation under any contract or agreement with any group, organization, partnership or corporation which provides for the payment or reimbursement of medical expenses or wages during the period of disability; and any and all actions, claims or demands whatsoever of any type or nature which may hereafter be brought or asserted against the parties named in this Settlement Agreement and

Release, on account of any injury, loss or damage resulting from the accident, occurrence, incident or event aforesaid.

The undersigned Employee/Claimant warrants that no promise or inducement not herein expressed has been made; that in executing this Release the undersigned Employee/Claimant is not relying upon any statement or representation made by any person, firm or corporation hereby released or any agent, physician or doctor or other person representing them or any of them concerning the nature, extent or duration of the injuries, losses or damages here involved or the legal liability therefor, or concerning any other thing or matter; that the payment of the above-mentioned sum is in compromise settlement and full satisfaction of all the aforesaid actions, claims and demands whatsoever; that the undersigned Employee/Claimant is over the age of twenty-one (21) years and legally competent to execute this Release and that the undersigned Employee/Claimant is fully informed of the contents of this Settlement Agreement and Release and signs it with full knowledge of its meaning.

**G. VOLUNTARY SETTLEMENT:**

The Employee/Claimant understands that he, like the Employer/Carrier/Service Agent, does not have to settle and is doing so freely, voluntarily and with no duress or coercion from anyone. The Employee/Claimant also affirms that he is mentally competent and understands all of the terms of this agreement and the consequences therefrom and further has had advice of counsel, with whom the Employee/Claimant is satisfied. The Employee/Claimant further understands that he has the right to take any claim/petition for any Workers' Compensation benefits to a hearing to have said claim/petition heard by a Judge of Compensation Claims and that by settling he gives up that right permanently. The Employee/Claimant represents that he has read this settlement agreement and release and hereby acknowledges that he understands and accepts all of the terms and conditions herein and that he has done so with the advice of counsel.

**H. SEVERABILITY CLAUSE:**

The Employer/Carrier/Service Agent and the Employee/Claimant agree that if any one section of this Settlement Agreement and Release shall be found to be void or otherwise ineffective, same shall not serve to nullify the entire Settlement Agreement and Release and that such section(s) shall be severable from the Settlement Agreement and Release.

**I. CONSTITUTIONALITY CLAUSE:**

The Employer/Carrier/Service Agent and the Employee/Claimant agree that in the event that this Settlement Agreement and Release shall be found to be unconstitutional or invalid by the District Court of Appeal or the Florida Supreme Court, or is otherwise not given full force and effect or is voided for any reason, in part or in whole, the Employer/Carrier/Service Agent shall be entitled to full reimbursement of the lump sum paid to the Employee/Claimant provided for herein, within 30 days of the

request by the Employer/Carrier/Servicing Agent. If any portion of the settlement proceeds is not returned to the Employer/Carrier/Servicing Agent within 30 days of the request by the Employer/Carrier/Servicing Agent, the Employer/Carrier/Servicing Agent shall be entitled to a 100% offset against the Employee/Claimant's indemnity benefits and medical benefits until the settlement amount is fully repaid. Under no circumstances shall the settlement amount provided for herein be considered a gratuitous payment by the Employer/Carrier/Servicing Agent.

**J. CONSIDERATION FOR SOCIAL SECURITY BENEFITS AND OFFSETS:**

The parties stipulate and agree that the Employee/Claimant's entitlements to Social Security benefits and the various offsets concerning same have been considered by the parties in agreeing to the terms of this agreement. The terms and allocation of these benefits and offsets may be contained in a separate document to be attached hereto. The Employee/Claimant acknowledges that he understands that if he has received any benefits, at any time, from Medicare or Medicaid for any injuries or conditions, related or not to his industrial accident, he must contact Medicare/Medicaid to resolve any lien or claim Medicare/Medicaid might have against the proceeds of this settlement. The Employer/Carrier is entering into this agreement on the understanding that the Employee/Claimant has not received any benefits under Medicare or Medicaid or, if the Employee/Claimant received such benefits, that the Employee/Claimant has promised to resolve any claim, lien, or other rights Medicare/Medicaid might have against these proceeds. The Employee/Claimant acknowledges that any and all known liens or potential liens involving Medicare, Medicaid, the Internal Revenue Service, child support enforcement, or other agencies of Federal, state or local governments have been revealed to the Employer/Carrier and agrees to indemnify and hold harmless the Employer/Carrier regarding any such liens.

**K. MEDICARE CONSIDERATIONS:**

The Centers for Medicare and Medicaid Services have stated in a memorandum circulated to its regional offices that Medicare's interests must always be considered in those workers' compensation settlements. However, CMS has set workload thresholds for approval in workers' compensation settlements wherein: 1) the Claimant is already a Medicare beneficiary, and the settlement amount is greater than \$25,000.00 OR 2) the Claimant has a "reasonable expectation" of Medicare enrollment within thirty (30) months of the settlement date and the anticipated total settlement amount is greater than \$250,000.00. On May 11, 2011, The Centers for Medicare and Medicaid Services have stated in a memorandum circulated to its regional offices that "submission of a WCMSA proposal to CMS for review and approval is a recommended process. There are no statutory or regulatory provisions requiring that a WCMSA proposal be submitted to CMS for review." Based upon those memoranda, the parties agree that this settlement does not meet the above criterion because the Employee/Claimant has not applied for social security disability and he is not a Medicare Beneficiary. Therefore, the settlement does not meet the workload threshold review.

Considerable attention has been given to the Employee/Claimant's entitlement to Social Security disability benefits pursuant to 42 U.S.C. § 423, and receipt of Medicare benefits under 42 U.S.C. § 1395y, as well as the entitlement of the Centers for Medicare and Medicaid Services ("CMS") to subrogation and intervention, pursuant to 42 C.F.R. §§ 411.40 to 411.47, to recover any overpayment made by Medicare. It is not the purpose of this settlement agreement to shift to Medicare the responsibility for payment of medical expenses for the treatment of work related conditions. Instead, this settlement agreement is intended to provide the Employee/Claimant with a lump sum which will foreclose these expenses

The parties have not considered the receipt of any Medicare or Medicaid assistance for the purpose of an alternative means of medical recovery pursuant to negotiations. The settlement reached herein has been based upon the full anticipated value of future workers' compensation indemnity and medical benefits exposure offset by future uncertainty as to the nature and extent of the Employee/Claimant's entitlement to these benefits, and available statutory defenses.

In the event of Medicare or CMS make a claim for past or future Medicare benefits, Medicaid asserts a lien, or there are any child support liens, arrearages, orders, obligations or claims, on any part of this settlement, the Employee/Claimant agrees to fully and completely indemnify, defend and hold harmless the Employer/Carrier/ Servicing Agent against any resulting obligation, claim, penalty, fine, or lien. The Employee/Claimant expressly agrees to accept full liability for any prior attorney liens for representation or benefits acquired for the Employee/Claimant in relation to the industrial accident(s) and Employee/Claimant's counsel agrees to hold settlement proceeds in trust until any prior attorney lien, if any, is resolved.

The Employee/Claimant acknowledges that the Employee/Claimant has not relied on any representations, advice or counsel of the employer/Carrier or Servicing Agent, their attorneys, agents or adjusters regarding the Employee/Claimant's entitlement to Social Security, Medicare or Medicaid benefits or the impact the terms of this agreement may have on such benefits. The Employee/Claimant further acknowledges that any decision regarding entitlement to Social Security, Medicare or Medicaid benefits, including the amount and duration of payments and offset or reimbursement for prior or future payments is exclusively within the jurisdiction of the Social Security Administration, The United States Government, and the United States Federal courts and is determined by Federal Law. As such, the United States Government is not bound by any of the terms of this agreement. The Employee/Claimant has been advised of his right to seek assistance from legal counsel of his choosing or directly from the Social Security Administration or other governmental agencies regarding the impact this agreement may have on the Employee/Claimant's present or future entitlement to Social Security, Medicare, Medicaid, or other governmental benefits. Notwithstanding the foregoing, the Employee/Claimant desires to enter into the terms of this Agreement and release of claims.

This Settlement Agreement and Release was signed by the Employee/Claimant on this \_\_\_\_\_, day of \_\_\_\_\_, 2021, and by the attorney for the Employee/Claimant on this \_\_\_\_\_, day of \_\_\_\_\_, 2021, and by the attorney for the Employer/Carrier/Service Agent on this \_\_\_\_\_, day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Louis Kanitsch  
Employee/Claimant

\_\_\_\_\_  
Lyle B. Masnikoff, Esquire  
Lyle B. Masnikoff & Associates, P.A.  
Attorney for Employee/Claimant

\_\_\_\_\_  
ESTHER ZAPATA RUDERMAN, ESQUIRE  
CONROY SIMBERG  
Attorney for Employer/Carrier

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, who is personally known to me, or who has produced \_\_\_\_\_ as identification and certifies that the information furnished by him as incorporated in the foregoing Settlement Agreement and Release is true and correct and that he (has read the Stipulation)(has had the Stipulation read to him) and has executed the foregoing Agreement freely and voluntarily for the uses and purposes therein expressed..

(Seal)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Print, Type or Stamp Name of Notary