

## **GLOBAL RELEASE & SETTLEMENT AGREEMENT**

This Global Release & Settlement Agreement (“Agreement”) is entered into between North Star Mutual Insurance Company (“NSMIC”) as subrogee of Leo’s Italian Restaurant, Inc. (“Restaurant”), Bryan Construction, Inc. (“Bryan”), and City of Oelwein (the “City”) for the consideration and mutual promises hereinafter stated. NSMIC, Bryan, and the City are at times referred to as “the parties” or a “party”.

**WHEREAS**, NSMIC has asserted claims of Negligence against Bryan and the City arising out of actions taken on or about November 21, 2022 to remove connecting structures from and damaging the building owned by Restaurant at 29 South Frederick Avenue, Oelwein, Iowa 50662 (the “Building”) and all related interactions between the parties;

**WHEREAS**, NSMIC has asserted a subrogation interest based upon its payment(s) to Restaurant to repair damage to the Building;

**WHEREAS**, NSMIC filed a Petition with the Iowa District Court for Fayette County, entitled *North Star Mutual Insurance Company as subrogee of Leo’s Italian Restaurant, Inc. v. Bryan Construction, Inc. and the City of Oelwein*, Case No. CVCV056927 (referred to as the “Litigation”);

**WHEREAS**, the City has filed a Cross-Claim with the Iowa District Court for Fayette County asserting claims for Contribution and Indemnity and Breach of Contract against Bryan as part of the Litigation;

**WHEREAS**, Bryan and the City have denied any and all accusations and liability related to NSMIC’s allegations; and

**WHEREAS**, Bryan has denied any and all accusations and liability related to the City’s allegations; and

**WHEREAS**, the parties to this Agreement wish to settle and compromise the disputes and claims between each other as set forth in the Agreement related to any facts, acts, events, or otherwise pertaining to NSMIC’s claims and allegations which have or could have been asserted through the present date, without the necessity of further litigation and/or a trial on the merits with all of the attendant expenses, all without admission of wrongful conduct, fault, or culpability on the part of the parties;

**THEREFORE**, the parties, in consideration of the foregoing and the payments and mutual promises set forth in this Agreement, agree as follows:

1. **Consideration.** It is understood and agreed by NSMIC that as full, sufficient, and complete consideration for NSMIC’s promises and releases made herein, the following payment of a combined total of One Hundred Seven Thousand Five Hundred Dollars and Zero Cents (\$107,500.00) shall be made following the receipt of materials as described herein:

1.1 Federated Mutual Insurance Company shall tender upon execution of this Agreement the combined total sum of One Hundred Seven Thousand Five Hundred Dollars and

Zero Cents (\$107,500.00) in the form of a check payable to “The Grotefeld Trust Account” in full and final settlement of all claims.

Said sum shall be paid in order to avoid the cost of litigation and is a full payment for settlement of all claims that were or could have been raised by NSMIC or at any time in the future based upon facts now known or unknown to the parties. Bryan and the City will not be liable in any manner for the distribution, division, or payment of any portion of these funds to or involving any other claimants thereto. This payment will be issued within 30 days of receipt of the fully executed settlement agreement and appropriate W-9(s) from NSMIC.

Upon tender of the respective sum referenced above, Bryan and the City will have fully met their obligations to NSMIC under this Agreement. Upon tender of the respective sum referenced above, Bryan will have fully met its obligations to the City under this Agreement.

2. Valid Consideration. NSMIC expressly agrees and acknowledges that the payment described in Paragraph 1 above is not payment to which it is otherwise entitled. Except as stated in this Agreement, NSMIC shall not be entitled to any compensation, remuneration, benefits, or other payments from Bryan or the City.

3. Taxes. NSMIC agrees that if any state, federal, or local taxes are owing from it on the sum set forth in Paragraph 1 and its subsections that it will assume all responsibility for payment of any such taxes, together with any interest and/or penalties due thereon to any state, federal, or local authority. NSMIC further agrees to indemnify the parties released under Paragraph 4 regarding any liability or expense for any claims or determinations hereafter regarding the payment of taxes, interest charges or penalties relating to any payments made to or discharge given by NSMIC pursuant to this Agreement.

4. NSMIC Release. In consideration of the payment set forth within Paragraph 1.0 and its subparts, and other good and valuable consideration NSMIC and all its personal representatives, successors, executors, subrogees, subrogors, indemnitors, indemnitees, predecessors, legal representatives and assigns does hereby agree to fully and forever release, acquit, exonerate and discharge Bryan, the City, Federated Mutual Insurance Company, and their insurers, parent companies, subsidiaries, associations, partnerships, divisions, affiliates, directors, officers, agents, firms, employees, volunteers, shareholders, successors, assignees, indemnitors, indemnitees and attorneys, predecessors, successors, legal representatives, servants, heirs, executors, administrators and all other persons, and assigns for the foregoing persons and entities (collectively referred to as “Released Parties,” and individually as a “Released Party”), from any and all claims, demands and causes of action for all losses, costs, charges, expenses and damages of every kind, nature and character, now existing or hereafter arising, foreseen or unforeseen, known or unknown or hereafter becoming known, resulting directly or indirectly, proximately or remotely, from the circumstances and events involved in the afore-mentioned Litigation and all claims which were asserted or could have been asserted within or related to the Litigation from the beginning of time to present date.

5. The City Release. For good and valuable consideration the City and all its personal representatives, successors, executors, subrogees, subrogors, indemnitors, indemnitees, predecessors, legal representatives and assigns does hereby agree to fully and forever release, acquit, exonerate and discharge Bryan and its insurers, parent companies, subsidiaries, divisions, affiliates, directors,

officers, agents, employees, volunteers, shareholders, successors, assignees, indemnitors, indemnitees and attorneys, predecessors, successors, legal representatives and assigns for the foregoing persons and entities (collectively referred to as “Released Parties,” and individually as a “Released Party”), from any and all claims, demands and causes of action for all losses, costs, charges, expenses and damages of every kind, nature and character, now existing or hereafter arising, foreseen or unforeseen, known or unknown or hereafter becoming known, arising from the City’s cross-claim.

6. No Further Litigation. At no time subsequent to the execution of this Agreement will NSMIC file or maintain, or cause or knowingly permit the filing or maintenance, in any state, federal, or foreign court, or before any local, state, federal, or foreign administrative agency, or any other tribunal, any charge, claim, or action of any kind, nature, and character whatsoever, known or unknown, which it may now have, or have ever had against Bryan, the City, or any other Released Party based in whole or in part on any matter referred to herein (including Paragraph 4 above) prior to its execution of this Agreement.

7. NSMIC Dismissal. NSMIC stipulates and agrees that in consideration of the payment and representations described herein, it shall cause to be filed a Dismissal With Prejudice of any and all claims it has filed against Bryan and the City, promptly and timely, including in the legal proceedings presently pending before the Iowa District Court for Fayette County upon receipt of, and before negotiating, the payment referenced in Paragraph 1. NSMIC further agrees that each party to the Litigation shall bear their own fees and costs such that NSMIC does not expect and will not accept or receive any payments from Bryan, the City, or other Released Parties for fees and/or costs that they have incurred and/or which would be attributable to the Litigation.

8. The City Dismissal. The City stipulates and agrees that in consideration of the payment and representations described herein, it shall cause to be filed a Dismissal With Prejudice of any and all claims it has filed against Bryan in the present litigation, promptly and timely. The City further agrees that each party to the Litigation shall bear their own fees and costs such that the City does not expect and will not accept or receive any payments from Bryan or other Released Parties for fees and/or costs that it has incurred and/or which would be attributable to the Litigation.

9. No Admission of Liability. Liability for any and all of NSMIC’s claims is expressly disputed and denied by Bryan, the City, and the Released Parties. It is understood and agreed that this is a compromise settlement of any and all claims, and that neither this Agreement itself, the offering of it, nor the furnishing of the consideration for this Agreement shall be deemed or construed at any time for any purpose as an admission of Bryan’s or the City’s liability or responsibility for any wrongdoing of any kind. NSMIC agrees this settlement is in full compromise of a disputed claim both as to the question of liability and as to the nature and extent and damages and that payment is not to be construed as an admission of liability.

10. Beneficiaries and Assignability. This Agreement is binding on, and shall inure to the benefit of the parties, their heirs, representatives, transferees, principals, estates, executors, administrators, predecessors, successors, parents, subsidiaries, affiliates, assigns, agents, directors, officers, directors and employees.

11. Liens. NSMIC represents and agrees that it shall be solely responsible for any outstanding liens or subrogation claims arising from the matters referred to in this Agreement.

NSMIC further agrees that it shall be solely responsible for their own fees, bills and expenses, and that no other party will pay any such fees, bills or expenses on its behalf. NSMIC guarantees that it will ensure the satisfaction of any and all liens or expenses, whether currently existing or arising in the future, for expenses purportedly arising from the circumstances, events, and/or occurrences set forth within the aforementioned Litigation and for which this Agreement is made.

12. Entire Agreement. This Agreement constitutes the entire agreement, written and oral, of the parties hereto, and it supersedes and replaces all prior negotiations, proposed agreements, understandings, representations and agreements, written or oral. No party hereto is relying on any statement or representation of any other party hereto except those, if any, set forth herein. No part of this Agreement may be amended, varied, or supplemented in any respect, except by a writing duly executed by each of the parties hereto or their authorized representatives.

13. Counterparts. This Agreement may be executed in one or more counterparts, all of which, taken together, shall constitute one and the same instrument.

14. Choice of Law. The parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of Iowa, without regard for its choice-of-law provisions.

15. Severability. Except as otherwise provided in this Paragraph, if any provision of this Agreement shall be finally determined to be invalid or unenforceable by a court of competent jurisdiction, that part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Agreement.

16. Knowing and Voluntary Waiver. In entering into this Agreement, no party has relied on any representations or warranties of any other party, other than the representations or warranties expressly set forth in this Agreement. The parties further acknowledge that they fully understand this Agreement and the effect of signing and executing the Agreement.

17. Jointly Drafted. Because the parties have had a full opportunity to consider this Agreement and negotiate its terms, this Agreement is deemed to have been jointly prepared by the parties, and any uncertainty or ambiguity existing in it shall not be interpreted against any party as the primary drafter of the Agreement. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its meaning and not strictly for or against any of the parties.

18. Warranty of Capacity to Execute Agreement. NSMIC represents and warrants that no other person or entity has, or had, any interest in the claims, demands, obligations, or causes of action referred to in this Agreement, except as otherwise set forth herein; that NSMIC has the sole right and exclusive authority to execute this Agreement; and that NSMIC has not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Agreement.

19. Effectiveness. This Agreement shall become effective as of the date it is signed. This Agreement shall become effective immediately upon execution and may be executed by duplicate of the original, in which event all original signed copies shall be the original document.

**ALL PARTIES EXECUTING THIS AGREEMENT STATE THAT THEY HAVE READ AND FULLY UNDERSTAND THE FOREGOING AGREEMENT AND CONSULTED AN ATTORNEY IF BELIEVED NECESSARY BEFORE EXECUTING THIS GLOBAL RELEASE & SETTLEMENT AGREEMENT.**

**THIS RELEASE INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS, EXCEPT AS OTHERWISE LIMITED OR STATED IN THE AGREEMENT.**

I have read the foregoing and I accept and agree to the provisions it contains and hereby execute it voluntarily with full understanding of its consequences.

**North Star Mutual Insurance Company (duly authorized representative)**

By: \_\_\_\_\_ Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Bryan Construction, Inc. (duly authorized representative)**

By: \_\_\_\_\_ Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**City of Oelwein (duly authorized representative)**

By: \_\_\_\_\_ Name: Brett DeVore  
Title: Mayor