

**THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA**

---

DAVID COHEN, CLU, on behalf of himself and all others similarly situated,	)	Case No: 4:18-cv-00458-JAJ-SBJ
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
ACCORDIA LIFE AND ANNUITY COMPANY and ALLIANCE-ONE SERVICES, INC.,	)	
	)	
Defendants.	)	

---

**STIPULATION OF SETTLEMENT**

**Table of Contents**

**I. Introduction..... 3**

**II. Definitions and Construction..... 6**

**III. Settlement Process and Relief Generally ..... 16**

**IV. Injunctive Relief..... 18**

**V. Monetary Relief..... 23**

**VI. Notice to Settlement Class Members and Communication with Settlement Class Members ..... 30**

**VII. Requests for Exclusion (Opt Outs)..... 37**

**VIII. Objections to Settlement..... 39**

**IX. Release and Waiver; Order of Dismissal..... 40**

**X. Class Counsels’ Attorneys’ Fees and Expenses and Plaintiff’s Service Award ..... 44**

**XI. Order of Notice, Settlement Hearing, and Administration..... 46**

**XII. Final Approval and Final Order and Judgment..... 47**

**XIII. Modification or Termination of this Agreement..... 47**

**XIV. General Matters and Reservations..... 50**

**Exhibits**

**Exhibit A: Class Notice**

**Exhibit B: Proposed Order Granting Preliminary Approval of Class Action Settlement**

**Exhibit C: Proposed Final Order and Judgment**

IT IS HEREBY STIPULATED AND AGREED, by, between, and among David Cohen CLU, in his individual capacity and as representative of the putative class (“Plaintiff”), and Accordia Life and Annuity Company (“Accordia”) and Alliance-One Services, Inc. (“Alliance-One”) (collectively “Defendants”), through their respective duly-authorized counsel, that the proceeding captioned *David Cohen, CLU, on behalf of himself and all others similarly situated, v. Accordia Life and Annuity Company and Alliance-One Services, Inc.*, Case No: 4:18-cv-00458-JAJ-SBJ (S.D. Iowa) (the “Action”) and the matters raised and related to this Action, are settled, compromised, and voluntarily dismissed on the merits and with prejudice on the terms and conditions set forth in this Stipulation of Settlement (the “Agreement”) and the exhibits hereto, including the Release set forth herein, subject to the Court’s approval.

**I. Introduction**

**A. The Action**

1. Certain capitalized terms in this Section I are used with the meanings ascribed thereto in Section II of this Agreement.

2. The Second Amended Class Action Complaint (the “Complaint”) alleges that independent life insurance agents who sold and/or serviced life insurance policies issued, insured, managed, or reinsured by Accordia and administered by Alliance-One were harmed by certain delays and errors in the administration of those policies. The Complaint purports to bring a nationwide class action on behalf of such independent life insurance agents. The Complaint asserts causes of actions for breach of contract, breach of third-party beneficiary contract, breach of the duty of good faith and fair dealing, negligence, tortious interference with prospective economic advantage, tortious interference with contractual relations, and unjust enrichment.

3. The Class to which this Settlement applies includes approximately 79,000 Settlement Class Members who sold and/or serviced approximately 530,000 life insurance policies.

**B. The Background of the Settlement**

**1. Plaintiff's Position**

(a) Class Counsel have conducted a thorough investigation of the facts relating to the claims asserted in the Action. Class Counsel have evaluated the relevant law and facts to assess the merits of Plaintiff's claims and the likelihood of success at trial. Based upon their discovery, investigation, and evaluation of the facts and law concerning matters alleged in and relating to the Action, Plaintiff and Class Counsel have agreed to settle the Action pursuant to the provisions of this Agreement after considering, among other things: (a) the fairness, reasonableness, and adequacy of this Agreement; (b) the substantial risks and uncertainties of protracted litigation and trial, especially in complex actions such as this, as well as the difficulties, delays, and risks of adverse results inherent in such litigation; (c) the needs and interests of Settlement Class Members; and (d) the desirability of consummating this Agreement promptly in order to provide effective relief to Settlement Class Members.

(b) Plaintiff and Class Counsel agree that this Agreement is fair, reasonable, and adequate because it provides substantial benefits to Settlement Class Members, is in the best interests of Settlement Class Members, and fairly resolves the claims alleged in the Action.

**2. Defendants' Position**

(a) Defendants deny any and all wrongdoing alleged in the pleadings in the Action and do not admit or concede any actual or potential fault, wrongdoing, or liability in

connection with any facts or claims that have been or could have been alleged against them in the Action. Defendants contend that Plaintiff's claims are improper as a matter of fact and law. In addition, Defendants contend that Plaintiff would suffer failures of proof at trial that would be fatal to both his individual and class claims, and that it would be impossible to prove many of the elements of his claims on a class-wide basis. In this regard, Defendants contend that it would be inappropriate to certify a litigation class in this matter, in part due to the manageability and superiority problems inherent in presenting this case in a trial involving the experiences of approximately 79,000 Settlement Class Members and hundreds of thousands of insurance policies. However, Defendants do believe, in light of *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 620 (1997), that such considerations do not apply to certification of settlement classes, and that acceptable procedural safeguards have been incorporated into this Settlement.

(b) Defendants dispute any contention that they have been negligent, breached any contract, tortiously interfered with any contract or prospective business relationship, been unjustly enriched, or otherwise wronged Settlement Class Members. Defendants also contend that Settlement Class Members have not suffered any damage or loss as a result of the conduct alleged in the Complaint.

(c) Nonetheless, Defendants consider it desirable for this Action to be settled and dismissed because this Settlement will: (i) provide substantial benefits to Settlement Class Members; (ii) finally put Plaintiff's claims and the underlying matter to rest; and (iii) avoid the substantial expense, burdens, risks, and uncertainties associated with the continued litigation of the Action.

## II. Definitions and Construction

A. For purposes of this Agreement, the following terms shall have the following meanings:

1. “**Accordia**” means defendant Accordia Life and Annuity Company and its predecessor and successor entities, affiliates and assigns (including but not limited to its New York-licensed affiliate First Allmerica Financial Life Insurance Company, which insures or reinsures policies exclusively in New York in lieu of Accordia).

2. “**Action**” means the proceeding captioned *David Cohen, CLU, on behalf of himself and all others similarly situated, v. Accordia Life and Annuity Company and Alliance-One Services, Inc.*, Case No: 4:18-cv-00458-JAJ-SBJ (S.D. Iowa).

3. “**Agent Hierarchy**” means Writing Agents, Writing Agent Uplines, Servicing Agents, and Assignees.

4. “**Agreement**” means this Stipulation of Settlement, including the exhibits hereto.

5. “**Alliance-One**” means defendant Alliance-One Services, Inc. and its predecessor and successor entities, affiliates and assigns.

6. “**Assignee**” means the business entity (if any) assigned commissions for Covered Policies via an assignment of commission agreement between the Writing Agent and the Assignee.

7. “**Class Counsel**” means the attorneys listed for Plaintiff in Section XIV.L.2. For purposes of the Settlement, where this Agreement calls for the provision or delivery of any document, information, notice, or communication to Class Counsel, such document, information,

notice, or communication shall be provided or delivered to each at their respective addresses set forth in Section XIV.L.2.

**8. “Class Counsels’ Attorneys’ Fees”** means a cash payment to be made by Defendants in an amount not to exceed \$1,938,860, subject to Court approval.

**9. “Class Counsels’ Expenses”** means a cash payment to be made by Defendants in an amount not to exceed \$41,140, subject to Court approval.

**10. “Class Notice”** means the document, a template of which is attached as **Exhibit A** hereto, describing the Settlement and Settlement Class Members’ rights under the Settlement, which will be mailed to each reasonably identifiable Settlement Class Member, as further described in Section VI.A.

**11. “Class Notice Mailing Date”** means the date on which the Class Notice is first disseminated to Settlement Class Members, which will be on or before forty-five (45) days after the Preliminary Approval Date.

**12. “Commission Conversion-Related Issues”** means any and all issues, errors or problems that have arisen during the Settlement Class Period or may arise through the PPlus Remediation Completion Date stemming from the Conversion regarding the calculation, timing of, or failure to make any Commission Payments for Settlement Class Members during the Settlement Class Period.

**13. “Commission Payment”** means any Settlement Class Member’s renewal commissions, service fees, or first year commissions (other than Initial Premium Payment Commissions) earned by Writing Agent and Writing Agent Upline Settlement Class Members on an individual policy basis, pursuant to each Settlement Class Member’s agreement(s) with

Accordia and/or its predecessors or affiliates during the Settlement Class Period through the PPlus Remediation Completion Date.

**14. “Common Fund”** means \$3,100,000 paid by Defendants to pay Pre-Preliminary Approval Delay Damages and Other Damages to Settlement Class Members.

**15. “Complaint”** means the Second Amended Class Action Complaint being filed in the Action on June 26, 2020.

**16. “Conversion”** means the sale of Converted Policies from Athene Annuity and Life Company (“Athene”) to Accordia and the subsequent transfer of administration of those policies to Alliance-One, along with the administration of New Business Policies by Alliance-One.

**17. “Converted Policies”** means any life insurance policies that were or are insured, managed or reinsured by Accordia, its parent, or any affiliated companies and were transferred for administration to Alliance-One’s policy administration system on or around either August 1, 2015 (Wave 1) or January 1, 2016 (Wave 2).

**18. “Covered Delay”** means the number of days to which 4% annual interest will be applied for the purpose of calculating Delay Damages, as further described in Section V.B. The Covered Delay for each applicable Commission Payment represents the PPlus Delay period, minus sixty (60) days, minus any days attributed to the COVID-19 Period.

**19. “Covered Policy”** means any Converted Policies or New Business Policies.

**20. “Court”** means the court before which the Action is pending, the United States District Court for the Southern District of Iowa.

**21. “COVID-19 Premium Relief”** means: (a) the procedure put in place by Accordia whereby, in response to various state directives concerning the COVID-19 pandemic, effective March 13, 2020, Accordia suspended the termination of life insurance policies for the

non-payment of premiums, including the Covered Policies, for at least ninety (90) days or until June 11, 2020, unless subsequently extended as a result of additional state directives concerning the COVID-19 pandemic; or (b) any future suspension of the termination of life insurance policies for the non-payment of premiums put in place by Accordia in response to additional state directives concerning the COVID-19 pandemic.

**22. “COVID-19 Period”** means any period of time during which Accordia provides COVID-19 Premium Relief to a Covered Policy. Such period of time may be different for policyholders in different states based on directives differing among state regulators.

**23. “Day”** means a single calendar day; provided however that the computation of time periods under this Agreement shall be made in accordance with Section XIV.M.

**24. “Defendants”** means Accordia and Alliance-One.

**25. “Defendants’ Counsel”** means the attorneys listed for Defendants in Section XIV.L.1. Where this Agreement calls for the provision or delivery of any document, information, notice, or communication to Defendants’ Counsel, such document, information, notice, or communication shall be provided or delivered to each at their respective addresses set forth in Section XIV.L.1.

**26. “Delay Damages”** means Pre-Preliminary Approval Delay Damages and Post-Preliminary Approval Delay Damages that were developed and agreed upon by the Parties based on a model developed during the Parties’ settlement negotiations, as described in Sections V.B, V.C.1, and V.C.3.

**27. “Effective Date”** means: (i) if no appeal is taken from the Final Order and Judgment, thirty (30) days after the Court enters the Final Order and Judgment; or (ii) if an appeal is taken from the Final Order and Judgment, the date on which all appellate rights (including

petitions for rehearing or re-argument, petitions for rehearing *en banc*, petitions for certiorari or any other form of review, and proceedings in the United States Supreme Court or any other appellate court) have expired, been exhausted, or been finally disposed of in a manner that affirms the Final Order and Judgment.

**28. “Execution Date”** means the date on which this Agreement is fully executed and delivered by the Parties.

**29. “Fees and Costs Award”** means the amount of Class Counsels’ Attorneys’ Fees and Class Counsels’ Expenses ultimately approved by the Court.

**30. “Final Approval Hearing”** means the hearing to be held by the Court on the motion for final approval of the Settlement.

**31. “Final Order and Judgment”** means the Court’s order approving the Settlement and entering final judgment in this Action. A Proposed Final Order and Judgment is attached hereto as **Exhibit C**.

**32. “Independent Producer Contract”** means the contract governing the relationship between Accordia or its predecessors or affiliates and each Settlement Class Member.

**33. “Initial Premium Payment Commission”** means any commission paid on the first premium paid by a policyholder. Initial Premium Payment Commissions are excluded from the Delay Damages model due to immateriality and for ease of administration.

**34. “Injunctive Relief”** means the relief, described in Section IV, automatically provided to all Settlement Class Members, where applicable.

**35. “Legal Holiday”** means New Year’s Day, Martin Luther King, Jr. Day, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day,

Thanksgiving Day, Christmas Day and/or any other day appointed as a holiday by the President or the Congress of the United States.

**36. “Monetary Relief”** means monetary compensation for Delay Damages and/or Other Damages, as described in Section V below.

**37. “New Business Policies”** means any life insurance policies that, as of May 1, 2014 (the date Accordia began issuing new policies) and up to the Preliminary Approval Date, were issued by Accordia and subsequently administered by Alliance-One. This does not include any policies issued after the Preliminary Approval Date.

**38. “Objection Deadline”** means the date by which Settlement Class Members must file with the Court and mail to the Settlement Administrator any objections to the Settlement, which shall be postmarked (or electronically filed with the Court) no later than forty-five (45) days after the Class Notice Mailing Date, as reflected in the Preliminary Approval Order.

**39. “Opt-Out Deadline”** means the postmark date by which a request for exclusion from the Settlement Class must be submitted to the Settlement Administrator in order for a Settlement Class Member to be excluded, which shall be no later than forty-five (45) days after the Class Notice Mailing Date, as reflected in the Preliminary Approval Order.

**40. “Other Damages”** means the compensation amounts in the Common Fund designated for Servicing Agents, which were developed and agreed upon by the Parties based on a model developed during the Parties’ settlement negotiations, as described in Section V.C.2.

**41. “Parties”** means, collectively, Plaintiff and Defendants.

**42. “Parties’ Counsel”** means, collectively, Class Counsel and Defendants’ Counsel.

43. **“Plaintiff”** means David Cohen, CLU, in his individual capacity and as representative of the putative class, and his heirs, assigns, and successors-in-interest.

44. **“Plaintiff’s Service Award”** means a cash payment to be made by Defendants to Plaintiff David Cohen not to exceed \$20,000 for his efforts litigating this Action on behalf of the Settlement Class, subject to Court approval.

45. **“Policy Service Day”** means one (1) calendar day during the Settlement Class Period during which a given Settlement Class Member was assigned as the Servicing Agent for a given Covered Policy.

46. **“Post-Preliminary Approval Delay Damages”** means the compensation paid to Settlement Class Members for delays to Commission Payments for which the PPlus Process Date occurs after the Preliminary Approval Date through the PPlus Remediation Completion Date, as described at Section V.C.3.

47. **“PPlus”** means the Alliance-One administrative system used to process and pay Commission Payments to Writing Agents, Writing Agent Uplines, and Assignees.

48. **“PPlus Amount Paid”** means the data field in PPlus indicating the amount of the Commission Payment for each Premium Transaction.

49. **“PPlus Delay”** means the number of days between the PPlus Effective Date for a given Premium Transaction and the PPlus Process Date for any Commission Payment arising from that Premium Transaction. If the PPlus Effective Date and the PPlus Process Date are the same, the PPlus Delay is zero (0) days.

50. **“PPlus Effective Date”** means the data field in PPlus indicating the date the premium was applied to the Covered Policy at issue. In most instances this date was on or near the date the premium was due and paid by the policyholder. In instances where the bill to the

policyholder was delayed due to conversion issues, the premium application date was generally backdated to the date the premium would have been due but for the bill delay.

**51. “PPlus Process Date”** means the data field in PPlus indicating the date a Commission Payment for a Settlement Class Member on a Covered Policy was processed to the Settlement Class Member’s account.

**52. “PPlus Remediation”** means the remediation of all known Commission Conversion-Related Issues, a list of which was provided to Class Counsel on November 7, 2019 and updated as of April 24, 2020, that are continuing to prevent appropriate commissions from generating, as described in Section IV.A.

**53. “PPlus Remediation Completion Date”** means the date by which all known Commission Conversion-Related Issues have been remediated, which shall occur no later than December 31, 2021, and might occur in advance of that date.

**54. “Preliminary Approval Date”** means the date on which the Court enters the Order Granting Preliminary Approval of Class Action Settlement and directs that the Class Notice be sent to Settlement Class Members.

**55. “Preliminary Approval Order”** means the Court’s order granting preliminary approval of the Settlement. A Proposed Order Granting Preliminary Approval of Class Action Settlement is attached hereto as **Exhibit B**.

**56. “Premium Transaction”** means any premium payment applied to a Covered Policy, including premiums paid by dividends or automatic policy loans.

**57. “Pre-Preliminary Approval Delay Damages”** means the compensation paid to Settlement Class Members for any delays to Commission Payments for which the PPlus Process Date occurs within the Settlement Class Period, as described at Section V.C.1.

58. **“Released Claims”** has the meaning ascribed thereto in Section IX.A.3.

59. **“Released Parties”** has the meaning ascribed thereto in Section IX.A.1.

60. **“Releasing Parties”** has the meaning ascribed thereto in Section IX.A.2.

61. **“Servicing Agent”** means an individual or entity who is or was listed as the servicing agent of record for one or more Covered Policies during the Settlement Class Period. Servicing Agents are individuals who service the policy after origination. Not all Servicing Agents necessarily originated or are entitled to commissions from the policies they service.

62. **“Settlement”** means the settlement set forth in this Agreement.

63. **“Settlement Administrator”** means Rust Consulting, Inc.

64. **“Settlement Amount”** means the total amount Defendants agree to pay, which includes: (i) the \$3.1 million Common Fund amount; (ii) the Post-Preliminary Approval Delay Damages amount; (iii) the Stipulated Fees and Costs; (iv) the Settlement Administrator costs described in Section VI.D.2; and (v) the Plaintiff’s Service Award.

65. **“Settlement Call Center”** means the toll-free number operated by the Settlement Administrator for general questions about the Settlement, which will be provided in the Class Notice and available via the Settlement Website.

66. **“Settlement Class”** or **“Settlement Class Members”** means all persons and/or entities who, at any time during the Settlement Class Period, were designated as a Writing Agent, Writing Agent Upline, Servicing Agent, or Assignee for a Covered Policy or, if applicable, any executors or representatives of a deceased Settlement Class Member’s estate. Excluded from the Settlement Class are: (i) individuals who are or were during the Settlement Class Period officers, directors or employees (and their immediate families) of Defendants or any of their respective affiliates; (ii) any justice, judge, or magistrate judge presiding over the Action and the

staff and immediate family of any such justice, judge or magistrate judge; (iii) the Settlement Administrator and members of any of its personnel's immediate families; and (iv) all individuals who submit a timely and proper request to be excluded from (opt-out of) the Settlement Class or have otherwise released any and all claims that have or could have been asserted in the Action via a separate settlement agreement.

**67. “Settlement Class Period” means**

(a) for Settlement Class Members associated with New Business Policies: from May 1, 2014 (the date Accordia began issuing new policies) up to and including the Preliminary Approval Date;

(b) for Settlement Class Members associated with Converted Policies transferred for administration to Alliance-One's administrative systems on or around August 1, 2015 (Wave 1): August 1, 2015 up to and including the Preliminary Approval Date; and

(c) for Settlement Class Members associated with Converted Policies transferred for administration to Alliance-One's administrative systems on or around January 1, 2016 (Wave 2): January 1, 2016 up to and including the Preliminary Approval Date.

**68. “Settlement Relief” means all relief available to Settlement Class Members under this Agreement, including the Injunctive Relief and Monetary Relief described in Sections IV and V.**

**69. “Settlement Website” means a website to be maintained by the Settlement Administrator to provide information about the Settlement to Settlement Class Members, the specific requirements of which are described in section VI.C.**

**70. “Stipulated Fees and Costs” means Class Counsels’ Attorneys’ Fees and Class Counsels’ Expenses.**

**71.** “**Third Party**” means the third party company, which has no affiliation to any of the Parties, approved by all Parties to conduct a Third Party Review of the Accordia data on PPlus and of the Defendants’ commission controls, as described in Section IV.C.

**72.** “**Third Party Review**” means the review of the Accordia data on PPlus and of the Defendants’ commission controls to be conducted by the Third Party, which has no affiliation to any of the Parties, hired by Accordia, as described in Section IV.C.

**73.** “**Writing Agent**” means any individual or individuals listed on a Covered Policy application as the soliciting agent or agents for the policy.

**74.** “**Writing Agent Upline**” means any individual or entity that a Writing Agent reports to and is or was listed as the upline or next in hierarchy for a Covered Policy during the Settlement Class Period.

**75.** The terms “he or she” and “his or her” include “it” or “its,” where applicable. The term “including” means “including but not limited to,” wherever used. Defined terms expressed in the singular also include the plural form of such term, and vice versa, where applicable.

**76.** All references herein to Sections and Exhibits refer to Sections of and Exhibits to this Agreement, unless otherwise expressly stated in the reference.

### **III. Settlement Process and Relief Generally**

**A.** Pursuant to and in accordance with this Agreement, Defendants will make available to Settlement Class Members two nonexclusive types of relief: Injunctive Relief and Monetary Relief.

**B.** Injunctive Relief is described in Section IV and will be provided automatically for any Settlement Class Member, to the extent applicable.

**C.** Monetary Relief is described in Section V and will be provided automatically for any Settlement Class Member, to the extent applicable, who does not exclude himself or herself from the Settlement. The Monetary Relief agreed upon is based on the Delay Damage and Other Damage models, which were developed during the Parties' settlement negotiations and agreed upon by all Parties as a fair, reasonable, and adequate measure of relief for Settlement Class Members.

**D.** Each Settlement Class Member's right to receive Settlement Relief under this Agreement is personal to the Settlement Class Member. Settlement Class Members may not voluntarily assign rights to receive benefits under this Settlement.

**E.** Each Settlement Class Member can only exclude himself, herself, or itself from the Settlement. If a Covered Policy has had multiple Settlement Class Members associated with it during the Settlement Class Period, only the portion of the Covered Policy's Settlement Relief relating to the Settlement Class Member who has been excluded from the Settlement will be excluded.

**F.** A Settlement Class Member may not exclude from the Settlement some, but not all, Covered Policies in which the Settlement Class Member has or had an affiliation during the Settlement Class Period. Any such exclusion request that attempts to exclude some but not all Covered Policies will be deemed ineffective, resulting in such person or entity remaining a Settlement Class Member.

**G.** If the deadline by which any Settlement Relief or action to be provided under this Agreement falls on a Saturday, Sunday or Legal Holiday, the relief or action shall be provided by or on the next business day.

**H.** The Parties have agreed that the Settlement Administrator will administer this Settlement in a neutral, non-partisan manner. The tasks to be performed by the Settlement Administrator are set forth in Section VI.D. Neither the Settlement Administrator, nor any employee or agent of the Settlement Administrator, shall:

1. be an advocate for any disputed position advanced by either of the Parties;
2. encourage any Settlement Class Member to exclude themselves from the Settlement;
3. encourage any Settlement Class Member to object to the Settlement;
4. offer or give any Settlement Class Member financial, investment and/or tax advice; or
5. offer or give any Settlement Class Member legal advice.

**I.** Subject to input and approval by Class Counsel, Defendants shall develop a question-and-answer sheet to be used by personnel manning the Settlement Call Center, maintained by the Settlement Administrator in responding to questions from Settlement Class Members. Any settlement-related question posed to such Settlement Call Center personnel that is not covered in substance by a question-and-answer sheet approved by the Parties' Counsel shall be referred to Defendants' Counsel, who shall draft a proposed response subject to review and approval by Class Counsel. The Parties' Counsel may participate jointly in a training session for such call center personnel, as necessary and appropriate, using agreed-on materials and a non-argumentative presentation.

**IV. Injunctive Relief**

The Parties agree to an injunction that requires Defendants to provide Settlement Class Members with the following benefits as applicable to each Settlement Class Member:

**A. PPlus Remediation.** Defendants will remediate all known Commission Conversion-Related Issues, a list of which was provided to Class Counsel on November 7, 2019 and updated on April 24, 2020, that are continuing to prevent appropriate Commission Payments from generating for Covered Policies. The remediation process is called the PPlus Remediation. Defendants agree to complete the PPlus Remediation no later than December 31, 2021 and might complete it in advance of that date (the “PPlus Remediation Completion Date”).

**B. Payment of Remaining Unpaid Commissions.** For any Commission Payments due but as-yet-unpaid from the beginning of the Settlement Class Period through the PPlus Remediation Completion Date, which delay is caused by Commission Conversion-Related Issues, Defendants will pay these Commission Payments promptly after completing the PPlus Remediation. Defendants further agree to pay 4% interest on any such delayed Commission Payments as described at Section V.C 1 and 3.

**C. Third Party Review.** Defendants have retained the Third Party approved by both Parties to conduct a Third Party Review of the PPlus Remediation described in subparagraph A above, along with a general review of the Accordia data on PPlus and of the Defendants’ commission controls. The objective of the review is to confirm: (i) completeness of the Commission Conversion-Related Issues as identified in the Defendant’s PPlus Remediation; and (ii) subsequent remediation of those issues. The Third Party Review shall consist of two phases.

**1.** *First*, within thirty (30) days after the Preliminary Approval Date, the Third Party will commence an initial scoping phase to confirm completeness of the Commission Conversion-Related Issues as identified by Defendants in the PPlus Remediation. When 100% automated testing is not possible, the Third Party will refer to the sampling methodology guidance outlined in auditing standard AU-C, Section 530 – Auditing Sampling within AICPA

SAS No. 122. Under this methodology, samples will be selected that are representative of the population of all Settlement Class Members from all types in the Agent Hierarchy and Covered Policies. Representative means that evaluation of the sample will yield results that, subject to the limitations of sampling risk, are similar to those that would be identified if the same procedures were applied to the entire population. The sample will be selected in a manner so that there is a reasonable expectation that the sample is representative of the relevant population and likely to provide a reasonable basis for assessing the completeness of the Commission Conversion-Related Issues as identified by the Defendants. The sample size will be determined by the application of a statistically based formula with a 5% tolerable error rate and a 95% confidence level as inputs. The Third Party will review selected Premium Transactions to determine whether there are any Commission Conversion-Related Issues associated with the transactions, and if so, whether those Commission Conversion-Related Issues were previously identified in the PPlus Remediation. If the resulting error rate in the samples is more than 5% (meaning more than 5% of the transactions selected for testing had Commission Conversion-Related Issues that were not previously identified in the PPlus Remediation), the Third Party will select additional Settlement Class Members in the Agent Hierarchy and/or Covered Policies for testing until a determination can be made on the projected error rate in the total population. If it has been determined that sampling has not provided a reasonable basis for assessment of the completeness of the Commission Conversion-Related Issues, the Third Party will extend the sample size until a reasonable basis can be determined with 95% confidence.

2. *Second*, after completion of the PPlus Remediation described in subparagraph A above, the Third Party will promptly conduct a second phase. This phase will validate (again using a random sampling methodology and a sample size based on a 5% tolerable

error rate and a 95% confidence level) that the PPlus Remediation has been adequately completed and that all Commission Conversion-Related Issues have been addressed to the aforementioned statistically significant level of confidence. The Third Party will review the selected Premium Transactions to determine whether there are any remaining Commission Conversion Related Issues associated with the transactions. If any Commission Conversion-Related Issues remain, Defendants will promptly remediate them. Upon completion of the second phase, Defendants or Defendants' Counsel will promptly provide Class Counsel with a Declaration under penalty of perjury summarizing the results of the Third Party's work and indicating whether the PPlus Remediation has been adequately completed and with 95% confidence that all Commission Conversion-Related Issues have been remediated. If the Declaration indicates that any material issues remain unresolved, and the Parties' Counsel have disputes about how to promptly resolve those issues, the Parties' Counsel agree to first attempt to mediate any disputes with the Hon. Diane Welsh (Ret.) before involving the Court.

**D. Ongoing Review of Future Premium and Commission Payments.** Defendants will review at least 10% of all Commission Payments processed for payment each month to ensure that the Commission Payments are being calculated correctly through PPlus. Defendants further agree to review at least 10% of Premium Transactions that do not have a corresponding Commission Payment each month to ensure that no Commission Payment was due and improperly withheld. The aforementioned reviews shall be completed on a weekly or monthly basis, through the PPlus Remediation Completion Date set forth in subparagraph A above. After completion of the PPlus Remediation, Defendants will continue to review at least 5% of all commission payments and Premium Transactions processed each month, completed on a weekly

or monthly basis, for one (1) additional year thereafter. Defendants will promptly remediate any commission payment errors identified from this process.

**E. Notice of Regulatory Settlements.** Defendants will provide prompt notice to Class Counsel if any future regulatory settlements conflict with any injunctive relief agreed to here.

**F. Enhancements to Commission Statements.** Defendants will enhance the level of detail in their Converted Policies' commission statements to more closely match the level of detail in the New Business commission statements. The enhancements will be achieved by making the following enhancements:

1. Including the PPlus Process Date (the date the Commission Payment was processed to the Settlement Class Member's account) on each Converted Policies' commission statement, which will be expressed as "mm/dd/yyyy";

2. Adding a legend to explain the codes in the billing mode column;

3. Converting descriptions in the "Transaction Type" column from words, which may be difficult to interpret, to codes, which will be defined in a legend on the statement;

4. Specifying the date on which the Converted Policies were issued, expressed as "mm/dd/yyyy";

5. Explaining any "Adjustment" entries using narrative descriptions based on information derived from PPlus;

6. Bolding the subtotal lines for improved clarity;

7. Including information regarding the mode of disbursement to the Settlement Class Member, *e.g.*, via check or Electronic Fund Transfer; and

8. Removing the decimal in the “Share Percent” column to allow for more space on the commission statement.

**V. Monetary Relief**

**A. Types of Monetary Relief.** Defendants will pay eligible Settlement Class Members two types of Monetary Relief: Delay Damages and Other Damages, both of which were developed based on models developed during the Parties’ settlement negotiations and agreed upon by all Parties as a fair, reasonable, and adequate measure of relief for Settlement Class Members. There are two types of Delay Damages: Pre-Preliminary Approval Delay Damages (to be paid from the Common Fund) and Post-Preliminary Approval Delay Damages (to be paid by Defendants separate from the Common Fund).

**B. Calculation of Delay Damages.** Both Pre-Preliminary Approval Delay Damages and Post-Preliminary Approval Delay Damages are intended to compensate Settlement Class Members for delays in the payment of Commission Payments for Covered Policies.

1. Delay Damages will be equal to 4% annual interest on the amount of a given Commission Payment found in the PPlus Amount Paid field for the number of days of the Covered Delay. This calculation can be expressed as follows:

$$\text{PPlus Amount Paid} * 0.04 / 365 \text{ Days} * \text{Covered Delay} = \text{Delay Damages}$$

2. The Covered Delay represents the length of the compensable commission delay. It is equal to the: (i) number of days between the PPlus Effective Date for a given Premium Transaction and the PPlus Process Date (the “PPlus Delay”) for the accompanying Commission Payment; (ii) minus sixty (60) days; (iii) minus any days attributed to the COVID-19 Period, as discussed in more detail below.

3. The calculation of the Covered Delay for a particular Commission Payment varies depending on the PPlus Effective Date of a given Commission Payment as follows:

(a) For any Commission Payment with a PPlus Effective Date that does not occur during a COVID-19 Period, the Covered Delay will equal the PPlus Delay minus sixty (60) days. This calculation can be expressed as follows:

$$\text{PPlus Delay} - 60 \text{ Days} = \text{Covered Delay}$$

(b) For any Commission Payment with a PPlus Effective Date that occurs during a COVID-19 Period, the Covered Delay will equal the PPlus Delay minus sixty (60) days minus the number of days in the COVID-19 Period. This calculation can be expressed as follows:

$$\text{PPlus Delay} - 60 \text{ Days} - \text{COVID-19 Period} = \text{Covered Delay}$$

For example, if a Commission Payment arises for a Covered Policy during the COVID-19 Period beginning on March 13, 2020 and ending June 11, 2020, the COVID-19 Period was ninety (90) days. This would result in Delay Damages being paid only where the PPlus Delay for the Commission Payment was more than 150 days (60 + 90). If, on the other hand, the owner of a Covered Policy from which a Commission Payment arises lives in a state that issues a directive requiring Accordia to extend the COVID-19 Period in that state past June 11, 2020, or to begin a new COVID-19 Period at a later date, Delay Damages will be paid only where the PPlus Delay for the Commission Payment is more than sixty (60) days plus the total length of the COVID-19 Period. Therefore, if for example the COVID-19 Period beginning March 13, 2020 is extended to July 11, 2020, Delay Damages will be paid only where the PPlus Delay for the Commission Payment is more than 180 days (60 + 120).

**C. Common Fund.** Defendants will establish a Common Fund of \$3,100,000 to be paid directly to eligible Settlement Class Members. Settlement distributions for Pre-Preliminary Approval Delay Damages and Other Damages will be made within sixty (60) days after the Effective Date of the Settlement, in the manner described below. Any Post-Preliminary Approval Delay Damages will be paid by Defendants separate from the Common Fund. Defendants shall deposit the Common Fund amount into an interest-bearing escrow account within five (5) business days after the Preliminary Approval Date. The escrow account shall be a qualified settlement fund within the meaning of Treas. Reg. §1.468B-1 created as a result of the Settlement. The escrow agent shall be Huntington Bank. No funds may be disbursed from the Common Fund except by Court order in the Final Order and Judgment. If the Court does not enter the Final Order and Judgment, the Common Fund will be returned, along with any interest accrued in escrow, to Defendants. Otherwise, any interest accrued on the Common Fund will be added to the Other Damages amount available for distribution to Settlement Class Members, except for a reserve to be held back for the payment of taxes and tax return preparation fees pertaining to the escrow account.

**1. Pre-Preliminary Approval Delay Damages.** Defendants will first distribute payments from the Common Fund to pay Pre-Preliminary Approval Delay Damages, as described above in Section V.B, to all eligible Settlement Class Members. As of May 15, 2020, the Pre-Preliminary Approval Delay Damages totaled an estimated \$1,112,059.34, comprised of: (i) \$857,502.71 for Converted Policies; (ii) \$235,035.96 for New Business Policies; and (iii) \$19,520.68 representing an additional amount needed to ensure that any Settlement Class Member who experienced a Pre-Preliminary Approval Delay Damage receives at least \$5.00 in Monetary

Relief.<sup>1</sup> These totals will be updated as of the Preliminary Approval Date. Any additional Pre-Preliminary Approval Delay Damage amounts that accrue up until the Preliminary Approval Date will be added to the total amount of Pre-Preliminary Approval Delay Damage payments made via the Common Fund before any payments are calculated for Other Damages. This additional amount of aggregate Pre-Preliminary Approval Delay Damages, if any, is expected to be minimal, depending on the Preliminary Approval Date.

**2. Other Damages.** After full calculation of all Pre-Preliminary Approval Delay Damages as of the Preliminary Approval Date, the remaining Common Fund amount shall be distributed to all Servicing Agent Settlement Class Members as Other Damages. The Other Damages payments shall be calculated based on the total number of Policy Service Days for which each Servicing Agent held the role of Servicing Agent for each of his or her individual Covered Policies in aggregate during the Settlement Class Period. By way of example, if a Servicing Agent served in that role for 500 days for one policy and 700 days for another policy, the total number of Policy Service Days for that Servicing Agent would be 1,200.

(a) Other Damages shall be calculated using the following tiers, which are based on data as of May 15, 2020:

---

<sup>1</sup> Many Pre-Preliminary Approval Delay Damages are calculated to be less than \$5. To avoid such *de minimis* settlement distributions, any Settlement Class Member who (i) experienced Pre-Preliminary Approval Delay Damages that would be less than \$5 in aggregate; and (ii) who does not separately qualify for Other Damages, will receive an increase in the Pre-Preliminary Delay Damage payment so that it equals \$5.

<b>Number of Aggregate Policy Service Days For the Applicable Servicing Agent</b>	<b>Settlement Payment Amount</b>	<b>Number of Servicing Agents</b>	<b>Total Settlement Payments</b>
1 – 18,500	\$25	49,755	\$1,243,875
18,501 – 110,000	\$50	4,754	\$237,700
110,001 – 400,000	\$150	770	\$115,500
400,001 – 600,000	\$500	87	\$43,500
600,001 – 800,000	\$1,000	31	\$31,000
800,001 – 1,000,000	\$2,500	14	\$35,000
>1,000,000	\$5,000	50	\$250,000
		<b>55,461</b>	<b>\$1,956,575</b>

(b) Based on current figures, the amount of Other Damages payable will be \$1,956,575 and the amount of Pre-Preliminary Approval Delay Damages will be \$1,112,059.34, for a combined total of \$3,068,634.34. This leaves a \$31,365.66 cushion in the \$3.1 million Common Fund, to be allocated as set forth below. These figures will be updated as of the Preliminary Approval Date for purposes of distribution.

(c) If, after finalizing the calculation of Pre-Preliminary Approval Delay Damages as of the Preliminary Approval Date and subtracting opt outs, the remaining funds in the Common Fund are not sufficient to pay the Other Damages payments set forth in the chart above in full, all Other Damages payments shall be reduced on a *pro rata* basis. This scenario is unlikely given the existing cushion in the Common Fund and the fact that interest will be earned on the Common Fund, further increasing the cushion.

(d) If, after finalizing the calculation of Pre-Preliminary Approval Delay Damages as of the Preliminary Approval Date and subtracting opt outs, there is a surplus in the Common Fund, such surplus shall be distributed by increasing all Other Damages payments on a *pro rata* basis so as to exhaust the Common Fund. This scenario is likely and would cause the round-number settlement payments in the “Settlement Payment Amount” column of the chart above to be modestly increased.

(e) Any surplus in the Common Fund after full distribution of both the Pre-Preliminary Approval Delay Damages and Other Damages (due to uncashed checks, unclaimed electronic funds, or otherwise) will be donated to the following *cy pres*, unless stated otherwise by the Court: Iowa Legal Aid. The Parties anticipate that the number of uncashed checks or unclaimed funds will be minimal because Defendants have an ongoing business relationship with most Settlement Class Members such that they can be expected to cash their checks or claim their electronic funds.

(f) The Settlement Administrator shall distribute all Other Damages payments within sixty (60) days after the Effective Date of the Settlement, along with any Pre-Preliminary Approval Delay Damages payments.

**3. Post-Preliminary Approval Delay Damages.** Defendants will pay Post-Preliminary Approval Delay Damages for any delayed Commission Payment for which the PPlus Process Date (the date the commission payment was processed to the Settlement Class Member's account) is after the Preliminary Approval Date up through the PPlus Remediation Completion Date. These damages will be calculated in the manner described at Section V.B at a 4% interest rate. The Settlement Administrator will distribute all Post-Preliminary Approval Delay Damages within sixty (60) days after the PPlus Remediation Completion Date or sixty (60) days after the Effective Date, whichever is later.

**D.** Currently, there are approximately **79,000** Settlement Class Members. Approximately **34,000** Settlement Class Members will receive Delay Damages, and approximately **55,000** Settlement Class Members will receive Other Damages. When adjusting for Settlement Class Members who will receive both Delay Damages and Other Damages, there are approximately **61,000** unique Settlement Class Members who will receive Monetary Relief. These

figures will change as of the Preliminary Approval Date, likely minimally, depending on how much time elapses between the Execution Date of this Agreement and the date the Court enters the Preliminary Approval Order.

**E.** Settlement Class Members who will not receive Monetary Relief either: (i) are Writing Agents, Writing Agent Uplines, or Assignees who did not have a Covered Delay, have not had any commissionable events during the Settlement Class Period, or whose underlying Covered Policies were not of the type that generated commissions; or (ii) were not Servicing Agents at any time during the Settlement Class Period. Thus, they experienced little or no compensable harm. These Settlement Class Members are nevertheless associated with Covered Policies and may experience a Covered Delay in the future, which would be subject to future Post-Preliminary Approval Delay Damages. They may also become a Servicing Agent for a Covered Policy before the Preliminary Approval Date, which would entitle them to Other Damages. These Settlement Class Members will also benefit from the Injunctive Relief.

**F.** Settlement Class Members will not be required to submit a claim form to receive any of the Monetary Relief. Settlement distributions will be made automatically to each eligible Settlement Class Member by the Settlement Administrator via check sent to the Settlement Class Member's last known address or via an electronic payment if that option is selected by the Settlement Class Member. Settlement distributions will not be made to Settlement Class Members who opt out of the Settlement Class. All settlement checks or electronic payments issued to Settlement Class Members will be valid and negotiable for a period of one hundred eighty (180) days. Defendants or the Settlement Administrator shall contact any Settlement Class Members by U.S. mail, email or phone regarding uncashed checks or unclaimed electronic payments.

**G.** The estimated Monetary Relief amount for each Settlement Class Member will be disclosed on the top of page one of each Settlement Class Member's Class Notice, and will also be available by no later than the Class Notice Mailing Date on a secure login portion of the Settlement Website. Instructions on how to access the secure login will be provided in the Class Notice and be made available on the Settlement Website.

**VI. Notice to Settlement Class Members and Communication with Settlement Class Members**

**A. Class Notice**

**1.** Subject to the requirements of any orders entered by the Court, Defendants shall cause the Settlement Administrator to send a Class Notice in the form of **Exhibit A** attached hereto by first-class mail (or comparable postal method for Settlement Class Members with an address outside of the United States) on or before the Class Notice Mailing Date set by the Court, to the last known address of each reasonably identifiable Settlement Class Member. The Settlement Administrator shall also email, on or before the Class Notice Mailing Date, the Class Notice to all Settlement Class Members for whom Defendants have a valid email address. Defendants shall take reasonable measures to obtain current contact information for all Settlement Class Members, including but not limited to those who no longer have a business relationship with Defendants due to job changes or otherwise. Defendants have a good faith belief that they currently have (or will obtain) valid contact information for substantially all Settlement Class Members.

**2.** In cases of pending individual non-class litigation by a Settlement Class Member against one or both Defendants relating to the Released Claims, a Class Notice shall also be sent to any legal counsel known by Defendants as of the Preliminary Approval Date to represent a Settlement Class Member with respect to such litigation.

3. 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.

**B. Address Verification; Remailing.** Prior to the Class Notice Mailing Date, the Settlement Administrator shall cause the mailing list for the Class Notice to be run through the U.S. Postal Service's National Change of Address Database for verification and correction of addresses, at Defendants' expense, to attempt to reduce the number of returned mail items. In the case of Class Notices undelivered and returned by the U.S. Postal Service, the Settlement Administrator shall: (1) re-mail any Class Notice so returned with a forwarding address, and (2) make reasonable efforts to attempt to find an address for any returned Class Notice that does not include a forwarding address, or retain a commercial address verification service selected by the Settlement Administrator for this purpose and provide a copy of such returned Class Notices to the address verification service as soon as practicable following receipt. The Settlement Administrator shall re-mail the Class Notice to every Settlement Class Member for which it or the address verification service provides an updated address.

**C. Settlement Website**

1. The Settlement Administrator shall maintain a Settlement Website containing the following information:

- (a) a brief description of the Action;
- (b) a copy of the Class Notice;
- (c) a copy of the operative Complaint;
- (d) a copy of the Stipulation of Settlement;
- (e) a copy of the Preliminary Approval Order;

(f) a copy of the Final Order and Judgment (if and when the Court issues such an order);

(g) contact information for the toll-free Settlement Call Center;

(h) contact information for Class Counsel;

(i) a secure portion of the Settlement Website to which each Settlement Class Member may log in to see the total amount of Pre-Preliminary Approval Delay Damages and Other Damages for which he or she qualifies under the Settlement;

(j) any information identified as being available on the Settlement Website in any of the exhibits of this Agreement; and

(k) any other information jointly agreed to by the Parties or Parties' Counsel.

2. No text, documents, or information shall be posted on the Settlement Website without the joint approval of Class Counsel and Defendants' Counsel.

3. The Settlement Website shall be maintained by the Settlement Administrator beginning on or before the Class Notice Mailing Date and ending no sooner than six (6) months after the PPlus Remediation Completion Date or sixty (60) days after the Effective Date, whichever is longer.

**D. Settlement Administrator**

1. The Settlement Administrator shall perform the following tasks:

(a) verify the mailing list for the Class Notice prior to mailing the Class Notice;

(b) prepare and mail the Class Notice to all Settlement Class Members using addresses provided by Defendants;

(c) email the Class Notice to all Settlement Class Members for whom Defendants provide a valid email address;

(d) handle returned mail, address investigation, and remailings;

(e) maintain the Settlement Website;

(f) receive requests for exclusion (opt-outs) and, if a request for exclusion is deficient due to inadequate information or otherwise, promptly send a follow-up letter to the Settlement Class Member summarizing the deficiency and asking the Settlement Class Member for information sufficient to cure the deficiency;

(g) transmit each request for exclusion to Class Counsel and Defendants' Counsel within three (3) business days of receipt of the request for exclusion;

(h) process and distribute all Monetary Relief to eligible Settlement Class Members by mailing checks to the address provided by Defendants or, if the Settlement Class Member selects this option, through electronic payment;

(i) receive any other written correspondence or communication concerning the Settlement from Settlement Class Members, provide copies of such correspondence to the Parties' Counsel, and respond to such correspondence and communications as directed jointly by the Parties' Counsel, until no sooner than six (6) months after the PPlus Remediation Completion Date or the Effective Date, whichever is longer;

(j) arrange for, staff, and operate a toll-free Settlement Call Center to respond to questions from Settlement Class Members (in accordance with a question-and-answer sheet approved by the Parties' Counsel), which shall remain open to receive calls until no sooner than six (6) months after the PPlus Remediation Completion Date or the Effective Date, whichever is longer;

(k) make any additional mailings required by this Agreement; and

(l) perform any other tasks agreed on by Class Counsel and Defendants' Counsel.

2. Defendants shall pay the reasonable fees and expenses of the Settlement Administrator, and all other costs of the Class Notice, administration, and implementation of this Agreement. Such costs shall be made separate and apart from the Common Fund.

3. Class Counsel, Defendants' Counsel, and/or their respective designees, shall be entitled to observe and monitor the performance of the Settlement Administrator as necessary.

4. The contract governing the engagement of the Settlement Administrator shall obligate the Settlement Administrator to abide by the following performance standards:

(a) The Settlement Administrator shall accurately and neutrally describe, and shall train and instruct its employees and agents to accurately and neutrally describe, the provisions of this Agreement in communications with Settlement Class Members.

(b) The Settlement Administrator shall provide prompt, accurate, and neutral responses to inquiries from Class Counsel, Defendants' Counsel, and/or Defendants.

(c) If, in the course of any communication with a Settlement Class Member, the Settlement Class Member requests that the Settlement Administrator refer the communication to Class Counsel, Defendants' Counsel, or Defendants, then the Settlement Administrator shall promptly fulfill such request.

(d) If, in the course of any communication with a Settlement Class Member, an agent or employee of the Settlement Administrator reasonably concludes that the

Settlement Class Member is not satisfied with the information and/or assistance provided, the communication shall promptly be referred to a supervisor on duty at the Settlement Administrator.

**E. Communication With Settlement Class Members**

1. Defendants may not be privy to or respond to inquiries between Settlement Class Members and their counsel, including Class Counsel. However, Defendants reserve the right to communicate with and to respond to inquiries and complaints directed to them from Settlement Class Members and/or regulators, orally and/or in writing, regarding matters in the normal course of any ongoing business relationships with Settlement Class Members, including but not limited to fulfilling Defendants' obligations under the Independent Producer Contracts, administering the Settlement Class Members' Commission Payments, or administering the Covered Policies serviced by the Settlement Class Members. If, however, a Defendant receives any inquiry from a Settlement Class Member relating to the Settlement, the Defendant shall refer the Settlement Class Member to the Settlement Administrator or Class Counsel, as the Defendant deems appropriate in its discretion. Class Counsel commit to responding to such inquiries reasonably promptly and expeditiously. Nothing in this paragraph, however, shall preclude Defendants from responding to inquiries from Settlement Class Members as contemplated by and in accordance with this Agreement, or from communicating with attorneys representing any Settlement Class Member in an individual non-class capacity.

2. The Parties' Counsel may jointly monitor and participate in: (a) training the personnel manning the Settlement Call Center on the background of the Action, the concepts relevant to the Settlement, and the Notice, terms, and chronology of the Settlement; (b) training the Settlement Call Center personnel on answering inquiries from Settlement Class Members to refer inquiries to Class Counsel or Defendants if the Settlement Class Member so requests or where

otherwise appropriate; (c) preparing, approving, and providing question-and-answer sheets for such Settlement Call Center personnel to use in answering inquiries from Settlement Class Members; and (d) taking other steps to promote accurate and efficient communications with Settlement Class Members.

3. Any changes, modifications, or additions to the question-and-answer sheets or other written training materials relating to the Settlement and provided to the Settlement Call Center personnel proposed by or on behalf of Class Counsel or Defendants' Counsel must be provided to the other Party with sufficient time to provide meaningful comment prior to its proposed use. The Parties' Counsel shall negotiate in good faith concerning any such changes, modifications, or additions to facilitate a means of providing clear, understandable, and complete information to Settlement Class Members.

4. Defendants may continue to process and respond to complaints by or regarding Settlement Class Members, including complaints submitted to Defendants by regulators, notwithstanding that some complaints may originate with Settlement Class Members and may concern claims relating to Commission Payments for Covered Policies that otherwise could be eligible for relief under the Settlement. Provided, however, that after the Class Notice mailing and before the implementation of Settlement Relief for a particular Covered Policy, any offer of relief by a Defendant in response to any such complaint concerning such Commission Payments shall be accompanied by a description of the Settlement and a statement explaining to the Settlement Class Member that acceptance of the Defendant's offer may bar or otherwise affect the Settlement Class Member's rights to participate in the Settlement. If a Defendant makes an offer of relief with respect to any such written complaint after the Class Notice is mailed and before the implementation of Settlement Relief for the Settlement Class Member, and the offer of relief

differs from the Settlement Relief, a copy of the written complaint and the Defendant's offer of relief shall be provided to Class Counsel.

**F. Media Communications.** Class Counsel, Defendants' Counsel, and Defendants agree to cooperate in good faith to ensure that any comments about or descriptions of the Settlement in the media or in any other public forum are balanced, fair, and accurate and will attempt in good faith to agree on valuation, costs, and terms of the Settlement to be communicated in joint and/or unilateral statements. Joint or unilateral press releases referring or otherwise related to the Settlement proposed to be made by any Party or the Parties' Counsel before the first anniversary of the Effective Date of the Settlement shall be provided to Class Counsel and Defendants' Counsel prior to dissemination or publication so as to allow for a reasonable period of time for review prior to dissemination or publication.

**VII. Requests for Exclusion (Opt Outs)**

**A.** Any Settlement Class Member who wishes to be excluded from (opt out of) the Settlement Class must submit to the Settlement Administrator a written request for exclusion sent by U.S. mail and postmarked no later than the Opt-Out Deadline.

**B.** A list reflecting all valid requests for exclusion shall be filed with the Court at or before the Final Approval Hearing.

**C.** Exclusion requests must clearly state that the applicable Settlement Class Member desires to be excluded from the Settlement Class, must be signed by the Settlement Class Member, and must include his or her full name, email address, mailing address, and Settlement ID number provided on the Class Notice.

**D.** Each Settlement Class Member can only exclude him, her, or itself from the Settlement Class. If a Covered Policy has had multiple Settlement Class Members associated

with it during the Settlement Class Period, only the portion of the Covered Policies' Settlement Relief relating to the Settlement Class Member who has been excluded from the Settlement will be excluded.

**E.** A Settlement Class Member may not exclude from this Settlement some, but not all, Covered Policies in which the Settlement Class Member has or had an affiliation during the Settlement Class Period. Any such exclusion request that attempts to exclude some but not all Covered Policies will be deemed ineffective, resulting in such person or entity remaining a Settlement Class Member.

**F.** No Settlement Class Member shall be deemed excluded from the Settlement Class through any purported "mass" or "class" opt-outs, or via any class actions, mass actions or collective or representative actions.

**G.** The Settlement Administrator shall establish and maintain the Post Office Box to which exclusion requests are required to be sent; maintain a log listing the postmark date for each exclusion request received; and provide copies of all exclusion requests received and such corresponding log to Class Counsel and to Defendants' Counsel. The Settlement Administrator shall provide copies of each exclusion request to the Parties' Counsel within three (3) business days of receipt of the exclusion request.

**H.** Every Settlement Class Member who does not file a timely written request for exclusion in accordance with this Section VII shall be bound by all subsequent proceedings, orders, and judgments in this Action, even if he or she has any litigation, arbitration, regulatory complaint, or other legal proceeding pending, or subsequently initiates any litigation, arbitration, regulatory complaint, or other legal proceeding, against any Defendant or Released Party relating to the claims and transactions released in this Action pursuant to this Settlement.

**I.** Plaintiff and his successors, heirs, and assigns, in their individual and representative capacities, shall not exclude themselves from the Settlement Class.

### **VIII. Objections to Settlement**

**A.** Any Settlement Class Member who wishes to object to the fairness, reasonableness, or adequacy of the Settlement may object to the Settlement, or any part of it.

**B.** A Settlement Class Member who files a valid request for exclusion from the Settlement Class may not also object to the Settlement.

**C.** The Settlement Class Member must submit the objection to both the Clerk of Court and Settlement Administrator, postmarked (or electronically filed with the Court) no later than the Objection Deadline set forth in the Preliminary Approval Order.

**D.** The form of the objection must meet the following requirements:

- 1.** it must be signed by the Settlement Class Member and include his or her name, mailing address, email address, and Settlement ID number provided on the Class Notice;
- 2.** it must indicate the case name and number of this Action, *Cohen v. Accordia Life & Annuity Co. and Alliance-One, Inc.*, Case No: 4:18-cv-00458-JAJ-SBJ (S.D. Iowa);
- 3.** in accordance with Fed. R. Civ. P. 23(e)(5)(A), the objection must “state with specificity the grounds for the objection”;
- 4.** in accordance with Fed. R. Civ. P. 23(e)(5)(A), the objection “must state whether it applies only to the objector, to a specific subset of the class, or to the entire class”;
- 5.** it must include the case name and number for all objections to class action settlements made by the objector or his or her attorney(s) in the past five (5) years; and
- 6.** it must state whether the objector or his or her attorney intend to speak at the Final Approval Hearing.

**E.** Any attorney retained by a Settlement Class Member for the purpose of objecting to the Settlement must file an entry of appearance with the Clerk of Court no later than the Objection Deadline set forth in the Preliminary Approval Order.

**F.** A Settlement Class Member's objection to the Settlement shall not affect his or her rights to receive any of the Settlement Relief.

**G.** Plaintiff and his successors, heirs, and assigns, in their individual and representative capacities, shall not object to this Settlement.

**H.** The Parties may serve and file responses to written objections within the timeframe provided in the Preliminary Approval Order.

**IX. Release and Waiver; Order of Dismissal**

Plaintiff agrees to a full and complete general release, waiver, and dismissal with prejudice as follows:

**A. Release and Waiver Definitions**

For purposes of this release and waiver (the "Release"):

**1.** The term "**Released Parties**" means, individually and collectively, the Defendants and Athene, including all of their respective past, present and future parent companies, predecessors, successors, assigns, indemnitors, indemnitees, subsidiaries, divisions, departments, and affiliates, and any and all of their past, present and future officers, directors, employees, stockholders, partners, agents, successors, attorneys, insurers, representatives, licensees, licensors, subrogees, and assigns, including any person or entity acting on behalf or at the direction of any of them. It is expressly understood that, to the extent a Released Party is not a Party to the Agreement, all such Released Parties are intended third-party beneficiaries of the Agreement.

2. **“Releasing Parties”** means Plaintiff and each and every Settlement Class Member, including each of their respective spouses, executors, representatives, heirs, successors, bankruptcy trustees, guardians, wards, agents and assigns and all those who claim through them or who assert duplicative claims for relief on their behalf.

3. **“Released Claims”** means any and all actions, claims, demands, rights, suits, and causes of action of whatever kind or nature that were, could reasonably have been, or in the future might reasonably be asserted, whether specifically enumerated herein or not, by Plaintiff, Settlement Class Members, or by the Releasing Parties either in the Action or in any action or proceeding in this Court or in any other court or forum, including but not limited to an arbitration panel or regulatory or administrative proceeding, against the Released Parties including for damages, costs, expenses, penalties, and attorneys’ fees, known or unknown, suspected or unsuspected, in law or equity arising out of or relating to legal claims made by the Plaintiff, Settlement Class Members, or Releasing Parties arising out of or relating to the allegations in the Action and whether or not brought directly, indirectly, on a representative basis, or otherwise.

**B. Release and Waiver**

1. In consideration of the promises and covenants of settlement between and among the Parties and as further contained in the Agreement (including, without limitation, the consideration to the Plaintiff and Settlement Class Members, the fairness and adequacy of which is hereby acknowledged), the Releasing Parties hereby expressly and generally release and discharge the Released Parties from the Released Claims.

2. The Releasing Parties expressly further agree that they shall not now or hereafter institute, maintain, assert, join, or participate in, either directly or indirectly, on their own behalf, on behalf of a class, or on behalf of any other person or entity, any action or proceeding of

any kind against the Released Parties asserting causes of actions, claims, allegations of liability, damages, restitution, injunctive, equitable, legal or administrative relief, interest, demands or rights, that are based on or related to the Released Claims, and that were or could have been asserted against Defendants in any court or arbitration panel, or regulatory or administrative agency.

3. Nothing in this Release shall be deemed to alter or release the contractual rights and benefits of Plaintiff or any other Settlement Class Member for the express written benefits that are due or will become due in the future pursuant to the express written terms of any Independent Producer Contract with Accordia, except to the extent that such rights are altered or affected by the award, election, and/or implementation of Settlement Relief under this Agreement.

4. In connection with this Release, Plaintiff and Settlement Class Members acknowledge that they are aware that they may hereafter discover claims or damages presently unknown or unsuspected or facts in addition to or different from those that they now know or believe to be true with respect to the Released Claims. Plaintiff and Settlement Class Members further acknowledge, understand and agree that this Release is, and is intended to be, a broad, general release of the Released Parties, and Plaintiff and Settlement Class Members agree that this Release fully, finally, and forever shall settle and release all claims and causes of action whatsoever and all claims relating thereto, both direct and indirect, and which now exist, hereafter may exist, or might have existed (whether or not previously or currently asserted in any action or proceeding) that are within the scope of this Settlement.

5. With respect to any and all Released Claims, and upon the Effective Date without further action, for good and valuable consideration, Plaintiff, on behalf of himself and the Settlement Class Members and as the representative of the Settlement Class Members, shall fully,

finally, and forever expressly waive and relinquish with respect to the Released Claims, any and all provisions, rights, and benefits of Section 1542 of the California Civil Code and any and all similar provisions, rights, and benefits conferred by any law of any state or territory of the United States or principle of common law that is similar, comparable, or equivalent to 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, would have materially affected his or her settlement with the debtor or released party.”**

6. Nothing in this Release shall preclude any action to enforce the terms of this Agreement or relating to a breach of this Agreement.

7. The Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Parties and Settlement Class Members to interpret and enforce the terms, conditions, and obligations under the Agreement.

8. Plaintiff hereby agrees and acknowledges that the provisions of this Release together constitute an essential term of the Agreement.

9. Plaintiff expressly agrees that this Release shall be, and may be raised as, a complete defense to the Released Claims and will preclude any action or proceeding encompassed by the release of the Released Parties herein.

10. It is the intention of the Plaintiff, on behalf of himself and Settlement Class Members, in executing this Release to fully, finally, and forever settle and release all matters and claims released under this Section IX.

11. **Order of Dismissal.** Plaintiff and Settlement Class Members will seek and obtain from the Court, as a condition of this Settlement, a Final Order and Judgment in

substantially the form of the Proposed Final Order and Judgment attached hereto as **Exhibit C**. The Final Order and Judgment shall, among other things: (1) approve the Settlement as fair, reasonable, and adequate; and (2) dismiss the Action with prejudice on the merits. Defendants will cooperate in seeking and obtaining the Final Order and Judgment from the Court expeditiously, including scheduling the Final Approval Hearing as promptly as possible on the Court's calendar.

**X. Class Counsels' Attorneys' Fees and Expenses and Plaintiff's Service Award**

**A.** Plaintiff will apply to the Court for an award of: (1) Class Counsels' Attorneys' Fees, (2) reimbursement of Class Counsels' Expenses, and (3) Plaintiff's Service Award. The Class Counsels' Attorneys' Fees, subject to Court approval, is not to exceed \$1,938,860. The Class Counsels' Expenses, subject to Court approval, is not to exceed \$41,140. The amount of Class Counsels' Attorneys' Fees and Class Counsels' Expenses ultimately approved by the Court is referred to herein as the Fees and Costs Award.

**B.** Plaintiff's Service Award is not to exceed \$20,000, subject to Court approval.

**C.** These amounts were negotiated by the Parties after the substantive settlement terms were reached.

**D.** These amounts will be paid directly by Defendants, separate and apart from the Common Fund.

**E.** Such amounts awarded by the Court shall be paid five (5) business days following the Effective Date of the Settlement.

**F.** Defendants will take no position on Plaintiff's application for Class Counsels' Attorneys' Fees, Class Counsels' Expenses, or Plaintiff's Service Award. The Court's Fees and

Costs Award or Plaintiff's Service Award (including any reductions or denials of the request) shall not impact the enforceability of the Settlement.

**G.** Prior to executing the Agreement, Defendants have provided Class Counsel with an estimate of costs to be incurred by Defendants for: (1) Settlement Administrator fees, including Class Notice costs; and (2) costs of Injunctive Relief, to the extent reasonably quantifiable (including the estimated fee or fee range expected to be paid for the Third Party Review). The Parties agree that Class Counsel may include those figures in its briefing in support of the award of attorneys' fees, as evidence of the overall value of benefits achieved for the Settlement Class.

**H.** Plaintiff's Service Award shall be made to the Plaintiff in addition to, and shall not diminish or prejudice in any way, any Monetary Relief or Injunctive Relief which he may be eligible to receive.

**I.** Class Counsel will, in their sole discretion, allocate and distribute the Fees and Costs Award among Class Counsel. Disagreements, if any, among Class Counsel relating to any such fees and costs, or to their individual shares of the Fees and Costs Award, will have no impact on the effectiveness or the implementation of this Agreement, nor will such disagreements increase, modify, or otherwise affect the obligations imposed upon Defendants by this Agreement.

**J.** Defendants will bear the cost of the Settlement Administrator, the Third Party Review, and all other implementation and administrative expenses incurred after the execution of this Agreement, including but not limited to: publication, printing, and mailing costs of the Class Notice; post-office box rental costs; processing costs for requests for exclusion; and fees of and disbursements to the independent Settlement Administrator. Notwithstanding anything herein, (1) the amount payable to Class Counsel pursuant to this Section X is the total amount to which Class Counsel and any and all other counsel for Plaintiff will be entitled to receive from Defendants or

the Released Parties with respect to the Settlement, the administration of the Settlement, and all matters described in this Agreement, and (2) any and all obligations of Defendants with respect to the making of payments to Class Counsel for attorneys' fees, expenses, disbursements, or any other matter relating to the Settlement shall be deemed fully satisfied upon payment of Class Counsels' Attorney's Fees, Class Counsels' Expenses, and Plaintiff's Service Award, and Defendants shall have no obligation whatsoever to make any additional payments to Class Counsel for attorneys' fees, expenses, disbursements, or any other matter relating to the Settlement.

**K.** Defendants shall not be liable or obligated to pay any fees, expenses, costs, or disbursements to, or incur any expense on behalf of, any person, either directly or indirectly, in connection with the Action, this Agreement, or the Settlement, other than those expressly provided in this Agreement as being payable by Defendants.

**XI. Order of Notice, Settlement Hearing, and Administration**

As soon as practicable after the execution of this Agreement, the Parties shall submit this Agreement, including all exhibits, to the Court and seek and obtain from the Court the Proposed Order Granting Preliminary Approval of Class Action Settlement in the form of **Exhibit B** attached hereto. Neither Defendants nor Plaintiff, nor their successors, heirs, and assigns, in their individual and representative capacities, shall file an appeal from or otherwise seek review of any order approving the Settlement set forth in this Agreement; provided, however, that Class Counsel may appeal from any award of fees and expenses that is lower than the Stipulated Fees and Costs, but not from any other provision of this Settlement. Any appeal as to the amount of the Fees and Costs Award shall not affect the finality of the Settlement with respect to the Settlement Class.

**XII. Final Approval and Final Order and Judgment**

The proposed Final Order and Judgment shall be substantially in the form of **Exhibit C**. The Final Order and Judgment shall incorporate any other provisions, as the Court deems necessary and just.

**XIII. Modification or Termination of this Agreement**

**A.** The terms and provisions of this Agreement may be amended, modified, or expanded by agreement of the Parties and approval of the Court; provided, however, that the Parties may by agreement effect such amendments, modifications, or expansions of this Agreement and its implementing documents (including the exhibits hereto) without notice to or approval by the Court if such changes are consistent with the Court's Final Order and Judgment and do not unreasonably limit the rights of Settlement Class Members under this Agreement.

**B.** The Parties may agree to implement the terms of the Settlement prior to the Effective Date in accordance with the terms, conditions, dates, and time periods specified in this Agreement; provided, however, that Defendants shall in no event have any obligation to pay, credit, implement, or otherwise effect any Settlement Relief prior to the Effective Date.

**C.** This Agreement shall terminate at the sole option and discretion of Defendants or Plaintiff if: (1) the Court, or any appellate court, modifies, alters, expands, or denies approval of any portion of this Agreement or the Settlement in any material respect that the terminating party in good faith reasonably determines is material, including, without limitation, the terms of Settlement Relief, the findings or conclusions of the Court, the provisions relating to Notice, the definition of the Settlement Class or Settlement Class Member, and/or the terms of the Release; or (2) the Court, or any appellate court(s), does not enter or completely affirm, or modifies, alters, or expands, any portion of the Final Order and Judgment, or any of the Court's findings of fact or

conclusions of law, that the terminating party in good faith reasonably believes is material. The terminating party must exercise the option to withdraw from and terminate this Agreement, as provided in this paragraph, no later than fourteen (14) days after receiving notice of the event prompting the termination.

**D.** Notwithstanding the preceding paragraph, Plaintiff may not terminate this Agreement solely because of the amount of the Fees and Costs Award awarded by the Court or any appellate court(s), nor may Plaintiff or Class Counsel accept any Fees and Costs Award that exceeds the Class Counsel Attorneys' Fees and Class Counsel Expenses agreed upon herein.

**E.** Notwithstanding anything in this Agreement, if the total number of persons and/or entities in the Settlement Class who submit requests for exclusion from the Settlement Class, or on whose behalf requests for such exclusion are submitted, exceeds the number set forth in a separate Confidential Side Agreement between the Parties, or if the other conditions for termination set forth in the Confidential Side Agreement are satisfied, either Defendant shall have the option, at its sole and absolute discretion, to unilaterally terminate this Agreement in the timeframe set forth in the Confidential Side Agreement. The Confidential Side Agreement will not be publicly filed but shall be identified to the Court pursuant to Fed. R. Civ. P. 23(e)(3).

**F.** If an option to withdraw from and terminate this Agreement arises under the preceding paragraphs: (1) neither Defendants nor Plaintiff are required for any reason or under any circumstance to exercise that option; and (2) any exercise of that option shall be made in good faith.

**G.** If this Agreement is terminated pursuant to the preceding paragraphs in this Section, then:

1. This Agreement shall be null and void and shall have no force or effect, and no party to this Agreement shall be bound by any of its terms, except for the terms of this paragraph G in this Section XIII and Sections XIV.B and XIV.C;

2. All provisions of this Agreement, and all negotiations, statements, and proceedings relating to this Agreement, shall be without prejudice to the rights of Defendants, Plaintiff, or any Settlement Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Agreement;

3. Released Parties, including Defendants, expressly and affirmatively reserve all defenses, arguments, and motions as to all claims that have been or might later be asserted in the Action, including, without limitation, any applicable statutes of limitation and the argument that the Action may not be litigated as a class action;

4. Plaintiff, on behalf of himself and his heirs, assigns, executors, administrators, and successors, expressly and affirmatively reserves and does not waive all motions as to, and arguments in support of, all claims, causes of actions, or remedies that have been or might later be asserted in the Action, including, without limitation, any argument concerning class certification, equitable tolling, and statutes of limitations;

5. This Agreement, the fact of its having been made, the negotiations leading to it, and/or any action taken by a Party or Settlement Class Member pursuant to this Agreement shall not be admissible or entered into evidence for any purpose whatsoever in any legal proceeding, unless agreed to jointly by Class Counsel and Defendants' Counsel; and

6. Any order or judgment entered after the date of this Agreement, which directly or indirectly relates to this Agreement, shall be deemed vacated and shall be without any force or effect.

**XIV. General Matters and Reservations**

**A.** The obligation of the Parties to conclude the Settlement is and shall be contingent on each of the following:

**1.** If this Agreement or the terms and conditions of the Settlement are modified in any material respect, and the Defendants do not elect to terminate this Agreement per the terms of Section XIII.C, the obligation of the Defendants to conclude the Settlement, as so modified, shall be subject to and contingent on approval of such modification by their respective Boards of Directors;

**2.** Entry by the Court of the Final Order and Judgment approving the Settlement;

**3.** The Effective Date occurs; and

**4.** Any other conditions stated in this Agreement.

**B.** The Parties and their counsel agree to keep the existence and contents of this Agreement confidential until the motion requesting the Court's preliminary approval of the Settlement is filed; provided, however, that this paragraph shall not prevent the disclosure of such information prior to the filing of such motion to (1) the Court pursuant to any status updates; (2) regulators, rating agencies, independent accountants, advisors, financial analysts, insurers or reinsurers, Plaintiff, experts, courts, co-counsel, and/or Settlement Administrator(s) as may reasonably be required to effectuate the terms and conditions of this Agreement or as otherwise required to comply with any applicable law or regulation; or (3) any other person or entity to whom the Parties agree disclosure may be made to effectuate the terms and conditions of this Agreement. If disclosure of the existence and/or contents of this Agreement is made pursuant to the preceding sentence, to the extent the recipient of the disclosure is not already subject to an obligation of

confidentiality to the disclosing Party, such Party will make reasonable efforts to secure the recipient's undertaking to maintain the existence and contents of this Agreement strictly confidentially and to use such information only for the purpose for which the disclosure is made.

**C.** The Parties and their counsel further agree that their discussions and information and documents exchanged in the course of negotiating this Settlement are confidential per the Stipulated Protective Order signed by the Parties and per the terms of the mediation agreement signed by the Parties. Such exchanged information was made available on the condition that neither the Parties nor their counsel may disclose it to third parties (other than experts or consultants retained by the Parties in connection with this case), that it not be the subject of public comment, and that it not be publicly disclosed or used by the Parties or Parties' Counsel in any way in the Action should it not settle, or in any other proceeding; provided, however, that nothing contained herein shall prohibit the Parties from seeking such information through formal discovery if not previously requested through formal discovery or from referring to the existence of such information in connection with the Settlement of the Action.

**D.** Unless Class Counsel and Defendants agree to an extension of this deadline, and except as otherwise specified below in this Section, within ninety (90) days after the later of the Effective Date or the completion of the Third Party Review process set forth in Section IV.C, or promptly after termination of this Agreement, the Parties and their counsel shall, upon written request by opposing counsel and in compliance with any applicable rules of professional conduct, either destroy or return to the producing party's counsel all documents (and all copies of such documents in whatever form made or maintained) produced by the producing party in this Action. If any such documents and materials are destroyed in lieu of return, counsel for the receiving party shall deliver to counsel for the producing party a sufficient statement to the effect that such

documents and materials have been destroyed and identifying the destroyed documents and materials. Notwithstanding the foregoing, the Parties' Counsel may retain copies of all pleadings, motions, briefs, mediation statements, and other materials filed with or submitted to the Court or the mediator in this Action, including all exhibits to such pleadings, motions, briefs, and other submissions.

**E.** By execution of this Agreement, Defendants do not intend to release any claim against any insurer for any cost or expense hereunder, including, without limitation, attorneys' fees and costs.

**F.** Class Counsel represent that they: (1) are authorized to enter into this Agreement on behalf of Plaintiff, and (2) are seeking to protect the interests of the entire Settlement Class.

**G.** Plaintiff represents and certifies that: (1) he has agreed to serve as the representative of the Settlement Class proposed to be certified for settlement purposes herein; (2) he remains willing, able, and ready to perform all of the duties and obligations of a representative of the Settlement Class; (3) he is familiar with the allegations in this Action, including the Complaint, or has had the contents of such allegations described or conveyed to him; (4) he has consulted with Class Counsel about the Action (including informal discovery conducted in the Action), this Agreement, and the obligations of a representative of the Settlement Class; (5) he has authorized Class Counsel to execute this Agreement on his behalf; and (6) he shall remain and serve as a representative of the Settlement Class until the terms of this Agreement are effectuated and fully implemented, this Agreement is terminated in accordance with its terms, or the Court at any time determines that Plaintiff cannot represent the Settlement Class.

**H.** Defendants' Counsel represent that they are authorized to enter into this Agreement on behalf of Defendants.

**I.** This Agreement, including the exhibits hereto, which are an integral part of the Agreement, sets forth the entire agreement among the Parties with respect to its subject matter, and it may not be altered or modified except by written instrument jointly executed by Class Counsel and Defendants' Counsel. The Parties expressly acknowledge that no other agreements, arrangements, or understandings exist among or between them, except as referred to in this Agreement.

**J.** This Agreement and any ancillary agreements shall be governed by and interpreted in accordance with the laws of the State of Iowa, without reference to its choice of law or conflict of laws rules.

**K.** Any action to enforce this Agreement shall be commenced and maintained only in this Court, the U.S. District Court for the Southern District of Iowa.

**L.** Whenever this Agreement requires or contemplates that one Party shall or may give notice to the other, notice shall be provided by email as follows:

**1.** If to Defendants, then to:

Jason H. Gould  
Kristen Reilly  
FAEGRE DRINKER BIDDLE & REATH LLP  
1500 K Street, NW, Suite 1100  
Washington, DC 20005  
Jason.Gould@faegredrinker.com  
Kristen.Reilly@faegredrinker.com

-and-

Jesse Linebaugh  
Angela Morales Gray  
Monika Sehic  
FAEGRE DRINKER BIDDLE & REATH LLP  
801 Grand Avenue, 33rd Floor  
Des Moines, IA 50309  
Jesse.Linebaugh@faegredrinker.com  
Angela.Gray@faegredrinker.com

Monika.Sehic@faegredrinker.com

-and-

J. Kevin Snyder  
DYKEMA GOSSETT PLLC  
333 South Grand Avenue, Suite 2100  
Los Angeles, CA 90071  
ksnyder@dykema.com

-and-

Brant Leonard  
FREDRIKSON & BYRON, P.A.  
505 E. Grand Avenue, Suite 200  
Des Moines, IA 50309  
bleonard@fredlaw.com

2. If to Plaintiff, then to:

Michael Dell'Angelo  
Jon Lambiras  
BERGER MONTAGUE PC  
1818 Market Street, Suite 3600  
Philadelphia, PA 19103  
mdellangelo@bm.net  
jlambiras@bm.net

-and-

David Cates  
CATES MAHONEY, LLC  
216 West Pointe Drive, Suite A  
Swansea, IL 62226  
dcates@cateslaw.com

-and-

J. Barton Goplerud  
Brian O. Marty  
SHINDLER, ANDERSON, GOPLERUD & WEESE, P.C.  
5015 Grand Ridge Drive, Suite 100  
West Des Moines, IA 50265-5749  
goplerud@sagwlaw.com  
marty@sagwlaw.com

**M.** All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Agreement or by order of court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Each other day of the period to be computed shall be included, including the last day thereof, unless such last day is a Saturday, a Sunday, or a Legal Holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the Clerk of the Court inaccessible, in which event the last day of the period shall be the next day that is not one of the aforementioned days.

**N.** 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.

**O.** The Parties agree that: (1) this Agreement is clear and unambiguous, has been drafted and negotiated by the Parties' Counsel at arm's length, and shall not be construed more strictly against any of the Parties; and (2) 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 Parties' Counsel, or the circumstances under which this Agreement was made or executed.

**P.** In no event shall this Agreement, any of its provisions, or any negotiations, statements, or court proceedings relating to them in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in either the Action, any other action, or any judicial, administrative, regulatory, or other proceeding, except in a proceeding to enforce this Agreement. Without limiting the foregoing, neither this Agreement nor any related negotiations, statements, or court proceedings shall be construed as, offered as, received as, used as, or deemed to be evidence of an adjudication, admission, or concession of any liability or wrongdoing

whatsoever on the part of any person or entity, including but not limited to Defendants or Plaintiff, or as a waiver by Defendants or Plaintiff of any applicable claims or defenses.

**Q.** Neither this Agreement nor any of the relief offered under the Settlement shall be interpreted to alter in any way the terms of any contract between Accordia and any Writing Agents, Writing Agent Uplines, Servicing Agents, and/or Assignees, except as may be expressly provided by this Agreement or the relief granted in accordance with the terms of this Agreement. This Agreement does not, and shall not be deemed to, create any fiduciary or similar relationship between Defendants and any current, past, or prospective Writing Agents, Writing Agent Uplines, Servicing Agents, and/or Assignees. This Agreement does not impose, and shall not be deemed to impose, any fiduciary or other similar duty on any of the Defendants, and the Defendants expressly disclaim any fiduciary or other similar duties. The duties and obligations assumed by Defendants are limited to those expressly set forth in this Agreement.

**R.** Punitive or exemplary damages are not available to any Settlement Class Member under the Settlement described in this Agreement, and none of the Settlement Relief shall include or constitute, or be deemed to include or constitute, punitive or exemplary damages.

**S.** No opinion concerning the tax consequences of the Settlement to any Settlement Class Member is given or will be given by Defendants, Defendants' Counsel, or Class Counsel, nor are any representations or warranties in this regard made by virtue of this Agreement. The Class Notice shall direct Settlement Class Members to consult their own tax advisors regarding the tax consequences of the Settlement, including the tax consequences of any payments provided for hereunder, and any tax reporting obligations they may have with respect thereto. The tax obligations of each Settlement Class Member, and the determination thereof, are the sole

responsibility of each such person and entity, and it is understood that the tax consequences of the Settlement may vary depending on the particular circumstances of each such person and entity.

**T.** The Parties, their successors and assigns, and the Parties' Counsel undertake to implement the terms of this Agreement in good faith and to use good faith in resolving any disputes that may arise in the implementation of the terms of this Agreement. If any disputes concerning the implementation of the Settlement, including Injunctive Relief, occur, the parties agree to first attempt to mediate any disputes with the Hon. Diane Welsh (Ret.) before involving the Court.

**U.** The Parties, their successors and assigns, and the Parties' Counsel agree to cooperate fully with one another in seeking Court approval of this Agreement and to use their commercially reasonable best efforts to effect the prompt consummation of this Agreement and the Settlement.

**V.** This Agreement may be signed in counterparts, each of which when executed and delivered shall serve as an original.

**[THE NEXT PAGE IS THE SIGNATURE PAGE]**

Agreed to this 26th day of June 2020

APPROVED AND AGREED TO BY AND ON BEHALF OF DAVID COHEN, CLU, on behalf of himself and the Settlement Class:

By: /s/ Michael Dell' Angelo  
Michael Dell' Angelo

By: /s/ David Cates  
David Cates

By: /s/ J. Barton Goplerud  
J. Barton Goplerud

COUNSEL FOR PLAINTIFF

APPROVED AND AGREED TO BY AND ON BEHALF OF DEFENDANT ACCORDIA LIFE AND ANNUITY COMPANY:

By: /s/ Jason H. Gould  
Jason H. Gould  
COUNSEL FOR DEFENDANT ACCORDIA LIFE AND ANNUITY COMPANY

APPROVED AND AGREED TO BY AND ON BEHALF OF DEFENDANT ALLIANCE-ONE SERVICES, INC.:

By: /s/ J. Kevin Snyder  
J. Kevin Snyder  
COUNSEL FOR DEFENDANT ALLIANCE-ONE SERVICES, INC.

# Exhibit A

ACCORDIA-FAFLIC LIFE INS. AGENT SETTLEMENT ADMINISTRATOR  
 C/O [SETTLEMENT ADMINISTRATOR]  
 [STREET ADDRESS]  
 [CITY, STATE ZIP CODE]

[CLASS MEMBER NAME]  
 [STREET ADDRESS]  
 [CITY, STATE ZIP CODE]  
 SETTLEMENT ID #: [SETTLEMENT ID #]

**IMPORTANT LEGAL MATERIALS**

**Your Anticipated Settlement Distribution**

Delay Damages: \$[DELAY DAMAGES]

Other Damages: \$[OTHER DAMAGES]

Total Damages: \$[TOTAL DAMAGES]

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA**

**If you are or were an independent insurance agent (Writing Agent, Writing Agent Upline, Servicing Agent, or Assignee) who sold, were entitled to commissions from, or serviced any life insurance policy issued or assumed by Accordia Life and Annuity Company (“Accordia”) or its New York-licensed affiliate First Allmerica Financial Life Insurance Company (“FAFLIC”) on or after May 1, 2014, you may be entitled to receive cash and other benefits from a class action settlement.**

*A federal court authorized this Notice. This is not a solicitation from a lawyer. **You are not being sued.***

- The proposed Settlement will resolve a lawsuit regarding whether Defendants Accordia and Alliance-One Services, Inc. (the third party administrator for Accordia and FAFLIC) (together, the “Defendants”) failed to properly administer life insurance policies sold and/or serviced by independent insurance agents, called the Settlement Class Members. The Defendants’ administration of the policies allegedly resulted in independent insurance agents being unable to receive timely or appropriate Commission Payments, caused the independent agents to spend significant amounts of time responding to policy administration problems, and led to other related harms.
- The Settlement, if approved, will provide **\$3.1 million** in Monetary Relief to Settlement Class Members who qualify, and will provide Injunctive Relief to the entire Settlement Class. You do not need to take any action to be eligible to receive these benefits. The Monetary Relief will be automatically distributed to all qualifying Settlement Class Members, without the need for you to file a claim form.
- Your legal rights are affected whether you act or don’t act. Please read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
<b>DO NOTHING</b>	Receive the relief provided by the Settlement. Give up the right to sue any of the Defendants or their predecessor or affiliated companies relating to the issues in this lawsuit.
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS</b>	This is the only option that allows you to ever be a part of any other lawsuit regarding the legal claims in this case. Receive no relief under the Settlement.
<b>OBJECT TO THE SETTLEMENT</b>	Write to the Court about why you don’t like the Settlement.
<b>GO TO THE HEARING</b>	Ask to speak in Court about the fairness of the Settlement.

- These rights and options – **and the deadlines to exercise them** – are further explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. **Settlement Relief will not be available until after the Court approves the Settlement. Please be patient.**

**QUESTIONS? CALL 1-[CALL CENTER PHONE #] TOLL FREE, OR VISIT [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com).**

**WHAT THIS NOTICE CONTAINS**

**BASIC INFORMATION** ..... PAGE 3

- 1. Why did I get this Notice package?
- 2. What is this lawsuit about?
- 3. Why is this a class action?
- 4. Why is there a Settlement?

**WHO IS IN THE SETTLEMENT** ..... PAGE 4

- 5. How do I know if I am part of the Settlement Class?
- 6. Are there exceptions to being included in the Settlement Class?
- 7. Are there exceptions to being eligible for Settlement Relief?
- 8. I'm still not sure if I am included in the Settlement.

**THE SETTLEMENT BENEFITS – WHAT YOU CAN GET** ..... PAGE 5

- 9. What benefits does the Settlement generally provide?
- 10. What is **Injunctive Relief**, and how can I obtain it?
- 11. What is **Monetary Relief**, and how can I obtain it?
- 12. When would I get my Settlement Relief?
- 13. What am I giving up to get Settlement Relief or stay in the Settlement Class?

**EXCLUDING YOURSELF FROM THE SETTLEMENT** ..... PAGE 9

- 14. How do I get out of the Settlement?
- 15. If I don't exclude myself, can I sue the Defendants for the same thing later?
- 16. If I exclude myself, can I get any benefit from this Settlement?

**THE LAWYERS REPRESENTING YOU**..... PAGE 10

- 17. Do I have a lawyer in the case?
- 18. How will the lawyers be paid?

**OBJECTING TO THE SETTLEMENT** ..... PAGE 10

- 19. How do I tell the Court I don't like the Settlement?
- 20. What's the difference between objecting and excluding myself?

**THE COURT'S FINAL APPROVAL HEARING** ..... PAGE 11

- 21. When and where will the Court decide whether to approve the Settlement?
- 22. Do I have to come to the hearing?
- 23. May I speak at the hearing?

**IF YOU DO NOTHING** ..... PAGE 12

- 24. What happens if I do nothing at all?

**GETTING MORE INFORMATION** ..... PAGE 12

- 25. Are more details available about the Settlement?
- 26. How do I get more information?

## **BASIC INFORMATION**

### **1. Why did I get this Notice package?**

You received this Notice because you are listed as either the Writing Agent, Writing Agent Upline, Servicing Agent, or Assignee for a life insurance policy that is included in the proposed class action Settlement. The Court directed that the Parties send you this Notice because you have a right to know about the Settlement and about your rights and options under the Settlement before the Court decides whether to approve it.

The Court in charge of the case is the United States District Court for the Southern District of Iowa, Judge John A. Jarvey, and the case is known as *Cohen v. Accordia Life & Annuity Co. and Alliance-One Services, Inc.*, Case No: 4:18-cv-00458-JAJ-SBJ. The person who sued is called the Plaintiff, and the companies he sued – Accordia and Alliance-One Services, Inc. (“Alliance-One”) – are called the Defendants.

If the Court approves the Settlement, the Defendants will provide the Settlement Relief provided for in the approved Settlement.

This package explains the lawsuit, the Settlement, your legal rights, what Settlement Relief is available, who is eligible for Settlement Relief, and how the Settlement Relief will be obtained. A third-party company, called the Settlement Administrator, has been hired by the Parties to administer many elements of the Settlement.

### **2. What is this lawsuit about?**

The Settlement involves a class action lawsuit that was brought against Accordia and Alliance-One by David Cohen, CLU (the “Plaintiff”). Plaintiff Cohen alleged that he and other independent life insurance agents were harmed by the Defendants’ failure to properly administer certain life insurance policies. Policy administration errors occurred after a large number of Covered Policies were transferred to a servicing platform administered by Alliance-One. The errors are alleged to have harmed independent insurance agents by causing withheld or delayed Commission Payments, lost future renewal Commission Payments, the impairment of ongoing customer relationships, and by causing independent agents to spend significant amounts of time responding to policy administration problems. The Defendants dispute these claims.

### **3. Why is this a class action?**

In a class action, one or more people (in this case, the Plaintiff David Cohen) sue on behalf of people who allegedly have similar claims. All of these people collectively are a class. One court resolves the issues for all members of the class, except for those who exclude themselves from the class. The Court overseeing the case has preliminarily certified the class for the purposes of Settlement.

#### 4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiff or Defendants. Instead, both sides agreed to a Settlement before the case proceeded to further litigation and a trial. The Plaintiff and his attorneys think the Settlement is fair, reasonable, and adequate and in the best interest of the Settlement Class.

### **WHO IS IN THE SETTLEMENT**

To determine if you will get any Settlement Relief from this Settlement, you first have to determine whether you are a Settlement Class Member.

#### 5. How do I know if I am part of the Settlement Class?

The Settlement Class for this Settlement includes every person or entity that, during the Settlement Class Period (defined below), was designated as a Writing Agent, Writing Agent Upline, Servicing Agent, or Assignee (defined below) for any of the following types of Covered Policies, or, if such a person is deceased, the executor or representative of his or her estate:

- (1) **New Business Policies:** Any life insurance policies that, as of May 1, 2014 (the date Accordia began issuing new policies) and up to [PRELIMINARY APPROVAL DATE], were issued by Accordia or its New York-licensed affiliate FAFLIC and were subsequently administered by Alliance-One. This does not include any policies issued after [PRELIMINARY APPROVAL DATE].
- (2) **Converted Policies:** Any life insurance policies that were or are insured, managed, or reinsured by Accordia, its parent, or any affiliated companies and were transferred for administration to Alliance-One's policy administration system on or around either August 1, 2015 (Wave 1) or January 1, 2016 (Wave 2).

The Settlement Class Period begins on: (1) May 1, 2014 for Settlement Class Members associated with New Business Policies; (2) August 1, 2015 for Settlement Class Members associated with Wave 1 Converted Policies; and (3) January 1, 2016 for Settlement Class Members associated with Wave 2 Converted Policies. The Settlement Class Period ends on [PRELIMINARY APPROVAL DATE] for all policies.

A "Writing Agent" is defined as any individual(s) listed on a Covered Policy application as the soliciting agent(s) for the policy.

A "Writing Agent Upline" is defined as any individual or entity that a Writing Agent reports to and is or was listed as the upline or next in hierarchy for a Covered Policy during the Settlement Class Period.

A "Servicing Agent" is defined as any individual or entity who is or was listed as the servicing agent of record on PPlus (Alliance-One's administrative system used to administer Commission Payments) for a Covered Policy during the Settlement Class Period.

An "Assignee" is defined as any business entity (if any) assigned commissions for a Covered Policy via an assignment of commission agreement between the Writing Agent and the Assignee.

**QUESTIONS? CALL 1-[CALL CENTER PHONE #] TOLL FREE, OR VISIT [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com).**

**6. Are there exceptions to being included in the Settlement Class?**

Yes. The following persons and entities are not included in the Settlement Class:

- (1) individuals who are or were during the Settlement Class Period officers, directors, or employees (and their immediate families) of the Defendants or any of their respective affiliates;
- (2) any justice, judge, or magistrate judge presiding over the Action, and the staff and immediate family of any such justice, judge or magistrate judge;
- (3) the Settlement Administrator and members of any of its personnel's immediate families; and
- (4) all individuals who submit a timely and proper request to be excluded from (opt-out of) the Settlement Class, or who have otherwise released any and all claims that have or could have been asserted in the Action via a separate settlement agreement.

All persons or entities who receive this Notice and meet the definition of a Settlement Class Member but who submit a valid request to be excluded from the Settlement Class will thereafter not be included in the Settlement Class. In this Notice, the term "Settlement Class Member" is used to describe all persons and entities who meet the definition of a Settlement Class Member and who do not submit a valid request to be excluded from the Settlement Class. The exclusion deadline is [EXCLUSION DEADLINE] as discussed in Question 14 below.

**7. Are there exceptions to being eligible for Settlement Relief?**

Yes. Your eligibility for Monetary Relief and the specific nature and extent of the benefits you will receive depend on your history of Commission Payments and your status as a Writing Agent, Writing Agent Upline, Servicing Agent, or Assignee for Covered Policies. In addition, if, at the time any of the Settlement Relief is otherwise to be provided to you, you previously settled and signed or are bound by a release of claims relating to one or more of the Defendants in connection with policy administration problems or commission delays of the type at issue in this case, you will not be entitled to receive any Settlement Relief unless the previous release of claims otherwise expressly provides.

**8. I'm still not sure if I am included in the Settlement.**

If you're not sure whether you are included in the Settlement, you may call the Settlement Call Center at [CALL CENTER PHONE #] ([CALL CENTER TTY #] for the hearing-impaired) or visit [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com) for more information.

**THE SETTLEMENT BENEFITS – WHAT YOU CAN GET**

**9. What benefits does the Settlement generally provide?**

The Settlement provides two types of relief:

- (1) Injunctive Relief that will be automatically provided to all Settlement Class Members, where applicable; and
- (2) Monetary Relief that will be automatically provided to all Settlement Class Members who qualify for it.

**QUESTIONS? CALL 1-[CALL CENTER PHONE #] TOLL FREE, OR VISIT [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com).**

A Settlement Class Member may receive both Injunctive Relief and Monetary Relief. These two types of Settlement Relief are described below.

Please note, however, that none of this Settlement Relief will be available to any Settlement Class Member who excludes herself or himself from the Settlement, or if the Court does not give final approval to the Settlement.

#### 10. What is Injunctive Relief, and how can I obtain it?

If the Court approves the Settlement, the following Injunctive Relief will automatically be provided to all Settlement Class Members, to the extent applicable:

- **PPlus Remediation.** The Defendants will remediate all known Commission Conversion-Related Issues that are continuing to prevent appropriate Commission Payments from generating for Covered Policies. The remediation process is called the PPlus Remediation. The remediation will be completed no later than December 31, 2021, and may be completed in advance of that date.
- **Payment of Remaining Unpaid Commissions.** For any Commission Payments due but as-yet-unpaid from the beginning of the Settlement Class Period through the PPlus Remediation Completion Date, which delay is caused by Commission Conversion-Related Issues, the Defendants will pay these Commission Payments promptly after completing the PPlus Remediation noted above. The Defendants will also pay 4% interest on any such delayed Commission Payments as described in Question 11.
- **Third Party Review.** The Defendants have retained a third-party entity approved by both Parties to conduct a Third Party Review of the PPlus Remediation described above, along with a general review of the Accordia data on the PPlus commission system and of the Defendants' commission controls. The review will determine whether all Commission Conversion-Related Issues have been identified and remediated, based on a statistically significant sample size. The review will consist of two phases. In the initial scoping phase, the Third Party will perform tests to confirm that all Commission Conversion-Related Issues have been identified by the Defendants. In the second phase, once the PPlus Remediation has been completed, the Third Party will test whether all Commission Conversion-Related Issues have been properly addressed.
- **Ongoing Review of Future Premium and Commission Payments.** The Defendants will review at least 10% of all Commission Payments processed for payment each month to ensure that the Commission Payments are being calculated correctly. The Defendants will also review at least 10% of Premium Transactions that do not have a corresponding Commission Payment each month to ensure that no Commission Payment was due and improperly withheld. These reviews shall be completed on a weekly or monthly basis until the Plus Remediation is completed. After the PPlus Remediation is completed, the Defendants will continue to review at least 5% of all commission payments and Premium Transactions processed each month, completed on a weekly or monthly basis, for one (1) additional year thereafter. Defendants will promptly remediate any commission payment errors identified from this process.
- **Notice of Regulatory Settlements.** The Defendants will provide prompt notice to Class

**QUESTIONS? CALL 1-[CALL CENTER PHONE #] TOLL FREE, OR VISIT [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com).**

Counsel if any future regulatory settlements conflict with any Injunctive Relief agreed to in this class action settlement.

- **Enhancements to Commission Statements.** The Defendants will enhance the level of detail in their commission statements for Converted Policies to more closely match the level of detail in their commission statements for New Business Policies.

## 11. What is Monetary Relief, and how can I obtain it?

If the Court approves the Settlement, the Defendants will pay eligible Settlement Class Members two types of Monetary Relief: Delay Damages and Other Damages. The Defendants will establish a Common Fund of **\$3.1 million** to be paid out directly to eligible Settlement Class Members within sixty (60) days after the Effective Date of the Settlement.

### Delay Damages

There are two types of Delay Damages: (1) Pre-Preliminary Approval Delay Damages, which will compensate Settlement Class Members for any delays in Commission Payments prior to [PRELIMINARY APPROVAL DATE], and (2) Post-Preliminary Approval Delay Damages, which will compensate Settlement Class Members for delays, if any, in Commission Payments after [PRELIMINARY APPROVAL DATE].

Pre-Preliminary Approval Delay Damages comprise approximately \$1.1 million of the \$3.1 million Common Fund. If you qualify for payment of Pre-Preliminary Approval Delay Damages, the customized amount expected to be paid to you can be found on the top of page 1 of this Notice. Post-Preliminary Approval Delay Damages are not part of the Common Fund and will be paid separately, based on future Commission Payment delays, if any.

The calculation of Delay Damages is as follows.

- Delay Damages equal to 4% annual interest will be paid for delays to Commission Payments of more than sixty (60) days. The delays for which interest will be applied will be calculated as the difference between: (i) the date the underlying premium payment was applied to the Covered Policy (in instances where the bill to the policyholder was delayed due to conversion issues, the premium application date was generally backdated to the date the premium would have been due but for the bill delay); and (ii) the date the Commission Payment was credited to the Settlement Class Member's account, minus sixty days.
- Beginning on March 13, 2020, Accordia implemented a procedure, in response to various state directives concerning the COVID-19 pandemic, by which Accordia suspended the termination of life insurance policies for the non-payment of premiums for at least ninety (90) days or until June 11, 2020. The date may be subsequently extended, or such a procedure may be put in place again in the future as a result of further state directives concerning the COVID-19 pandemic. Any Commission Payment delays resulting from these state directives are excluded from the calculation of Delay Damages because they are not conversion-related delays.

### Other Damages

After full calculation of all Delay Damages as of [PRELIMINARY APPROVAL DATE], the remaining

**QUESTIONS? CALL 1-[CALL CENTER PHONE #] TOLL FREE, OR VISIT [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com).**

Common Fund amount shall be distributed to all Servicing Agent Settlement Class Members based on both the number of Covered Policies each Servicing Agent serviced and the length of time he or she serviced each such Covered Policy during the Settlement Class Period. These payments shall be referred to as “Other Damages.” Each day during the Settlement Class Period that a Settlement Class Member was assigned as the Servicing Agent for a given Covered Policy will count as one Policy Service Day. The amount of Other Damages paid to each Servicing Agent Settlement Class Member will be based on his or her total Policy Service Days for all his or her aggregate policies, with the damages payouts to be calculated using the following tiers:

<b>Number of Aggregate Policy Service Days For the Applicable Servicing Agent</b>	<b>Settlement Payment Amount</b>	<b>Number of Servicing Agents</b>	<b>Total Settlement Payments</b>
1 – 18,500	\$25	49,755	\$1,243,875
18,501 – 110,000	\$50	4,754	\$237,700
110,001 – 400,000	\$150	770	\$115,500
400,001 – 600,000	\$500	87	\$43,500
600,001 – 800,000	\$1,000	31	\$31,000
800,001 – 1,000,000	\$2,500	14	\$35,000
>1,000,000	\$5,000	50	\$250,000
		<b>55,461</b>	<b>\$1,956,575</b>

The Other Damages amount for which you qualify can be found on the top of page 1 of this Notice. The round number Settlement Payment Amounts listed in the chart above may be slightly increased *pro rata* at the time of distribution depending on how many Settlement Class Members opt out of the Settlement, how much interest is earned on the Common Fund before the distribution takes place, and other factors as the distribution is finalized. The *pro rata* adjustments are necessary to ensure that the Common Fund is fully exhausted by the distribution. Any *pro rata* adjustments are expected to be minimal.

If you qualify for Delay Damages and/or Other Damages and the Court grants final approval of the Settlement, you do not need to do anything to receive these payments. The Settlement Administrator will automatically mail you a check in the appropriate amount to the address the Defendants have on file for you and to which this Notice was sent. Alternatively, you may choose to receive your payment electronically. If you would like to receive the payment due to you under this Settlement electronically, please visit the Settlement Website at [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com) and review the instructions for how to choose electronic payment.

You should consult your own tax advisors regarding the tax consequences of any payments for Delay Damages or Other Damages.

## 12. When would I get my Settlement Relief?

The Court will hold a hearing on [FINAL APPROVAL HEARING DATE], called the Final Approval Hearing, to decide whether to grant final approval of the Settlement. If the Court issues an order granting final approval and no one appeals that order, the Settlement will become final thirty (30) days after that order is issued. If that happens, the Settlement Administrator will distribute all Pre-Preliminary Approval Delay Damages and Other Damages within sixty (60) days after the Settlement becomes final. The Settlement Administrator will distribute all Post-Preliminary Approval Delay Damages within sixty (60) days after the PPlus Remediation described in Question 10 is completed or sixty (60) days after the Settlement becomes final, whichever is later.

**QUESTIONS? CALL 1-[CALL CENTER PHONE #] TOLL FREE, OR VISIT [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com).**

**13. What am I giving up to get Settlement Relief or stay in the Settlement Class?**

Unless you properly exclude yourself, you are staying in the Settlement Class, which means:

- (1) you can't sue, continue to sue, or be part of or receive any benefits in or from any other lawsuit, arbitration, or other legal proceeding against the Defendants, Athene Annuity and Life Company (the company from which Accordia purchased the Converted Policies), and their predecessors, successors, and affiliates, regarding any legal claims that were or could have been made in this case; and
- (2) you give up, or release, any and all claims – regardless of whether they are presently known or suspected, presently unknown or unsuspected, presently existing, or might exist in the future – regarding the Commission Conversion-Related Issues, or any other legal claims that were or could have been made in this case. It also means that all of the Court's orders in this Action will apply to you and legally bind you, even if you had objected to the Settlement.

**EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you don't want any benefits from this Settlement, or you want to keep the right to sue or continue to sue the Defendants on your own regarding the claims and legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself – or is sometimes referred to as “opting out” of the Settlement Class.

**14. How do I get out of the Settlement?**

To exclude yourself from the Settlement, you must send a letter by mail saying you want to be excluded from the Settlement Class in *Cohen v. Accordia Life & Annuity Co. and Alliance-One Services, Inc.*, Case No: 4:18-cv-00458-JAJ-SBJ (S.D. Iowa). You must include your signature, name, mailing address, email address and Settlement ID number set forth on the top of page 1 of this Notice. You must mail your exclusion request postmarked no later than [EXCLUSION DEADLINE] to:

Accordia-FAFLIC Life Ins. Agent Settlement Administrator  
c/o [SETTLEMENT ADMINISTRATOR]  
[STREET ADDRESS]  
[CITY, STATE ZIP CODE]

You can't exclude yourself by telephone or e-mail.

If you validly exclude yourself, you will not be eligible for any Settlement Relief, and you cannot object to the Settlement. If you validly exclude yourself, the Settlement will not affect your right to sue the Defendants in your own individual non-class proceeding, and you will not be legally bound by anything else that happens under the Settlement.

**15. If I don't exclude myself, can I sue the Defendants for the same thing later?**

No. Unless you validly exclude yourself, you give up the right to sue the Defendants, their affiliates, and other “Released Parties” under the Stipulation of Settlement for the claims that this Settlement resolves. If you have a pending lawsuit against any of the Released Parties, speak to your lawyer in that

lawsuit about this Notice immediately. You must exclude yourself from this Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is [EXCLUSION DEADLINE].

**16. If I exclude myself, can I get any benefit from this Settlement?**

No. If you exclude yourself, you will not be entitled to any benefits from this Settlement, including the Settlement Relief described in Questions 10 and 11.

**THE LAWYERS REPRESENTING YOU**

**17. Do I have a lawyer in this case?**

Yes. On [PRELIMINARY APPROVAL DATE], the Court appointed Berger Montague PC; Cates Mahoney, LLC; and Shindler, Anderson, Goplerud & Weese, PC as Class Counsel to represent the Settlement Class. Together, these law firms and their lawyers named in the Stipulation of Settlement are referred to as Class Counsel. You will not be charged for these law firms' services. If you want to be represented by your own lawyer, you may hire one at your own expense.

**18. How will the lawyers be paid?**

Class Counsel will ask the Court for an award of attorneys' fees not to exceed \$1,938,860 and reimbursement of litigation expenses not to exceed \$41,140. These payments are for Class Counsel's efforts in obtaining both the Monetary Relief and Injunctive Relief. Class Counsel also will ask the Court to approve a service award to Plaintiff Cohen not to exceed \$20,000 for his efforts in litigating the case on behalf of the Settlement Class. The motion for attorneys' fees, expenses, and service award to the Plaintiff will be made, and a copy will be available on the Settlement Website, on or before [15 DAYS BEFORE OBJECTION DEADLINE], 2020, which is fifteen (15) days before the deadline for objections and opt outs. The Court may award less than the requested amounts. The Defendants will pay the attorneys' fees, expenses, and any service award that the Court approves, up to the foregoing amounts. These amounts will not reduce the amounts available to provide Monetary Relief or Injunctive Relief to Settlement Class Members. The Defendants also will separately pay all costs to administer the Settlement and provide notice to the Settlement Class.

**OBJECTING TO THE SETTLEMENT**

You can tell the Court that you don't agree with the Settlement or any part of it.

**19. How do I tell the Court I don't like the Settlement?**

If you are a Settlement Class Member, you can object to the Settlement if you don't like any part of it. The Court will consider your views in connection with the Final Approval Hearing described below.

To object, you must submit your objection in writing. Your objection must: (1) include your signature, name, mailing address, email address and Settlement ID number set forth on the top of page 1 of this Notice; (2) include the case name and number of this matter, *Cohen v. Accordia Life & Annuity Co. and Alliance-One, Inc.*, Case No: 4:18-cv-00458-JAJ-SBJ (S.D. Iowa); (3) state with specificity the grounds

**QUESTIONS? CALL 1-[CALL CENTER PHONE #] TOLL FREE, OR VISIT [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com).**

for your objection; (4) state whether your objection applies only to you, to a specific subset of the Settlement Class, or to the entire Settlement Class; (5) include the case name and number for all objections to class action settlements made in the past five years by you or your attorney (if any) submitting the objection on your behalf; and (6) state whether you or your attorney intend to speak at the Final Approval Hearing. Any attorney retained by you for the purpose of objecting to the Settlement must file an entry of appearance with the Clerk of Court no later than [OBJECTION DEADLINE].

Your objection must be submitted to both the Clerk of Court and the Settlement Administrator at the following addresses, postmarked (or electronically filed with the Court) no later than [OBJECTION DEADLINE]:

Clerk of Court	Accordia-FAFLIC Life Ins. Agent Settlement Administrator
U.S. District Court	c/o [SETTLEMENT ADMINISTRATOR]
Southern District of Iowa	[STREET ADDRESS]
123 East Walnut St., Suite 300	[CITY, STATE ZIP CODE]
Des Moines, IA 50309	

If you do not timely submit an objection in accordance with the above requirements, you will not be treated as having filed a valid objection to the Settlement.

#### 20. What's the difference between objecting and excluding myself?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court you don't want to be part of the Settlement Class and the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

### **THE COURT'S FINAL APPROVAL HEARING**

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you don't have to.

#### 21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing on [FINAL APPROVAL HEARING DATE], at [\_:\_0 \_M.], at the United States Courthouse in the courtroom of the Honorable John A. Jarvey, 123 East Walnut Street, Des Moines, IA 50309. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Jarvey may listen to people who, prior to the hearing, have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlement. The Court may also decide the amount of fees Class Counsel will be paid. We do not know when these decisions will be made.

#### 22. Do I have to come to the hearing?

No. Class Counsel will answer questions Judge Jarvey may have, but you are welcome to come at your own expense. If you submit a written objection, you don't have to come to Court to talk about it. As long as you submitted your written objection on time, the Court will consider it. You also may pay your own lawyer to attend the hearing if you would like, but that is not necessary.

**QUESTIONS? CALL 1-[CALL CENTER PHONE #] TOLL FREE, OR VISIT [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com).**

**23. May I speak at the hearing?**

You may speak at the Final Approval Hearing if permitted by the Court. To do so, you must object to the Settlement in accordance with the procedures described above in Question 19, particularly indicating your intent to speak at the hearing. If you retained an attorney for the purpose of objecting to the Settlement and your attorney intends to speak at the hearing, he or she must file an entry of appearance with the Clerk of Court no later than [OBJECTION DEADLINE]. You or your attorney cannot speak at the hearing if these procedures are not followed or if you exclude yourself from the Settlement Class.

**IF YOU DO NOTHING**

**24. What happens if I do nothing at all?**

If you do nothing and you are a Settlement Class Member, any Monetary Relief or Injunctive Relief applicable to you will be provided or paid to you automatically if the Court grants final approval of this Settlement.

If you do nothing, you will give up all rights ever to bring a lawsuit or action, to continue with a pending lawsuit or action, or to be part of any other lawsuit or action against the Defendants or other persons included as “Released Parties” under the Stipulation of Settlement about the claims and legal issues covered and resolved by the Settlement.

**GETTING MORE INFORMATION**

**25. Are more details available about the Settlement?**

This Notice summarizes the Settlement. More details are in an agreement called the Stipulation of Settlement. You can get a copy of the Stipulation of Settlement by visiting the Settlement Website that has been set up for this Settlement at [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com), writing to the Settlement Administrator, or by calling the Settlement Call Center’s toll-free number. The address and toll-free number for requesting the Stipulation of Settlement are given below under Question 26.

**26. How do I get more information?**

To get more information about the Settlement, you can visit the Settlement Website at [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com), where you will find copies of the Stipulation of Settlement and other information concerning the Settlement. You can also call the Settlement Call Center, toll-free, at [CALL CENTER PHONE #] ([CALL CENTER TTY #] for the hearing-impaired), or write to the Settlement Administrator at Accordia-FAFLIC Life Ins. Agent Settlement Administrator, c/o [SETTLEMENT ADMINISTRATOR, STREET ADDRESS, CITY, STATE ZIP CODE].

DATE: [MONTH AND DAY], 2020

**QUESTIONS? CALL 1-[CALL CENTER PHONE #] TOLL FREE, OR VISIT [www.AccordiaFAFLICClassAction.com](http://www.AccordiaFAFLICClassAction.com).**

# **Exhibit B**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA**

---

DAVID COHEN, CLU, on behalf of himself	)	
and all others similarly situated,	)	
	)	
Plaintiff,	)	Case No: 4:18-cv-00458-JAJ-SBJ
	)	
v.	)	
	)	
ACCORDIA LIFE AND ANNUITY	)	
COMPANY and ALLIANCE-ONE	)	
SERVICES, INC.,	)	
	)	
Defendants.	)	
	)	

---

**[PROPOSED] ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS ACTION SETTLEMENT**

WHEREAS, Plaintiff in the above-captioned action (the “Action”) and Defendants Accordia Life and Annuity Company (“Accordia”) and Alliance-One Services, Inc. (“Alliance-One”) have entered into a Stipulation of Settlement (“Agreement”);

WHEREAS, the Court has received and considered the Agreement and accompanying exhibits, the related briefing, and the record in this Action;

WHEREAS, Plaintiff has made an unopposed application, pursuant to Fed. R. Civ. P. 23(e), for an order preliminarily approving the settlement of this Action; and

WHEREAS, the Court has found good cause for same.

NOW, THEREFORE, IT IS HEREBY ORDERED:

**The Settlement Class is Preliminarily Certified**

1. If not otherwise defined herein, all capitalized terms in this Order have the same

meanings as set forth in the Agreement.

2. Pursuant to Fed. R. Civ. P. 23(e), the Court certifies a Settlement Class defined as follows: “All persons and/or entities who, at any time during the Settlement Class Period, were designated as a Writing Agent, Writing Agent Upline, Servicing Agent, or Assignee for a Covered Policy or, if applicable, any executors or representatives of a deceased Settlement Class Member’s estate.” Excluded from the Settlement Class are: (i) individuals who are or were during the Settlement Class Period officers, directors or employees (and their immediate families) of Defendants or any of their respective affiliates; (ii) any justice, judge, or magistrate judge presiding over the Action and the staff and immediate family of any such justice, judge or magistrate judge; (iii) the Settlement Administrator and members of any of its personnel’s immediate families; and (iv) all individuals who submit a timely and proper request to be excluded from (opt-out of) the Settlement Class or have otherwise released any and all claims that have or could have been asserted in the Action via a separate settlement agreement.

3. Certification of the Settlement Class is made for the sole purpose of consummating the settlement of the Action in accordance with the Agreement. If the Court’s grant of final approval of the settlement does not become final for any reason, or if it is modified in any material respect, this class certification shall be deemed void *ab initio*, shall be of no force or effect, and shall not be referred to or used for any purpose, including in any later attempt by or on behalf of Plaintiff or anyone else to seek class certification in this or any other matter.

4. For purposes of preliminary settlement approval under Fed. R. Civ. P. 23(e)(1)(B), the Parties have made a sufficient showing that they will “likely be able to” meet all requirements of final approval under Fed. R. Civ. P. 23(e)(2) and certification of the Settlement Class under Fed. R. Civ. P. 23(a)-(b)(3) including: (a) numerosity; (b) commonality; (c)

typicality; (d) adequacy of the class representatives and Class Counsel; (e) predominance of common questions of fact or law; and (f) superiority over other available methods of adjudicating the controversy.

5. Plaintiff is found to be an adequate representative of the Class pursuant to Fed. R. Civ. P. 23(a)(4). Class Counsel is found to be adequate counsel for the Settlement Class pursuant to Fed. R. Civ. P. 23(g).

**The Agreement is Preliminarily Approved and  
the Final Approval Schedule Is Set**

6. The Court preliminarily approves the Agreement and the terms and conditions of settlement set forth therein, subject to further consideration at the Final Approval Hearing.

7. The Court has conducted a preliminary assessment of the fairness, reasonableness, and adequacy of the Settlement pursuant to Fed. R. Civ. P. 23(e)(2), and had considered the extent to which:

- a. Plaintiff and Class Counsel have adequately represented the Class;
- b. the proposal was negotiated at arm's length;
- c. the relief provided for the Settlement Class appears to be adequate; and
- d. the proposal treats Settlement Class Members equitably relative to each other.

8. The Court hereby finds that the Settlement falls within the range of reasonableness meriting possible final approval, and that the Parties have shown that the Court will likely be able to grant final approval under Fed. R. Civ. P. 23(e)(2) and certify the Settlement Class for purposes of a final judgment. The Court therefore preliminarily approves the proposed Settlement.

9. Pursuant to Fed. R. Civ. P. 23(e)(2), the Court will hold a Final Approval Hearing on \_\_\_\_\_, 2020, at \_\_\_\_ a.m./p.m., in the Courtroom of Chief District

Judge John A. Jarvey, U.S. District Courthouse, 123 East Walnut Street, Des Moines, IA 50309  
for the following purposes:

- a. determining whether the proposed Settlement of the Action on the terms and conditions provided for in the Agreement is fair, reasonable, and adequate and should be approved by the Court;
  - b. considering whether the Court should enter the proposed Final Order and Judgment;
  - c. considering whether the release by Settlement Class Members of the Released Claims as set forth in the Agreement and Final Order and Judgment should be provided;
  - d. considering the application of Class Counsel for an award of attorneys' fees and expenses as provided for in the Agreement; and
  - e. ruling upon such other matters as the Court may deem just and appropriate.
10. The Court may adjourn the Final Approval Hearing and later reconvene such hearing on a date suitable to the Court, without providing direct notice to each Settlement Class Member.
11. Any Settlement Class Member may enter an appearance in the Action, at his or her own expense, individually or through counsel, for purposes of objecting to the Settlement. Settlement Class Members who do not object or enter an appearance will be represented by Class Counsel.
12. The Parties may further modify the Agreement prior to the Final Approval Hearing so long as such modifications do not materially change the terms of the Settlement provided therein.

13. The Court retains jurisdiction to consider all matters arising out of or concerning the proposed Settlement. The Court may approve the Agreement with such reasonable modifications as may be agreed to by the Parties, if appropriate, without further notice to Settlement Class Members.

14. Motion papers in support of final approval of the Settlement and application for attorneys' fees and expenses must be filed with the Court in accordance with the schedule set forth below.

**The Court Approves the Form and Method of Class Notice**

15. The Court approves, as to form and content, the Class Notice, which is Exhibit A to the Agreement on file with this Court.

16. In accordance with the Agreement, the Parties shall cause the Class Notice to be mailed to the last known address of each reasonably identifiable Settlement Class Member by first-class mail, beginning on or before the Class Notice Mailing Date. The Class Notice will also be disseminated by email to all Settlement Class Members for whom Defendants have a valid email address, as set forth in the Agreement.

17. The Court finds that distribution of the Class Notice substantially in the form and manner set forth in this Order and the Agreement meets the requirements of Fed. R. Civ. P. 23(c)(2) and (e)(1) and due process. It is the best notice practicable, is reasonably calculated to apprise Settlement Class Members of the pendency of the Action and their right to object to or exclude themselves from the proposed Settlement, is reasonable in form and content, and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice of the proposed Settlement.

18. The Court approves the designation of Rust Consulting to serve as the Settlement Administrator. The Settlement Administrator shall disseminate the Class Notice as set forth in the Agreement, commencing no later than forty-five (45) days after the Court enters this Preliminary Approval Order.

19. The Settlement Administrator shall research and re-mail any Class Notices returned by the U.S. Postal Service, as set forth in the Agreement.

20. The Settlement Administrator shall establish a Settlement Website, making available thereon copies of this Order, the Class Notice, the Agreement and all exhibits thereto, and such other information as may be of assistance to Settlement Class Members or as required under the Agreement.

21. The Settlement Administrator's fees and costs, and all related costs of providing notice to Settlement Class Members, shall be paid by Defendants as set forth in the Agreement.

22. Defendants have notified the appropriate federal and state officials of this proposed Settlement as required by the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715.

**Procedure for Settlement Class Members to Participate in Settlement**

23. Settlement Class Members will not need to submit a claim form to participate in the Settlement. As set forth in the Agreement, monetary settlement distributions will be made automatically by Defendants by check or electronic transfer, subject to the right of each Settlement Class Member to exclude themselves from the Settlement Class prior to receipt of the settlement distribution.

**Procedure for Requesting Exclusion from the Settlement Class**

24. Any Settlement Class Member may, upon their request, be excluded from (opt out of) the Settlement Class. Any such person must submit a request for exclusion to the Settlement

Administrator postmarked no later than forty-five (45) days after the Class Notice Mailing Date, as set forth in the Class Notice and Agreement.

25. Exclusion requests must clearly state that the applicable person desires to be excluded from the Settlement Class. It must be signed by the Settlement Class Member, and include his or her full name, email address, mailing address, and Settlement ID number provided on the Class Notice.

26. Any Settlement Class Member who does not submit a timely, written request for exclusion from the Settlement Class: (a) shall be bound by all proceedings, orders, Releases and judgments in this Action, even if such person or entity has previously initiated or subsequently initiates individual litigation or other proceedings against any Defendant or Released Party relating to the Released Claims during or after the Settlement Class Period; and (b) shall forever be barred and enjoined from directly or indirectly filing, commencing, instituting, prosecuting, maintaining, or intervening in any action, suit, cause of action, arbitration, claim, demand, or other proceeding in any jurisdiction, whether in the United States or elsewhere, on their own behalf or in a representative capacity, that is based upon or arises out of any or all of the Released Claims against any of the Defendants and the other Released Parties, as more fully described in the Agreement.

27. All Settlement Class Members who submit valid and timely requests for exclusion in the manner set forth in the Agreement shall have no rights under the Agreement and shall not be bound by the Agreement or the Final Order and Judgment.

28. Class Counsel shall file a list reflecting all requests for exclusion received from Settlement Class Members, to be filed with the Court on or before the date of the Final Approval Hearing.

**Procedure for Objecting to the Settlement**

29. Any Settlement Class Member who wishes to object to the fairness, reasonableness, or adequacy of the Settlement or any aspect thereof, including Class Counsel's request for attorneys' fees and costs, must submit a written objection to both the Clerk of Court and Settlement Administrator.

30. The objection must be postmarked (or electronically filed with the Court) no later than forty-five (45) days after the Class Notice Mailing Date.

31. The form of the objection must meet the following requirements:

- a. it must be signed by the Settlement Class Member and include his or her name, mailing address, email address, and Settlement ID number provided on the Class Notice;
- b. it must indicate the case name and number of this Action, *Cohen v. Accordia Life & Annuity Co. and Alliance-One, Inc.*, Case No: 4:18-cv-00458-JAJ-SBJ (S.D. Iowa);
- c. in accordance with Fed. R. Civ. P. 23(e)(5)(A), the objection must "state with specificity the grounds for the objection";
- d. in accordance with Fed. R. Civ. P. 23(e)(5)(A), the objection "must state whether it applies only to the objector, to a specific subset of the class, or to the entire class";
- e. it must include the case name and number for all objections to class action settlements made by the objector or his or her attorney in the past five (5) years; and
- f. it must state whether the objector or his or her attorney intend to speak at the Final

Approval Hearing.

32. Any attorney retained by a Settlement Class Member for the purpose of objecting to the Settlement must file an entry of appearance with the Clerk of Court no later than the Objection Deadline.

33. These objection requirements are set forth in the Class Notice.

34. Upon receipt of any objection, the Clerk shall docket the objection electronically, which will provide notice to all counsel of record.

35. Class Counsel and Defendants' Counsel shall promptly furnish each other with copies of any and all objections or written requests for exclusion that might come into their possession.

**Stay and Authorization**

36. All proceedings in this Action with respect to Plaintiff and Defendants are hereby stayed and suspended, pending issuance of the Final Order and Judgment, except such proceedings as are provided for in the Agreement or which may be necessary to implement the terms of the Agreement, the Class Notice, or this Order.

37. Defendants are hereby authorized to establish the means necessary to distribute settlement proceeds to Settlement Class Members and administer the proposed Injunctive Relief in accordance with the terms of the Agreement.

**Summary of Deadlines**

38. The following deadlines shall apply in this matter:

<b>Event</b>	<b>Timing</b>	<b>Date</b>
Class Notice Mailing Date	45 days after the Preliminary Approval Order is granted	_____, 2020
Class Counsel to file Motion for Attorneys' Fees, Costs, and Plaintiff's Service Award	15 days prior to the Objection Deadline	_____, 2020

Objection and Opt-Out Deadline	45 days after the Class Notice Mailing Date	_____, 2020
Class Counsel to file Motion for Final Approval of Settlement	15 days after the Objection and Opt-Out Deadline	_____, 2020
Final Approval Hearing	At the Court's earliest convenience after Class Counsel file the Motion for Final Approval of Settlement	_____, 2020

39. Plaintiff's Unopposed Motion for Preliminary Approval of Class Action

Settlement is hereby GRANTED.

IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2020

\_\_\_\_\_  
 THE HONORABLE JOHN A. JARVEY  
 U.S. DISTRICT COURT CHIEF JUDGE

# Exhibit C



or employees (and their immediate families) of Defendants or any of their respective affiliates; (ii) any justice, judge, or magistrate judge presiding over the Action and the staff and immediate family of any such justice, judge or magistrate judge; (iii) the Settlement Administrator and members of any of its personnel's immediate families; and (iv) all individuals who submit a timely and proper request to be excluded from (opt-out of) the Settlement Class or have otherwise released any and all claims that have or could have been asserted in the Action via a separate settlement agreement.

4. Pursuant to Fed. R. Civ. P. 23(c)(3), all such persons or entities who meet the definition of Settlement Class Members above are bound by this Judgment.

5. All persons or entities who timely filed requests to be excluded from (opt out of) the Settlement Class are not bound by this Judgment or the terms of the Agreement, and may pursue their own individual remedies against Defendants. However, such persons or entities are not entitled to any rights or benefits provided to Settlement Class Members under the terms of the Agreement. A list of persons or entities who submitted timely and valid requests to be excluded from the Settlement Class is attached hereto as Exhibit A.

**The Class Notice Procedures Were Adequate**

6. The Court directed that notice of the Settlement be provided to Settlement Class Members pursuant to the notice program proposed by the Parties in the Agreement and approved by the Court in the Order Granting Preliminary Approval of Class Action Settlement. Notice has been provided by the following methods:

a. By sending a Class Notice by first-class mail to the last known address of each reasonably identifiable Settlement Class Member; and

b. By sending a Class Notice by email to all Settlement Class Members for whom Defendants have a valid email address.

7. The Declaration of Kimberly Schmidt, Senior Vice President of Rust Consulting dated \_\_\_\_\_, 2020, attesting to the dissemination of the Class Notice to Settlement Class Members, demonstrates compliance with this Court's Order Granting Preliminary Approval. In compliance with Fed. R. Civ. P. 23(c)(2)(B), the Class Notice advised Settlement Class Members of: (i) the nature of the action; (ii) the definition of the Settlement Class; (iii) the class claims, issues, or defenses; (iv) that a Settlement Class Member may enter an appearance through an attorney if the class member so desires; (v) that the Court will exclude from the Settlement Class any class member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class-wide Judgment on Settlement Class Members. In addition to the disclosures required by Rule 23(c)(2)(B), the Class Notice further advised Settlement Class Members of the date of the Final Approval Hearing, the right to appear at such hearing, the right to object to the Settlement, and other matters.

8. Dissemination of the Class Notice pursuant to the Agreement: (i) constituted the best practicable notice; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and their right to object to or exclude themselves from the Settlement; (iii) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) met all requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process.

**Certification of the Settlement Class**

9. For settlement purposes only, the Court finds that the Settlement Class meets all requirements of Fed. R. Civ. P. 23(a) and (b)(3) for class certification, including: (a) numerosity;

(b) commonality; (c) typicality; (d) adequacy of representation by Plaintiff and Class Counsel; (e) predominance of common questions of fact or law; and (f) superiority over other available methods of adjudicating the controversy. Each requirement has been met for the reasons set forth in Plaintiff's motion papers seeking final approval of the Settlement and as summarized below.

10. Pursuant to Fed. R. Civ. P. 23(a)(1), numerosity is met because there are tens of thousands of Settlement Class Members.

11. Pursuant to Fed. R. Civ. P. 23(a)(2), commonality is met because there are numerous significant questions of "law or fact" common to the Settlement Class.

12. Pursuant to Fed. R. Civ. P. 23(a)(3), typicality is met because Plaintiff's claims are typical of the claims of the Settlement Class, and the claims of Plaintiff and all Settlement Class Members derive from the same operative facts.

13. Pursuant to Fed. R. Civ. P. 23(a)(4), adequacy of representation is met because Plaintiff's interests are consistent with those held by the Settlement Class, Plaintiff has no conflicts with the Settlement Class, Plaintiff has vigorously advocated for the Settlement Class throughout the litigation, and Plaintiff has retained experienced and competent class action counsel.

14. Pursuant to Fed. R. Civ. P. 23(b)(3), predominance is met because questions of law or fact common to Settlement Class Members predominate over any questions affecting only individual class members. The key common issues are more prevalent than any non-common issues, and they would drive the resolution of the litigation.

15. Pursuant to Fed. R. Civ. P. 23(b)(3), superiority is met because a class action is superior to other available methods, such as individual lawsuits or arbitrations, for fairly and efficiently adjudicating the controversy.

16. Having considered the factors set forth in Fed. R. Civ. P. 23(g)(1), Class Counsel have fairly and adequately represented the Settlement Class in litigating the Action and negotiating the Settlement. Accordingly, the Court appoints Class Counsel as counsel to represent the Settlement Class.

17. The Parties and their counsel shall consummate the Settlement provisions, including distribution of the Monetary Relief and implementation of the Injunctive Relief, according to the terms and provisions of the Agreement.

18. The Agreement is binding on, and has preclusive effect in, any pending and future lawsuits, arbitrations, or other proceedings maintained by or on behalf of Settlement Class Members who have not excluded themselves from the Settlement Class.

**The Settlement is Fair, Reasonable, and Adequate**

19. The Court finds, after a hearing and based upon all submissions of the Parties, that the proposed settlement and its underlying terms set forth in the Agreement are “fair, reasonable, and adequate” for purposes of Fed. R. Civ. P. 23(e)(2).

20. The Court has considered the following requirements of Fed. R. Civ. P. 23(e)(2) and finds that they have been met for the reasons set forth in Plaintiff’s motion papers seeking final approval of the Settlement:

[T]he court may approve [the settlement] only . . . on finding that it is fair, reasonable, and adequate after considering whether: (A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm’s length; (C) the relief provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney’s fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each other.

21. Plaintiff and Class Counsel have adequately represented the Settlement Class in litigating the Action and achieving the Settlement.

22. The terms and provisions of the Agreement were the product of arm's length negotiations conducted in good faith and with the assistance of an experienced mediator, Magistrate Judge Diane Welsh (Ret.) of JAMS.

23. The relief provided in the Agreement is adequate given the: (i) costs, risks, and delay of further litigation in light of the defenses raised by Defendants, including the prospect of mandatory non-class arbitration; (ii) effectiveness of the method of distributing relief to the class, which involves automatic cash payments without the need for Settlement Class Members to submit a claim form, as well as the implementation of substantial Injunctive Relief; (iii) amount of the requested award of attorney's fees, which is deemed reasonable; and (iv) consideration of the confidential side agreement identified by the Parties pursuant to Rule 23(e)(3).

24. The Agreement treats Settlement Class Members equitably relative to each other, given the reasonable plan for allocating settlement proceeds under the Delay Damages and Other Damages models and the existence of class-wide Injunctive Relief.

25. The Court has considered all objections submitted by Settlement Class Members, as well as the responses thereto set forth in Plaintiff's briefing in support of final settlement approval. The Court finds the objections to be without merit. All objections are hereby overruled.

26. The Settlement Administrator shall proceed to distribute the Monetary Relief in accordance with the time frames and procedures set forth in the Agreement.

27. Defendants shall proceed to implement the Injunctive Relief in accordance with the time frames and procedures set forth in the Agreement.

**Releases**

28. Upon the Effective Date of the Settlement, Plaintiff and each Settlement Class Member (other than those listed on Exhibit A who validly requested exclusion from the Settlement Class) shall be deemed to have, and by operation of this Final Order and Judgment shall have, released all Released Claims against all Release Parties as defined and set forth in the Agreement.

29. All Settlement Class Members who have not timely and validly submitted requests for exclusion are forever barred from bringing any and all Released Claims against the Released Parties.

30. The Court enjoins all Settlement Class Members from directly or indirectly filing, commencing, instituting, prosecuting, maintaining, or intervening in any action, suit, cause of action, arbitration, claim, demand, or other proceeding in any jurisdiction, whether in the United States or elsewhere, on their own behalf or in a representative capacity, that is based upon or arises out of any or all of the Released Claims against any of the Defendants and the other Released Parties, as more fully described in the Agreement.

**Plaintiff's Service Award**

31. Plaintiff David Cohen, CLU initiated this lawsuit, acted to protect the interests of the Settlement Class, produced voluminous documents and other information in discovery, and assisted Plaintiff's Counsel throughout the litigation.

32. Plaintiff's efforts have led to a settlement that provides valuable relief to the Settlement Class.

33. The Court approves the request for a \$20,000 service award payable to Plaintiff Cohen, to be paid directly by Defendants and not from the Common Fund as set forth in the Agreement.

**Attorneys' Fees and Costs**

34. The Court has reviewed Plaintiff's motion papers seeking an award of attorneys' fees and reimbursement of litigation expenses. The Court finds that Plaintiff's requested fee and expense award is reasonable.

35. Class Counsel are awarded \$1,938,860 for attorneys' fees, and \$41,140 for litigation expenses, to be paid directly by Defendants and not from the Common Fund as set forth in the Agreement.

**Miscellaneous**

36. The Court hereby dismisses with prejudice all claims in this Action, without fees or costs to any party except as provided in the Agreement, and enters final judgment as set forth herein.

37. Without affecting the finality of this judgment, the Court shall retain jurisdiction as to all matters relating to administration, enforcement, and interpretation of the Agreement and the Final Order and Judgment, including resolution of any issues concerning the ongoing Injunctive Relief, and for any other necessary purpose.

38. The Parties are hereby authorized, without needing further approval from the Court, to agree to and adopt such modifications of the Agreement that are consistent with this Judgment and do not limit the rights of Settlement Class Members under the Agreement.

IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2020

\_\_\_\_\_  
THE HONORABLE JOHN A. JARVEY  
U.S. DISTRICT COURT CHIEF JUDGE