

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

MARCUS CREIGHTON, CONSTANCE GREEN,  
DON ROMAN, DANIELLE SYDNOR, DARRYL  
FYALL, CHARLES SWINDELL, and VERNON  
HOBBS, individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

METROPOLITAN LIFE INSURANCE  
COMPANY,

Defendant.

1:15-cv-08321-WHP

Judge William H. Pauley III

Magistrate Judge Henry Pitman

**SETTLEMENT AGREEMENT**

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**I. INTRODUCTION**

Subject to approval by the United States District Court for the Southern District of New York, this Settlement Agreement sets forth the full and final terms by which Marcus Creighton, Constance Green, Don Roman, Danielle Sydnor, Darryl Fyall, Charles Swindell and Vernon Hobbs (the “Named Plaintiffs” or “Plaintiffs”), on behalf of themselves and members of the Settlement Class defined herein, and Defendant Metropolitan Life Insurance Company (“MetLife” or “Defendant”), have settled and resolved all race discrimination, harassment and retaliation claims that have been raised or could have been raised based on the facts alleged in this Action in the Amended Complaint (“Complaint”) filed by the Named Plaintiffs on April 29, 2016. This Action and Settlement Agreement applies to African-American and/or Black Financial Services Representatives (“FSRs”) who were employed by or affiliated with MetLife or New England Life Insurance Company (“NELICO”) at any time from May 15, 2011 through July 1, 2016.

**II. NATURE AND RESOLUTION OF THE CASE**

**A. Plaintiffs’ Class Claims.**

Plaintiff Marcus Creighton filed a representative charge of racial discrimination, harassment, and retaliation with the Equal Employment Opportunity Commission (“EEOC”) on February 11, 2015. Plaintiff filed the original Class Action Complaint in this matter in the U.S. District Court for the Northern District of Illinois on May 15, 2015. The Action was subsequently transferred to the U.S. District Court for the Southern District of Illinois and then to the Southern District of New York, where the operative Complaint (*i.e.*, the Amended Complaint) was filed on April 29, 2016. Meanwhile, the EEOC issued a Notice of Right to Sue to Marcus Creighton on January 29, 2016.

The Complaint, filed by the seven Named Plaintiffs, asserts class action claims for race discrimination with respect to compensation and various other practices, including account distributions and teaming, under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-1, *et seq.* (“Title VII”) and 42 U.S.C. § 1981. These claims covered the Settlement Class Period beginning on May 15, 2011 through July 1, 2016.

MetLife denied and continues to deny all of the allegations and claims asserted in this Action, including alleged liability under federal, state and/or local anti-discrimination laws, and denies that the Named Plaintiffs or Settlement Class Members are entitled to any relief. MetLife submits that it acted appropriately and lawfully at all relevant times and that each and every one of Plaintiffs’ claims is without merit.

**B. The Parties Engaged in Substantial Discovery.**

The parties engaged in substantial discovery relevant to the class claims in this Action and to resolving the case. The parties conducted discovery related to the merits, damages and class action certification. The parties exchanged discovery regarding key policies and practices including, without limitation, compensation, account transfers, teaming, and leads distribution.

The written discovery conducted in this case included formal sets of document requests and interrogatories. The production (including ESI) included 5 years of information related to the policies and practices challenged in this Action. Among other things, MetLife produced workforce and compensation data, including substantial data regarding employment and job history (title and office), earnings, team participation, industry registration, and relevant compensation plans. The parties retained consultants to conduct statistical analyses of MetLife’s workforce data.

**C. The Parties Reached a Settlement After Extensive Negotiations.**

The parties recognize the costs and risks of prosecuting this litigation through class certification, summary judgment, trial, and appeal. Plaintiffs believe that it is in the interest of all members of the Settlement Class to resolve finally and completely the potential claims of the Settlement Class Members against MetLife. Plaintiffs believe that the terms of the Settlement Agreement are in the best interests of the Settlement Class and are fair, reasonable, and adequate. MetLife has agreed to settle this Action solely in order to avoid the expense, burdens and distractions that would be involved in continued litigation and to put to rest all further controversy with respect to the charges, claims and issues raised in this Action pursuant to the terms set forth in this Settlement Agreement.

This Settlement Agreement was reached after extensive, continuous settlement discussions between the parties and with the assistance of an experienced mediator, Michael E. Dickstein. Plaintiffs and a number of MetLife's representatives attended both formal mediation sessions; five Named Plaintiffs attended the first session, six Named Plaintiffs attended the second session, and all of the Named Plaintiffs were actively involved in negotiating the monetary relief set forth in the Settlement Agreement. In addition, the parties met for an all-day, counsel-only session and several telephone conferences to negotiate legal and technical aspects of the settlement, discuss the workforce data produced by MetLife, and exchange information, analyses, and settlement proposals. At all times during this process, the parties' counsel bargained vigorously and at arm's-length on behalf of their respective clients.

Without any admission or concession by MetLife of any liability or wrongdoing with respect to the allegations and claims made or that could have been made based on the facts alleged in this Action as set forth in the Complaint and all prior versions of the Complaint, all Released Claims (as defined below) shall be finally and fully compromised, settled, and released

subject to the terms and conditions of this Settlement Agreement, which were the subject of extensive negotiation and ultimate agreement by the parties.

### **III. GENERAL TERMS OF THE SETTLEMENT AGREEMENT**

#### **A. Definitions.**

In addition to terms identified and defined elsewhere in this Settlement Agreement, and as used in this Settlement Agreement, the terms below shall have the following meanings:

1. “Action” means the litigation captioned *Creighton, et al. v. Metropolitan Life Insurance Company*, Case No. 15-cv-08321(WHP), pending before Judge William H. Pauley III in the United States District Court for the Southern District of New York.
2. “Attorneys’ Fees and Expenses” means the amounts approved by the Court for payment to Plaintiffs’ Counsel, including attorneys’ fees, costs and litigation expenses.
3. “CAFA Notice” means the notice required by 28 U.S.C. § 1715(b).
4. “Claimant” means a Settlement Class Member who has submitted a timely Claim Form to the Claims Administrator.
5. “Claims Administrator” means Kurtzman Carson Consultants (“KCC”), which has been jointly designated by counsel for the parties to administer the Settlement Fund pursuant to Section VII below and order of the Court.
6. “Claim Form” means the Detailed Claim Form or Expedited Claim Form that Class Counsel will provide to MetLife to review no later than 30 days after Preliminary Approval. The parties agree that with respect to both the Detailed Claim Form and the Expedited Claim form, the substance of the form must be mutually agreed upon and approved by both parties prior to submitting either form to the Court for Final Approval. The Claim Form must be submitted to the Claims Administrator in order to receive a monetary award in the claims process described in Section VII.C below.

7. “Class Counsel” or “Plaintiffs’ Counsel” means the law firm of Stowell & Friedman, Ltd., and Linda D. Friedman, Suzanne E. Bish and George S. Robot.

8. “Complaint” means the Amended Complaint filed in this Action on April 29, 2016.

9. “Court” means the United States District Court for the Southern District of New York.

10. “Defendant” or “MetLife” means Metropolitan Life Insurance Company.

11. “Defense Counsel” means the law firm of Proskauer Rose LLP.

12. “Effective Date” means the date on which all of the following have occurred: (1) the Court has finally approved this Settlement Agreement and has signed and entered an order so indicating; (2) the Court has entered an Order and Judgment dismissing the Action with prejudice, with continuing jurisdiction limited to enforcing this Settlement Agreement; and (3) the time for appeal of the order finally approving this settlement has either run without an appeal being filed or any appeal (including any requests for rehearing *en banc*, petitions for *certiorari* or appellate review) has been finally resolved.

13. “Final Approval Order” refers to the order of the Court granting final approval of the Settlement Agreement on the terms provided herein or as the same may be modified by subsequent mutual agreement of the parties in writing, signed, and approved by the Court.

14. “Fairness Hearing” means the hearing contemplated by the parties, at which the Court will decide whether to give final approval to the Settlement and make such other final rulings as are contemplated by this Settlement Agreement or as the same may be modified by subsequent mutual agreement of the parties in writing and approved by the Court.

15. “Notice” means the Notice of Class Action, Proposed Settlement Agreement, and Fairness Hearing, which is to be mailed directly to Settlement Class Members and potential Settlement Class Members, as approved by the Court, substantially in the forms attached hereto as Exhibits A and B.

16. “Plaintiffs” or “Named Plaintiffs” means Marcus Creighton, Constance Green, Don Roman, Danielle Sydnor, Darryl Fyall, Charles Swindell and Vernon Hobbs.

17. “Preliminary Approval Order” means the Order of the Court preliminarily certifying the Settlement Class, preliminarily approving this Settlement Agreement, and approving the form of Notice to be sent to Settlement Class Members and potential Settlement Class Members.

18. “Service Award” refers to the additional amounts paid to the Named Plaintiffs for their services as class representatives, subject to Court approval.

19. “Settlement,” “Agreement,” and “Settlement Agreement” each mean the settlement agreed to by the parties as reflected in this Settlement Agreement.

20. “Settlement Class Member” means any person who meets the criteria set forth in the definition of the “Settlement Class” below.

21. “Settlement Class” or “Class” means the class certified by the Court solely for the purpose of settlement. The Settlement Class is comprised of all African-American and/or Black FSRs who were employed by and/or affiliated with MetLife, or affiliated with NELICO, in the United States at any time from May 15, 2011 through July 1, 2016.

22. “Settlement Fund” means \$32,500,000.00, which MetLife will transfer to the Claims Administrator, pursuant to Section VII.A of this Settlement Agreement, including all

interest earned thereon, to be held, invested, administered, and disbursed pursuant to this Settlement Agreement.

**B. Cooperation.**

The parties agree that they will cooperate to effectuate and implement all terms and conditions of this Settlement Agreement and exercise good-faith efforts to accomplish the terms and conditions of this Settlement Agreement. The parties agree to accept non-material and procedural changes to this Settlement Agreement if so required by the Court in connection with Final Approval of the Settlement, but under no circumstances is Defendant obligated to accept any changes to the amount of the Settlement Fund, the scope of the releases, or any other substantive change to the Settlement Agreement, as provided in Section IX below.

**C. Persons Covered by this Settlement Agreement.**

**1. Definition of “Settlement Class,” “Class” or “Class Members.”**

Solely for purposes of settlement and judicial approval of this Settlement Agreement, pursuant to Federal Rule of Civil Procedure 23(e), the parties stipulate to the certification of the Settlement Class defined above.

**2. Certification.**

Plaintiffs will propose to the Court that the Settlement Class will be certified pursuant to Fed. R. Civ. P. 23(b)(3) for settlement purposes only. Defendant does not waive, and instead expressly reserves, its right to challenge the propriety of class certification for any purpose as if this Settlement Agreement had not been entered into by the parties should the Court not approve the Settlement Agreement, should the Settlement Agreement not become effective, or should Defendant exercise its right to terminate the Settlement Agreement as described in Section IX below.

**IV. COURT APPROVAL/NOTICE AND FAIRNESS HEARING**

**A. Jurisdiction and Venue.**

The parties agree that the Court has jurisdiction over the parties and the subject matter of this Action and that venue is proper. The Court shall retain jurisdiction of this Action solely for the purpose of entering all orders and judgments authorized hereunder that may be necessary to implement and enforce the relief provided herein.

**B. Preliminary Approval.**

1. Prior to execution of this Settlement Agreement, the parties agreed upon a form for written Notices of this Settlement Agreement to Settlement Class Members and to potential Settlement Class Members, subject to Court approval, which are attached as Exhibits A and B.

2. By March 1, 2017, the parties shall petition the Court for the following orders:

a. provisionally certifying the Settlement Class; preliminarily approving this Settlement Agreement; and approving the Notices to be sent to Settlement Class Members and to potential Settlement Class Members describing the terms of the Settlement and informing them of their rights to submit objections and to opt out; and

b. pending Final Approval, preliminarily enjoining each member of the Settlement Class, including the Named Plaintiffs, from commencing, prosecuting or maintaining in any court or forum other than this Court any claim, action or other proceeding that challenges or seeks review of or relief from any order, judgment, act, decision or ruling of the Court in connection with this Settlement Agreement or otherwise in connection with this Action; and effective as of the date specified for Settlement Class Members to opt out of the Settlement, further enjoining any member of the Settlement Class who has not made an

irrevocable election to exclude himself or herself from the Settlement from commencing, prosecuting or maintaining either directly, representatively or in any other capacity any claim that is subsumed within and released and barred by virtue of the Settlement Agreement.

**C. Notice and Settlement Hearing.**

1. Defendant shall identify all Settlement Class Members who self-identified as African-American and/or Black. Defendant shall also identify additional potential Settlement Class Members who self-identified as “Two or More Races (Not Hispanic or Latino),” and will provide to the Claims Administrator, within five (5) business days after Preliminary Approval of this Settlement Agreement, the name and last known address, of each Settlement Class Member and potential Settlement Class Member identified. This information will be provided in a computer readable format acceptable to the Claims Administrator. The information provided to the Claims Administrator shall be confidential and only the names of the identified Settlement Class Members and potential Settlement Class members will be shared only with Class Counsel.

2. Within fifteen (15) business days after Preliminary Approval of the Settlement Agreement, the Claims Administrator will mail Notice to each Settlement Class Member and each potential Settlement Class Member in the forms agreed upon by the parties or such other forms as approved by the Court. Such Notice shall be made by first class U.S. mail to each Settlement Class Member’s or potential Settlement Class Member’s last known address. Prior to mailing the Notices, the Claims Administrator shall update the class list to reflect “change of address” information submitted to the United States Post Office.

The Claims Administrator will maintain a website on which the Notices, Settlement Agreement, and other relevant documents are available to Settlement Class Members, and through which, following Final Approval, Settlement Class Members can electronically submit claim forms and other documents.

3. The Claims Administrator will maintain a log of its activities, including the dates of mailing of the Notices and mailing and receipt of Claim Forms, returned mail and other communications and attempted communications with potential members of the Settlement Class; confirm in writing the substance of its activities and completion of the administration of the settlement; timely respond to communications from the parties or their respective counsel; and perform such other tasks as the parties mutually agree. Defendant will provide social security numbers for Settlement Class Members and potential Settlement Class Members whose Notice was returned so that the Claims Administrator can perform additional searches with qualified search firms to attempt to locate and serve Notice to all Settlement Class Members and potential Settlement Class Members. Social Security numbers will be confidential and will not be shared with Class Counsel.

4. Class Counsel shall provide the Court, at least fourteen (14) calendar days before the Fairness Hearing, with a declaration by the Claims Administrator of due diligence and proof of mailing with regard to the mailing of the Notice. The expenses of the Claims Administrator shall be taken from and paid by the Settlement Fund as described at Section VIII.C below.

**D. Objections and Opt Outs.**

1. Settlement Class Member objections to this Settlement Agreement, if any, must be submitted in writing and must include a detailed description of the basis of the objection. Objections must be filed with the Court, with copies served on Class Counsel and Defense Counsel, postmarked on or before forty-five (45) days after the Notice is mailed to Settlement Class Members. No one may appear at the Fairness Hearing for the purpose of objecting to the Settlement Agreement without first having filed and served his/her objection(s) in writing postmarked on or before forty-five (45) days after the Notice was mailed to Class Members.

2. Any Settlement Class Member who wishes to opt out of the Settlement Class must mail to the Claims Administrator, at the address listed in the Notice, a written, signed statement that he/she is opting out. To be effective, the opt out statement must be postmarked on or before forty-five (45) days after the date the Notice is mailed to Settlement Class Members and must include the following language:

I hereby opt out of the class action settlement in the lawsuit *Creighton v. Metropolitan Life Insurance Co.*, Case No. 1:15-cv-08321-WHP (S.D.N.Y.). I understand that, by requesting to be excluded from the monetary settlement in this case, I will receive no money from the Settlement Fund created under the Settlement Agreement. I understand that I may bring a separate legal action seeking damages, but I might receive nothing or less than what I would have received if I had filed a claim under the class monetary award procedure in this case.

3. The Claims Administrator shall provide to all counsel, and Class Counsel will file with the Court, all opt out statements that are timely received. The Settlement Class will not include those individuals who submit a timely opt out statement, and individuals who opt out are not entitled to any monetary award under this Settlement Agreement. Settlement Class Members who have properly opted out of the class may not participate in the Fairness Hearing.

4. Settlement Class Members who file opt outs may rescind their opt outs. To be effective, such rescissions must be in writing and received by the Claims Administrator at least one day before the Fairness Hearing. Prior to the Fairness Hearing, the Claims Administrator shall provide to all counsel all rescissions.

**E. Notice and Fairness Hearing.**

1. If Preliminary Approval is granted, a briefing schedule and Fairness Hearing date will be set and the parties will propose to hold the Fairness Hearing no later than ninety (90) days after the CAFA Notice is served. The Court will insert the actual dates in the Preliminary Approval Order. Class Counsel shall file with the Court no later than 10 days before

the Fairness Hearing all opt out statements and a declaration by the Claims Administrator of due diligence and proof of mailing with regard to the Notices.

2. Settlement Class Members who have timely and properly requested exclusion from, or opted out of, the Class may not participate in the Fairness Hearing.

3. Settlement Class Members who (i) timely filed and served on Class Counsel and Counsel for MetLife written objections no later than forty-five (45) days after the Preliminary Notice is mailed; and (ii) stated their intent to appear at the Fairness Hearing, may appear at the Fairness Hearing either in person or by counsel. Failure to perform any of these requirements in Sections IV.D and IV.E shall be deemed a waiver of any objections. The parties may, but need not, respond in writing to objections by filing a response with the Court.

4. Following Preliminary Approval by the Court of this Settlement Agreement, the parties will submit a proposed final order and judgment: (a) approving the Settlement Agreement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions; (b) approving the Notice of Final Approval and the manner of notice to Settlement Class Members; (c) certifying the Settlement Class for purposes of settlement hereunder only; (d) dismissing the Action on the merits and with prejudice and permanently barring all members of the Settlement Class who have not timely opted out, including the Named Plaintiffs, from commencing, maintaining, prosecuting, or participating in any action, suit or proceeding (judicial, administrative, arbitral or other) against Defendant for any of the Released Claims; (e) providing that the promises, agreements, obligations, undertakings, representations, certifications, and warranties set out herein shall survive the closing of this Settlement Agreement, the releases and bar order contained herein,

and the judgment of dismissal to be entered in the Action, and that the Court shall have continuing jurisdiction to enforce the Settlement Agreement.

5. If the Court approves the Settlement Agreement at the Fairness Hearing, the Claims Administrator shall mail the Notice of Final Approval of Settlement Agreement within ten (10) business days of the conclusion of the Fairness Hearing to each Settlement Class Member who did not opt out of the class.

6. The parties, through their respective counsel, agree to recommend to the Court on a joint basis that, in their respective professional opinions, the Settlement Agreement is fair, reasonable, and adequate and in the interests of justice, that the parties have bargained at arm's-length for the terms in the Settlement Agreement, and that no section or subsection of this Settlement Agreement should be modified or stricken.

**F. If Settlement Does Not Become Effective.**

1. Other than to effectuate this Settlement Agreement, Defendant does not agree to the certification of the Settlement Class, the provisional designation of the law firm Stowell & Friedman, Ltd. as Class Counsel for the Settlement Class, or provisional designation of the Named Plaintiffs as representatives of the Settlement Class.

2. In the event that this Settlement Agreement does not become final and binding, no party shall be deemed to have waived any claims, objections, rights or defenses, or legal arguments or positions, including, but not limited to, claims or objections to class certification, or claims or defenses on the merits. Neither this Settlement Agreement nor the Court's Preliminary Approval Order or Final Approval Order shall be admissible in any court regarding the propriety of class or collective action certification or regarding any other issue or subject, including issues of liability or damages (except for the purpose of enforcing this

Settlement Agreement). Each party reserves the right to prosecute or defend this Action in the event that the Settlement Agreement does not become final and binding.

3. If Defendant exercises its option to withdraw from the Settlement pursuant to the terms of Administrative Order No. 1 (which will be filed under seal and will be treated as a confidential, attorneys' eyes only document), or if this Settlement Agreement is not approved by the Court or for any other reason is terminated or fails to become effective in accordance with its terms (or if, following approval by this Court, such approval is reversed or substantively modified), the parties shall be restored to their respective positions that existed in this Action prior to entering into this Settlement Agreement; the terms and provisions of this Settlement Agreement shall have no force or effect; neither this Settlement Agreement nor any statements, discussions, or materials prepared, exchanged, issued or used during the negotiation of this Settlement Agreement shall be used in this Action or in any proceeding for any purpose; to the extent paid, the Settlement Fund shall be returned to Defendant, including the interest earned through the date of termination (after deducting costs of providing Notice to Settlement Class Members and costs paid or incurred by the Claims Administrator as of the date of termination); any Judgment entered by the Court in accordance with the terms of this Settlement Agreement shall be treated as vacated, *nunc pro tunc*; and the litigation of the Action will resume as if there had been no Settlement Agreement, with no stipulated Class. In this event, the parties will retain all rights, claims, objections and defenses as to class certification and otherwise as to any of the allegations and claims asserted in and defenses to this Action. This Settlement Agreement will not be considered an admission of liability or damages by Defendant nor, in the event it is not finally approved, represent a cap on or indicator of damages available to the Named Plaintiffs or any member of the Settlement Class.

4. Each party reserves the right to prosecute or defend this Action if this Settlement Agreement is terminated pursuant to its terms (including if Defendant exercises its option to withdraw from the Settlement pursuant to the terms of Administrative Order No. 1), or if the Effective Date does not occur for any reason. This provision survives the termination of this Settlement.

**V. RELEASE/BAR OF CLAIMS**

**A. Class Action Release.**

Upon the Effective Date of the Settlement Agreement, and except as to such rights or claims as may be created by this Settlement Agreement, all Settlement Class Members who do not properly and timely opt out of this Settlement will fully release and be deemed to have released and fully and finally resolved, waived and discharged, for themselves and their heirs, executors, administrators, representatives, dependents, successors and assigns (the “Class Member Releasers”), all claims, demands, causes of action, suits and liabilities, known and unknown, that they had, have or may have at any time up to and including the date of the Preliminary Approval Order, under any legal or equitable theory, whether contractual, common-law, or statutory, and whether under federal, state, or local law, against Defendant or any and all of its current and former parent corporations, subsidiaries, divisions, affiliates, employee benefit and/or pension plans or funds (including qualified and non-qualified plans or funds), successors and assigns, as well as current and former officers, directors, agents, shareholders, trustees, administrators, insurers, fiduciaries, predecessors, attorneys, representatives, employees, successors and/or assigns of the foregoing entity (whether acting as agents for the Company or in their individual capacities) (collectively, the “Defendant Releasees”), for employment-related race, color, national origin and ethnicity discrimination, harassment and retaliation under Title

VII, 42 U.S.C. § 1981, and any other parallel or similar federal, state or local law (“Released Claims”).

Settlement Class Members who fail to timely opt out (including their heirs, administrators, representatives, executors, successors, and assigns) expressly waive any and all provisions, rights and benefits conferred under or by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to, Cal. Civ. Code § 1542, which provides:

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

Except for a proceeding brought to enforce the terms of the Settlement Agreement, Settlement Class Members shall, as of the Effective Date of this Agreement, be barred from commencing, maintaining, prosecuting, participating in, or permitting to be filed by any other person on their behalf, any action, suit or proceeding against Defendant and the Defendant Releasees with respect to the Released Claims and will be deemed to have agreed to the same by participating in this Settlement.

Upon the Effective Date, this Action will be deemed voluntarily dismissed with prejudice, except that the Court will retain jurisdiction solely for the purposes set forth in Section XIII.N of this Settlement Agreement.

**B. Named Plaintiffs’ Release And Service Award.**

Each Named Plaintiff will receive a Service Award for serving as a Class Representative (should they choose to accept it), and for executing the general release in the form attached hereto as Administrative Order No. 2. For the service of Named Plaintiffs to the class, Class Counsel will petition the Court for a Service Award to each Named Plaintiff in the amount of

\$150,000.00. The Service Awards shall exclusively come from and serve to reduce the Settlement Fund, but will be paid separately from the claims process described in Section VII.C below.

The Release for Named Plaintiffs is not a limited release of claims of only race, color, national origin and ethnicity discrimination, harassment and retaliation, but instead shall broadly release all Released Claims as well as all claims of any nature, known or unknown, against Defendant and Defendant Releasees under federal, state or local laws for any period up through the date of the Final Approval Order to the full extent permitted by law and any claims for attorneys' fees and costs with respect to the aforementioned claims.

If any Named Plaintiff does not execute and timely deliver a release in the form provided in Administrative Order No. 2, he or she shall be ineligible for, and forever barred from receiving, any Service Award under this Settlement Agreement, but will remain eligible for a monetary award from the Settlement Fund.

**C. Materiality of the Releases.**

The terms of the releases are a material part of this Settlement Agreement. If these releases or the Settlement Agreement cannot become effective for any reason and the Settlement set forth in this Settlement Agreement terminates as provided in Section IX of this Settlement Agreement, then the Releases shall terminate *nunc pro tunc* and be of no force and effect.

**D. Effect of Failure to File a Claim Form.**

Settlement Class Members who neither timely opt out nor timely file a Claim Form shall, upon the Effective Date, be ineligible to receive any monetary award pursuant to this Settlement Agreement and be deemed to have fully, finally and irrevocably waived, released and discharged Defendant Releasees from any and all claims of race, color, national original or ethnicity discrimination and retaliation and be barred from bringing such Released Claims, to the same

extent as specified in Section A above, whether known or unknown, actual or potential, arising at any time on or before the date of the Preliminary Approval Order.

**E. Ownership of Claims.**

Settlement Class Members may not assign or transfer their rights to participate in this Settlement Agreement.

**VI. NO ADMISSION, NO DETERMINATION**

This Settlement Agreement does not, and is not intended to, constitute, nor shall it be deemed to constitute, an admission by any party as to the merits, validity or accuracy of any of the allegations, claims or defenses of any party in this case. Plaintiffs continue to assert the merits and validity of their claims under Title VII, 42 U.S.C. § 1981 and parallel state and local laws prohibiting race, color, national origin or ethnicity discrimination. By entering into this Agreement, Defendant does not admit or concede, expressly or impliedly, but rather denies that it has in any way violated Title VII, 42 U.S.C. § 1981, parallel state and local laws prohibiting race, color, national origin or ethnicity discrimination or retaliation, the common law of any jurisdiction, or any other federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Defendant continues to assert the merits and validity of its defenses to Plaintiffs' claims. Neither the Court nor any other court has made any findings or expressed any opinion concerning the merits, validity or accuracy of any of the allegations, claims or defenses in this case.

Nothing in this Settlement Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the mediation or negotiations leading to this Settlement Agreement, is intended by the parties to be introduced, used or admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other proceeding of whatsoever

kind or nature (including, without limitation, the results of the claims process established under this Settlement Agreement) as evidence of race, color, national origin or ethnicity discrimination, retaliation or harassment or as evidence of any violation of Title VII, 42 U.S.C. § 1981, parallel state and local laws prohibiting race, color, national origin or ethnicity discrimination or retaliation, the common law of any jurisdiction, or any other federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

This Settlement Agreement is non-precedential and shall not be deemed to constitute an admission that class certification is appropriate in this action or any other action that may be brought against Defendant.

Notwithstanding the foregoing, this Settlement Agreement may be used in any proceeding in the Court or in mediation or arbitration to enforce or implement any provision of this Settlement Agreement or implement any orders or judgments of the Court entered into in connection herewith.

**VII. MONETARY RELIEF**

**A. Settlement Fund.**

No later than twenty-five (25) business days after the Effective Date, Defendant shall pay, by wire transfer to the Claims Administrator, the sum of Thirty-Two Million Five Hundred Thousand Dollars and No Cents (\$32,500,000.00) (the “Settlement Fund”). The Settlement Fund will be placed in an interest-bearing account titled “MetLife FSR Settlement Fund,” intended by the parties to be a “Qualified Settlement Fund” as described in Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, *et seq.*, and formed in a manner designed to assure that it will so qualify. The monies so transferred, together with interest subsequently earned thereon, shall constitute the Settlement Fund. Defendant’s payment of the Settlement Fund shall constitute the full, complete, and total settlement cash outlay by

Defendant under the Settlement Agreement, and shall constitute a full and complete satisfaction of the claims of all Named Plaintiffs and Settlement Class Members, including, but not limited to, for all of the following purposes: (1) the resolution of this Action; (2) this Settlement Agreement (and Exhibits); (3) the dismissal of this Action; (4) all amounts paid to the Settlement Class Members, including Named Plaintiffs, which are to be distributed pursuant to Sections V.B and VII.C; (5) all attorneys' fees and costs, including those in connection with securing court approval of the Settlement Agreement; (6) all costs and expenses in connection with the Settlement Fund, including but not limited to those related to notice, claims processing and resolution, the costs of administering the Settlement, legal and other advice relating to the establishment of the Qualified Settlement Fund and tax treatment and tax reporting of awards to claimants, preparation of tax returns (and taxes associated with such tax returns as defined below); (7) all applicable federal, state and local income taxes, and all federal and state unemployment taxes required to be withheld and/or paid by Defendant. Without limiting the generality of the foregoing, the Settlement Fund includes, and shall represent complete satisfaction of, Defendant's share of all required taxes or contributions including FICA, FUTA, SUTA and Medicare.

**B. Administration by Trustees.**

1. Pursuant to Rule 53 of the Federal Rules of Civil Procedure, the Court shall appoint a Special Master who shall serve as Trustee of the Settlement Fund and shall act as a fiduciary with respect to the handling, management and distribution of the Settlement Fund.

2. The Claims Administrator shall serve as a Trustee of the Settlement Fund with regard to payment of valid claims and reporting and paying taxes on such awards. The Claims Administrator shall act in a manner necessary to qualify the Settlement Fund as a "Qualified

Settlement Fund” under Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, *et seq.*, and to maintain that qualification.

3. The Claims Administrator shall not request any information or documents from MetLife or otherwise make any requests of or impositions on MetLife.

**C. Claims Filing Procedures for Settlement of Claims of Named Plaintiffs and Settlement Class Members.**

**1. Claims Filing Procedures for Obtaining Monetary Relief.**

All Settlement Class Members may be eligible to receive a monetary award from the Settlement Fund (“Monetary Award”). All Settlement Class Members, including the Named Plaintiffs, who seek to claim a Monetary Award from the Settlement Fund must do so in writing or via secure electronic submission by signing or electronically affirming, under penalty of perjury, and submitting to the Claims Administrator, either a Simple Claim Form or a Detailed Claim Form, as described more fully below, which must be electronically submitted or received by the Claims Administrator by the date set by the Court (“Claims Submission Date”).

Settlement Class Members shall complete either the Simple Claim Form or the Detailed Claim Form in its entirety to the extent applicable and in accordance with the procedures and requirements set forth on the Simple Claim Form or Detailed Claim Form.

The Simple Claim Form and Detailed Claim Form shall be mailed to Settlement Class Members and available electronically on a website maintained by the Claims Administrator following Final Approval of the Settlement. Settlement Class Members will be able to view, access, and submit their Simple Claim Forms and Detailed Claim Forms electronically on the website maintained by the Claims Administrator.

**2. Claim Form and Monetary Award Options.**

Settlement Class Members, including Named Plaintiffs, who seek to claim a Monetary Award must elect to submit either a (1) Simple Claim Form if they desire an expedited financial payment without an individual assessment of their claims and losses, or (2) a Detailed Claim Form if they want the option of an individual assessment of their claims and losses by qualified, independent Neutrals (the “Neutrals”) as part of the Individual Claims Resolution Program (“ICRP”).

Any Settlement Class Member who fails to timely file either a Simple Claim Form or a Detailed Claim Form shall not receive a Monetary Award, unless otherwise determined by the Special Master.

**3. Simple Claim Form and Expedited Monetary Awards.**

Settlement Class Members who elect to submit the Simple Claim Form will be issued a Monetary Award check within forty-five (45) days of the Claims Submission Date (“Expedited Monetary Award”). Settlement Class Members who submit the Simple Claim Form, however, will not have their claims or alleged losses individually assessed as part of the ICRP.

Expedited Monetary Awards will be determined and awarded based on objective factors that include: MetLife Length of Service (“LOS”), period of employment as a Settlement Class Member within the Class Period, and “lateral” status.

Expedited Monetary Awards are not based on an individualized assessment of any Settlement Class Member’s claims. Expedited Monetary Awards will be determined by the Special Master appointed by the Court after all Claim Forms are submitted.

**4. Detailed Claim Form and the Individual Claims Resolution Program.**

Settlement Class Members who wish to have the option of rejecting an Expedited Monetary Award in favor of an individualized assessment of their claims and alleged losses must

submit a Detailed Claim Form to the Claims Administrator by the Claims Submission Date. The Detailed Claim Form shall be completed in its entirety, including responses to questions seeking evidence of alleged: (a) race discrimination, (b) financial losses and (c) any emotional distress suffered. In order to seek financial recovery for any period after the Settlement Class Member's employment with MetLife, the Settlement Class Member must submit qualified documentary evidence of post-MetLife income and work history.

No later than forty-five (45) days after the Claims Submission Date, all Settlement Class Members who timely submit completed Detailed Claim Forms will receive notice of the amount of their Expedited Monetary Award along with an election form (the "Election Form") setting forth two options from which each such Settlement Class Member must elect either (1) accepting the Expedited Monetary Award, or (2) participating in the ICRP. The Election Form must be signed and identify whether or not the Settlement Class Member is accepting the Expedited Monetary Award or electing to participate in the ICRP, and must be postmarked, or submitted electronically, with 14 days of the date on the Election Form. The Election Form may also be completed online and signed electronically. The electronic submission is complete only when the Settlement Class Member receives an online confirmation number.

If the Settlement Class Member elects to accept the Expedited Monetary Award, a check in the amount of the Expedited Monetary Award will be sent to the Settlement Class Member within twenty-one (21) days after the Claims Administrator receives the Election Form and all required income tax documents.

If the Settlement Class Member rejects the Expedited Monetary Award, he or she will participate in the ICRP and have his or her claims reviewed and evaluated by one or more Neutrals from a panel of qualified Neutrals, selected by Class Counsel in consultation with the

Special Master. The amount awarded by the Neutral(s) may be more or less than the Expedited Monetary Award. The Neutrals selected will have substantial training and experience with employment discrimination claims and will receive information from Class Counsel and the Special Master regarding relevant MetLife policies and practices and the legal theories and expert statistical analyses presented by Class Counsel.

Each Settlement Class Member who participates in the ICRP will also have an opportunity to meet with a Neutral for up to a 75-minute session in order to present aspects of his or her claims and answer questions from the Neutral(s) (the “Interview”). The Interview can take place via an Internet video-conference or in person at the Chicago offices of Class Counsel. Settlement Class Members who wish to attend the Interview in person but cannot afford to travel to the Interview can submit a request for a travel advance against any Monetary Award. Class Counsel shall ensure that an attorney is present at the Interview to assist Settlement Class Members. Nothing in this Settlement prohibits any Settlement Class Member from retaining his or her own attorney, at their own expense, and the Neutrals may consider any attorneys’ fees incurred. All parties appearing at the Interview must agree to confidentiality and sign a protective order.

**5. Neutral Evaluation of Claims.**

In evaluating individual claims, the Neutrals shall consider information presented in the Detailed Claim Form (including any supporting documents) and during the Interview. Factors and evidence the Neutrals are expected to weigh include, but are not limited to, the following:

- Length of service in the industry and at MetLife;
- Duration of MetLife employment within the Class Period;
- Whether the Settlement Class Member was a lateral or recruit from another company or received “up-front money” via a promissory note or otherwise;

- The Settlement Class Member's alleged experiences with regard to account transfers and distributions; leads and referrals; participation in Defendant's programs, such as "Deliver The Promise," PlanSmart, Retire Wise, etc.; teaming and pooling; business opportunities; managerial support, office environment and other alleged treatment;
- Alleged racial harassment and/or hostile work environment;
- Relative strength of the Settlement Class Member's alleged racial discrimination liability claim;
- Whether the Settlement Class Member made a formal or informal complaint of alleged race discrimination and, if so, whether the Settlement Class Member experienced alleged retaliation;
- Whether the Settlement Class Member released some but not all of his or her potential claims and, if so, the date of any such release of claims;
- Any alleged emotional distress, and whether any treatment was sought or received for such alleged distress;
- Any alleged career or reputational harm;
- Any alleged lost opportunities and financial losses;
- Any alleged lost future earnings;
- Expenses, including attorneys' fees, incurred by Settlement Class Members in prosecuting Released Claims; and
- Mitigation and post-Defendant earnings.

No determination made by a Neutral, whether the fact or amount of a Monetary Award, will be admissible in this Action or any other proceeding for any purpose other than to enforce a

Named Plaintiff Release or Settlement Class Member Release, nor shall it be deemed to be a finding as to the merits of any claim. The Monetary Award is final, binding and non-appealable.

**6. Special Master.**

The Special Master shall participate in some of the Interviews and assessment of claims in the ICRP; make reports to Class Counsel and the Court as necessary; review and approve any payments, contracts, the bills of the Neutrals, and the bills of experts performing services in the settlement process. The Special Master may make recommendations to the Court as to whether any individuals who are not included on the Settlement Class list qualify for Settlement Class membership and whether to accept any late claim forms for good cause shown.

The Special Master shall determine all of the Expedited Monetary Awards and review and approve the Monetary Awards proposed by the Neutrals in the ICRP, for consistency and fairness. The Special Master shall render a final determination as to the Monetary Award, if any, which should be paid to each Claimant in the Individual Claims Resolution Program. There shall be no appeal from the final Monetary Awards approved by the Special Master, which shall be final and binding.

The Special Master will also establish, for tax purposes, the allocation of Monetary Awards to wages, interest, compensatory damages or other tax character as are appropriate based on the principles set forth in the IRS Regulations. After determining the proposed allocation, the Special Master shall prepare a master Report of all Expedited Monetary Awards and all Monetary Awards from the ICRP and provide it to Class Counsel and the Claims Administrator for payment.

**7. Confidentiality of Claims Process and Settlement Administration.**

Before receiving any Confidential or Confidential-Attorneys' Eyes Only Information, the Claims Administrator, Special Master, each Neutral, and any other third-party involved in the

claims process or the administration of this Settlement Agreement must sign a confidentiality agreement.

**D. Non-Admissibility of Fact of Award (or Non-Award).**

Except to the extent that it would constitute a set off in an action for damages claimed for any period covered by this Settlement, neither the fact nor the amount of an award, nor the fact of any non-award, from the Settlement Fund shall be admissible in any other proceeding for any purpose other than to enforce a Named Plaintiff Release or a Settlement Class Member Release executed or ordered in connection with this Settlement, nor shall it be deemed to be a finding as to the merits of any claim.

**E. Tax Treatment.**

**1. Qualified Tax Status and Tax Responsibilities.**

The Settlement Fund shall be established as a Qualified Settlement Fund within the meaning of Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, *et seq.*, and shall be administered by the Claims Administrator under the Court's supervision. Defendant shall hereby be deemed to have made an election under Section 468B of the Revenue Code to have the Fund treated as a "Qualified Settlement Fund."

Defendant shall timely furnish a statement to the Claims Administrator that complies with Treasury Regulation § 1.468B-3(e) and shall attach a copy of the statement to its federal income tax return that is filed for the taxable year in which Defendant makes the required payment(s) to the Settlement Fund. The parties shall cooperate to ensure such treatment and shall not take a position in any filing or before any tax authority inconsistent with such treatment.

**2. Payment of Federal, State and Local Taxes.**

The parties recognize that the awards to eligible Claimants from the Settlement Fund and to Named Plaintiffs from the Settlement Fund will be subject to applicable tax withholding and

reporting, which will be handled as follows: The Claims Administrator shall serve as trustee of the Settlement Funds and shall act as a fiduciary with respect to the handling, management, and distribution of amounts therefrom, including the handling of tax-related issues and payments. Specifically, the Claims Administrator shall be responsible for the withholding, remitting and reporting of Defendant's and each Claimant's and Named Plaintiff's share of the payroll taxes from the Settlement Fund.

For tax purposes, MetLife and financed NELICO Claimants will receive a Form W-2 with respect to any wage portion of a settlement award; non-financed NELICO Claimants will receive a Form 1099; and all Claimants will receive a Form 1099 with respect to any portion of a settlement award allocated to emotional distress claims.

The Claims Administrator shall be responsible to pay from the Settlement Fund the employer's share of any and all federal, state and local employment and withholding taxes, including, without limitation, federal and state income tax withholding, FICA, FUTA, SUTA, Medicare, and any state employment taxes (hereinafter "Employer Payroll Tax Payment"). The Claims Administrator shall inform Defendant in writing of the employer's share of all taxes or contributions required to be paid by Defendant upon receiving all of the Claim Forms and finalizing the Awards. The Claims Administrator shall timely report and remit the employer share of the Employer Payroll Tax Payment to the appropriate taxing authorities. The Claims Administrator shall indemnify Defendant for any shortfall in tax withholdings or penalty caused by an incorrect calculation and/or interest caused by a late deposit of any taxes or contributions addressed herein, solely to the extent such incorrect calculation and/or late deposit was caused by the Claims Administrator's gross negligence or willful misconduct. Subject to the Claims Administrator's obligation to comply with applicable laws, the parties anticipate that any

amounts designated as interest shall not be subject to withholding and shall be reported, if required, to the IRS and to the Claimants on Form 1099-INT. Although Defendant shall have access to individual allocation amounts solely for tax and reporting purposes, Defendant shall not have access to Settlement Class Member Claim Forms.

The Claims Administrator shall satisfy all federal, state, local, and other reporting requirements (including any applicable reporting with respect to attorneys' fees and other costs subject to reporting), and any and all taxes, penalties and other obligations with respect to the payments or distributions from the Settlement Fund not otherwise addressed herein. Provided, however, that Claimants are fully responsible for the payment of any and all federal, state or local taxes resulting from or attributable to distributions that they receive from the Settlement Fund, excluding the Employer Payroll Tax Payment and excluding amounts properly withheld from the distributions.

The Claims Administrator shall be responsible for procuring Form W-4, Form W-9, and any other required tax forms from the Named Plaintiffs and Settlement Class Members.

All (i) taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any taxes or tax detriments that may be imposed on Defendant with respect to income earned for any period during which the Settlement Fund does not qualify as a "Qualified Settlement Fund" for federal and state income tax purposes (hereinafter "Settlement Fund Taxes"), and (ii) expenses and costs incurred in connection with the operation and implementation of this paragraph (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) any returns described herein or otherwise required to be filed pursuant to applicable authorities) (hereinafter "Settlement Fund Tax Expenses"), shall be paid out of the

Settlement Fund. Further, Settlement Fund Taxes and Settlement Fund Tax Expenses shall be treated as a cost of the administration of the Settlement Fund. The parties hereto agree to cooperate with the Claims Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions set forth in this paragraph.

**VIII. ATTORNEYS' FEES, EXPENSES OF CLASS COUNSEL AND ADMINISTRATIVE EXPENSES**

**A. Class Counsel Fees and Costs.**

Class Counsel shall be entitled to apply to the Court for an award of Plaintiffs' Counsel's attorneys' fees in a total amount not to exceed 25% of the Settlement Fund, *i.e.*, \$8,125,000.00, plus their litigation expenses. Payment of Plaintiffs' attorneys' fees, costs and expenses shall be made exclusively from the Settlement Fund. Defendant's payment of Plaintiffs' attorneys' fees, costs and expenses from the Settlement Fund shall constitute full satisfaction of Defendant's obligation to pay any person, expert, attorney or law firm for attorneys' fees, costs, and expenses incurred on behalf of the Settlement Class and Named Plaintiffs, and shall relieve Defendant from any other claims or liability to any other attorney or law firm or person or expert for any attorneys' fees, expenses and costs to which any of them may claim to be entitled on behalf of the Settlement Class or any of the Named Plaintiffs that are in any way related to the Released Claims or claims released by Named Plaintiffs in their individual release agreements.

Class Counsel shall also petition the Court for Service Awards for the services of Named Plaintiffs to the Class.

**B. Timing of Attorneys' Fee Payment.**

If approved by the Court, any attorneys' fees, costs or expenses payable to Class Counsel shall be distributed from the Settlement Fund pursuant to the Settlement Agreement. The parties agree that Class Counsel are entitled to receive the Court-ordered attorneys' fees and costs within

twenty-five (25) business days of the date of the Final Approval Order, subject to full repayment if the Effective Date is not reached. The Claims Administrator shall wire the attorneys' fees payment (taken from the Settlement Fund) into an account designated by Class Counsel (information regarding such account will be provided to the Claims Administrator at least two weeks prior to the date of the Fairness Hearing).

**C. Administrative Expenses.**

The expenses of administering the Settlement shall be paid out of the Settlement Fund and shall include but not be limited to the costs of Notice to the Class; administering the Settlement Fund and the claims resolution process; and all payments to the Claims Administrator. KCC shall prepare and submit to Class Counsel a summary and reconciliation of all administrative expenses.

**IX. TERMINATION OF THE SETTLEMENT AGREEMENT**

If the Court does not approve any material condition of this Settlement Agreement that effects a fundamental change to the terms of this Settlement hereunder, including but not limited to the amount of the Settlement Fund or the scope of the releases in Section V of this Settlement Agreement, Defendant may treat the entire Settlement Agreement as void and unenforceable.

The application for attorneys' fees, costs and expenses, as set forth in Section VIII, is a matter separate and apart from the Settlement Agreement among the parties, and no decision by the Court concerning the granting, in whole or in part, of such attorneys' fees, costs or expenses as set forth herein shall affect the validity of this Settlement Agreement or the finality of the Settlement Agreement in any manner.

**X. CONFIDENTIALITY**

**A. Confidentiality Regarding This Settlement.**

Prior to the time Plaintiffs move for preliminary approval of the Settlement Agreement, Class Counsel and Plaintiffs agree to keep the terms of the Settlement confidential.

**B. Documents and Information Produced by Defendants and Class Counsel.**

All proprietary and confidential documents or information that have previously been provided to either Defendant or Class Counsel as of the date this Settlement Agreement is executed, or which are produced by Defendant or Class Counsel pursuant to any provision of this Settlement Agreement shall, unless otherwise agreed, be treated as, and thereafter remain, confidential. Said documents and information shall not be disclosed to anyone other than the Special Master or the Court (pursuant to the protective order entered in this case) in connection with any proceeding to enforce any provision of this Settlement Agreement. Notwithstanding the foregoing, nothing in this paragraph shall preclude the use or disclosure of summary or aggregate statistical data in connection with the ICRP.

**C. Disposal of Confidential Documents and Information.**

The parties will abide by the Agreed Confidentiality Order previously entered in this Action with respect to handling and disposal of proprietary and confidential documents or information.

**D. Settlement Communications.**

Neither this Settlement Agreement, nor the Court's preliminary or final approval hereof, nor any statements, discussions, communications, or any materials prepared, exchanged, issued, or used during mediation and the negotiation of this Settlement Agreement will be admissible in any forum regarding the propriety of class certification or regarding any other issue or subject of this case or any other case, except as provided in Section XIII.N.

**XI. GOVERNING LAW**

The parties agree that federal law shall govern the validity, construction and enforcement of this Settlement Agreement. To the extent that it is determined that the validity, construction or enforcement of this Settlement Agreement is governed by state law, the law of the State of New York shall apply.

This Settlement Agreement, including the Exhibits hereto, contains the entire agreement and understanding of the parties with respect to the Settlement. This Settlement Agreement does not impose any obligations on the parties beyond the terms and conditions stated herein.

Accordingly, this Settlement Agreement shall not prevent or preclude Defendant from revising its employment practices and policies or taking other personnel actions during the term of this Settlement Agreement so long as they are not inconsistent with this Settlement Agreement.

Furthermore, nothing in this Settlement will be construed as interfering with Defendant's right to determine the nature, conduct, organization, or structure of its businesses as it deems appropriate or as may be required by law. This Settlement Agreement and the terms herein are subject to Defendant's other legal obligations, and nothing herein shall obligate Defendant to take any action that is contrary to said obligations.

**XII. CAFA NOTICE**

No later than ten (10) days following Class Counsel's filing of the proposed Settlement Agreement with the Court, the Claims Administrator shall cause the CAFA Notice, along with the accompanying materials, to be served upon the appropriate state and federal officials, as required by 28 U.S.C. § 1715. For purposes of compliance with CAFA, the Claims Administrator shall be permitted to compile all of the relevant documents into a single compact disc for delivery to federal and state officials. Plaintiffs, MetLife, and the Claims Administrator shall have no duty to supplement the CAFA Notice. The Claims Administrator shall confirm in

writing and provide to MetLife and Class Counsel proof of service of the CAFA Notice to the appropriate federal and state officials. The Claims Administrator shall indemnify and hold harmless MetLife and Class Counsel from any liabilities, penalties, costs or losses caused by an incorrect or untimely served CAFA Notice, except to the extent the Claims Administrator has relied on information provided by MetLife or Class Counsel and, in any event solely to the extent the CAFA Notice was caused to be incorrect or untimely by the Claims Administrator's gross negligence or willful misconduct.

### **XIII. OTHER CONDITIONS OF SETTLEMENT**

#### **A. Exhibits.**

The Exhibits to this Settlement Agreement are material and integral parts hereof and are fully incorporated herein by this reference.

#### **B. Notices to Counsel.**

All notices to counsel required or desired to be given under this Settlement Agreement shall be in writing and by overnight mail and e-mail to counsel for the respective parties. Specifically, such notices shall be sent to Linda D. Friedman, Suzanne E. Bish and George S. Robot of Stowell & Friedman, Ltd. for the Plaintiffs, and Steven J. Pearlman, Keisha-Ann A. Gray and Latoya S. Moore of Proskauer Rose LLP for Defendant at their respective addresses set forth below (or at such other address as any such party or counsel may designate in a written notice).

#### **C. Failure to Insist on Strict Compliance.**

The failure of any party to insist in any one or more instances on strict compliance with the terms and conditions hereof shall not be construed to be a waiver of remedies available with respect to any prior or subsequent breach.

**D. Modifications to this Agreement.**

No material modifications to this Agreement may be made without the written, signed agreement of all parties and prior Court approval.

The parties shall have the right to seek modification of the Settlement Agreement by the Court to ensure that its purposes are fully effectuated. The parties may jointly agree to modify the Settlement Agreement with the approval of the Court. Upon application for a modification of the Settlement Agreement, the movant shall bear the burden of proving by a preponderance of the evidence that circumstances make such modification necessary.

**E. Extensions of Deadlines.**

The Named Plaintiffs and Defendant recognize that from time to time unforeseen events may cause delays in the accomplishment of objectives, no matter how well-intentioned and diligent the parties may be. Accordingly, with regard to the provisions of this Settlement Agreement that require the parties to take certain actions within specified time periods (other than deadlines set forth in the Preliminary Approval Order and the deadline for filing claims), the parties agree that Court approval will not be required for reasonable extensions of deadlines. In the event that any party determines in good faith that an action required by this Settlement Agreement cannot be taken within the specified time period, counsel for that party shall promptly notify counsel for the other party that it anticipates a delay, the reasons for the delay and a proposed alternative deadline.

**F. No Drafting Presumption.**

All parties hereto have participated, through their respective counsel, in the drafting of this Settlement Agreement and, therefore, this Settlement Agreement shall not be construed more strictly against one party than another.

**G. Dispute As To Meaning of Agreement Terms.**

In the event of any dispute or disagreement with respect to the meaning, effect or interpretation of this Settlement Agreement or any Exhibit hereto, or in the event of a claimed breach of the Settlement Agreement, the parties agree that such dispute will be resolved and adjudicated only in accordance with the dispute resolution provisions of Section XIII.N of this Settlement Agreement.

**H. Interpretation of Terms.**

Whenever possible, each provision and term of this Settlement Agreement shall be interpreted in such a manner as to be valid and enforceable.

**I. Severability.**

Except as provided in Section IX, if any portion of this Settlement Agreement is judged to be unenforceable, the remainder of this Settlement Agreement shall continue to be valid and enforceable.

**J. Integration.**

This Settlement Agreement contains the entire agreement between the parties relating to any and all matters addressed in the Settlement Agreement, and all prior or contemporaneous agreements, understandings, representations and statements, whether oral or written and whether by a party or such party's legal counsel, with respect to such matters are extinguished. No rights hereunder may be waived or modified except in a writing signed by all parties.

**K. Paragraph and Section Headings.**

Paragraph and section headings are for convenience of reference only and are not intended to create substantive rights or obligations.

**L. Counterparts.**

This Settlement Agreement may be executed in counterparts. Each signed counterpart together with the others shall constitute the full Settlement Agreement.

**M. Agreement Binding.**

As of the date on which counsel for the parties execute this Settlement Agreement, this Settlement Agreement will be binding in all respects, unless it is terminated as set forth in Section IX, or unless the Court fails to approve this Settlement Agreement and the Settlement Agreement is thus vacated. This Settlement Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, dependents, executors, administrators, trustees, legal representatives, personal representatives, agents, successors and assigns; provided, however, that this Settlement Agreement shall not inure to the benefit of any third party.

Settlement Class Members will not be deemed third party beneficiaries of the Settlement Agreement and will have no individual right to enforce its terms; rather, only Defendant and the Named Plaintiffs, through Class Counsel, may seek to enforce the terms of the Settlement. Class Counsel and Defense Counsel shall meet and confer before the commencement of any enforcement proceedings.

**N. Enforcement.**

1. Enforcement of this Settlement Agreement shall be prosecuted by Class Counsel or Defense Counsel only, not third parties. Class Counsel shall meet and confer with Defense Counsel prior to commencement of any enforcement proceedings.

2. The parties will work diligently and in good faith to resolve all disputes that may arise concerning the rights, obligations and duties of the parties to the Settlement Agreement. If the parties are unable to resolve a dispute, the parties reserve their rights to seek recourse with the Court.

3. Any enforcement proceedings related to or arising out of this Settlement Agreement will be resolved and adjudicated only by the Honorable William H. Pauley, III of the United States District Court for the Southern District of New York, or by any other judge to whom this case subsequently may be assigned, unless otherwise provided in this Settlement Agreement.

Dated: March 1, 2017

**STOWELL & FRIEDMAN, LTD.**

By: /s/ Linda D. Friedman

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**STOWELL & FRIEDMAN, LTD.**

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*Plaintiffs' Counsel*

Dated: March 1, 2017

**PROSKAUER ROSE LLP**

By: /s/ Steven J. Pearlman

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