

# **EXHIBIT B**

## **CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

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This Class Action Settlement Agreement and Release (the “Agreement”) is entered into by and between (1) Defendant Newport Group, Inc. (“Newport”), (2) Plaintiffs Rev. Pearce Ewing, Rev. Charles R. Jackson, Presiding Elder Cedric V. Alexander, Rev. Derrell Wade, Rev. Reuben J. Boyd, Presiding Elder Phillip Russ, IV, Lynette Glenn, Guardian of Rev. Marcius King, Rev. Matthew Ewing, Candace L. Carmichael, as Administrator of the Estate of Rev. A. Offord Carmichael, Jr., and Rev. Diane Conley (“Plaintiffs”), for themselves and the Settlement Class (as defined below), and (3) African Methodist Episcopal Church (“AME Church”), African Methodist Episcopal Church, Inc., AMEC Ministerial Retirement Annuity Plan, AMEC Department of Retirement Services, AMEC General Board and AMEC Council of Bishops (“AME Defendants”). Newport, Plaintiffs, and AME Defendants are referred to collectively in this Agreement as the “Settling Parties.” The Agreement does not release any claims, cross-claims, or defenses that Plaintiffs and/or AME Defendants may have against any other defendant in the Action (as such term is defined below) who is not a signatory to this Agreement.

### **1.0 RECITALS**

1.1 In 1964, AME Church established the AMEC Retirement Plan, which became known as the African Methodist Episcopal Church Ministerial Retirement Annuity Plan, and which was intended to constitute a qualified Internal Revenue Code (“IRC”) Section 401(a) Church-sponsored retirement plan.

1.1.1 The purpose of the Annuity Plan was to provide annuity coverage to certain personnel of the AME Church, including but not limited to bishops, general officers, college presidents, deans of theological seminaries, itinerant elders and salaried personnel of the connectional departments of the AME Church, and church pastors and ordained ministers.

1.1.2 Contributions on behalf of participants were due at each Annual Conference and Mid-Year Convocation and remitted and reported by the respective presiding elders to the Department of Retirement Services.

1.2 By General Conference of 1996, the AME Church established the African Methodist Episcopal Church Retirement Plan for Pastors and Presiding Elders, effective as of January 1, 2000, which was intended to constitute a qualified IRC Section 403(b) Church-sponsored retirement plan.

1.2.1 This Retirement Plan was designed to provide retirement contributions for certain pastors and presiding elders through annual allocations from the General Budget Fund at no cost to participants.

1.3 As a result, certain eligible personnel of the AME Church received benefits pursuant to the 401(a) Plan and the 403(b) Plan as sponsored by the AME Church. For all relevant intents and purposes, from 2000 to 2021, both Plans were being administered collectively by the AMEC Department of Retirement Services and referred to as “the Plan.”

1.4 From 2000 to 2021, Jerome V. Harris was successively elected as the Executive Director of the Department of Retirement Services.

1.5 Upon his retirement, at the last General Conference in which he delivered his report, Harris announced that the Plan value as of fiscal year end for 2021 was \$128,342,168.19.

1.6 However, during the transition to the newly elected Director of Retirement Services in the fall of 2021, it was discovered the Plan only had two verifiable assets –annuities with Defendant Symetra Life Insurance Company (“Symetra”) and real estate in Florida. The Symetra annuities account balance as of June 30, 2021 was \$36,922,791.11, and the real estate in Florida was reported as having a book value of \$1,500,000.00.

1.7 On March 4, 2022, Plaintiff Pearce Ewing filed a lawsuit against AME Church, among others, in the Western District of Tennessee, Case No. 2:22-cv-02136 (W.D. Tenn.).

1.8 Five additional lawsuits were filed shortly thereafter, and on June 2, 2022, the United States Judicial Panel on Multidistrict Litigation centralized the six pending actions and transferred to the Western District of Tennessee for coordinated pretrial proceedings (“AME Church Employee Retirement Fund Litigation”).

1.9 Thereafter, on August 19, 2022, Plaintiffs filed a Consolidated Amended Complaint against Newport and AME Defendants, among others, asserting claims individually and on behalf of a putative class. Plaintiffs asserted the following causes of action against Newport: (1) breach of fiduciary duty; (2) violation of Tennessee Trust Code; (3) negligence; (4) fraudulent concealment; or (5) fraudulent misrepresentation. On October 18, 2022, AME Defendants filed a cross-complaint against Newport and others, alleging state-law claims of breach of fiduciary duty and negligent misrepresentation against Newport.

1.10 Newport filed motions to dismiss Plaintiffs’ Consolidated Amended Complaint and AME Defendants’ Amended Cross-Complaint, which were fully briefed by the respective parties.

1.11 On February 6, 2023, Plaintiffs and AME Defendants, Newport, Defendant Symetra, Defendant Dr. Jerome V. Harris, and Defendant Robert Eaton mediated with Hon. Janice M. Holder (Ret.).

1.12 On March 17, 2023, the Court granted in part and denied in part, Newport’s Motion to Dismiss Plaintiffs’ Consolidated Amended Complaint. Of the causes of action asserted by Plaintiffs against Newport, only breach of fiduciary duty and negligence remained.

1.13 On July 25, 2023, AME Defendants filed an Amended Cross-Complaint, which, as it relates to Newport, alleged negligent misrepresentation, breach of fiduciary duty, and negligence claims against Newport, as well as a claim for punitive damages. On September 7, 2023, Newport



moved to dismiss AME Defendants' Amended Cross-Complaint, and the respective parties fully briefed the motion.

1.14 On February 28, 2024, the Court dismissed AME Defendants' negligent misrepresentation and punitive damages claims against Newport.

1.15 On August 29, 2024, after two years of extensive discovery and evidentiary proceedings in the Action, Plaintiffs filed their Second Consolidated Amended Complaint.

1.16 In the Second Consolidated Amended Complaint, Plaintiffs assert, derivatively and on behalf of the Plan and on behalf of a putative class, claims against Newport for (1) violation of Tennessee's Uniform Trust Code, (2) fraudulent concealment, (3) fraudulent misrepresentation, (4) negligence; (5) civil conspiracy, (6) aiding and abetting in a breach of fiduciary duty, and (7) professional negligence.

1.17 On September 30, 2024, AME Defendants filed for leave to file a Second Amended Cross-Complaint against Newport. The Court granted AME Defendants' motion for leave, and AME Defendants filed their Second Amended Cross-Complaint on November 5, 2024, alleging claims against Newport for (1) fraudulent concealment, (2) civil conspiracy to commit conversion, (3) civil conspiracy to commit intentional misrepresentation, (4) civil conspiracy to commit constructive fraud, (5) negligent misrepresentation, (6) professional negligence, (7) breach of fiduciary duty, and (8) aiding and abetting breach of fiduciary duty.

1.18 Newport filed a partial motion to dismiss Plaintiffs' Second Amended Complaint, and a motion to dismiss AME Defendants' Second Amended Cross-Complaint.

1.19 While Newport's motions to dismiss the Second Amended Complaint and the Second Amended Cross-Complaint were pending, Newport, Plaintiffs, and AME Defendants engaged in

extensive settlement discussions—between their respective counsel, and with the assistance of a experienced mediator, A. Lee Parks.

1.20 The Settling Parties met in-person, and all-day, with Mr. Parks in Atlanta on December 12, 2024, and again met with Mr. Parks (virtually) on January 31, 2025, all day and into the evening. Mr. Parks also had extensive discussions with counsel for Plaintiffs, AME Defendants, and Newport in between the December and January mediation sessions.

1.21 At the conclusion of the January mediation session, Mr. Parks presented a “mediator’s proposal” to Plaintiffs, AME Defendants, and Newport, which the Parties accepted on February 3, 2025.

1.22 On February 4, 2025, the Parties entered into a Confidential Term Sheet setting forth the material terms of a settlement of the claims asserted against Newport in the Action.

1.23 Plaintiffs and the AME Defendants reached a settlement of Plaintiffs’ claims in this Action and executed a long-form agreement on November 27, 2024. Plaintiffs filed a motion for preliminary approval of that settlement on December 13, 2024, and the Court set a hearing on that motion for February 4, 2025, the same day that the Settling Parties entered into their Confidential Term Sheet. The Parties reported the Newport settlement to the Court that day and the Court found that these two class settlements should be considered at the same hearing and that the Parties may consider issuing one notice for both settlements for efficiency, clarity, and cost effectiveness.

1.24 Newport denies that it has any liability for the alleged violations set forth in the Second Amended Complaint and the Second Amended Cross-Complaint, and maintains that it would prevail on Plaintiffs’ and AME Defendants’ claims against it. Plaintiffs and AME Defendants similarly believe they would prevail on their claims against Newport. Nevertheless, given the risk, uncertainties, burden, and expense of continued litigation between the Settling Parties, the Settling

Parties have agreed to settle Plaintiffs' and AME Defendants' claims against Newport in the Action on the terms set forth in this Agreement, subject to the district court's approval.

1.25 Plaintiffs, AME Defendants, and Newport have a complete understanding of the strengths and weaknesses of their respective cases, and have fully and exhaustively vetted the disputed issues, including the Settling Parties' respective risks at trial and on appeal. Plaintiffs' Counsel submit that they have significant experience with class action claims, having represented plaintiffs in numerous putative class actions. Based on this experience, Plaintiffs' Counsel believes that Plaintiffs' claims against Newport have merit. Plaintiffs' Counsel recognize and acknowledge, however, that prosecuting such claims through further fact and expert discovery, class certification, dispositive motions, trial, and appeals will involve considerable uncertainty, time, and expense.

1.26 This Agreement resulted from good-faith, arm's-length settlement negotiations after years of litigation and the involvement of third-party mediators over several mediation sessions.

1.27 Based on extensive discovery and the negotiations described above, Plaintiffs' Counsel and AME Defendants' Counsel have concluded, taking into account the risks, uncertainty and cost of further prosecution of their claims against Newport, and the benefits to be received by Class Members pursuant to this Agreement (which is in addition to the benefits achieved via Plaintiffs' proposed class settlement with AME Defendants), that a settlement with Newport on the terms set forth in this Agreement is fair, reasonable, and adequate, and in the best interests of Class Members.

1.28 The Settling Parties understand, acknowledge, and agree that the execution of this Agreement constitutes the settlement and compromise of disputed claims. This Agreement is inadmissible as evidence against any Settling Party or any other Party in the Action except to enforce the terms of the Agreement and is not an admission as to any legal issues, wrongdoing, or

liability on the part of any party to this Agreement. The Settling Parties desire and intend to effect a full, complete, and final settlement and resolution of all existing disputes and claims they have against one another as set forth in this Agreement.

1.29 The settlement contemplated by this Agreement is subject to preliminary approval and final approval by the Court. The Settling Parties hereby stipulate and agree that, in consideration of the agreements, promises, and covenants set forth in this Agreement, and subject to approval of the Court, claims in this Action against Newport by Plaintiffs, Class Members, and AME Defendants shall be fully, completely, and finally settled.

## **2.0 DEFINITIONS**

As used in this Agreement, the terms set forth below shall have the following meanings. The singular includes the plural and vice versa.

2.1 “Action” means the case captioned *In Re: AME Church Employee Retirement Fund Litigation*, Case No. 1:22-md-3035 (W.D. Tenn.).

2.2 “Agreement” means this Class Action Settlement Agreement and Release.

2.3 “Advisor” means Disciplina Group LLC, an independent professional investment advisor retained by the AME Church to invest the Tax-Qualified Trust into which the Settlement Amount and the Legacy AMEC Retirement Funds will be transferred. The Advisor shall not be an employee of the AME Church, and who shall be a fiduciary of the Plan and maintain adequate insurance coverage to cover potential losses in managing the Plan’s assets in excess of \$60,000,000.

2.4 “Administrator” means Verita Global, LLC, a settlement administrator retained to assist in administering and implementing the Settlement and issuing Class Notice to the Settlement Class. The Administrator shall be an “administrator” within the meaning of Treasury Regulation § 1.468B-2(k)(3).

2.5 “AME Defendants’ Counsel” means:

<p>HUNTON ANDREWS KURTH, LLP</p> <p><b>Douglass P. Selby</b>  General Counsel of AME Church</p> <p>Bank of America Plaza, Suite 4100  600 Peachtree Street, NE  Atlanta, GA 30308  T: 404.888.4000  dselby@huntonak.com</p> <p><b>Wendell Taylor</b>  2200 Pennsylvania Avenue, NW  Washington, DC 20037  T: 202.955.1500  wtaylor@huntonak.com</p>	<p>BAKER, DONELSON, BEARMAN,  CALDWELL &amp; BERKOWITZ, PC</p> <p><b>Bruce A. McMullen</b>  First Horizon Building  165 Madison Ave., Ste. 2000  Memphis, TN 38103  T: 901.526.2000  bmcullen@bakerdonelson.com</p> <p><b>Mary Wu Tullis</b>  First Horizon Building  165 Madison Ave., Ste. 2000  Memphis, TN 38103  T: 901.526.2000  mtullis@bakerdonelson.com</p>
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2.6 “Bar Order” means an order issued by the Court which provides the following:

2.6.1 permanently bars, restrains, and enjoins Plaintiffs, Class Members, Newport, and AME Defendants (“Claimants”), whether acting on his or her or its own behalf or in concert with Claimants or claiming by, through, or under them or otherwise, all and individually, from directly, indirectly, or through a third party, instituting, reinstituting, intervening in, initiating, commencing, maintaining, continuing, filing, encouraging, soliciting, supporting, participating in, collaborating in, or otherwise prosecuting, against each other, the Action, or any action, lawsuit, cause of action, claim, investigation, demand, levy, complaint, or proceeding of any nature in any forum, including, without limitation, any court of first instance or any appellate court, whether individually, derivatively, on behalf of a class, as a member of a class, or in any other capacity whatsoever, that in any way relates to, is based upon, arises from, or is connected with the Action; the subject matter of the Action; or any Released Claims; all of which includes but is not limited to any claim, however denominated and whether brought in the Action or any other forum, seeking contribution, indemnity, damages, or other remedy where the alleged injury to such person or entity, or the claim asserted by such person or entity, is based upon such person or entity’s liability to any of the Claimants arising out of, relating to, or based in whole or in part upon money owed, demanded, requested, offered, paid, agreed to be paid, or required to be paid to any Claimants, or other person or entity, whether pursuant to a demand, judgment, claim, agreement, settlement or otherwise;

2.6.2 permanently bars, restrains, and enjoins all non-settling defendants (“Non-Settling Defendants”), whether acting on his or her or its own behalf or in concert with Claimants or claiming by, through, or under them or otherwise, all and individually, from directly,

indirectly, or through a third-party, from instituting, re-instituting, intervening in, initiating, commencing, maintaining, continuing, filing, encouraging, soliciting, participating in, collaborating in, or otherwise prosecuting, against the Newport Released Parties, the Action, or any action, lawsuit, cause of action, claim, investigation, demand, levy, complaint, or proceeding for indemnity or contribution against the Newport Released Parties (or any other claims against the Newport Released Parties where the injury to the Non-Settling Defendant is Non-Settling Defendant's liability to the Plaintiffs or Settlement Class Members), including, without limitation, any court of first instance or any appellate court, whether individually, derivatively, on behalf of a class, as a member of a class, or in any other capacity whatsoever, that in any way relates to, is based upon, arises from, or is connected with the Action, the subject matter of the Action, or any Released Claims.

2.6.3 and further provides that, as permitted by law, including Tennessee Code Section 29-11-105, any judgment entered in favor of Plaintiffs, Class Members, and/or AME Defendants against any Non-Settling Defendant may be reduced by the Settlement Amount, unless otherwise agreed as part of any future settlement between Plaintiffs, AME Defendants, and any Non-Settling Defendant.

2.6.4 Notwithstanding the foregoing, there shall be no bar of any claims, including but not limited to the Released Claims, that Newport and/or its insurers, reinsurers, employees, and agents may have against each other; nor shall this section bar, or otherwise impact in any way, claims which are pending or may be brought by Plaintiffs, Class Members, or the AME Defendants against Non-Settling Defendants. Further, the Settling Parties retain the right to sue for alleged breaches of the Agreement.

2.7 "Class" means all persons who were participants, or were those participants' respective beneficiaries entitled to benefits, in the African Methodist Episcopal Church Ministerial Retirement Annuity Plan on June 30, 2021. Defendants are excluded from the Class.

2.8 "Class Counsel" means individually and collectively, the attorneys and law firms approved and appointed by the Court to represent the Settlement Class, including:

<p>Matthew E. Lee <b>MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC</b> 900 W. Morgan Street Raleigh, NC 27603 919-600-5000 Fax: 919-600-5035 mlee@milberg.com</p>	<p>Gregorio A. Francis <b>OSBORNE &amp; FRANCIS LAW FIRM, PLLC</b> 433 Plaza Real, Suite 271 Boca Raton, FL 33432 (561) 293-2600 Fax: (561) 923-8100 gfrancis@realtoughlawyers.com</p>
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<p>J. Gerard Stranch, IV  <b>STRANCH, JENNINGS  &amp; GARVEY, PLLC</b>  223 Rosa L. Parks Avenue, Suite 200  Nashville, Tennessee 37203  (615) 254-8801  Fax: (615) 255-5419  gstranch@stranchlaw.com</p>	<p>Kenneth S. Byrd  <b>LIEFF CABRASER  HEIMANN &amp; BERNSTEIN, LLP</b>  222 2nd Ave S  Nashville, TN 37210  615-313-9000  Fax: 615-313-9965  kbyrd@lchb.com</p>
<p>Susan L. Meter  <b>KANTOR &amp; KANTOR LLP</b>  9301 Corbin Ave., Suite 1400  Northridge, CA 91324  818-886-2525  Fax: 818-350-6274  smeter@kantorlaw.net</p>	<p>Richard Schulte  <b>WRIGHT &amp; SCHULTE LLC</b>  865 S. Dixie Dr.  Vandalia, OH 45377  937-435-9999  Fax: 937-435-7511  rschulte@yourlegalthelp.com</p>
<p>Julie Nepveu  <b>AARP Foundation</b>  601 E Street, NW  Washington, DC 20049  (202) 434-6280  Fax: (202) 434-6424  jnepveu@aarp.org</p>	<p>Dhamian Blue  <b>BLUE LLP</b>  P.O. Box 1730  Raleigh, NC 27602  919-833-1931  Fax: 919-833-8009  dab@bluellp.com</p>

2.9 “Class Member” means any person who is a member of the defined Class who does not timely and validly request exclusion from the Class.

2.10 “Class Notice” means the notice mailed to potential Class Members of the preliminary approval of this Agreement and of the proposed Settlement.

2.11 “Court” means the United States District Court, Western District of Tennessee, Western Division, and the judge to whom the Action has been assigned.

2.12 “Days” means calendar days, unless otherwise noted. When a deadline or date in this Agreement falls on a weekend or a legal Court holiday, the deadline or date shall be extended to the next business day that is not a weekend or legal Court holiday.

2.13 “Effective Date” shall be the first date after the last of the following dates: (i) the date upon which the time expires for filing a notice of appeal of the Court’s Final Approval Order, with no appeals having been filed; or (ii) if there is an appeal or appeals of the Final Approval Order, three (3) days after the date of entry of an order affirming the Final Approval Order without material modification, and the time for review of that order has run, or entry of an order dismissing the appeal(s).

2.14 “Final Approval Hearing” means the hearing held by the Court, at least ninety (90) days after the entry of Preliminary Approval to, (a) determine whether to grant final approval of this Agreement as fair, reasonable, and adequate; (b) consider any timely objections to this Agreement and all responses thereto; and (c) rule on any Fee and Cost Application.

2.15 “Final Approval Order and Judgment” means the order and judgment to be entered by the Court approving the Settlement as reasonable, adequate, and in the best interests of the Class Members, and fully, completely, and finally disposing of and dismissing with prejudice and without costs all of Plaintiffs’, Class Members’, and AME Defendants’ claims asserted in the Action against Newport. The Final Approved Order and Judgment shall include the Bar Order as defined in Section 2.6 and shall comply with Section 9.3 of this Agreement.

2.16 “Legacy Fund” means that part of the African Methodist Episcopal Church Ministerial Retirement Annuity Plan as it existed prior to the effective date of AME Church’s new Plan with Wespath, with assets in Symetra annuities, real property in Key Marco, Florida, and recovery for losses on assets as asserted in the Action.



2.17 “Net Settlement Fund” means the Settlement Fund less (i) Notice and Administration Expenses and (ii) any Fee and Expense Award and interest thereon.

2.18 “Objection Deadline” means 60 days following the Notice Date as defined in Section 7.3 below.

2.19 “Opt-Out Deadline” means 60 days following the Notice Date as defined in Section 7.3 below.

2.20 “Person” means any natural person, individual, corporation, limited liability company, association, partnership, trust, or any other type of legal entity.

2.21 “Plan of Distribution” means the plan or formula of allocation and distribution of the Net Settlement Fund whereby the Net Settlement Fund shall be distributed to Class Members.

2.22 “Preliminary Approval Order” means the Order entered by the Court that grants the relief requested in the Motion for Preliminary Approval.

2.23 “Proposed Settlement” and “Settlement” mean the settlement described in this Agreement.

2.24 “Qualified Settlement Fund” means an interest-bearing tax-qualified trust account established for and held in trust for the sole benefit of the Class Members and for receipt of the Settlement Amount, as provided within the meaning of Treasury Regulation § 1.468B-1 promulgated under Section 468B of the Internal Revenue Code of 1986 as amended.

2.25 “Qualified Trust” means the trust account that will be established by the AME Church to (1) operate the Legacy Fund and (2) into which the Net Settlement Amount will be transferred upon entry of the Final Approval Order and Judgment.

2.26 “Released Claims” means any and all claims, demands, losses, rights, and causes of action of any nature whatsoever that Plaintiffs, any other member of the Settlement Class, or AME Defendants asserted in the Action, or could have been asserted or could be in the future asserted

in any forum, whether known or unknown (including, without limitation, Unknown Claims as described in Section 10.2 of this Agreement), whether foreign or domestic, whether arising under federal, state, common, or foreign law, by Plaintiffs, any member of the Settlement Class, AME Defendants, or their parents, subsidiaries, affiliates, successors, assigns, executors, administrators, representatives, attorneys, and agents, in their capacities as such, whether individual, class, direct, derivative, representative, on behalf of others, legal, equitable, regulatory, governmental, or of any other type or in any other capacity (collectively, “Claimants”), whether brought directly or indirectly against the Released Parties, that arise out of or are based upon or relate in any way to any of the allegations, acts, facts, transactions, statements, events, matters, occurrences, representations, or omissions involved, set forth, or referred to in any complaint or cross claim filed in the Action or in any other action that has been filed or is filed in the future by or on behalf of Claimants arising out of related facts, events, occurrences, or transactions.

2.27 “Released Parties” or “Newport Released Parties” means Newport and its current and former parent entities, business units, business divisions, affiliates, or subsidiaries, and each and all of its current and former officers, directors, attorneys, employees, agents, trustees, parents, affiliates, subsidiaries, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, insurers, engineers, advisors, heirs, executors, trustees, general or limited partners or partnerships, personal representatives, estates, administrators, and each of its successors, predecessors, assigns, and assignees. The Released Parties are intended third-party beneficiaries of this Agreement and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. Notwithstanding the foregoing, Non-Settling Defendants are excluded from the Released Parties.

2.28 “Releasing Persons” mean Plaintiffs, all Class Members who do not properly and timely opt out of the Settlement Class, and each of their respective spouses, family members, executors, representatives, administrators, guardians, wards, heirs, attorneys-in-fact, estates, bankruptcy estates, bankruptcy trustees, successors, predecessors, employees, attorneys, agents and assigns, and all those who claim through a Class Member or who assert claims (or could assert claims) on a Class Member’s behalf. “Releasing Persons” also includes each of AME Defendants (as defined herein), as well as each of their respective former, past and present, direct and indirect, owners, affiliates, departments, divisions, subdivisions, officers, directors, executives, employees, attorneys, and agents.

2.29 “Settlement” means the resolution of the Action in accordance with the terms and provisions of this Agreement.

2.30 “Settlement Amount” means Forty Million Dollars (\$40,000,000) in cash and to be paid pursuant to Section 3.0. This is the total aggregate dollar amount that Newport will be obligated to pay or cause to be paid if the Settlement is approved by the Court.

2.31 “Settlement Class” means all Class Members who are not validly excluded and/or who have not timely opted out of this Settlement.

2.32 “Settlement Fund” means the Settlement Amount plus all interest, accretions, and earnings thereon. The Settlement Fund shall constitute a Qualified Settlement Fund.

2.33 “Settling Parties” means Newport, Plaintiffs, Settlement Class Members, and AME Defendants.

2.34 “Tax” or “Taxes” mean any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (together with any and all interest, penalties, additions to tax and additional

amounts imposed with respect thereto) imposed by any governmental authority, including, but not limited to, any local, state, and federal taxes.

2.35 “Third Party Administrator” or “TPA” means the company to be hired to administer the Legacy Fund when the assets of the Legacy Fund currently held at Symetra and invested in Florida Real Estate, are unwound, liquidated, and transferred to the Qualified Trust.

2.36 “Unknown Claim” is defined in Section 10.2.

### **3.0 SETTLEMENT AMOUNT**

3.1 As a precondition of the Settlement, the Administrator will create or cause the creation of the Qualified Settlement Fund in an appropriate form that complies with applicable law. Upon or before establishment of the Qualified Settlement Fund, the Administrator shall apply for an employer identification number for the Qualified Settlement Fund utilizing Internal Revenue Service Form SS-4 and in accordance with Treasury Regulation § 1.468B-2(k)(4), and shall provide Newport with that employer identification number on a properly completed and signed IRS Form W-9. If requested, the Administrator and Newport shall fully cooperate in filing a relation-back election under Treasury Regulation § 1.468B-1(j)(2) to treat the Qualified Settlement Fund as coming into existence as a Settlement Fund as of the earliest possible date.

3.2 The Settlement Amount paid or caused to be paid by Newport will be maintained by the Administrator in an escrow account to be held as a Court-approved Qualified Settlement Fund pursuant to Section 1.468B-1 et seq. of the Treasury Regulations promulgated under Section 468B of the Internal Revenue Code of 1986, as amended, and shall be deposited in an interest-bearing escrow account.

3.3 A primary goal of the Qualified Settlement Fund shall be to ensure no adverse federal tax treatment to the Class Members. Newport shall pay, or cause to be paid, the Settlement Amount into the Qualified Settlement Fund for the benefit of the Class by wire transfer to a bank account

identified by the Administrator. The Qualified Settlement Fund shall be an interest-bearing tax-qualified trust account established for and held in trust for the sole benefit of the Settlement Class Members.

3.4 No later than 14 days following preliminary approval of this Settlement by the Court, Newport shall pay or cause to be paid the Settlement Amount into the Qualified Settlement Fund. Other than Newport's obligation to pay or cause to be paid the Settlement Amount into the Qualified Settlement Fund as set forth herein, Newport shall have no obligation to make any other payment into the Qualified Settlement Fund pursuant to this Agreement or otherwise, and shall have no responsibility, obligation, or liability with respect to the Qualified Settlement Fund or the monies maintained therein or the administration of the Settlement, including, without limitation, any responsibility or liability for any fees, taxes, investment decisions, maintenance, supervision or distribution of any portion of the Settlement Amount.

3.5 The Settlement Amount is the maximum aggregate amount Newport shall be obligated to pay or cause to be paid under this Agreement, if it is approved by the Court

#### **4.0 ADMINISTRATION AND CALCULATION**

4.1 Plan of Distribution: The following principles apply to distribution of the Settlement Amount:

4.1.1 The calculation of the amount due to each Class Member from the Net Settlement Fund will be based on the ratio of the Class Member's account balance as of June 30, 2021 to the total value of all Class Member's account balances as of June 30, 2021, accounting for any distributions taken by participants between June 30, 2021 and the date those balances were retroactively calculated. This calculation shall be made after entry of the order granting Final Approval.

4.1.2 It is the intent of this Agreement to allocate the Settlement Amount to restore losses to Class Member participants in the Plan. In no event shall any Class Member be entitled to a distribution from the Settlement Amount prior to the transfer of the Settlement Amount to the Qualified Trust. Any request by a participant for a distribution of his or her account in the Qualified Trust shall be made and administered pursuant to the Plan's eligible distribution events.

4.2 The Administrator, pursuant to the Plan of Distribution and subject to such supervision and direction of Class Counsel with assistance as necessary from the Department of Retirement Services, and the Court as may be necessary or as circumstances may require, shall administer and calculate the allocation of each Class Members' pro rata share of the Net Settlement Amount and shall provide such calculation to the Third Party Administrator of the Legacy Fund for purposes of allocating each Class Member's proportionate share of the Settlement Amount to each participant's account in the Qualified Trust. Each participant's pro-rata payment shall be offset by any distributions to that participant prior to their account being reduced, if applicable. The Administrator shall oversee the distribution of the Net Settlement Amount from the Qualified Settlement Fund to the Qualified Trust.

4.3 The Net Settlement Amount shall be allocated to the Class Members substantially in accordance with the Plan of Distribution set forth in the Notice and approved by the Court.

4.4 The Advisor shall invest the Qualified Trust in a manner consistent with and compliant with the standards befitting an independent professional investment advisor. The Advisor shall be a fiduciary and maintain adequate insurance coverage in excess of \$60,000,000 to cover potential losses in managing plan funds.

4.5 The Administrator shall not disburse funds from the Qualified Settlement Fund except pursuant to and upon entry of the Final Approval Order and Judgment.

4.6 All funds held in the Qualified Settlement Fund shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to this Agreement and/or further order(s) of the Court.

4.7 Plaintiffs shall be solely responsible, subject to Court approval, for the content of class notice, administration, and the allocation of the Settlement Amount among Settlement Class

members. Newport will not have any involvement in the selection of the Administrator, the claims administration process, or the development of the plan of allocation of the Settlement proceeds (the “Plan of Distribution”). The Plan of Distribution will be solely proposed by Plaintiffs and be subject to Court approval, but such Plan of Distribution’s consideration by the Court shall be separate and distinct from the Court’s consideration of the fairness of the Settlement and will not affect the validity of the Settlement. The costs of notice shall be first covered by the interest earned by the Qualified Settlement Fund. Class Counsel expects that interest will exceed the costs of notice, but in the event it does not, AMEC Defendants have already agreed to be responsible for any additional costs of administration and/or notice as detailed in a separate settlement agreement with Plaintiffs, reflected on the docket in this Action at ECF No. 628-1. The parties agree that Newport will not be responsible for any costs of class notice or administration above the Settlement Amount.

## **5.0 ATTORNEYS’ FEES, REPRESENTATIONS, EXPENSES, AND SERVICE AWARDS**

5.1 Attorneys’ Fees and Costs. The Parties agree that Class Counsel may make an application for attorneys’ fees and costs, and/or for payment of a service award to Plaintiffs, to be paid out of the Settlement Amount. AME Defendants and Newport may choose to oppose some or all of Plaintiffs’ request for fees, costs, or service awards to the Plaintiffs. The Settling Parties agree not to appeal any Court award of attorneys’ fees, costs, expenses, or service awards.

5.1.1 Except as provided for in this Section 5.1, the Settling Parties will bear their own attorneys’ fees, costs, and expenses incurred in the prosecution, defense, or settlement of the Action. Newport has no obligation to pay any attorneys’ fees and costs to any person incurred on behalf of Plaintiffs and/or the Class, or AME Defendants, other than the judicially approved amount out of the Qualified Settlement Fund pursuant to this Section. In no event shall Newport’s aggregate liability under this Settlement, including attorneys’ fees and costs, exceed the Settlement Amount. Any allocation of fees between or among Class Counsel and any other person representing Plaintiffs or AME Defendants shall be the sole responsibility of Class Counsel and AME Defendants’ Counsel, subject to any alterations by the Court.

5.2 Settlement Independent of Award of Fees, Costs and Service Payments. The procedure for the allowance or disallowance by the Court of a Fee and Expense Application by Class Counsel is not part of the Settlement set forth in this Agreement. The Court's denial of any Fee and Expense Application in whole or in part shall not prevent this Agreement from becoming effective, nor shall it be grounds for termination, and the Settling Parties shall request that the Court enter a finding pursuant to Rule 54(b) the Federal Rules of Civil Procedure with respect to the Judgment, and to address the request for approval of the Fee and Expense Application separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Agreement, and shall further request that any order or proceeding relating to the Fee and Expense Application not affect the finality of the Court's Judgment approving this Agreement and the Settlement set forth herein.

5.3 Plaintiffs, the Settlement Class, Class Counsel, and AME Defendants hereby waive, discharge and release Newport from any and all claims for attorneys' fees, by lien, statute, or otherwise for legal services in connection with this Action, except as set forth herein. Newport shall not be responsible for and shall have no liability whatsoever with respect to the allocation, distribution, or apportionment of any award of attorneys' fees and expenses among Class Counsel, AME Defendants' Counsel, or any other person who may assert a claim thereto.

## **6.0 PRELIMINARY APPROVAL**

6.1 Order of Preliminary Approval. On or before March 4, 2025, Plaintiffs shall move the Court for entry of the Preliminary Approval Order. Pursuant to the motion for preliminary approval, Plaintiffs will request that the Court:

6.1.1 Find it will likely be able to approve the Settlement as fair, reasonable, and adequate;

6.1.2 Preliminarily certify the Class for settlement purposes only;



6.1.3 Approve the form, content, and manner of Class Notice and find that the notice program set forth in Section 7.0 of this Agreement constitutes the best notice practicable under the circumstances, and satisfies due process and Rule 23 of the Federal Rules of Civil Procedure;

6.1.4 Direct that Class Notice be sent to all the Class Members;

6.1.5 Appoint Verita Global, LLC as Administrator;

6.1.6 Set the date and time for the Final Approval Hearing, which may be continued by the Court from time to time without the necessity of further notice to the Class Members;

6.1.7 Set the Objection Deadline and Opt-Out Deadline.

## **7.0 CLASS NOTICE**

7.1 CAFA. Pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1715, *et seq.*, Newport shall send written notice of the Settlement to the Attorney General of the United States, appropriate state agencies, and any other appropriate government agencies at least 90 days prior to the Final Approval Hearing. The Parties agree that the foregoing notices will satisfy the obligations of such Act.

7.2 Class Member Identification. As soon as practicable after Preliminary Approval, but in any event no more than ten (10) days after the execution of this Agreement, AME Defendants shall provide the Administrator with access to their records for each Person reasonably believed to be a potential Class Member, the following information, if reasonably available: name, email address(es), last known mailing address, and participant account history and activity.

7.3 Timing of Class Notice. The Administrator shall disseminate Class Notice to potential Class Members not more than thirty (30) days after Preliminary Approval (the “Notice Date”).

7.4 Mailing of Settlement Notice. The Administrator shall send the Mail Notice via first class mail to the list of persons generated through the process for Class Member Identification in Section 7.2. If a Class Notice sent to any potential Class Member is returned as undeliverable, the Administrator will promptly log such return as undeliverable and provide copies of the log to

Newport's Counsel, AME Defendants' Counsel, and Class Counsel. If the mailing is returned to the Administrator with a forwarding address, the Administrator will forward the mailing to that address. For other returned mailings, the Administrator will run the name and address one time through a single commercial database chosen by the Administrator, and should the commercial database show a more current address, the Administrator shall re-mail the returned Class Notice to the more current address. No further efforts to locate or to find a more current address for Class Members is required.

7.5 Declaration of Compliance. The Administrator shall prepare a declaration attesting to compliance with the Class Notice requirements of this Agreement. Such declaration shall be provided to Newport's Counsel, Class Counsel, and AME Defendants' Counsel no later than fourteen (14) days prior to the Final Approval Hearing, and Class Counsel will file the declaration with the Court in support of Final Approval.

7.6 Best Notice Practicable. The Settling Parties agree that compliance with the procedures described in this Section is the best notice practicable under the circumstances and is due and sufficient notice to the Class of the pendency of the Action, certification of the Class, the terms of the Agreement, and the Final Approval Hearing, and satisfies the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and any other applicable law, rule, and/or regulation.

## **8.0 OPT-OUTS AND OBJECTIONS**

8.1 Opting Out. Any Class Member who wishes to exclude themselves from the Class must advise the Administrator in writing of that intent, and their opt-out request must be postmarked no later than the Opt-Out Deadline.

8.2 Opt-Out Information. The Administrator shall provide the Settling Parties with copies of all opt-out requests it receives and shall provide a list of all Class Members who timely and validly

opted out of the Class in the Administrator's declaration filed with the Court, as required by Section 7.5. Any individual in the Class who does not timely (as measured by the postmark on that individual's written notice) opt out of the settlement by written notice directed to the Administrator and containing the requisite information shall remain in the Class and shall be bound by any Orders of the Court about the Settlement or the Class. Any individual in the Class who fails to timely and validly opt out of the Settlement shall be bound by the terms of this Settlement.

8.2.1 In the written request for exclusion, the Class Member must state: (1) their full name, last four digits of their social security number, address, and telephone number where they may be contacted; and (2) a statement that they wish to be excluded from the Class. The request for exclusion must be personally signed by the Class Member submitting the request. A request to be excluded that does not include the foregoing information, that is not sent to the Administrator, that is not postmarked by the Opt-Out Deadline, or that is not personally signed by the Class Member, shall be invalid.

8.2.2 No person shall purport to exercise any exclusion rights of any other person, or purport (a) to opt-out Class Members as a group, aggregate, or class involving more than one Class Member; or (b) to opt-out more than one Class Member on a single paper, or as an agent or representative. Any such purported opt-outs shall be void.

8.2.3 Any member of the Class who submits a valid and timely request for exclusion will not be a Class Member and shall not be bound by the terms of this Agreement. If the Administrator believes any opt-out request is ambiguous as to its validity, the Administrator shall provide that request to counsel for the Settling Parties for review.

8.2.4 Copies of Requests for Exclusion will be provided by the Administrator to counsel for the Settling Parties not later than seven (7) days after the Opt-Out Deadline. The Administrator will satisfy this obligation by providing that information to the counsel identified in Section 8.3 below. The Claims Administrator will provide a list of each Class member who timely and validly opted out of the Class in its declaration filed with the Court, as required by Section 7.5. Members of the Class who do not properly and timely submit a Request for Exclusion will be bound by this Agreement and the Judgment, including the Release in Section 10 below.

8.3 Objections. Any Class Member may file a statement in support of or objection to the Settlement by the Objection Deadline. Any such statement or objection shall be filed with the Court at least thirty (30) calendar days prior to the Final Approval Hearing (or other date as prescribed by the Court), and also delivered by hand, email or First-Class Mail by that same date

to Class Counsel, AME Defendants' counsel, and Newport's Counsel at the addresses listed herein below:

<u>CLASS COUNSEL</u>	<u>AME DEFENDANTS' COUNSEL</u>	<u>NEWPORT'S COUNSEL</u>
Matthew E. Lee Jeremy R. Williams <b>MILBERG COLEMAN  BRYSON  PHILLIPS GROSSMAN,  PLLC</b> 900 W. Morgan Street Raleigh, NC 27603 919-600-5000 Fax: 919-600-5035 mlee@milberg.com jwilliams@milberg.com	Bruce A. McMullen Mary Wu Tullis <b>BAKER, DONELSON,  BEARMAN, CALDWELL &amp;  BERKOWITZ, PC</b> First Horizon Building 165 Madison Ave., Ste. 2000 Memphis, TN 38103 T: 901.526.2000 bmcmullen@bakerdonelson.com mtullis@bakerdonelson.com	Mark C. Nielsen Shaun M. Gates <b>GROOM LAW GROUP</b> 1701 Pennsylvania Avenue, NW Washington, DC 20006 202.861.5429 mcn@groom.com sgates@groom.com

8.4 Any such statement or objection must state: (1) their full name; (2) their address; (3) the telephone number and email address where they may be contacted; (4) all grounds for the objection, with specificity and with factual and legal support for each stated ground; (5) the identity of any witnesses they may call to testify; (6) copies of any exhibits that they intend to introduce into evidence at the Final Approval Hearing; (7) a statement of the identity (including name, address, law firm, phone number and email) of any lawyer who will be representing the individual with respect to any objection; (8) a statement of whether they intend to appear at the Final Approval Hearing with or without counsel; (9) a statement as to whether the objection applies only to the objector and a specific subset of the Class, or the entire Class; and (10) a statement as to whether the Class Member is objecting to the AME Settlement and/or the Newport Settlement.

Such objection must be filed with the Court with a postmark dated on or before the Objection Deadline. Any Class Member who does not submit a timely objection in accordance with this Agreement, the Notice, and otherwise as ordered by the Court shall not be treated as

having filed a valid objection to the Settlement and shall forever be barred from raising any objection to the Settlement.

8.4.1 The Settling Parties will have the right to depose or seek discovery from any objector to assess whether the objector has standing and to understand the nature of the objection.

8.5 Any Class Member who objects may (but is not required to) appear at the Final Approval Hearing, either in person or through an attorney hired at their own expense, to object to the fairness, reasonableness, or adequacy of this Agreement or the Settlement. A member of the Class who opts out may not object to this Agreement and is not entitled to be heard at the Final Approval Hearing.

8.6 Any individual in the Class who does not object to the Settlement in the manner prescribed herein and in the Notice, shall be deemed to have waived such objection and their right to object to the Settlement or the Judgment, and shall forever be barred and foreclosed from making any objection to the fairness, adequacy or reasonableness of the proposed Settlement and the Final Judgment, and from otherwise being heard concerning the Settlement and the Judgment in this or any other proceeding.

## **9.0 FINAL JUDGMENT**

9.1 If the Settlement is approved preliminarily by the Court, and all other conditions precedent to the Settlement have been satisfied, no later than fourteen (14) calendar days prior to Final Approval Hearing:

9.1.1 Plaintiffs shall request that the Court enter the Final Approval Order, with Class Counsel filing a memorandum in support of the motion.

9.1.2 Class Counsel, AME Defendants, and/or Newport may file a memorandum addressing any objections to the Settlement.

9.2 At the Final Approval Hearing, the Court will consider and determine whether the provisions of this Agreement should be approved, whether the Settlement should be finally

approved as fair, reasonable, and adequate, whether any objections to the Settlement should be overruled, and whether a judgment reflecting final approval of the Settlement should be entered.

9.3 This Agreement is subject to and conditioned upon the issuance by the Court of a Final Approval Order which grants final approval of this Agreement and:

9.3.1 Finds that the Class Notice provided satisfies the requirements and due process rules set forth in Federal Rule of Civil Procedure Rule 23(e)(1);

9.3.2 Finds that the Class Members have been adequately represented by Plaintiffs and Class Counsel;

9.3.3 Certifies the Settlement Class, for settlement purposes only;

9.3.4 Finds that the Agreement is fair, reasonable, and adequate to the Class, that each Class Member who has not opted out in strict compliance with the terms of Section 8 above shall be bound by this Agreement, including the release in Section 10, and the covenant not to sue in Section 10.9, and that this Agreement should be and is approved;

9.3.5 Permanently enjoins each and every Class Member from bringing, joining, or continuing to prosecute any Released Claims against Newport or the Released Parties;

9.3.6 Enters a Final Approval Order and Judgment (as defined in Section 2.15), including the Bar Order (as defined in Section 2.6); and

9.3.7 Retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation, and enforcement of this Settlement.

9.4 The judgment entered at the Final Approval Hearing will be deemed final for purposes of this Agreement after the latest of the following: (i) if no individual, or counsel on the individual's behalf, has filed an appearance that would give the individual potential standing to appeal the Final Approval Order, then on the date the settlement is finally approved by the Court; (ii) if an individual, or counsel on the individual's behalf, has filed an appearance, and no notice of appeal of the Final Approval Order is filed, the expiration date of the time for filing any appeal from the judgment, including any extension of such expiration date granted by order of any court of competent jurisdiction, by operation of law, or otherwise; (iii) the date of final affirmance on an appeal of the judgment, the expiration of the time for a petition for rehearing and a petition for

*certiorari* of the judgment, or, if such a petition is filed, either the denial of that petition or, if the petition is granted, the date of final affirmance of the Judgment following review pursuant to that grant; or (iv) the date of final dismissal of any appeal of the judgment or the final dismissal of any proceeding to review the judgment.

## **10.0 RELEASE OF CLAIMS**

**10.1 Released Claims.** Plaintiffs and each Class Member, and each AME Defendant, on behalf of themselves and their respective heirs, executors, administrators, representatives, officers, employees, agents, attorneys, partners, successors, predecessors-in-interest, assigns, all those who claim through them or who assert or could assert claims on their behalf, including all derivative claims asserted on behalf of the Plan, shall, upon the Effective Date, by operation of the Final Judgment, be deemed to have fully, conclusively, irrevocably, forever, and finally released, relinquished, and discharged the Released Parties from any and all Released Claims. For the avoidance of doubt, Plaintiffs and Class Members are not releasing any claims against any of the non-AME Defendants except Newport.

**10.2 Unknown Claims.** Plaintiffs and Class Members, as well as AME Defendants, explicitly acknowledge that Unknown Claims within the scope of Released Claims could possibly exist. Plaintiffs and Class Members, as well as AME Defendants, may hereafter discover facts other than or different from those that they know or believe to be true with respect to the subject matter of the Released Claims or the law applicable to such claims may change. Nonetheless, Plaintiffs and Class Members, as well as AME Defendants, expressly agree that they shall have irrevocably waived and fully, finally and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, contingent or non-contingent, claims with respect to all Released Claims, including Unknown Claims up to the Effective Date of this Agreement. Further, Plaintiffs and Class Members, as well as AME



Defendants, agree and acknowledge that they are bound by this Agreement, including by the Releases, and that all of their claims in the Action asserted against Newport shall be dismissed with prejudice and released, without regard to subsequent discovery of different or additional facts or subsequent changes in the law, and regardless of whether unknown losses or claims exist or whether present losses may have been underestimated in amount or severity, and even if they never received actual notice of the Settlement or received a Settlement Payment. The Parties acknowledge that the foregoing Releases were separately bargained for and are a material element of the Agreement.

10.3 In connection with the foregoing Releases, Plaintiffs and each Class Member, as well as AME Defendants, shall be deemed, as of the entry of the Final Judgment, to have waived any and all provisions, rights, and benefits conferred by any statute, rule and legal doctrine similar, comparable, or equivalent to California Civil Code Section 1542, which provides that:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

10.4 To the extent that anyone might argue that other principles of law are applicable— notwithstanding that the Parties have chosen Tennessee law to govern this Agreement—Plaintiffs, each Class Member, and AME Defendants are deemed to agree that the provisions of all such principles of law or similar federal or state laws, rights, rules, or legal principles, to the extent they are found to be applicable to this Agreement or the Action, are hereby knowingly and voluntarily waived, relinquished, and released. Plaintiffs, each Class Member, and AME Defendants recognize that, even if they may later discover facts in addition to or different from those which they now know or believe to be true, they nevertheless agree that, upon entry of the Final Judgment, they fully, finally, and forever settle and release any and all Released Claims and will be



permanently barred and enjoined from the institution or prosecution of any and all Released Claims against the Released Parties only.

10.5 Provided, however, that Released Claims do not include: Plaintiffs', Class Members', and AME Defendants' rights and obligations under this Agreement.

10.6 It is expressly understood that nothing in this Agreement is intended to impair or affect Plaintiffs' or AME Defendants' claims, individually, derivatively on behalf of the Plan, and on behalf of the Class against any Non-Settling Defendant, and such claims, aside from the Released Claims against the Released Parties, are expressly reserved.

10.7 This Agreement and the releases herein do not affect the rights of individuals in the Class who timely and properly submit a request for exclusion from the Settlement Class in accordance with this Agreement.

10.8 If Final Approval is not granted, or this Agreement is terminated or rendered void, the certification of the Settlement Class shall be automatically vacated and shall not constitute evidence or a binding determination that the requirements for certification of a class for trial purposes in this or any other action can be or have been satisfied. In that event, Newport reserves and shall have all rights to challenge certification of a class action for trial purposes in the Action or in any other action, on all available grounds as if no Class had been certified.

10.9 **Covenants Not to Sue.** Plaintiffs, individually, derivatively on behalf of the Plan, and on behalf of Class Members, as well as AME Defendants, covenant and agree:

10.9.1 not to file, commence, prosecute, maintain, intervene in, or participate in (as parties, class members or otherwise) any action in any jurisdiction based on or relating to any of the Released Claims, or the facts and circumstances relating thereto, against any of the Released Parties;

10.9.2 not to organize or solicit the participation of potential Class Members in a separate class for purposes of pursuing any action (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action in

any jurisdiction) based on or relating to any of the Released Claims, or the facts and circumstances relating thereto, against any of the Released Parties; and

10.9.3 that the foregoing covenants and this Agreement shall be a complete defense to any of the Released Claims asserted against any of the Released Parties.

**10.10 Plaintiffs' and AME Defendants' Representations and Warranties.** Plaintiffs, individually, derivatively on behalf of the Plan, and on behalf of Class Members, as well as AME Defendants, represent and warrant that they are the sole and exclusive owners of their Released Claims and that they have not assigned or otherwise transferred any interest in any Released Claims against any Released Parties, and further covenant that they will not assign or otherwise transfer any interest in their Released Claims.

10.11 Plaintiffs, individually, derivatively on behalf of the Plan, and on behalf of Class Members, as well as AME Defendants, represent and warrant that, after entry of Final Judgment, they have no surviving claim or cause of action against any of the Released Parties with respect to any of the Released Claims.

10.12 Plaintiffs, individually, derivatively on behalf of the Plan, and on behalf of Class Members, as well as AME Defendants, represent and warrant that there are no outstanding liens or claims against the Action.

10.13 The Parties, and each of them on their own behalf only, represent and warrant that they are voluntarily entering into the Agreement as a result of arms-length negotiations among their counsel; that in executing the Agreement, they are relying solely upon their own judgment, belief, and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent and duration of their rights and claims hereunder and regarding all matters that relate in any way to the subject matter hereof; and that, except as provided herein, they have not been influenced to any extent whatsoever in executing the Agreement by representations,

statements, or omissions pertaining to any of the foregoing matters by any Party or by any person representing any Party. Each of the Parties assumes the risk of mistake as to facts or law.

## **11.0 TERMINATION RIGHTS & REMEDIES**

11.1 Plaintiffs, AME Defendants, and Newport shall each have the right to unilaterally terminate this Agreement by providing written notice of their election to do so (“Termination Notice”) to the other Settling Party within twenty (20) days if the Effective Date does not occur.

11.2 Newport shall have the right to terminate this Agreement if the scope of the Released Claims, the terms of the Proposed Final Order and Judgment, and other material terms are not approved by the Court and confirmed on appeal in substantially the form in which they appear in this Agreement. Newport also will have the option to terminate this Agreement if the number of Persons who exclude themselves from the Settlement Class (or who are deemed opted out) exceeds 5% of the total potential Class Members, provided that Newport may elect to reduce the Settlement Amount in proportionate amount to the percentage of persons who exclude themselves or who are deemed opted out, in lieu of termination. Plaintiffs and AME Defendants shall have the right to terminate this Agreement if the Settlement Amount is not timely funded in accordance with the terms of this Agreement.

11.3 If this Agreement fails for any reason, or if this Agreement is terminated for any reason:

11.3.1 Any funds already paid to the Qualified Settlement Fund shall be refunded to Newport, less any costs incurred that are not otherwise covered by the interest earned in the Qualified Settlement Fund. To the extent interest has been earned that exceeds incurred costs, such interest amount shall be payable to Newport;

11.3.2 This Agreement and the Proposed Settlement shall have no further force or effect, and all proceedings that have occurred with regard to this Agreement and the Proposed Settlement shall be without prejudice to the rights and contentions of the Parties and any Class Members;

11.3.3 This Agreement and all negotiations, statements and proceedings relating to them shall be without prejudice to the rights of the Parties, each of whom shall be restored to their respective positions existing immediately before the execution of this Agreement;

11.3.4 Pursuant to Federal Rule of Evidence 408 and similar provisions under State of Tennessee law, neither this Agreement, nor the Term Sheet, nor any related documents filed or created in connection with this Agreement or the Term Sheet shall be admissible in evidence in any proceeding, including proceedings involving Defendants in the Action who are not Settling Parties, except as necessary to approve, interpret, or enforce this Agreement. This provision, nor any other in this Agreement shall preclude a Non-Settling Defendant from arguing that the amount of any judgment that may be entered against it should be reduced or offset by this Settlement, as described in Section 2.6.3 above. Nor shall this provision prohibit a Non-Settling Defendant from using this Settlement Agreement for impeachment or to demonstrate bias, as permitted by the Court and in compliance with the applicable rules of evidence.

11.3.5 Any judgment or order entered in the Action relating to this Agreement or the Settlement, including, without limitation, any order certifying the Settlement Class, shall be automatically vacated *nunc pro tunc*, without the requirement of any motion or further order of the Court, and will be without any force or effect; and

11.3.6 The Parties shall not thereafter argue or raise a claim or defense, including, but not limited to, waiver, estoppel, or any other similar or related theories, based on the Agreement (including without limitation the provisions regarding class certification) and related pleadings and orders, the fact of this Agreement having been made, or that any settlement negotiations preclude Newport from opposing class certification or the claims in the Action or any other proceeding.

## **12.0 DENIAL OF LIABILITY**

12.1 Newport enters into this Agreement without admitting, conceding or acknowledging any fault, liability, or wrongdoing of any kind. Indeed, Newport expressly denies that it violated any law, breached any agreement or obligation to the Plaintiffs, Class Members, or AME Defendants, or engaged in any wrongdoing with respect to the Plaintiffs, the Class Members, or AME Defendants. This Agreement, including the Plan of Distribution contained therein (or any other plan of distribution or allocation that may be approved by the Court), any of the terms of this Agreement or the negotiations or proceedings connected with it (including any arguments proffered in connection therewith) shall not be construed as an admission or concession by Newport of the truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing of any kind on the part of Newport, nor shall they be offered or received against Newport as evidence of or deemed or construed to be evidence of or constitute any presumption, concession,

or admission by Newport as to the truth of any allegations by Plaintiffs, Class Member, or AME Defendants, or the validity of any claim that has been or could have been asserted in the Action, or the deficiency of any defense that has been or could have been asserted in the Action or in any other litigation, or of any liability, negligence, fault, damage, or wrongdoing of any kind of any kind by Newport, or in any way referred to for any other reason as against Newport, in any civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Agreement.

12.2 In the event the Effective Date does not occur, or this Agreement is terminated, or the Proposed Settlement is not finally approved for any reason, Newport shall retain the right to object to the maintenance of the Action or any other proceeding as a class action and to contest the Action or any other case on any ground.

12.3 This Agreement, including the Plan of Distribution contained therein (or any other plan of distribution or allocation that may be approved by the Court), any of the terms of the Agreement or the negotiations or proceedings connected with it (including any arguments proffered in connection therewith) shall not be offered into evidence in any other case or proceeding: (a) in support of or in opposition to a motion to certify a contested class against Newport; or (b) as an admission or concession of liability or wrongdoing by Newport.

12.4 The Settlement Parties agree that the Settlement is a commercial accommodation and shall not be construed as an admission of evidence of any violation of any law or admission as to the truth of any allegation.

### **13.0 CONFIDENTIALITY/PUBLIC DISCLOSURE**

13.1 The following constitutes highly confidential, sensitive, and private information (the “Confidential Information”): (a) the names, addresses, social security numbers, and other personally identifying data concerning a potential member of the Class compiled by AME

Defendants, Newport, or the Administrator in administering the Proposed Settlement; (b) files, documents, and electronic data related to individual account history or activity for each potential member of the Class; and (c) documents and data produced by AME Defendants or Newport in the Action identified as confidential pursuant to any agreed protective order in the Action. Confidential Information shall not be publicly disclosed by Class Counsel or other attorneys for Plaintiffs in this Action to any persons other than those identified in any agreed protective order entered in this Action or this Agreement, and shall not be used other than in this Action in connection with the Settlement. It is not a violation of this Agreement for either of the parties to provide the Court with information concerning the Plaintiffs or any objector's individual claims, or to provide the Court with anonymous aggregate claims data values solely for purposes of seeking preliminary or final approval of the Agreement or attorneys' fees, expenses, or service awards.

13.2 No Persons other than Newport's Counsel, AME Defendants' Counsel, Class Counsel, the Administrator, and their respective employees and contractors shall be allowed access to any Confidential Information. Any person to whom Confidential Information is disclosed or who has access to Confidential Information shall maintain it as confidential and shall not publicly disclose or release it to any person not authorized by Newport, AME Defendants, this Agreement, any agreed protective order, or the Court. Provided, that nothing in this Agreement shall be construed to restrict or limit Newport's use or disclosure of their own Confidential Information.

13.3 All agreements made and orders entered during the course of the Action relating to the confidentiality of information shall survive this Agreement.

13.4 The Parties agree that Confidential Information shall not be used by Class Counsel or anyone employed with, retained by, or otherwise in any way related or associated with Class

Counsel in any other litigation, current or future, unless independently obtained through discovery in such other litigation.

13.5 The Settling Parties agree not to make, disseminate, or publish any statement outside of court about the existence and terms of this Agreement or the Settlement until Final Approval of the Settlement, except as authorized by the Court, required by law, or mutually agreed to by the Settling Parties. If Final Approval is not obtained, the Settling Parties agree not to make, disseminate, or publish any statement about the existence and terms of this Agreement or the Settlement, except as authorized by the Court or required by law. If Final Approval is obtained, the Settling Parties agree not to make, disseminate, or publish any statement about this Agreement or the Settlement that would be inconsistent in any way with the terms of this Agreement or would denigrate, disparage, or embarrass any of the Settling Parties, except as authorized by the Court or required by law. The Settling Parties further agree not to encourage, cooperate with, or facilitate others making, disseminating, or publishing any statement about this Agreement or the Settlement that the Settling Parties themselves are prohibited from making, disseminating, or publishing. The Settling Parties agree that the terms of this Section 13.5 survive any termination of this Agreement or the Settlement.

#### **14.0 COMMUNICATIONS**

14.1 Any inquiries from potential Class Members regarding the Settlement will be directed to the Administrator. Nothing herein, however, shall preclude Newport or AME Defendants from discussing the Settlement with their present or former employees, members of their Board of Directors or General Conference, or their attorneys, auditors, or agents concerning the existence, terms, and implementation of the Settlement, orally or in writing.

## **15.0 STAY OF LITIGATION**

15.1 The Settling Parties agree that upon the execution of this Agreement, all pending deadlines in the Action (e.g., expert discovery, Daubert motions, dispositive motions, etc.) shall be stayed as between the Settling Parties, except to effectuate the terms of this Agreement.

## **16.0 MISCELLANEOUS**

16.1 The Settling Parties and their counsel agree to undertake their best efforts and to cooperate with each other to effectuate this Agreement and the terms of the Settlement, including taking all steps and efforts to propose agreed-upon findings in the Final Approval Order and Judgment, as well as other actions contemplated by this Agreement, and any other reasonable steps and efforts that may become necessary by order of the Court or otherwise. The Settling Parties further agree to cooperate in respect to reasonable, agreed extensions to the timetable hereunder, subject to such Court approval as may be required.

16.2 The Settling Parties agree that each has complied fully with the strictures of Rule 11 of the Federal Rules of Civil Procedure and the Final Approval Order and Judgment will contain a statement to reflect this compliance.

16.3 The terms and conditions set forth in this Agreement, including documents referenced herein, contains the entire and exclusive agreement of the Settling Parties hereto and supersede any prior agreements, including but not limited to the Settlement Term Sheet, negotiations, representations, or understandings between them, and may not be contradicted or supplemented by evidence of any prior or contemporaneous agreement. The Parties further intend that this Agreement constitutes the complete and exclusive statement of its terms as between the Parties and that no extrinsic evidence may be introduced in any proceeding concerning the terms of the Settlement. Prior or contemporaneous representations not contained in this Agreement shall be of no force or effect.



16.4 All terms of this Agreement are contractual and not mere recitals and shall be construed as if drafted by all Parties hereto. The terms of this Agreement are and shall be binding upon each of the Parties hereto, upon each of their agents, attorneys, employees, successors and assigns, and upon all other Persons claiming any interest in the subject matter hereof through any of the Parties hereto, including any Class Member. Provided, however, that except as expressly provided in this Agreement, this Agreement is not intended to and does not confer upon any other person or entity any rights or remedies.

16.5 This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties, and any amendments or modifications shall be presented to the Court for approval. Amendments and modifications may be made without additional notice to the potential Class Members unless such notice is required by the Court.

16.6 To the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of this Agreement.

16.7 Nothing contained in this Agreement shall in any way affect AME Defendants' Cross-Complaint and Third-Party Complaint, claims, rights to seek contribution, indemnity, set-off, or any other relief from any Non-Settling Defendant. All such rights and remedies of AME Defendants as to defendants other than Newport are specifically retained and preserved.

16.8 The administration and consummation of the Settlement as embodied in this Agreement shall be under the authority of the Court. The Court shall retain jurisdiction to protect, preserve, and implement the Agreement, including, but not limited to, enforcement of the releases contained in the Agreement, and to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Agreement and Final Judgment.

16.9 The waiver by any party of any breach of this Agreement will not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

16.10 This Agreement shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of Tennessee, and the rights and obligations of the Settling Parties shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of Tennessee without giving effect to its choice-of law principles. The Settling Parties, to the fullest extent permitted by applicable law, to waive all rights to a trial by jury in any action or proceeding arising out of or relating to this Agreement.

16.11 The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

16.12 This Agreement shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Settling Parties, it being recognized that it is the result of arm's-length negotiations between the Settling Parties and all Settling Parties have contributed substantially and materially to the preparation of this Agreement.

16.13 As used herein, the plural of any defined term includes the singular thereof, and the singular of any defined term includes the plural thereof, as the context may require.

16.14 This Agreement may be executed in counterparts, each of which shall constitute an original. This Agreement shall be deemed to have been executed upon the last date of execution by all the undersigned Parties or counsel. Each person executing this Agreement on behalf of any of the Settling Parties hereto represents that such person has the authority to so execute this Agreement.

16.15 Unless otherwise stated herein, any notice required or provided for under this Agreement shall be in writing and may be sent by electronic mail or hand delivery, postage prepaid, as follows:

If to Class Counsel:

CLASS COUNSEL

Matthew E. Lee  
Jeremy R. Williams

**MILBERG COLEMAN BRYSON  
PHILLIPS GROSSMAN, PLLC**

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If to Counsel for AME Defendants:

<p>HUNTON ANDREWS KURTH, LLP</p> <p><b>Douglass P. Selby</b> General Counsel of AME Church</p> <p>Bank of America Plaza, Suite 4100 600 Peachtree Street, NE Atlanta, GA 30308 T: 404.888.4000 dselby@huntonak.com</p> <p><b>Wendell Taylor</b> 2200 Pennsylvania Avenue, NW Washington, DC 20037 T: 202.955.1500 wtaylor@huntonak.com</p>	<p>BAKER, DONELSON, BEARMAN, CALDWELL &amp; BERKOWITZ, PC</p> <p><b>Bruce A. McMullen</b> First Horizon Building 165 Madison Ave., Ste. 2000 Memphis, TN 38103 T: 901.526.2000 bmcmullen@bakerdonelson.com</p> <p><b>Mary Wu Tullis</b> First Horizon Building 165 Madison Ave., Ste. 2000 Memphis, TN 38103 T: 901.526.2000 mtullis@bakerdonelson.com</p>
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If to Counsel for Newport:

<p><b>Mark C. Nielsen</b> <b>Shaun M. Gates</b> GROOM LAW GROUP 1701 Pennsylvania Avenue, NW Washington, DC 20006 202.861.5429 mcn@groom.com sgates@groom.com</p>
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**SIGNATURE PAGES –**

Dated: 03/04/2025By:   
[Matthew E. Lee \(Mar 4, 2025 18:17 EST\)](#)  
Matthew E. Lee  
Interim Co-Lead Counsel for PlaintiffsDated: 03/04/2025By:   
[Greg Francis \(Mar 4, 2025 18:22 EST\)](#)  
Gregorio A. Francis  
Interim Co-Lead Counsel for PlaintiffsDated: 03/04/2025By:   
[Doug Selby \(Mar 4, 2025 18:57 EST\)](#)  
Douglass P. Selby  
Counsel For AME DefendantsDated: 03/04/2025By:   
[Mark C. Nielsen \(Mar 4, 2025 18:43 EST\)](#)  
Mark C. Nielsen  
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