

## **SETTLEMENT AGREEMENT**

**IT IS HEREBY STIPULATED AND AGREED** by, between, and among Plaintiff Dennis E. Davis, individually and on behalf of the Settlement Class defined below, and Defendant Symetra Life Insurance Company, that the causes of action and matters raised by and related to this lawsuit, captioned *Davis v. Symetra Life Insurance Company*, Case No. 2:21-cv-00533-KKE, in the United States District Court for the Western District of Washington, are hereby settled and compromised on the terms and conditions set forth in this Agreement, subject to approval of the Court.

This Agreement is made to fully, finally, and forever resolve, discharge, and settle the Released Claims on the terms and conditions of this Agreement.

## **TERMS AND CONDITIONS OF AGREEMENT**

### **1. Definitions**

Capitalized terms in this Agreement are defined as follows:

1.1. “Action” means the lawsuit captioned, *Davis v. Symetra Life Insurance Company*, Case No. 2:21-cv-00533-KKE, currently pending in the United States District Court for the Western District of Washington.

1.2. “Agreement” means this Settlement Agreement.

1.3. “Claims” means all suits, claims, cross-claims, counterclaims, controversies, liabilities, demands, obligations, debts, indemnities, costs, fees, expenses, losses, liens, actions, or causes of action (however denominated), including Unknown Claims, of every nature, character, and description, whether in law, contract, statute, or equity, direct or indirect, whether known or unknown, foreseen or not foreseen, accrued or not yet accrued, or present or contingent, for any injury, damage, obligation, or loss whatsoever, including compensatory damages, statutory liquidated damages, exemplary damages, punitive damages, losses, costs, expenses, or attorneys’ fees.

1.4. “Class Counsel” means Stueve Siegel Hanson LLP and Schirger Feierabend LLC.

1.5. “Class Counsel’s Fees and Expenses” means the amount of the award approved by the Court to be paid to Class Counsel from the Settlement Fund for attorneys’ fees and reimbursement of Class Counsel’s costs and expenses, as more fully set forth in Section 8.

1.6. “Class List” means the Policies identified by policy number to be filed with the Court as an exhibit to Plaintiff’s motion for Final Approval of the Settlement. The Class List consists of the Policies in the Settlement Class.

1.7. “Class List Date” means a date thirty (30) days following the execution of this Agreement.

1.8. “Class Notice” means the notice of the Settlement approved by the Court to be sent by the Settlement Administrator, as described in Section 4, to the persons and entities on the Notice List. The Parties will submit the Class Notice for the Court’s approval.

1.9. “Confidential Information” means material designated as “Confidential Information” in accordance with the terms of the Protective Order entered in the Action.

1.10. “Cost of Insurance” has the same meaning ascribed by the Policy or Policies.

1.11. “Court” means the United States District Court for the Western District of Washington and the Honorable Kymberly K. Evanson, or any other judge assigned to the Action.

1.12. “Defendant” means Symetra Life Insurance Company (“Symetra”) and its predecessors and successors, including American States Life Insurance Company which merged with and into Symetra and which has assumed all outstanding obligations of American States Life Insurance Company and is substituted as the insurer for all outstanding insurance contracts previously issued by American States Life Insurance Company.

1.13. “Distribution Plan” means the formulae prepared by Class Counsel, after consulting Symetra, and as approved by the Court for allocation of the Net Settlement Fund.

1.14. “Fairness Hearing” means any hearing held by the Court on any motion for final approval of the Settlement for the purposes of: (i) entering the Order and Judgment; (ii) determining whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Settlement Class Members; (iii) ruling on an application by Class Counsel for attorneys’ fees and reimbursement of expenses and a reasonable service award payment for the Plaintiff; or (iv) ruling on any other matters raised or considered in connection with the Settlement.

1.15. “Final Settlement Date” means the date when the Order and Judgment becomes final, which shall be the first business day after one of the following, as applicable: (i) if an appeal from the Order and Judgment is initiated, the date when the Order and Judgment has been affirmed or the appeal dismissed and the deadline for initiating any further appeal has expired; or (ii) if no appeal is filed, the deadline for initiating an appeal from the Order and Judgment.

1.16. “Guaranteed Maximum Cost of Insurance Rates” has the same meaning or meanings ascribed by the Policy or Policies and is the maximum Monthly Cost of Insurance Rates that Symetra can apply to the Policy or Policies.

1.17. “Monthly Cost of Insurance Rates” has the same meaning or meanings ascribed by the Policy or Policies and refers to Defendant’s current cost of insurance rates from tables applicable to the Policies. Monthly Cost of Insurance Rates includes Defendant’s cost of insurance rates for all combinations of age, sex, Class/Rating Class, and Commissioner Standard Ordinary table for the Policies, including but not limited to standard, sub-standard, unisex, flat extras, and table rated cost of insurance rates, as well as any combination of Classes/Rating Classes for an Insured and any combination of joint equivalent age, sexes, and Classes/Rating Classes for joint insureds. For clarity, “tables” referenced in this Paragraph does not refer to pricing or mortality tables. “Class,” “Rating Class,” and “Insured” have the same meaning or meanings ascribed by the Policy or Policies.

1.18. “Net Settlement Fund” means the Settlement Fund less Settlement Administration Expenses, Plaintiff’s Service Award, and Class Counsel’s Fees and Expenses, which shall be distributed to the Settlement Class Members pursuant to the Distribution Plan.

1.19. “Notice Date” means the date when the Settlement Administrator mails the Class Notice.

1.20. “Notice List” means the individuals or entities reflected as the last known policy Owner of the Policies on the Class List as of the Class List Date.

1.21. “Order and Judgment” means the Court’s order fully and finally approving the Settlement and entering final judgment.

1.22. “Owner” or “Owners” means a Policy’s owner or owners, whether a person or an entity and whether in an individual or representative capacity, as indicated in Defendant’s records as of the Class List Date, except that if the Owner is deceased as of the Class List Date, the Owner shall mean the estate of the deceased Owner.

1.23. “Parties” means, collectively, Plaintiff and Defendant.

1.24. “Plaintiff” means Dennis E. Davis.

1.25. “Plaintiff’s Service Award” means the amount of the award approved by the Court to be paid to Plaintiff from the Settlement Fund, as compensation for efforts undertaken by him on behalf of the Settlement Class.

1.26. “Policy” or “Policies” means MasterPlan, Executive MasterPlan, MasterPlan Plus, Joint MasterPlan, and Juvenile MasterPlan Plus universal life insurance policies issued in Arizona, California, Florida, Illinois, Indiana, Kentucky, Minnesota, Missouri, South Carolina, Texas, and Washington that were in force on or after January 1, 2000, that were issued by American States Life Insurance Company and administered by Symetra or its predecessors in interest. Policy or Policies shall include all applications, schedules, riders, and other forms specifically made a part of the policies at the time of their

issue, plus all riders and amendments issued later, or otherwise part of “The Policy,” as defined in the Policy or Policies.

1.27. “Preliminary Approval Date” means the date when the Court enters the order granting preliminary approval and permitting notice of the proposed Settlement.

1.28. “Released Claims” means any and all Claims asserted in the Action, that might have been asserted in the Action, or that may later be asserted arising out of or related to the facts, subject matter, conduct, transactions, events, occurrences, acts, disclosures, statements, marketing materials, notices, omissions, or failures to act alleged in the Action, and/or based in whole or in part on allegations that Defendant or any of its predecessors or successors considered factors other than mortality when determining or developing Defendant’s Monthly Cost of Insurance Rates, including, but not limited to, factors for expenses (for example, administrative, maintenance, and acquisition expenses), commissions, reinsurance costs, premium persistency, policy lapses, investment income, interest crediting projections, taxes, cash surrenders, withdrawals, sales volume, marketing costs, capital costs, competitiveness, profit objectives, or profit; recovering expenses through the Monthly Cost of Insurance Rates including any expenses in excess of any of the Policy’s stated Monthly Expense Charge, Premium Expense Charge, or any other expense charge or Policy charge; or failing to change the Monthly Cost of Insurance Rates in response to changes in Defendant’s expectations as to future mortality experience for any age, sex or Class/Rating Class. Released Claims also expressly include all Claims based in whole or in part on Defendants’ development, pricing, calculation, recalculation, determination, or redetermination of Defendant’s Monthly Cost of Insurance Rates and all Claims based in whole or in part on the deduction of the Cost of Insurance, the Monthly Expense Charge, the Premium Expense Charge, and/or the monthly charges for any riders. All Claims relating to Defendant’s use of the Monthly Cost of Insurance Rates at or below the rates challenged in the Action now or in the future for any reason whatsoever are expressly

released. Released Claims also expressly includes all Claims that Defendant has for any future obligation to decrease Monthly Cost of Insurance Rates for any reason or in any specific amount, to any specific degree, or by any specific percentage. Released Claims also includes Claims involving (1) future increases in any portion of Defendant's Monthly Cost of Insurance Rates if deterioration in Defendant's expectations as to future mortality experience is the reason for the increase; (2) year-over-year increases in an Insured's Monthly Cost of Insurance Rates as an Insured ages; and (3) future increases in Monthly Cost of Insurance Rates as a result of an increase in an Insured's amount of coverage and new applicable Class/Rating Class on the increased amount as a result of the underwriting process.

1.29. "Released Parties" means, individually and collectively, Defendant and Defendant's current and former shareholders, agents, representatives, principals, employees, independent contractors, brokers, producers, attorneys, trustees, owners, directors, officers, fiduciaries, administrators, partners, subrogees, reinsurers, creditors, insurance providers, parent, subsidiaries, divisions, affiliates, related entities, predecessors, successors, assignees, and all other persons or entities acting by or through them; and Plaintiff and each Settlement Class Member and their respective agents, beneficiaries, heirs, relatives, estates, administrators, representatives, attorneys, predecessors, successors, insurers, trustees, subrogees, executors, assignees, and all other persons or entities acting by or through any of them.

1.30. "Releasing Parties" means Plaintiff and each Settlement Class Member on behalf of themselves and their respective agents, beneficiaries, heirs, relatives, estates, administrators, representatives, attorneys, predecessors, successors, insurers, trustees, subrogees, executors, assignees, and all other persons or entities acting by or through any of them; and Defendant and Defendant's current and former shareholders, agents, representatives, principals, employees, independent contractors, brokers, producers, attorneys, trustees, owners, directors, officers, fiduciaries, administrators, partners, subrogees,

reinsurers, creditors, insurance providers, parent, subsidiaries, divisions, affiliates, related entities, predecessors, successors, assignees, and all other persons or entities acting by or through them.

1.31. “Settlement” means the settlement set forth in this Agreement, with such modifications, if any, as are made and approved by the Court, as set forth in the Final Order and Judgment.

1.32. “Settlement Administration Expenses” means all fees, costs, and expenses incurred by the Settlement Administrator, including Class Notice costs, CAFA notices, serving as Escrow Agent and paying taxes and tax expenses related to the Escrow Account and claims administration, which shall be paid from the Settlement Fund.

1.33. “Settlement Administrator” means Analytics LLC, a qualified third-party settlement administrator mutually agreed upon by Plaintiff and Defendant to provide Class Notice and administer payment of settlement relief. A different Settlement Administrator may be substituted if approved by order of the Court.

1.34. “Settlement Class” means the Owners of approximately 43,000 Policies as reflected on the Class List. The Settlement Class excludes: Symetra; any entity in which Symetra has a controlling interest; any of the officers, directors, employees, or sales agents of Symetra; the legal representatives, heirs, successors, and assigns of Symetra; anyone employed with Plaintiff’s law firms; and any Judge to whom this Action is assigned, and his or her immediate family.

1.35. “Settlement Class Members” means all persons and entities that are included in the Settlement Class who are not excluded by the Court in the Order and Judgment.

1.36. “Settlement Fund” means a non-reversionary cash fund consisting of the consideration paid by Defendant in the amount of \$32,500,000.00. The Settlement Fund will be a single qualified settlement fund pursuant to 26 U.S.C. § 468, that will be used to pay Settlement Administration Expenses, Plaintiff’s Service Award, Class Counsel’s Fees and Expenses, and all settlement relief to Settlement Class Members.

Other than pursuant to Paragraph 11.12 of this Agreement, no portion of the Settlement Fund may revert to Defendant. Defendant shall have no financial obligations under this Settlement other than payment of the Settlement Fund.

1.37. “Settlement Fund Account” means the escrow account to be established by the Settlement Administrator in the United States, from which all payments out of the Settlement Fund will be made. The Settlement Fund Account shall be established at a depository institution insured by the Federal Deposit Insurance Corporation.

1.38. “Settlement Website” means a website established by the Settlement Administrator containing information about the Settlement with the URL [www.aslcoisettlement.com](http://www.aslcoisettlement.com) or a similar address as otherwise agreed by the Parties.

1.39. “Unknown Claims” means any Claims that might have been asserted in the Action, or that may later be asserted arising out of the facts, transactions, events, occurrences, acts, disclosures, statements, marketing materials, notices, omissions, or failures to act that were alleged in the Action that Plaintiff or any Settlement Class Member does not know or suspect to exist in his or her favor at the time of the entry of the Order and Judgment, and which if known by him or her might have affected his or her decision to opt out of or object to the Settlement. With respect to any and all Claims described and released under Paragraphs 1.28, 3.1, and 3.2, the Parties stipulate and agree that, upon the Final Settlement Date, Plaintiff and each Settlement Class Member understand that they have and shall be deemed to have, and by operation of the Order and Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code, which provides:

**“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE  
CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**



**EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”**

**PLAINTIFF AND EACH SETTLEMENT CLASS MEMBER, UPON THE FINAL SETTLEMENT DATE, SHALL BE DEEMED TO HAVE, AND BY OPERATION OF THE ORDER AND JUDGMENT SHALL HAVE, WAIVED ANY AND ALL PROVISIONS, RIGHTS, AND BENEFITS CONFERRED BY ANY LAW OF ANY STATE OR TERRITORY OF THE UNITED STATES, OR PRINCIPLE OF COMMON LAW, WHICH IS SIMILAR, COMPARABLE, OR EQUIVALENT TO SECTION 1542 OF THE CALIFORNIA CIVIL CODE. PLAINTIFF AND SETTLEMENT CLASS MEMBERS MAY HEREAFTER DISCOVER FACTS IN ADDITION TO OR DIFFERENT FROM THOSE THAT THEY NOW KNOW OR BELIEVE TO BE TRUE WITH RESPECT TO THE SUBJECT MATTER OF THE RELEASED CLAIMS, BUT PLAINTIFF AND EACH SETTLEMENT CLASS MEMBER, UPON THE FINAL SETTLEMENT DATE, SHALL BE DEEMED TO HAVE, AND BY OPERATION OF THE ORDER AND JUDGMENT SHALL HAVE, FULLY, FINALLY, AND FOREVER SETTLED AND RELEASED ANY AND ALL RELEASED CLAIMS, KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED, CONTINGENT OR NON-CONTINGENT, WHETHER OR NOT CONCEALED OR HIDDEN, WHICH NOW EXIST, OR HERETOFORE HAVE EXISTED UPON ANY THEORY OF LAW OR EQUITY NOW EXISTING OR COMING INTO EXISTENCE IN THE FUTURE, INCLUDING, BUT NOT**

**LIMITED TO, CONDUCT THAT IS NEGLIGENT, INTENTIONAL, WITH OR WITHOUT MALICE, OR ANY BREACH OF ANY DUTY, LAW, OR RULE WITHOUT REGARD TO SUBSEQUENT DISCOVERY OR EXISTENCE OF SUCH DIFFERENT OR ADDITIONAL FACTS. PLAINTIFF AND EACH SETTLEMENT CLASS MEMBER AGREE THAT THIS IS AN ESSENTIAL TERM OF THE RELEASE.**

1.40. The terms “he or she” and “his or her” include “it” or “its” or “they” or “their,” where applicable. Defined terms expressed in the singular also include the plural form of the term, and vice versa, where applicable.

1.41. All references in this Agreement to sections and paragraphs refer to sections and paragraphs of this Agreement, unless otherwise expressly stated in the reference.

## **2. Settlement Relief**

2.1. Within seven (7) days after the Preliminary Approval Date, Class Counsel shall provide to Defendant written confirmation of all necessary information to complete the wire transfers of any funds due from Defendant pursuant to the Settlement into the Settlement Fund Account. Within thirty (30) days of the Preliminary Approval Date or February 1, 2025, whichever is later, Defendant shall fund the Settlement Fund in full by wire transfer into the Settlement Fund Account.

2.2. The Net Settlement Fund shall be distributed to the Settlement Class Members pursuant to the distribution formulas proposed by Class Counsel, subject to Court approval. Any such revision required to obtain Court approval shall not constitute an amendment or modification to the Agreement subject to Paragraph 11.11.

2.3. Defendant shall provide the data necessary to apply the distribution formulas for Settlement Class Members as soon as practicable after the Preliminary Approval Date. Within thirty (30) days after

the Final Settlement Date, the Settlement Administrator shall calculate each Settlement Class Member's distribution pursuant to the distribution methodology and deliver to each Settlement Class Member by U.S. mail, first-class postage prepaid, a settlement check or other mechanism of payment in the amount of the share of the Net Settlement Fund to which the Settlement Class Member is entitled pursuant to the Distribution Plan. Settlement payments will be automatically delivered without any proof of claim or further action on the part of the Settlement Class Members.

2.4. Checks shall remain negotiable for 180 days from the date of mailing. Checks not cashed during this time will be canceled, and amounts of canceled checks will be sent to the unclaimed property division of the state in which each such Settlement Class Member was last sent Class Notice or distributed as otherwise ordered by the Court. Checks shall be re-issued by the Settlement Administrator if such requests are received from Settlement Class Members before the transfer to the unclaimed property divisions has occurred. Defendant shall have no obligations or responsibility relating to the redistribution or reissuance of any canceled checks or the transmission of any amounts of canceled checks.

2.5. The Parties agree that if the Court finds that the Distribution Plan submitted by Class Counsel is not fair and reasonable, and refuses to approve the Settlement on that basis, Class Counsel may, in consultation with Defendant, modify the Distribution Plan to resolve the issue to the satisfaction of the Court, and any such modification shall not constitute an amendment or modification of this Agreement. In no event will any modification to the Distribution Plan change Defendant's obligations under Paragraphs 1.36 or 2.1 or any other provision of this Agreement.

### **3. Releases and Waivers**

3.1. Upon the Final Settlement Date and Defendant's wiring of the Settlement Fund amount provided by Paragraph 2.1, the Releasing Parties shall be deemed to have, and by operation of the Order

and Judgment shall have, fully, finally, and forever released, relinquished, and discharged the Released Parties of and from all Released Claims.

3.2. As part of the consideration for the benefits conveyed pursuant to Paragraphs 2.1 through 2.5, the Releasing Parties agree and understand that, among the explicitly Released Claims in the Agreement, Defendant may continue to use Monthly Cost of Insurance Rates equal to or lower than the Monthly Cost of Insurance Rates as of the date of the Agreement, and Defendant may continue to use and adjust Monthly Cost of Insurance Rates as set forth and described in Paragraph 1.28 of the Agreement.

3.3. Upon the Final Settlement Date, the Releasing Parties shall be deemed to have, and by operation of the Order and Judgment shall have, waived any and all Released Claims against the Released Parties.

3.4. Nothing in this Section 3 shall preclude any action to enforce the terms of this Agreement.

3.5. The scope of the Released Claims or Released Parties shall not be impaired in any way by the failure of any Settlement Class Member to actually receive the benefits provided for under this Agreement.

3.6. The Parties acknowledge that the release provisions in this Section 3 constitute essential terms of this Agreement.

3.7. The Parties acknowledge and expressly agree that the release provisions in this Section 3 shall be, and may be raised as, a complete defense to and will preclude any action or proceeding encompassed by the Released Claims.

#### **4. Notice to the Settlement Class**

4.1. Subject to the requirements of any orders entered by the Court, and no later than forty-five (45) days after the Preliminary Approval Date or the date the Court approves the Class Notice plan, whichever is later, the Settlement Administrator will mail a Class Notice by first-class mail to the

addresses on the Notice List. If more time is needed to prepare the Notice List and mail Class Notice, the Parties will agree on another date for mailing the Class Notice, unless otherwise ordered by the Court.

4.2. The mailing of a Class Notice to a person or entity that is not in the Settlement Class shall not render such person or entity a part of the Settlement Class or otherwise entitle such person to participate in the Settlement.

4.3. Defendant will deliver the Notice List to the Settlement Administrator within thirty (30) days of this Agreement. This Notice List shall be designated Confidential Information.

4.4. The Settlement Administrator will run an update of the last known addresses provided by Defendant through the National Change of Address database before mailing the Class Notice. If a Class Notice is returned to the Settlement Administrator as undeliverable, the Settlement Administrator will: (i) re-mail any Class Notice returned with a forwarding address; and (ii) make reasonable attempts to find an address for any returned Class Notice that does not include a forwarding address. The Settlement Administrator will re-mail the Class Notice to every person and entity in the Notice List for which it obtains an updated address. If any member of the Settlement Class is known to be deceased, the Class Notice will be addressed to the deceased member's last known address and "To the Estate of [the deceased member of the Settlement Class]."

4.5. Not later than seven (7) days before the due date for filing the motion for final approval of the Settlement (or at the request of Class Counsel, if earlier), the Settlement Administrator shall provide the Parties with one or more declarations confirming that notice was completed in accordance with the Parties' instructions and the Court's approval. Class Counsel shall file such declaration(s) with the Court as an exhibit to or in conjunction with the motion for final approval of the Settlement.

4.6. The Settlement Administrator will establish, maintain, and update a Settlement Website to provide relevant information to the Settlement Class, including links to important documents relating to the Settlement.

4.7. The Agreement may be amended by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest, as provided in Paragraph 11.11. Unless otherwise ordered by the Court, notice of any such amendment will be provided to the Settlement Class through the Settlement Website.

## **5. Responses to Class Notice**

5.1. The Class Notice shall advise members of the Settlement Class of their right to opt out of the Settlement and the manner required to do so. They may opt out of this Settlement by serving a written notice on the Settlement Administrator postmarked no later than thirty-five (35) days after the Notice Date, or such other date determined by the Court. The Settlement Administrator shall notify the Parties of the receipt of any written opt-out notice.

5.2. To be in proper form, the opt-out notice must include: (i) the member of the Settlement Class's full name, current address, telephone number, e-mail address (if available), and Policy number; (ii) a clear statement that he, she, or it elects to be excluded from the Settlement Class and does not want to participate in the Settlement; and (iii) be signed by the member or by a person providing a valid power of attorney to act on behalf of the member. If there are multiple Owners of a Policy, all Owners must sign unless the signatory holds and submits a copy of a valid power of attorney to act on behalf of all then-current Owners of the Policy.

5.3. Every member of the Settlement Class that does not file a timely and proper written opt-out notice will be bound by all subsequent proceedings, orders, and judgments in the Action.

5.4. The Class Notice shall advise the Settlement Class Members of their right to object and the manner required to do so. Any Settlement Class Member may object to this Settlement by serving a written objection on the Settlement Administrator postmarked no later than thirty-five (35) days after the Notice Date, or such other date determined by the Court. Unless otherwise ordered by the Court, the objection must contain: (1) the full name, address, telephone number, and e-mail address (if available), of the Settlement Class Member; (2) the Settlement Class Member's Policy number; (3) a written statement of all grounds for the objection accompanied by any legal support for the objection (if any); (4) copies of any documents upon which the objection is based; (5) a list of all persons who will be called to testify in support of the objection (if any); (6) a statement of whether the Settlement Class Member intends to appear at the Fairness Hearing; (7) a statement whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; and (8) the signature of the Settlement Class Member or his or her counsel. If an objecting Settlement Class Member intends to appear at the Fairness Hearing through counsel, the written objection must also identify all attorneys representing the objecting Settlement Class Member who will appear at the Settlement Hearing. Unless otherwise ordered by the Court, Settlement Class Members who do not timely object as provided in this Paragraph will be deemed to have waived all objections and shall not be heard or have the right to appeal approval of the Settlement. The Settlement Administrator shall provide the Parties with copies of all objections as soon as practicable, but no later than seven (7) days of notice of any objection.

5.5. Class Counsel shall file with the Court all objections served on the Settlement Administrator within fourteen (14) days after the deadline for Settlement Class Members to file objections, or as otherwise directed by the Court. The Parties may serve and file responses to written objections any time prior to the Fairness Hearing, or as otherwise directed by the Court.

## **6. Notice Under the Class Action Fairness Act**

6.1. Within ten (10) days following the filing of this Agreement for preliminary approval by the Court, the Settlement Administrator will serve or cause to be served notices of the proposed Settlement upon the appropriate officials in compliance with the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715.

## **7. Communications with Settlement Class Members**

7.1. Defendant will not be privy to or respond to inquiries between members of the Settlement Class and Class Counsel regarding the proposed Settlement or the Action. However, Defendant may respond to inquiries from or on behalf of, agents, brokers, producers, employees, insureds, beneficiaries, policyowners, and members of the Settlement Class, orally or in writing, regarding matters in the normal course of administering the Policies or in the ordinary course of business, including through appropriate agents or agencies. Notwithstanding the foregoing, prior to the Final Settlement Date, Defendant shall refer substantive inquiries relating to participation or objections from members of the Settlement Class to Class Counsel.

7.2. Class Counsel will respond to inquiries from Settlement Class Members. The Settlement Administrator may respond to inquiries received directly from members of the Settlement Class and may communicate with Class Counsel about those inquiries.

## **8. Attorneys’ Fees, Costs, and Expenses**

8.1. For the settlement relief provided to Settlement Class Members, Class Counsel will seek an award of attorneys’ fees in an amount not to exceed one-third of the Settlement Fund, and reimbursement of all costs and expenses actually incurred by Class Counsel, subject to approval by the Court. The Parties agree that this provision was negotiated after negotiating substantive relief to the Settlement Class, including the amount of the Settlement Fund.



8.2. Class Counsel may move the Court for, and Defendant agrees not to oppose, a service award payment to Plaintiff, in an amount not to exceed \$25,000, to compensate him for his efforts on behalf of the Settlement Class. Payment of Plaintiff's Service Award, if any, shall be made to Plaintiff out of the Settlement Fund, in addition to any settlement relief he may be eligible to receive.

8.3. Defendant and Plaintiff shall not be liable or obligated to pay any fees, expenses, costs, or disbursements to any person, either directly or indirectly, in connection with the Action, this Agreement, or the Settlement, other than as expressly provided in this Agreement.

8.4. The Parties agree that the Settlement is not conditioned on the Court's approval of Plaintiff's Service Award or approval of the payment of Class Counsel's Fees and Expenses.

## **9. Tax Reporting and No Prevailing Party**

9.1. Any person or entity receiving any payment or consideration pursuant to this Agreement shall be solely responsible for the reporting and payment of any federal, state, or local income or other tax on any payment made pursuant to this Agreement, and Defendant shall have no obligations to report or pay any federal, state, or local income or other tax on any payment made pursuant to this Agreement, except that Defendant shall provide any reasonably available data necessary for the Settlement Administrator to make any such reports. Defendant, Defendant's counsel, and Class Counsel have not provided and shall have no responsibility for providing any opinion concerning the tax consequences of the proposed Settlement to any Settlement Class Member, nor are any representations or warranties in this regard made by virtue of this Agreement.

9.2. No Party shall be deemed the prevailing party for any purposes of this Action.

## **10. Preliminary and Final Approval**

10.1. Plaintiff, through Class Counsel, will request that the Court enter a preliminary approval order and schedule the Fairness Hearing for purposes of determining the fairness of the Settlement,

considering the motions for approval of Class Counsel's Fees and Expenses and Plaintiff's Service Award, granting final approval of the Settlement and this Agreement, and entering the Order and Judgment.

10.2. Class Counsel will file a motion for Order and Judgment seeking certification of the Settlement Class, except for members who timely and validly seek exclusion, and final approval of the Settlement and a motion for Class Counsel's Fees and Expenses and Plaintiff's Service Award. The motion for Order and Judgment will include the Class List and a proposed Order and Judgment in a form agreed to by the Parties. The Order and Judgment proposed by the Parties will, among other things: (a) approve the proposed Settlement as fair, reasonable, and adequate; (b) dismiss the Action with prejudice pursuant to Federal Rule of Civil Procedure 41, with jurisdiction retained by the Court to enforce the terms of the Agreement; and (c) permanently enjoin all Settlement Class Members from filing, prosecuting, maintaining, or continuing litigation based on or related to the Released Claims.

## **11. Other Provisions**

11.1. The Parties: (i) agree to cooperate in good faith to the extent reasonably necessary to implement all terms and conditions of the Agreement and to exercise their best efforts to fulfill the foregoing terms and conditions of the Agreement; and (ii) agree to cooperate in good faith to obtain preliminary and final approval of the Settlement and to finalize the Settlement. If preliminary or final approval of the Settlement is not obtained, the Parties agree to work in good faith to address any deficiencies in the Settlement and to submit a revised proposed settlement within thirty (30) days following the denial of preliminary or final approval of the Settlement; provided, however, that Defendant shall have no obligation to agree to pay more than \$32,500,000 in any revised proposed settlement.

11.2. Plaintiff: (i) agrees to serve as representative of the Settlement Class; (ii) remains ready, willing, and able to perform all of the duties and obligations of a representative of the Settlement Class; (iii) is familiar with the allegations in the Action; (iv) has consulted with Class Counsel about the Action

(including discovery conducted in the Action), this Agreement, and the obligations of a representative of the Settlement Class; and (v) shall remain a representative of the Settlement Class until the terms of this Agreement are fully implemented, this Agreement is terminated in accordance with its terms, or the Court determines that Plaintiff cannot represent the Settlement Class. The Parties agree that should Plaintiff be rendered medically incompetent or die before the Final Settlement Date, any further obligation of Plaintiff as a representative of the Settlement Class shall be carried out by an alternative class representative approved by the Court.

11.3. Class Counsel, the Settlement Class, and Defendant shall use their best efforts to conclude the Settlement and obtain the Final Order and Judgment. Class Counsel, the Settlement Class, and Defendant agree that it is essential that this Settlement be prosecuted to a successful conclusion in accordance with all applicable provisions of law and the exercise of good faith on the part of Class Counsel, the Settlement Class, and Defendant. The Parties further represent, agree, and acknowledge that the Settlement is a fair resolution of these claims for the Parties and the Settlement Class. Subject to their ethical obligations, neither the Parties nor their respective counsel shall make any statements suggesting the contrary, either before or after the Court's approval of the Settlement.

11.4. The Parties agree that the amounts paid in Settlement and the other terms of the Settlement were negotiated in good faith, and at arm's length, and reflect a Settlement that was reached voluntarily after consultation with competent legal counsel.

11.5. No person or entity shall have any claim against Class Counsel, the Settlement Administrator, Defendant's counsel, or any of the Released Parties based on actions taken substantially in accordance with the Agreement or further orders of the Court.

11.6. Defendant specifically and generally denies all liability or wrongdoing of any sort with regard to any of the claims or allegations in the Action and makes no concessions or admissions of liability

of any sort. Neither this Agreement nor the Settlement nor any drafts or communications related to them, nor any act performed or document executed pursuant to or in furtherance of the Agreement or the Settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of any of the Released Parties; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Parties in any civil, criminal, or administrative proceeding in any court, administrative agency, regulatory proceeding, or other tribunal. Nothing in this Paragraph shall prevent any of the Released Parties from using this Agreement and Settlement or the Order and Judgment in any action against them to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, waiver, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion, issue preclusion, or similar defense or counterclaim.

11.7. Plaintiff and Class Counsel agree that if this Agreement fails to be approved, fails to become effective, or otherwise fails to be consummated, or if there is no Final Settlement Date, the Parties shall retain, and expressly reserve, all of the rights they had before the execution of this Agreement to seek, maintain, oppose, or object to the maintenance of the Action as a class action. Plaintiff and Class Counsel agree that nothing in this Agreement or other papers or proceedings related to the Settlement shall be used as evidence or argument concerning whether the Action may properly be maintained as a class action, whether the purported class is ascertainable, or whether Class Counsel or Plaintiff can adequately represent class members under applicable law. If the Agreement is deemed void or the Final Settlement Date does not occur, Plaintiff and Class Counsel agree not to argue or present any argument, and hereby waive any argument, that Defendant could not contest (or are estopped from contesting) maintenance of this Action as a class action based on any grounds it had prior to the execution of this Agreement; and this Agreement shall not be deemed an admission by, or ground for estoppel against, Defendant that class

certification or any claims brought in the Action are proper. If the Agreement is declared void or the Final Settlement Date does not occur, Plaintiff and Class Counsel retain all rights and arguments they had before execution of this Agreement to oppose Defendant's positions and arguments. Each of the Parties will be restored to the place he or it was in as of the date this Agreement was signed with the right to assert in the Action any argument or defense.

11.8. This Agreement does not, and will not be deemed to, create any fiduciary or similar relationship between Defendant and any of its current, past, or prospective policy owners. This Agreement does not impose, and will not be deemed to impose, any fiduciary or other similar duty on Defendant, and Defendant expressly disclaims any fiduciary or other similar duty. The duties and obligations assumed by Defendant as a result of this Agreement are limited to those expressly set forth in this Agreement.

11.9. Punitive or exemplary damages are not available to any Settlement Class Member under the proposed Settlement described in this Agreement.

11.10. The Parties agree, to the extent permitted by law, that all orders entered during the course of the Action relating to confidentiality of information shall survive this Agreement.

11.11. The Agreement may be amended only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest. No waiver of any provision of this Agreement or consent to any departure by either Party therefrom shall be effective unless in writing, signed by the Parties or their counsel, and any such waiver or consent shall be effective only in the specific instance and for the purpose for which it was given. No amendment to this Agreement pursuant to this Paragraph shall require any additional notice to the Settlement Class Members, including written or publication notice, unless ordered by the Court. The Parties may provide updates on any amendments to this Agreement on the Settlement Website.

11.12. This Agreement will terminate at the sole option and discretion of Plaintiff or Defendant if: (a) the Court or any appellate court with jurisdiction over any appeal taken from the Court rejects, modifies, or denies approval of any material portion of this Agreement; or (b) the Court or any appellate court with jurisdiction over any appeal taken from the Court does not enter or completely affirm, or modifies, alters, narrows, or expands, any material portion of the Order and Judgment. However, this Paragraph shall not apply to any modification, rejection, or denial of approval of any portion of Plaintiff's Service Award or Class Counsel's Fees and Expenses. The terminating Party must exercise the option provided in this Paragraph to withdraw from and terminate the Settlement in writing no later than fourteen (14) days after receiving notice of the event prompting the termination; notwithstanding the conditional right of termination herein, the Parties agree to act in good faith, pursuant to Paragraph 11.1, to attempt to cure any impediment to this Settlement becoming effective. If the Agreement is so terminated, the Parties will be returned to their *status quo ante*.

11.13. The Parties agree to keep this Settlement confidential until it is submitted to the Court for preliminary approval except as otherwise contemplated and agreed by the Parties. The Parties and counsel shall refrain from making disparaging comments about any opposing Party related to the Action or its subject matter.

11.14. Each person executing the Agreement warrants that he or she has the full authority to do so.

11.15. The Agreement may be executed in one or more counterparts. All executed counterparts shall be deemed to be the same instrument. PDFs or copies of original signatures will have the same effect as the original. A complete set of executed counterparts shall be filed with the Court.

11.16. The Agreement shall be binding upon, and inure to the benefit of, the successors, heirs, and assigns of the Parties; but this Agreement is not designed to and does not create any third-party beneficiaries, either express or implied, except as to the Settlement Class Members.

11.17. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not construed for or against either Party. No Party shall be deemed the drafter of this Agreement. The Parties acknowledge that the terms of the Agreement are contractual and are the product of negotiations between the Parties and their counsel. Each Party and his or its respective counsel cooperated in the drafting and preparation of the Agreement. No parol or other evidence may be offered to explain, construe, contradict, or clarify the terms of this Agreement, the intent of the Parties or the Parties' counsel, or the circumstances under which this Agreement was made or executed. The Parties acknowledge that there are no other agreements, arrangements, or understandings among or between them that are not expressed or referred to in this Agreement.

11.18. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington, without reference to its choice-of-law or conflict-of-laws rules.

11.19. The Court shall retain exclusive and continuing jurisdiction with respect to implementation and enforcement of the Agreement and any discovery sought from or concerning objectors to the Settlement. All Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement.

11.20. Whenever this Agreement requires or contemplates that one Party shall or may give notice to the other, notice shall be provided by e-mail and next-day (excluding Saturday and Sunday) express delivery service as follows:

If to Defendant, then to:

Laura Leigh Geist  
WILLKIE FARR & GALLAGHER LLP  
333 Bush St  
San Francisco, CA 94104  
Telephone: 415-858-7440  
lgeist@willkie.com

If to Plaintiff, then to:

Patrick J. Stueve  
Ethan M. Lange  
STUEVE SIEGEL HANSON LLP  
460 Nichols Road, Suite 200  
Kansas City, MO 64112  
Telephone: 816-714-7100  
stueve@stuevesiegel.com  
lange@stuevesiegel.com

-and-

John J. Schirger  
Joseph M. Feierabend  
SCHIRGER FEIERABEND LLC  
4520 Main St., Ste. 1570  
Kansas City, MO 64111  
Telephone: 816-561-6500  
schirger@SFLawyers.com  
feierabend@SFLawyers.com

11.21. The Parties reserve the right to agree between themselves on any reasonable extensions of time that might be necessary to carry out any of the provisions of this Agreement.

11.22. All time periods in this Agreement shall be computed according to Fed. R. Civ. P. 6 as it exists as of the date of this Agreement.



Stipulated and agreed to by,

**CLASS COUNSEL ON BEHALF OF PLAINTIFF DENNIS E. DAVIS (WHO HAS SPECIFICALLY ASSENTED TO THE TERMS OF THIS AGREEMENT) AND THE SETTLEMENT CLASS:**



*On Behalf of Plaintiff and the Settlement Class*

By: Patrick J. Stueve

Date: 12/12/2024

**SYMETRA LIFE INSURANCE COMPANY**

DocuSigned by:



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By: Margaret Meister

Title: CEO & President

Date: December 15, 2024

*On Behalf of Defendant*

**APPROVED ONLY AS TO FORM:**



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Patrick J. Stueve  
STUEVE SIEGEL HANSON LLP  
460 Nichols Road, Suite 200  
Kansas City, MO 64112  
Telephone: 816-714-7100  
stueve@stuevesiegel.com

John J. Schirger  
SCHIRGER FEIERABEND LLC  
4520 Main St., Ste. 1570  
Kansas City, MO 64111  
Telephone: 816-561-6500  
schirger@SFLawyers.com

*Plaintiff's Counsel & Class Counsel*



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Laura Leigh Geist  
WILLKIE FARR & GALLAGHER LLP  
333 Bush St  
San Francisco, CA 94104  
Telephone: 415-858-7440  
lgeist@willkie.com

*Counsel for Defendant*