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February 9, 2004

NATHAN J. WHITLING
DIRECT DIAL: (780) 423-8658
EMAIL: nwhitling@parlee.com
OUR FILE #: 62695-1/NJW

VIA FACSIMILE & COURIER

Department of Foreign Affairs and International Trade
Lester B. Pearson Building, Tower A
125 Sussex Drive
Ottawa, ON K1A 0G2

Attention: Bill Graham, Minister of Foreign Affairs

Dear Sir:

Re: Omar Ahmed Khadr, Guantánamo Bay Detainee

COPY

Kindly receive this letter as an addendum or supplement to the letter sent to your office by Mr. Dennis Edney dated January 20, 2004. I confirm that the writer acts as co-counsel for Omar Ahmed Khadr, along with Mr. Edney.

We enclose for your review one Authorization and Consent to Act signed by Omar's grandmother, Fatima El-Samnah, and one Authorization and Consent to Act signed by Omar's brother, Abdur Rahman Khadr. As these materials indicate, both Mr. Edney and the writer have been retained by Mr. Khadr's family to act in his best interests. Additionally, these materials confirm that Omar is being held in *communicado* in Guantánamo Bay and may not make requests to your Ministry himself.

We also enclose for your review a copy of a News Release from the United States Department of Defence dated November 25, 2003. We note that this document confirms that the United States government has entered into an agreement with the Australian government in relation to the manner in which an Australian citizen will be tried and treated before military commissions constituted by the Department of Defence. Notably, this document confirms that Australia has sought and received assurances that the United States will not seek the death penalty as against their citizen, Mr. Hicks. We hereby request and demand that your Ministry seek an equivalent assurance on behalf of Omar to be implemented in the event that he is charged and tried before a United States Military Commission. In this regard, we cite the decision of the Supreme Court of Canada in *United States v. Burns*, [2001] 1 S.C.R. 283. We also refer to the numerous other conditions in this agreement, all of which we request that your Ministry seek on Omar's behalf. These include:

1. Conversations between Omar and his defence counsel will not be monitored;

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- PLEASE REPLY TO EDMONTON OFFICE

EDMONTON
1500 Manitoba Place
10180-101 Street, Edmonton, Alberta T5J 4K1
Telephone: (780)423-8500 Fax: (780)423-2870

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150-8 Avenue SW, Calgary, Alberta T2P 3Y7
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REVIEW AUTHORITY: SHARON E AHMAD
DATE/CASE ID: 20 APR 2005 200303827

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- 2 -

2. Omar will not be excluded from any portion of the proceedings;
3. Arrangements will be made to transfer Omar to Canada for the purpose of serving any sentence which may be imposed upon him;
4. Any military commissions will be open, the media present and appropriately cleared representatives of the accused's government may observe the proceedings;
5. If Omar is convicted, the Canadian government may make submissions to the Review Panel;
6. Omar may be permitted to talk to appropriately cleared family members via telephone, and two appropriately cleared family members would be able to attend his trial;
7. Omar may choose to have an appropriately cleared foreign attorney as a consultant to the Defense Team. Foreign attorney consultant access to attorney-client information, case material or the accused will be subject to appropriate security clearances and restrictions and determined on a case-by-case basis; and
8. The above assurances are in addition to other military commission procedures which already provide for the presumption of innocence, proof of guilt beyond a reasonable doubt, representation by a competent and zealous defense counsel free of charge, no adverse inference for choosing to remain silent and the overall requirement that any commission proceedings be full and fair.

Finally, I include colour copies of the photographs and identification which were referred to in Mr. Edney's original letter but which were not enclosed.

Given the seriousness of Omar's current predicament, this is a situation of the utmost urgency calling for your immediate attention. Despite this, we have yet to receive any response to our past correspondence. We look forward to hearing from your office in the very near future, failing which we will be seeking appropriate relief in the Federal Court of Canada. Kindly govern yourself accordingly.

Yours truly,

PARLEE McLAWS LLP

NATHAN J. WHITLING

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Encls.

c.c. Dennis Edney (*without enclosures*)

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