

**JOINT PLAN OF REORGANIZATION
EXHIBIT K**

JOINT PLAN OF REORGANIZATION
EXHIBIT K – SURVIVOR CLAIM DISTRIBUTION PLAN

**DIOCESE OF NEW ULM
SURVIVOR CLAIM DISTRIBUTION PLAN**

**ARTICLE I
DEFINITIONS**

1.1 Capitalized Terms.

Capitalized terms used in this Distribution Plan shall have the meanings given them in the Plan, the Trust Agreement, or the Bankruptcy Code, unless otherwise defined herein, and such definitions are incorporated in this Distribution Plan by reference.

**ARTICLE II
RULES OF INTERPRETATION AND GENERAL GUIDELINES**

2.1. Purpose

This Distribution Plan is designed to provide guidance to the Survivor Claims Reviewer in determining the amount of each Survivor Claim under the Plan by assigning to each such Claim a value pursuant to the Evaluation Factors below.

2.2. General Principles

As a general principle, this Distribution Plan intends to set out a procedure that provides substantially the same treatment to holders of similar Survivor Claims. The range of values set forth in the Evaluation Factors below and the discretion given to the Survivor Claims Reviewer to determine and to adjust the value to be assigned to a particular Survivor Claim are intended to reflect the relative values of Survivor Claims.

2.3. Sole and Exclusive Method

The Evaluation Factors set forth below shall be the sole and exclusive method by which the holder of a Survivor Claim may seek allowance and distribution of such Claim. Although the factors collectively comprise the methodology that must be applied in reviewing Claims, the Survivor Claims Reviewer may, as indicated below, take into account considerations in addition to those identified herein when evaluating a Claim within the parameters of the delineated factors.

2.4. Interpretation

The terms of the Plan shall prevail if there is any discrepancy between the terms of the Plan and the terms of these Procedures.

2.5. Confidentiality and Privilege

All information that the Survivor Claims Reviewer receives from any source about any Survivor Claimant shall be held in strict confidence and shall not be disclosed absent an Order of the Bankruptcy Court or the written consent of the Survivor Claimant (or such Claimant's counsel of record). All information the Survivor Claims Reviewer receives from any Survivor Claimant

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(including from counsel to such Claimant) shall be subject to a mediation privilege and receipt of such information by the Survivor Claims Reviewer shall not constitute a waiver of any attorney-client privilege or attorney work-product claim or any similar privilege or doctrine.

2.6. Survivor Claims Reviewer

Roger Kramer is the Survivor Claims Reviewer. The Survivor Claims Reviewer shall conduct a review of each of the Survivor Claims and, according to the guidelines set forth below, shall make determinations upon which individual monetary distributions will be made subject to the Plan and the Trust Agreement.

ARTICLE III
PROCEDURE

3.1. Allowance of a Survivor Claim

A Survivor Claim shall be allowed if the Survivor Claims Reviewer determines the Survivor Claimant proved his or her claim by a preponderance of the evidence. If necessary, the Survivor Claims Reviewer can ask for additional information to make this determination. The Survivor Claimant may refuse such a request at his or her own risk.

3.2. Determination of Class 2 Claim Status

Under the Plan, all Survivor Claims filed after the Claim Filing Deadline are Class 2 Claims. Class 2 Claims are divided into three categories: (1) Pre-Effective Date Unknown Survivor Claims, (2) Post-Effective Date Unknown Survivor Claims, and (3) Late-Filed Survivor Claims. The Plan provides for specific treatment for each category of Class 2 Claims. In addition to determining whether a holder of a Class 2 Claim proved his or her claim by a preponderance of the evidence pursuant to Section 3.1 herein, the Survivor Claims Reviewer shall also determine the category of the Class 2 Claim pursuant to the definitions provided for in the Plan. If the Survivor Claims Reviewer determines that the holder of a Class 2 Claim holds a valid Pre-Effective Date Unknown Survivor Claim, the Survivor Claims Reviewer shall immediately notify the Trustee for the purposes of funding the Pre-Effective Date Unknown Claim Reserve.

3.3. Claim Amount Determination

If a Survivor Claim is allowed, the Survivor Claims Reviewer shall determine the amount of such Survivor Claim by assigning such Survivor Claim a value pursuant to the Evaluation Factors. The Survivor Claims Reviewer shall consider all of the facts and evidence presented by the Survivor Claimant in the Survivor Claimant's filed Proof of Claim or, if the Survivor Claimant did not file a Proof of Claim prior to the Effective Date, the Proof of Claim form submitted by the Survivor Claimant to the Survivor Claims Reviewer after the Effective Date. Survivor Claimants may supplement their filed Proofs of Claim to provide additional information to the Survivor Claims Reviewer until a plan is confirmed. Survivor Claimants shall have no later than ten (10) days from the Confirmation Date to provide the Survivor Claims Reviewer with any additional information. The Survivor Claims Reviewer may consider the credibility of the Survivor Claimant

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and the facts alleged in support of the Claim and, in the Survivor Claims Reviewer's sole discretion, reduce or deny the Survivor Claim.

3.4. Determinations by the Survivor Claims Reviewer

The Survivor Claims Reviewer or the Trustee shall notify each Survivor Claimant in writing of the expected monetary distribution with respect to the Survivor Claimant's claim, which distribution may be greater or smaller than the actual distribution to be received based on the outcome of any reconsideration claims. The Survivor Claims Reviewer's determination shall be final unless the Survivor Claimant makes a timely request for the point award to be reconsidered by the Survivor Claims Reviewer. The Survivor Claimant shall not have a right to any other appeal of the Survivor Claims Reviewer's point award.

3.5. Requests for Reconsideration

The Survivor Claimant may request reconsideration by delivering a written request for reconsideration to the Survivor Claims Reviewer within ten (10) calendar days after the date of mailing of the notice of the preliminary monetary distribution. Each written request must be accompanied by a check for the reconsideration fee, five hundred dollars (\$500.00). The Survivor Claimant, with the request for reconsideration, may submit additional evidence and argument in support of such request. The Survivor Claimant's monetary distribution amount may go up or down as a result of his or her request for reconsideration. The Survivor Claims Reviewer shall have sole discretion to determine how to respond to the request for reconsideration. The Survivor Claims Reviewer's determination of such request for reconsideration shall be final and not subject to any further reconsideration, review or appeal by any party, including a court.

3.6. Distribution to Holders of Class 1 Claims

Once the Survivor Claims Reviewer has made all reconsideration determinations, the Trustee shall determine the dollar value of each Class 1 Claimant's actual distribution based on the Class 1 Claimant's pro rata share of the total final points assigned pursuant to Section __ herein and the available funds for distribution. The Trustee shall then make payment to Class 1 Claimants in accordance with the Trustee's powers and duties under Section 3.2.8 of the Trust Agreement.

3.7. Distribution to Holders of Class 2 Claims

When a Class 2 Claim is received, the Survivor Claims Reviewer will first determine the category to which the Class 2 Claim belongs pursuant to the terms of the Plan. The Survivor Claims Reviewer will also assign a total point value to each claim determined to be an Unknown Survivor Claim. The Trustee shall then make a distribution to each holder of Class 2 Claims from the Class 2 Reserves pursuant to the following:

- (a) Holders of Pre-Effective Date Unknown Survivor Claims shall receive a pro rata distribution from the Pre-Effective Date Unknown Claim Reserve based on the following calculation: the points assigned by the Survivor Claims Reviewer for each Pre-Effective Date Unknown Survivor Claim divided by the combined

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total points of all Pre-Effective Date Unknown Survivor Claims multiplied by the amount held in the Pre-Effective Date Unknown Claim Reserve.

- (b) Holders of Post-Effective Date Unknown Survivor Claims shall receive a pro rata distribution from the Post-Effective Date Unknown Claim Reserve based on the following calculation: the points assigned by the Survivor Claims Reviewer for each Post-Effective Date Unknown Survivor Claim divided by the combined total points of all Post-Effective Date Unknown Survivor Claims multiplied by the amount held in the Post-Effective Date Unknown Claim Reserve, except that no Unknown Survivor Claimant shall receive more than he or she would have received as a Known Survivor Claimant. The Trustee shall make an immediate distribution of \$20,000 to holders of allowed Post-Effective Date Unknown Survivor Claims, with the remaining portion of their Post-Effective Date Unknown Survivor Claim paid at the termination of the Post-Effective Date Unknown Claim Reserve as provided for in the Trust Agreement.
- (c) Holders of Late-Filed Survivor Claims shall receive a distribution of \$2,000 from the Late-Filed Claims Reserve.

3.7. Deceased Abuse Survivors

The Survivor Claims Reviewer shall review the claim of a deceased Survivor Claimant without regard to the Claimant's death, except that the Survivor Claims Reviewer may require evidence that the person submitting the claim on behalf of the decedent is authorized to do so.

ARTICLE IV
GUIDELINES FOR ALLOCATION FOR ABUSE SURVIVOR CLAIMS

4.1. Evaluation Factors

Each Survivor Claim will be evaluated by the Survivor Claims Reviewer. Each Claim will be assigned points according to the following system.

- (a) **Nature of Abuse & Circumstances.** A point value ranging from 0 to 55 should be allocated for this section. Considerations should include, but are not limited to, the following factors:
 - (1) The duration and/or frequency of the abuse;
 - (2) Type of abuse: e.g. penetration, attempted penetration, masturbation, oral sex, touching under the clothing, touching over the clothing, removing of clothing covering genitals, exposure of perpetrator's genitals, kissing, sexualized talk;
 - (3) Circumstances of abuse:

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(i) grooming behaviors including but not limited to special privileges, special activities, and attention, social relationship with parents, personal relationship with claimant, opportunity to experience sports or activities, isolation from others, use of alcohol or illicit drugs by abuser or claimant or use of or exposure to pornography;

(ii) coercion or threat or use of force or violence, stalking;

(iii) relationship of claimant to perpetrator including but not limited to whether claimant was a parishioner or student, held perpetrator in high regard, whether perpetrator was in position of trust, whether perpetrator had unsupervised access to claimant, and whether claimant valued relationship with perpetrator;

(iv) location of abuse, including but not limited to isolated location, Survivor Claimant's home, rectory, church, cabin, orphanage, boarding school, trip.

(b) Impact of the Abuse. Overall, this category looks to how the abuse impacted the claimant. This includes how the abuse impacted the claimant's mental health, physical health, spiritual well-being, inter-personal relationships, vocational capacity or success, academic capacity or success, and whether the abuse at issue resulted in legal difficulties for the claimant. Some of these considerations may include the below factors, but the below list is not intended to be exhaustive. A point value ranging from 0 to 40 should be allocated for this section.

The Survivor Claim Review should consider, along with any and all other relevant factors, whether the abuse at issue manifested, or otherwise led the claimant to experience, or engage in behaviors resulting from:

(1) **Mental Health Issues:** This includes but is not limited to anxiety, depression, post-traumatic stress disorder, substance abuse, addiction, embarrassment, fear, flashbacks, nightmares, sleep issues, sleep disturbances, exaggerated startle response, boundary issues, self-destructive behaviors, guilt, grief, homophobia, hostility, humiliation, anger, isolation, hollowness, regret, shame, isolation, sexual addiction, sexual problems, sexual identity confusion, low self-esteem or self-image, bitterness, suicidal ideation and suicide attempts.

(2) **Physical Health Issues:** This includes but is not limited to physical manifestations of emotional distress, gastrointestinal issues, headaches, high blood pressure, physical manifestations of anxiety, erectile dysfunction, heart palpitations, sexually-transmitted diseases, physical damage caused by acts of abuse, reproductive damage, self-cutting and other self-injurious behavior.

(3) **Spiritual Wellbeing:** This includes but is not limited to loss of faith in God, loss of faith and trust in religion and spiritual distress.

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(4) **Interpersonal Relationships:** This includes but is not limited to problems with authority figures, hypervigilance, sexual problems, marital difficulties, problems with intimacy, lack of trust, isolation, betrayal, impaired relations, secrecy, social discreditation and isolation; damage to family relationships, and fear of children or parenting.

(5) **Vocational Capacity:** This includes but is not limited to under- and un-employment, difficulty with authority figures, difficulty changing and maintaining employment, feeling of unworthiness or guilt related to financial success.

(6) **Academic Capacity:** This includes but is not limited to school behavior problems.

(7) **Legal Difficulties:** This includes but is not limited to criminal difficulties, bankruptcy, fraud.

(c) **Claimant Involvement.** The Survivor Claims Reviewer shall consider that all Claimants have benefited from the work and cost incurred by those Claimants who have previously asserted claims against the Diocese and have participated in the legal and factual development of claims against the Diocese. A point value ranging from 0 to 5 should be allocated for this section.

The Survivor Claim Review should consider factors including but not limited to whether the Claimant has filed a lawsuit; whether the Claimant and/or the Claimant's family has been subject to a deposition, mediation or interview; whether the Claimant has participated on the committee representing survivors; and whether the Claimant participated in publicizing the issue of clergy sex abuse which has benefitted all claimants.

ARTICLE V
ADDITIONAL PROVISIONS

5.1. Reduction

If the Survivor Claimant's abuser(s) belonged to a religious order, the Survivor Claimant's final monetary distribution shall be reduced by thirty-three percent (33%). If the reduction result is not a whole number, the Survivor Claims Reviewer should round up to the nearest whole number.

If the Survivor Claimant received a monetary distribution from another diocese or archdiocese on account of the same Abuse that is the subject of his or her Survivor Claim, the Survivor Claimant's final monetary distribution shall be reduced by fifty percent (50%). If the reduction result is not a whole number, the Survivor Claims Reviewer should round up to the nearest whole number.

If a Known Survivor Claimant did not file a claim or lawsuit against the Diocese on or prior to May 25, 2016, his or her final monetary distribution shall be reduced by seventy-five percent (75%).

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If a Survivor Claimant is also a clergy abuser in another allowed Survivor Claim, then his points will be reduced by the number of points allocated to his victim(s).

5.2. Minimum Point Allocation

Notwithstanding anything to the contrary herein or in the Plan, every holder of an allowed Survivor Claim shall receive a point allocation of at least 15, unless the Claim is disallowed in its entirety by an Order of the Bankruptcy Court or a decision by the Survivor Claims Reviewer.