

Exhibit A

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement” or “Agreement”) is entered into by and between Samuel Bingaman, William Swigert, Shane Wilson, Rosalie Dupus, and Maria Ruskiewicz (collectively, “Plaintiffs”), individually and on behalf of all Settlement Class Members (as defined in Paragraph 41 (together “Plaintiffs”), and Avem Health Partners, Inc. (“Defendant” or “Avem”) (collectively, the “Parties”), in the consolidated action styled *Bingaman, et al. v. Avem Health Partners, Inc.*, Case No. CIV-23-130-SLP, pending in the United States District Court for the Western District of Oklahoma (the “Action”).

RECITALS

WHEREAS, on May 16, 2022, Avem learned of a data security incident experienced by 365 Data Centers Services, LLC, that may have resulted in the unauthorized access to Avem’s documents containing the personally identifiable information (“PII”) and/or protected health information (“PHI”) of approximately 271,303 individuals. The data security incident occurred on or before May 14, 2022.

WHEREAS, after Avem announced the Data Security Incident, four (4) class action lawsuits were filed against Avem in the District Court of Grady County, State of Oklahoma – (i) *Bingaman v. Avem Health Partners, Inc. et al.*, Case No. CJ-2022-239 (Dec. 29, 2022); (ii) *Dupus v. Avem Health Partners, Inc., et al.*, Case No. CJ-2023-2 (Jan. 3, 2023); (iii) *Swigert, et al. v. Avem Health Partners, Inc., et al.*, Case No. CJ-2023-8 (Jan. 11, 2023); and (iv) *Ruskiewicz v. Avem Health Partners, Inc.*, Case No. CJ-2023-36 (Feb. 2, 2023). 365 Data Centers Services, LLC was originally named as a defendant in the first three (3) lawsuits listed but was later dismissed without prejudice.

WHEREAS, the above-listed actions were subsequently removed and/or consolidated before the United States District Court for the Western District of Oklahoma.

WHEREAS, William B. Federman, of Federman & Sherwood, was appointed Interim Lead Class Counsel in the Action.

WHEREAS, the parties met and conferred regarding the early resolution of the Action and scheduled a mediation session to take place in May 2023. Prior to the mediation, the Parties exchanged informal discovery.

WHEREAS, on May 18, 2023, counsel for Plaintiffs and Defendant engaged in an arm’s-length mediation session before Bennett G. Picker (the “Mediator”). Although the Parties were not successful in resolving the case during the mediation session, significant progress was made. At the conclusion of the mediation session, the Mediator provided a Mediator’s proposal to the Parties, which was considered by Plaintiffs and Defendant for

approximately one week before both Parties agreed to accept the proposal. The Mediator's proposal resulted in an agreement to settle this matter in principle. In the weeks that followed the mediation session, the Parties continued to negotiate the remaining terms of the Settlement, culminating in this Agreement.

WHEREAS, pursuant to the terms set forth below, this Agreement resolves all actual and potential claims, actions, and proceedings as set forth in the release contained herein, by and on behalf of members of the Settlement Class defined herein, but excludes the claims of all Class Members who opt out from the Settlement Class pursuant to the terms and conditions herein.

WHEREAS, Class Counsel, on behalf of Plaintiffs and the Settlement Class, have thoroughly examined the law and facts relating to the matters at issue in the Action, Plaintiffs' claims, and Avem's potential defenses, including conducting independent investigation and confirmatory discovery, conferring with defense counsel through the settlement negotiation process, as well as conducting an assessment of the merits of expected arguments and defenses throughout the litigation, including on a motion for class certification. Based on a thorough analysis of the facts and the law applicable to Plaintiffs' claims in the Action, and taking into account the burden, expense, and delay of continued litigation, including the risks and uncertainties associated with litigating class certification and other defenses Avem may assert, a protracted trial and appeal(s), as well as the opportunity for a fair, cost-effective, and assured method of resolving the claims of the Settlement Class, Plaintiffs and Class Counsel believe that resolution is an appropriate and reasonable means of ensuring that the Class is afforded important benefits expediently. Plaintiffs and Class Counsel have also taken into account the uncertain outcome and the risk of continued litigation, as well as the difficulties and delays inherent in such litigation.

WHEREAS, Plaintiffs and Class Counsel believe that the terms set forth in this Settlement Agreement confer substantial benefits upon the Settlement Class and have determined that they are fair, reasonable, adequate, and in the best interests of the Settlement Class.

WHEREAS, Avem has similarly concluded that this Agreement is desirable in order to avoid the time, risk, and expense of defending protracted litigation, and to resolve finally and completely the claims of Plaintiffs and the Settlement Class.

WHEREAS, this Agreement, whether or not consummated, and any actions or proceedings taken pursuant to this Agreement, are for settlement purposes only, and Avem specifically denies any and all wrongdoing. The existence of, terms in, and any action taken under or in connection with this Agreement shall not constitute, be construed as, or be admissible in evidence as, any admission by Avem of (i) the validity of any claim, defense, or fact asserted in the Action or any other pending or future action, or (ii) any wrongdoing, fault, violation of law, or liability of any kind on the part of the Parties.

WHEREAS, the foregoing recitals are true and correct and are hereby fully incorporated in, and made a part of, this Agreement.

NOW, THEREFORE, in exchange for the mutual promises and valuable consideration provided for in this Agreement, the Parties agree to a full, complete, and final settlement and resolution of the Action, subject to Court approval, on the following terms and conditions:

I. DEFINITIONS

In addition to terms defined at various points within this Agreement, the following defined terms shall have the meanings set forth below:

1. “Action” means the consolidated class action lawsuit captioned *Bingaman, et al. v. Avem Health Partners, Inc.*, Case No. CIV-23-130-SLP, currently pending in the United States District Court for the Western District of Oklahoma.

2. “Approved Claim” means the timely submission of a Claim Form by a Participating Settlement Member that has been approved by the Settlement Administrator.

3. “Alternative Cash Payment” means up to One Hundred Dollars and Zero Cents (\$100.00) to each Settlement Class Member who elects to receive this payment in lieu of all other benefits available under this Agreement (excluding court approved Service Award Payments).

4. “Attorney’s Fee Award and Costs” means the amount of attorneys’ fees and reimbursement of Litigation Costs and Expenses awarded by the Court to Class Counsel.

5. “Avem” means Avem Health Partners, Inc. and its respective predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, the medical facilities Avem manages in the State of Oklahoma, including Rural Wellness of Anadarko, Stroud and Fairfax and their owners, officers and employees, departments, and any and all of their past, present, and future officers, directors, members, managers, employees, shareholders, partners, servants, agents, successors, attorneys, representatives, insurers, reinsurers, subrogees and assigns of any of the foregoing.

6. “Claim Form” or “Claim” means, collectively, the form(s) Settlement Class Members must submit to be eligible for reimbursement of Out-of-Pocket Losses or Lost Time, and/or to claim Credit Monitoring and Identity Theft Protection Services or an Alternative Cash Payment under the terms of the Settlement, which are attached hereto as Exhibits 1 and 4.

7. “Claims Deadline” means the last day to submit a timely Claim Form(s), which will occur ninety (90) days after the Notice Deadline.

8. “Claims Period” means the period of time during which Settlement Class Members may submit Claim Forms to receive settlement benefits, which will end ninety (90) days after the Notice Deadline.

9. “Class Counsel” means William B. Federman of Federman & Sherwood.

10. “Class Representatives” means Samuel Bingaman, William Swigert, Shane Wilson, Rosalie Dupus, and Maria Ruskiewicz.

11. “Court” means the United States District Court for the Western District of Oklahoma.

12. “Credit Monitoring and Identity Theft Protection Services” means three (3) years of three-bureau credit monitoring services provided by Sontiq to Settlement Class Members under the Settlement. These services include daily three-bureau credit monitoring with Equifax, Experian, and TransUnion; TransUnion credit report; proactive fraud assistance; identity resolution support; and \$1 million in identity theft insurance, among other features.

13. “Data Security Incident” means the data security incident experienced by 365 Data Centers Services, LLC, that may have resulted in the unauthorized access to Avem’s documents containing the personally identifiable information (“PII”) and/or protected health information (“PHI”) of approximately 271,303 individuals, which occurred on or before May 14, 2022.

14. “Documented Out-of-Pocket Losses” means documented out-of-pocket costs or expenditures that a Settlement Class Member actually incurred that are fairly traceable to the Data Security Incident, and that have not already been reimbursed by a third party, as set forth in Paragraph 52. Documented Out-of-Pocket Losses may include, without limitation, the following: costs associated with credit monitoring or identity theft insurance purchased directly by the claimant; costs associated with requesting a credit report; costs associated with a credit freeze; costs associated with cancelling a payment card and/or obtaining a replacement payment card; costs associated with closing a bank account and/or opening a new bank account; postage, long-distance phone charges, express mail and other incidental expenses; unrefunded overdraft and/or overdraft protection fees; unrefunded late and/or missed payment fees and/or charges; unrefunded fraudulent charges occurring on or after May 14, 2022; and damages and costs associated with any stolen benefits or tax returns.

15. “Effective Date” means one business day following the latest of: (i) the date upon which the time expires for filing or noticing any appeal of the Judgment or one (1) business day following entry of an order granting final approval of the settlement if no parties have standing to appeal; (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to attorneys’ fees and reimbursement of expenses, the date of completion, in a manner that finally affirms and leaves in place the Judgment without any material modification, of all proceedings arising out of the appeal(s) (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal(s) following decisions on remand); or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari with respect to the Judgment.

16. “Final Approval Order and Judgment” means an order and judgment that the Court enters after the Final Approval Hearing, which finally approves the Settlement Agreement, certifies the Settlement Class, dismisses the Action with prejudice, and otherwise satisfies the settlement-related provisions of Federal Rule of Civil Procedure 23, and is consistent with all material provisions of this Agreement, substantially in the form annexed hereto as Exhibit 2.

17. “Final Approval Hearing” means the hearing to be conducted by the Court to determine the fairness, adequacy, and reasonableness of the Settlement pursuant to Federal Rule of Civil Procedure 23 and whether to issue the Final Approval Order and Judgment.

18. “Avem’s Counsel” means Casie Collignon of Baker & Hostetler LLP.

19. “Litigation Costs and Expenses” means costs and expenses incurred by counsel for Plaintiffs in connection with commencing, prosecuting, and settling the Action.

20. “Lost Time” means time spent remedying issues related to the Data Security Incident.

21. “Net Settlement Fund” means the amount of funds that remain in the Settlement Fund after funds are paid from or allocated for payment from the Settlement Fund for the following: (i) Notice and Administrative Expenses; (ii) Taxes and Tax-Related Expenses; (iii) Service Awards Payments approved by the Court; and (iv) Attorney’s Fee Award and Costs approved by the Court.

22. “Non-Profit Residual Recipient” means Nonprofit Cyber, subject to approval by the Court.

23. “Notice” means notice of the proposed class action Settlement to be provided to Settlement Class Members, substantially in the form attached hereto as Exhibit 4 (“Postcard Notice”) and Exhibit 3 (“Long Form Notice”).

24. “Notice Deadline” means the last day by which the commencement of Notice to the Settlement Class Members must begin and will occur thirty (30) days after entry of the Preliminary Approval Order.

25. “Notice and Administrative Expenses” means all of the expenses incurred in the administration of this Settlement, including, without limitation, all expenses or costs associated with providing Notice to the Settlement Class, locating Settlement Class Members, performing National Change of Address search(es) and/or skip tracing, processing claims, determining the eligibility of any person to be a Settlement Class Member, and administering, calculating and distributing the Settlement Fund to Settlement Class Members. Administrative Expenses also includes all reasonable third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Agreement.

26. “Objection Deadline” is the last day on which a Settlement Class Member may file an objection to the Settlement, which will be sixty (60) days after the Notice Deadline.

27. “Opt-Out Deadline” is the last day on which a Settlement Class member may file a request to be excluded from the Settlement Class, which will be sixty (60) days after the Notice Deadline.

28. “Plaintiffs’ Counsel” means Class Counsel and all other counsel of record for the Plaintiffs in the consolidated actions.

29. “Preliminary Approval Order” means an order directing issuance of Notice to Settlement Class Members, determining that the Court will likely be able to approve the Settlement under Federal Rule of Civil Procedure 23(e)(2), and determining that the Court will likely be able to certify the Settlement Class for purposes of judgment. Such order will include the forms and procedure for providing notice to the Settlement Class, including notice of the procedure for Settlement Class Members to object to or opt-out of the Settlement, and set a date for the Final Approval Hearing, substantially in the form annexed hereto as Exhibit 5.

30. “Released Claims” means any and all claims or causes of action of every kind and description, including any causes of action in law, claims in equity, complaints, suits or petitions, and any allegations of wrongdoing, demands for legal, equitable or administrative relief (including, but not limited to, any claims for injunction, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory

damages, consequential damages, penalties, exemplary damages, punitive damages, attorneys' fees, costs, interest or expenses) that the Releasing Parties had or have (including, but not limited to, assigned claims and any and all "Unknown Claims" as defined below) that have been or could have been asserted in the Action or in any other action or proceeding before any court, arbitrator(s), tribunal or administrative body (including but not limited to any state, local or federal regulatory body), regardless of whether the claims or causes of action are based on federal, state, or local law, statute, ordinance, regulation, contract, common law, or any other source, and regardless of whether they are known or unknown, foreseen or unforeseen, suspected or unsuspected, or fixed or contingent, arising out of, or related or connected in any way with the claims or causes of action of every kind and description that were brought, alleged, argued, raised or asserted in any pleading or court filing in the Action, including but not limited to those concerning: (1) the alleged access, disclosure and/or acquisition of Settlement Class Members' PII/PHI in the Data Security Incident; (2) Avem or the Released Parties' maintenance of Settlement Class Members' PII/PHI as it relates to the Data Security Incident; (3) Avem or the Released Parties' information security policies and practices as it relates to the Data Security Incident; and/or (4) Avem's provision of notice to Settlement Class Members following the Data Security Incident.

31. "Released Parties" means Avem and each and every of their respective predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, the medical facilities Avem provides services to in the State of Oklahoma, departments, and any and all of their past, present, and future officers, directors, members, managers, employees, shareholders, partners, servants, agents, successors, attorneys, including but not limited to, Quinn Emanuel Urquhart & Sullivan, LLP, representatives, insurers, reinsurers, subrogees and assigns of any of the foregoing. Each of the Released Parties may be referred to individually as a "Released Party."

32. "Releasing Parties" means the Class Representatives and Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys and assigns, excluding those Settlement Class Members who submit a valid Request for Exclusion prior to the Opt Out Deadline.

33. "Request for Exclusion" is the written communication by or on behalf of a Settlement Class Member in which he or she requests to be excluded from the Settlement Class in the form and manner provided for in the Notice.

34. "Residual Cash Payment" means a pro rata cash payment to all Settlement Class Members who submit a Claim Form that has been approved by the Settlement Administrator, to be paid from the Residual Settlement Fund, with a cap of Ninety-Five Dollars and Zero Cents (\$95.00), as set forth in Paragraph 67(d).

35. “Residual Settlement Fund” means the amount of funds that remain in the Settlement Fund after funds are paid from or allocated for payment from the Settlement Fund for the following: (i) Notice and Administrative Expenses; (ii) Taxes and Tax-Related Expenses; (iii) Approved Claim(s) for Out-of-Pocket Losses; (iv) Approved Claim(s) for Lost Time; (v) Approved Claims for Credit Monitoring and Identity Theft Protection Services; (vi) Approved Claims for Alternative Cash Payment; (vii) Service Awards Payments approved by the Court; and (viii) Attorneys’ Fee Award and Costs approved by the Court.

36. “Service Award Payment” means compensation awarded by the Court and paid to the Class Representatives in recognition of their role in this litigation.

37. “Settlement” means the settlement of the Action by and between the Parties, and the terms thereof as stated in this Settlement Agreement.

38. “Settlement Administrator” means Simpluris, subject to Court approval.

39. “Settlement Class” means the persons who are identified on the Settlement Class List, including all individuals who were sent notification by Avem that their PII/PHI (names, dates of birth, Social Security numbers, driver’s license numbers, health insurance information, and/or diagnosis and treatment information) was or may have been compromised in the Data Security Incident. Excluded from the Settlement Class are: (i) the judges presiding over this Action, their staff, and members of their direct families; and (ii) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

40. “Settlement Class List” means the list generated by Avem containing the full names and current or last known addresses for Settlement Class Members, which Avem shall provide to the Settlement Administrator within seven (7) days of the Preliminary Approval Order.

41. “Settlement Class Member” means an individual who falls within the definition of the Settlement Class.

42. “Settlement Fund” means the sum of One Million Four Hundred Fifty Thousand Dollars and Zero Cents (\$1,450,000.00) to be paid by or on behalf of Avem as specified in Paragraph 46, including any interest accrued thereon after payment. This payment is the limit and extent of the monetary obligations of Avem, its respective predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, departments, and any and all of their past, present, and future officers, directors, members, managers, employees, shareholders, partners, servants, agents, successors, attorneys, representatives, insurers, reinsurers, subrogees and assigns of any of the foregoing, and the Released Parties, with respect to this Agreement and the settlement of this matter.

43. “Settlement Payment” or “Settlement Check” means the payment to be made via mailed check to a Settlement Class Member pursuant to Paragraph 59.

44. “Settlement Website” means the website that the Settlement Administrator will establish as soon as practicable following entry of the Preliminary Approval Order, but prior to the mailing of the Notice, as a means for Settlement Class Members to obtain notice of and information about the Settlement and relevant case documents and deadlines, and to submit a claim. The Settlement Website shall contain relevant documents, including, but not limited to, the Notice, this Agreement, Plaintiff’s Motion for Preliminary Approval of the Settlement, the Preliminary Approval Order, Plaintiff’s Motion for an Award of Attorneys’ Fees, Costs and Expenses, and Service Awards, and the operative complaint in the Action. The Settlement Website shall also include a toll-free telephone number, e-mail address, and mailing address through which Settlement Class Members may contact the Settlement Administrator directly. The Settlement Website shall not include any advertising and shall remain operational until at least sixty (60) days after all Settlement Payments have been distributed.

45. “Taxes and Tax-Related Expenses” means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) arising in any jurisdiction, if any, with respect to the income or gains earned by or in respect of the Settlement Fund, including, without limitation, any taxes that may be imposed upon Avem with respect to any income or gains earned by or in respect of the Settlement Fund for any period while it is held in the Settlement Fund.

II. SETTLEMENT FUND

46. **Establishment of Settlement Fund.** Within ten (10) days of entry of the Preliminary Approval Order, Avem shall deposit or cause to be deposited, the sum of One Million Four Hundred Fifty Thousand Dollars and Zero Cents (\$1,450,000.00) into an account established and administered by the Settlement Administrator.

47. **Non-Reversionary.** The Settlement Fund is non-reversionary. As of the Effective Date, all rights of Avem in or to the Settlement Fund shall be extinguished, except in the event this Settlement Agreement is terminated, as described in Paragraph 86.

48. **Qualified Settlement Fund.** The Parties agree that the Settlement Fund is intended to be maintained as a qualified settlement fund within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator shall invest the Settlement Fund exclusively in instruments or accounts backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Fund or a bank account that is either (a) fully insured by the Federal Deposit Insurance Corporation (“FDIC”) or (b) secured by instruments backed by

the full faith and credit of the United States Government. Defendant and Defendant's Counsel shall have no responsibility for, interest in, or liability whatsoever with respect to investment decisions executed by the Settlement Administrator. All risks related to the investment of the Settlement Fund shall be borne solely by the Settlement Fund and its Escrow Agent. Further, the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any Taxes and Tax-Related Expenses owed with respect to the Settlement Fund. The Parties agree that the Settlement Fund shall be treated as a qualified settlement fund from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a qualified settlement fund from the earliest date possible. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Parties.

49. Custody of Settlement Fund. The Settlement Fund shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to this Settlement Agreement or the balance returned to those who paid the Settlement Fund in the event this Settlement Agreement is terminated in accordance with Paragraph 86.

50. Use of the Settlement Fund. As further described in this Agreement, the Settlement Fund shall be used by the Settlement Administrator to pay for the following: (i) Notice and Administrative Expenses, (ii) Taxes and Tax-Related Expenses, (iii) Approved Claim(s) for Documented Out-of-Pocket Losses; (iv) Approved Claim(s) for Lost Time; (v) Approved Claims for Credit Monitoring and Identity Theft Protection Services; (vi) Approved Claims for Alternative Cash Payments; (vii) Service Awards Payments approved by the Court, (viii) Attorney's Fee Award and Costs approved by the Court; and (ix) Residual Cash Payments. Following payment of all of the above expenses, any amount remaining in the Net Settlement Fund shall be paid to the Non-Profit Residual Recipient in accordance with Paragraph 68. No amounts may be withdrawn from the Settlement Fund unless expressly authorized by this Agreement or approved by the Court.

51. Taxes and Representations. Taxes and Tax-Related Expenses relating to the Settlement Fund shall be considered Notice and Administrative Expenses and shall be timely paid by the Settlement Administrator out of the Settlement Fund without prior order of the Court. Further, the Settlement Fund shall indemnify and hold harmless the Parties, their counsel, and their insurers and reinsurers for Taxes and Tax-Related Expenses (including, without limitation, taxes payable by reason of any such indemnification payments). The Parties and their respective counsel have made no representation or warranty with respect to the tax treatment by any Class Representative or any Settlement Class Member of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Settlement Fund. Each Class Representative and Settlement Class

Member shall be solely responsible for the federal, state, and local tax consequences to him, her, or it of the receipt of funds from the Settlement Fund pursuant to this Agreement.

III. REIMBURSEMENT FOR DOCUMENTED OUT-OF-POCKET LOSSES AND LOST TIME

52. **Reimbursement for Documented Out-of-Pocket Losses.** All Settlement Class Members may submit a claim for up to Seven Thousand Dollars and Zero Cents (\$7,000.00) for reimbursement of Documented Out-of-Pocket Losses. To receive reimbursement for Documented Out-of-Pocket Losses, Settlement Class Members must submit a valid Claim Form that includes the following: (i) third party documentation supporting the loss; and (ii) a brief description of the documentation describing the nature of the loss, if the nature of the loss is not apparent from the documentation alone. Third-party documentation can include receipts or other documentation not “self-prepared” by the Settlement Class Member. Self-prepared documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation. A claim for reimbursement for Documented Out-of-Pocket Losses may be combined with a claim for Lost Time, but in no circumstance will a Settlement Class Member be eligible to receive more than the Seven Thousand Dollars and Zero Cents (\$7,000.00) individual cap.

53. **Assessing Claims for Documented Out-of-Pocket Losses.** The Settlement Administrator shall verify that each person who submits a Claim Form is a Settlement Class Member. The Settlement Administrator shall have the sole discretion and authority to determine whether and to what extent documentation for Documented Out-of-Pocket Losses reflects valid Documented Out-of-Pocket Losses actually incurred that are fairly traceable to the Data Breach but may consult with Class Counsel and Avem’s Counsel in making individual determinations. Any such consultation shall be made with both Class Counsel and Avem’s Counsel. In assessing what qualifies as “fairly traceable,” the Parties agree to instruct the Settlement Administrator to consider (i) whether the timing of the loss occurred on or after May 14, 2022; and (ii) whether the PII/PHI used to commit identity theft or fraud consisted of the same type of PII/PHI that was potentially impacted as a result of the Data Security Incident. The Settlement Administrator is authorized to contact any Settlement Class Member (through the information provided on the Settlement Class Member’s Claim Form) to seek clarification regarding a submitted claim prior to making a determination as to its validity.

54. **Reimbursement for Lost Time.** All Settlement Class Members may submit a claim for reimbursement of attested Lost Time up to five (5) hours at twenty-five dollars (\$25.00) per hour. Settlement Class Members can receive reimbursement of Lost Time with an attestation that the time spent was reasonably related to mitigating the effects of the Data Security Incident. Claims for Lost Time are capped at One Hundred Twenty-Five Dollars and Zero Cents (\$125.00) per individual. A claim for Lost Time may be combined

with a claim for reimbursement for Documented Out-of-Pocket Losses, but in no circumstance will a Settlement Class Member be eligible to receive more than the Seven Thousand Dollars and Zero Cents (\$7,000.00) individual cap.

55. **Assessing Claims for Lost Time.** The Settlement Administrator shall have the sole discretion and authority to determine whether the prerequisites have been met in order to award payments of Lost Time but may consult with Class Counsel and Avem's Counsel in making individual determinations. Any such consultation shall be made with both Class Counsel and Avem's Counsel. The Settlement Administrator is authorized to contact any Settlement Class Member (through the information provided on the Settlement Class Member's Claim Form) to seek clarification regarding a submitted claim prior to making a determination as to its validity.

56. **Disputes.** To the extent the Settlement Administrator determines a claim for Documented Out-of-Pocket Losses or Lost Time is deficient in whole or part, within a reasonable time of making such a determination, the Settlement Administrator shall notify the Settlement Class Member of the deficiencies and give the Settlement Class Member thirty (30) days to cure the deficiencies. Such notifications shall be sent via e-mail, unless the claimant did not provide an e-mail address, in which case such notifications shall be sent via U.S. mail. If the Settlement Class Member attempts to cure the deficiencies but, at the sole discretion and authority of the Settlement Administrator, fails to do so, the Settlement Administrator shall notify the Settlement Class Member of that determination within ten (10) days of the determination. The Settlement Administrator may consult with Class Counsel and Avem's Counsel in making such determinations. Any such consultation shall be made with both Class Counsel and Avem's Counsel.

IV. CREDIT MONITORING AND IDENTITY THEFT PROTECTION

57. **Credit Monitoring and Identity Theft Protection Services.** All Settlement Class Members are eligible to enroll in three (3) years of three-bureau Credit Monitoring and Identity Theft Protection Services provided by Sontiq, regardless of whether the Settlement Class Member submits a claim for reimbursement of Documented Out-of-Pocket Losses or Lost Time. However, if a Settlement Class Member elects to receive an Alternative Cash Payment (discussed below) they shall not be eligible to receive Credit Monitoring and Identity Theft Protection Services. The Settlement Administrator shall send an activation code to each valid Credit Monitoring Services claimant within fourteen (14) days of the Effective Date which can be used to activate Credit Monitoring Services. Such enrollment codes shall be sent via e-mail, unless the claimant did not provide an e-mail address, in which case such codes shall be sent via U.S. mail. The activation codes will be valid for a period of 180 days after mailing and may be used to enroll for the full three-year term at any point during those 180 days. Simpluris shall provide Credit Monitoring and Identity Theft Protection Services to all valid claimants who timely enroll in these services for a period of three (3) years from the date of activation.

V. ALTERNATIVE CASH PAYMENT

58. **Alternative Cash Payments.** In lieu of receiving a reimbursement for Documented Out-Of-Pocket Losses, reimbursement for Lost Time, and/or Credit Monitoring and Identity Theft Protection Services, all Settlement Class Members may elect to submit a claim for a one-time Alternative Cash Payment of up to One Hundred Dollars and Zero Cents (\$100.00). To receive the Alternative Cash Payment, Settlement Class Members must submit a valid Claim Form indicating the selection of an Alternative Cash Payment in lieu of all other benefits they may be eligible to receive under the Settlement Agreement. However, the election to receive an Alternative Cash Payment does not preclude Class Representatives from receiving a Court approved Service Award Payment.

VI. PAYMENTS TO SETTLEMENT CLASS MEMBERS

59. **Payment Timing.** Payments for Approved Claims for reimbursement for Documented Out-of-Pocket Losses, Lost Time, and/or Alternative Cash Payment shall be issued in the form of a check mailed as soon as practicable after the allocation and distribution of funds are determined by the Settlement Administrator following the Effective Date.

60. **Timing.** Settlement Checks shall bear in the legend that they expire if not negotiated within ninety (90) days of their date of issue.

61. **Returned Checks.** For any Settlement Check returned to the Settlement Administrator as undeliverable (including, but not limited to, when the intended recipient is no longer located at the address), the Settlement Administrator shall make reasonable efforts to locate a valid address and resend the Settlement Payment within thirty (30) days after the check is returned to the Settlement Administrator as undeliverable. In attempting to locate a valid address, the Settlement Administrator is authorized to send an e-mail and/or place a telephone call to that Settlement Class Member to obtain updated address information. Any replacement Settlement Checks issued to Settlement Class Members shall remain valid and negotiable for sixty (60) days from the date of their issuance and may thereafter automatically be canceled if not cashed by the Settlement Class Members within that time.

62. **Uncashed Checks.** To the extent that a Settlement Check is not cashed within ninety (90) days after the date of issue, the Settlement Administrator shall undertake the following actions: (1) attempt to contact the Settlement Class Member by e-mail and/or telephone to discuss how to obtain a reissued check; (2) if those efforts are unsuccessful, make reasonable efforts to locate an updated address for the Settlement Class Member using advanced address searches or other reasonable methods; and (3) reissuing a check or mailing the Settlement Class Member a postcard (either to an updated address if located or

the original address if not) providing information regarding how to obtain a reissued check. Any reissued Settlement Checks issued to Settlement Class Members shall remain valid and negotiable for sixty (60) days from the date of their issuance and may thereafter automatically be canceled if not cashed by the Settlement Class Members within that time.

63. **Deceased Class Members.** If the Settlement Administrator is notified that a Settlement Class Member is deceased, the Settlement Administrator is authorized to reissue the Settlement Check to the Settlement Class Member's estate upon receiving proof the Settlement Class Member is deceased and after consultation with Class Counsel and Avem's Counsel.

VII. CLAIMS, CAPS, AND DISTRIBUTION OF SETTLEMENT FUNDS; RESIDUAL SETTLEMENT FUND

64. **Submission of Electronic and Hard Copy Claims.** Settlement Class Members may submit Claim Forms to the Settlement Administrator electronically via the claims website or physically by mail to the Settlement Administrator. Claim Forms must be submitted electronically or postmarked during the Claims Period and on or before the Claims Deadline.

65. **Individual Caps.** Settlement Class Members are subject to an individual aggregate cap of Seven Thousand Dollars and Zero Cents (\$7,000.00) for payments made under the Settlement. Settlement Class Members may submit claims for reimbursement of Lost Time and/or Documented Out-of-Pocket Losses, but the Settlement Class Member's combined claims will be subject to the individual aggregate cap of Seven Thousand Dollars and Zero Cents (\$7,000.00).

66. **Order of Distribution of Funds.** The Settlement Administrator must distribute the Settlement Fund in the following order: (i) payment of Notice and Administrative Expenses, Taxes and Tax-Related Expenses; (ii) payment of Attorney's Fee Award and Costs approved by the Court; (iii) Service Awards payments approved by the Court; (iv) payments for Approved Claims for Out-of-Pocket Losses; (v) payments for Approved Claims for Lost Time; (vi) payments for Approved Claims for Credit Monitoring and Identity Theft Protection Services; and (vii) payments for Approved Claims for Alternative Cash Payment.

67. Pro-Rata Contingencies.

(a) In the event that the funds remaining in the Net Settlement Fund after payments for Approved Claims for Out-of-Pocket Losses are not sufficient to make payment for Approved Claims for Lost Time, then the value of the payments for Approved Claims for Lost Time shall be reduced on a pro rata basis, such that the aggregate value of all payments for Approved Claims for Out-of-Pocket Losses, and Approved Claims for Lost Time does not exceed the Net Settlement Fund. In such an event, no Net Settlement

Funds will be distributed for Approved Claims for Credit Monitoring and Identity Theft Protection Services or Approved Claims for Alternative Cash Payment.

(b) In the event that the funds remaining in the Net Settlement Fund after payments for Approved Claims for Out-of-Pocket Losses and Approved Claims for Lost Time are not sufficient to make payment/distribution for Approved Claims for Credit Monitoring and Identity Theft Protection Services, then the number of years of Credit Monitoring Services provided to each Settlement Class Member who claims that benefit shall be reduced to ensure that the aggregate value of all payments for Approved Claims for Out-of-Pocket Losses, Approved Claims for Lost Time, and Approved Claims for Credit Monitoring and Identity Theft Protection Services does not exceed the Net Settlement Fund. In such an event, no Net Settlement Funds will be distributed for Approved Claims for Alternative Cash Payment.

(c) In the event that the funds remaining in the Net Settlement Fund after payments for Approved Claims for Out-of-Pocket Losses, Approved Claims for Lost Time, and Approved Claims for Credit Monitoring and Identity Theft Protection Services are not sufficient to make payment for Approved Claims for Alternative Cash Payment, then the value of the payments for Approved Claims for Alternative Cash Payment shall be reduced on a pro rata basis, such that the aggregate value of all payments for Approved Claims for Out-of-Pocket Losses, Approved Claims for Lost Time and Approved Claims for Credit Monitoring and Identity Theft Protection Services does not exceed the Net Settlement Fund.

(d) In the event that there are funds in the Residual Settlement Fund (*i.e.*, after all payments/distributions are made for Approved Claims for Out-of-Pocket Losses, Approved Claims for Lost Time, Approved Claims for Credit Monitoring and Identity Theft Protection Services and Approved Claims for Alternative Cash Payment), each Settlement Class Member shall receive a Residual Cash Payment. To be entitled to a Residual Cash Payment, a Settlement Class Member need only have submitted a Claim Form that has been approved by the Settlement Administrator, in whole or in part. The Claim Form can be submitted for one or more of the benefits available under this Settlement and need not be of a specific type or amount. In order to receive a Residual Cash Payment, the Settlement Class Members need not submit an additional Claim Form. The Settlement Administrator, upon notice to Class Counsel and Avem's Counsel, shall determine the amount of the Residual Cash Payment. In determining this amount, the Settlement Administrator shall use the funds in the Residual Settlement Fund on a pro rata basis to Settlement Class Members who have submitted a Claim Form that has been approved by the Settlement Administrator, in whole or in part. In no event shall the amount of the Residual Cash Payment exceed Ninety-Five Dollars and Zero Cents (\$95.00).

(e) All pro rata determinations required by this Paragraph shall be performed by the Settlement Administrator upon notice to Class Counsel and Avem's Counsel.

68. **Unclaimed Property.** No portion of the Settlement Fund shall revert or be repaid to Avem after the Effective Date. To the extent any monies remain in the Residual Settlement Fund more than 150 days after the distribution of Settlement payments to the Settlement Class Members, or 30 days after all reissued Settlement Checks are no longer negotiable, whichever occurs later or as otherwise agreed to by the Parties, any remaining monies shall be distributed as required by state law or to the Non-Profit Residual Recipient.

VIII. CONFIRMATORY DISCOVERY & REMEDIAL MEASURES

69. **Confirmatory Discovery.** Upon request, Avem will provide reasonable confidential confirmatory discovery to Class Counsel which will include: (i) demonstrating the remedial efforts Avem has undertaken since the Data Security Incident, specifically those addressing its selection and oversight of vendors entrusted with Settlement Class Members' PII/PHI and the cost of the remedial measures to date; (ii) such other documents as necessary to reasonably establish to Class Counsel that Avem has implemented measures to protect Settlement Class Members' PII/PHI from further unlawful intrusions; and (iii) contact information and identifying information to confirm the identity of Class Members.

70. **Confidentiality.** The information provided by Avem pursuant to this Section VIII or Paragraph 69 shall be treated as confidential and cannot be used for any purpose other than approval and enforcement of this Settlement Agreement.

71. **No Other Rights or Remedies.** Nothing about this Section VIII or Paragraphs 69–71 shall create any rights to any present or future contractual or equitable remedy requiring Avem or its respective predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, or attorneys to make or maintain any particular security processes or procedures in the future.

IX. SETTLEMENT CLASS NOTICE

72. Timing of Notice.

(a) Within seven (7) days after the date of the Preliminary Approval Order, Avem shall provide the Settlement Class List to the Settlement Administrator which shall include physical addresses. Prior to disseminating Notice to the members of the Settlement Class, the Settlement Administrator shall perform a National Change of Address Search on the physical addresses on the Settlement Class List.

(b) Within seven (7) days after the date of the Preliminary Approval Order Avem shall also provide the Settlement Administrator with the list of returned mailings for the members of the Settlement Class to whom the original notice of the Data Security Incident was returned and/or undeliverable ("Undeliverable List"). The Settlement Administrator

shall perform skip tracing on the Undeliverable List to attempt to identify an alternative physical address for the Settlement Class Members on the Undeliverable List.

(c) Within thirty (30) days after the date of the Preliminary Approval Order, the Settlement Administrator shall commence the process of disseminating the Postcard Notice to the members of the Settlement Class via U.S. Mail.

(d) Within thirty (30) days after the date of the Preliminary Approval Order the Settlement Administrator shall also make the Long Form Notice and Claim Form available to Settlement Class Members on the Settlement Website. The Settlement Website shall allow Settlement Class Members to submit claims via the website.

(e) The Settlement Administrator shall also, if requested by Class Counsel, and with the consent and approval of any specific reminder language from Defendant, to mail reminder notices to Settlement Class Members who have not yet submitted a Postcard Claim Form and/or Claim Form, with such reminder notices to be mailed, if at all, thirty (30) days prior to the Claims Deadline.

73. **Form of Notice.** Notice shall be disseminated by U.S. mail to Settlement Class Members.

74. **Returned Mailings.** Within thirty (30) days after the date of mailing of the Postcard Notice to the Settlement Class Members, the Settlement Administrator shall provide Class Counsel and Avem's counsel with a list of the Settlement Class Members to whom the Notice was returned and/or undeliverable ("Undeliverable Notice List"). Within forty (40) days of mailing of the Postcard Notice, the Settlement Administrator shall perform additional levels of skip tracing on the Undeliverable Notice List to attempt to identify an alternative physical address for the Settlement Class Members on the Undeliverable Notice List, and shall re-mail the Postcard Notice to the Settlement Class Members to the extent an alternative physical address is identified through Settlement Administrator's efforts.

X. OPT-OUTS AND OBJECTIONS

75. **Opt-Outs.** The Notice shall explain the procedure for Settlement Class Members to exclude themselves or "opt-out" of the Settlement by submitting a Request for Exclusion to the Settlement Administrator postmarked no later than sixty (60) days after the Notice Deadline. The Request for Exclusion must include the name of the proceeding, the individual's full name, current address, personal signature, and the words "Request for Exclusion" or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication. The Notice must state that any Settlement Class Member who does not submit a timely Request for Exclusion in accordance with this

Paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement.

76. **Objections.** The Notice shall explain the procedure for Settlement Class Members to object to the Settlement by submitting written objections to the Settlement Administrator postmarked no later than sixty (60) days after the Notice Deadline. The written objection must include (i) the name of the proceeding; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement that states with specificity the grounds for the objection, as well as any documents supporting the objection; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; (v) the identity of any attorneys representing the objector; (vi) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; and (vii) the signature of the Settlement Class Member or the Settlement Class Member's attorney. The Notice must set forth the time and place of the Final Approval Hearing (subject to change) and state that any Settlement Class Member who does not file a timely and adequate objection in accordance with this Paragraph waives the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the Settlement.

77. Within seven (7) days after the deadline for opt-out as set forth in this Paragraph and as approved by the Court, the Settlement Administrator shall furnish to counsel for the Parties a complete list of all timely and valid requests for exclusions. In the event that within seven (7) days after receipt of the list from the Settlement Administrator, there have been more than One Hundred Seventy-Five (175) Opt-Outs (exclusions), Avem may, by notifying Class Counsel in writing, void this Agreement. If Avem voids the Agreement pursuant to this Paragraph, Avem shall be obligated to pay all settlement expenses already incurred, excluding any attorneys' fees, costs, and expenses of Class Counsel and service awards.

XI. DUTIES OF THE SETTLEMENT ADMINISTRATOR

78. **Duties of Settlement Administrator.** The Settlement Administrator shall perform the functions and duties necessary to effectuate the Settlement and as specified in this Agreement, including, but not limited to, the following:

- (a) Creating, administering, and overseeing the Settlement Fund;
- (b) Obtaining the Settlement Class List for the purpose of disseminating Notice to Settlement Class Members;
- (c) Performing National Change of Address searches and/or skip tracing on the Settlement Class List and Undeliverable List;

- (d) Providing Notice to Settlement Class Members via U.S. mail and e-mail;
- (e) Providing Class Counsel and Avem's Counsel with the Undeliverable Notice List and conducting additional levels of skip tracing on the Undeliverable Notice List;
- (f) Establishing and maintaining the Settlement Website;
- (g) Establishing and maintaining a toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries within one (1) business day;
- (h) Responding to any mailed Settlement Class Member inquiries within one (1) business day;
- (i) Reviewing, determining the validity of, and processing all claims submitted by Settlement Class Members;
- (j) Receiving Requests for Exclusion and objections from Settlement Class Members and providing Class Counsel and Avem's Counsel a copy thereof no later than three (3) days following the deadline for submission of the same. If the Settlement Administrator receives any Requests for Exclusion, objections, or other requests from Settlement Class Members after the Opt-Out and Objection Deadlines, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Avem's Counsel;
- (k) Working with the provider of Credit Monitoring and Identity Theft Protection Services to receive and send activation codes within thirty (30) days of the Effective Date;
- (l) After the Effective Date, processing and transmitting Settlement Payments to Settlement Class Members;
- (m) Calculating the amount of Residual Cash Payments, if any, upon notice to Class Counsel and Avem's Counsel;
- (n) Processing and transmitting Residual Cash Payments to Settlement Class Members, if applicable;
- (o) Providing weekly reports to Class Counsel and Avem's Counsel that include information regarding the number of Settlement Checks mailed and delivered, Settlement Checks cashed, undeliverable information, and any other requested information relating to Settlement Payments. The Settlement Administrator shall also, as requested by Class

Counsel or Avem's Counsel and from time to time, provide the amounts remaining in the Net Settlement Fund;

(p) In advance of the Final Approval Hearing, preparing an affidavit to submit to the Court that: (i) attests to implementation of Notice in accordance with the Preliminary Approval Order; and (ii) identifies each Settlement Class Member who timely and properly submitted a Request for Exclusion; and

(q) Performing any function related to Settlement administration as provided for in this Agreement or at the agreed-upon instruction of Class Counsel or Avem's Counsel, including, but not limited to, verifying that Settlement Payments have been distributed.

79. **Limitation of Liability.** The Parties, Released Parties, Plaintiffs' Counsel, Avem's Counsel, and Avem's insurers and reinsurers, shall not have any liability whatsoever with respect to (i) any act, omission or determination of the Settlement Administrator, or any of its respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment or distribution of the Settlement Fund; (iii) the formulation, design or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes and Tax-Related Expenses.

80. **Indemnification.** The Settlement Administrator shall indemnify and hold harmless the Parties, Released Parties, Plaintiffs' Counsel, Avem's Counsel, and Avem's insurers and reinsurers for (i) any act or omission or determination of the Settlement Administrator, or any of Settlement Administrator's designees or agents, in connection with the Notice Plan and the administration of the Settlement; (ii) the management, investment or distribution of the Settlement Fund; (iii) the formulation, design or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes and Tax-Related Expenses.

XII. PRELIMINARY APPROVAL, FINAL APPROVAL, AND JURISDICTION

81. **Certification of the Settlement Class.** For purposes of this Settlement only, the Parties stipulate to the certification of the Settlement Class, which is contingent upon the Court entering the Final Approval Order and Judgment of this Settlement and the occurrence of the Effective Date. Should: (1) the Settlement not receive final approval from the Court, or (2) the Effective Date not occur, the certification of the Settlement Class shall be void. Avem reserves the right to contest class certification for all other purposes. The

Parties further stipulate to designate the Class Representatives as the representatives for the Settlement Class.

82. **Preliminary Approval.** Following execution of this Agreement, Class Counsel shall file a motion for preliminary approval of this Settlement with the Court.

83. **Final Approval.** Class Counsel shall move the Court for a Final Approval Order and Judgment of this Settlement, to be issued following the Final Approval Hearing; within a reasonable time after the Notice Deadline, Objection Deadline, and Opt-Out Deadline; and at least 90 days after Defendant notifies the appropriate government officials of this Settlement Agreement pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715. In connection with the motion for preliminary approval, counsel for the parties shall request that the Court set a date for the Final Approval Hearing that is no earlier than 100 days after entry of the Preliminary Approval Order.

84. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

XIII. MODIFICATION AND TERMINATION

85. **Modification.** The terms and provisions of this Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that, after entry of the Preliminary Approval Order, the Parties may, by written agreement, effect such amendments, modifications, or expansions of this Agreement and its implementing documents (including all exhibits hereto) without further notice to the Settlement Class or approval by the Court if such changes are consistent with the Court's Preliminary Approval Order and do not materially alter, reduce, or limit the rights of Settlement Class Members under this Agreement.

86. **Termination.** Class Counsel (on behalf of the Settlement Class Members) and Defendant shall have the right to terminate this Agreement by providing written notice of their or its election to do so ("Termination Notice"): (1) within seven (7) days of either of the following: (a) the Court's refusal to grant preliminary approval of the Settlement in any material respect; or (b) Avem's receipt of the opt-out list from the Settlement Administrator that includes more than one hundred seventy-five (175) Opt-Outs, which

right may be exercised solely by Defendant; or (2) within fourteen (14) days of either of the following: (a) the Court's refusal to enter the Judgment in any material respect, or (b) the date upon which the Judgment is modified or reversed in any material respect by any appellate or other court.

87. **Effect of Termination.** In the event of a termination as provided in Paragraph 86, this Agreement shall be considered null and void; all of the Parties' obligations under the Agreement shall cease to be of any force and effect and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved.

XIV. RELEASES

88. **The Release.** Upon the Effective Date, and in consideration of the Settlement benefits described herein, each Releasing Party shall be deemed to have released, acquitted, and forever discharged Defendant and each of the Released Parties from any and all Released Claims.

89. **Unknown Claims.** The Released Claims include the release of Unknown Claims. "Unknown Claims" means claims that could have been raised in the Action and that Plaintiffs, any member of the Settlement Class or any Releasing Party, do not know or suspect to exist, which, if known by him, her or it, might affect his, her or its agreement to release the Released Parties or the Released Claims or might affect his, her or its decision to agree, object or not to object to the Settlement. Upon the Effective Date, Plaintiffs, the Settlement Class, and any Releasing Party shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code, which provides as follows:

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.

Upon the Effective Date, each of the Releasing Parties shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state, the District of Columbia or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Class Representatives, the Settlement Class, and the Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to

be true with respect to the subject matter of the Release, but that it is their intention to finally and forever settle and release the Released Claims, including but not limited to any Unknown Claims they may have, as that term is defined in this Paragraph.

90. **Bar to Future Suits.** Upon entry of the Final Approval Order and Judgment, the Class Representatives and other Settlement Class Members shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against any of the Released Parties or based on any actions taken by any of the Released Parties that are authorized or required by this Agreement or by the Final Approval Order. It is further agreed that the Settlement may be pleaded as a complete defense to any proceeding subject to this section.

XV. SERVICE AWARD PAYMENTS

91. **Service Award Payments.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a motion seeking a service award payment for the Class Representatives in recognition for their contributions to this Action. Avem agrees not to oppose Class Counsel's request for a service award not to exceed One Thousand Five Hundred Dollars and Zero Cents (\$1,500.00) per representative, for a total of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00). The Settlement Administrator shall make the Service Award Payments to the Class Representatives from the Settlement Fund. Such Service Award Payment shall be paid by the Settlement Administrator, in the amount approved by the Court, no later than thirty (30) days after the Effective Date.

92. **No Effect on Agreement.** In the event the Court declines to approve, in whole or in part, the payment of service awards in the amount requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the service awards shall constitute grounds for termination of this Agreement.

XVI. ATTORNEYS' FEES, COSTS, EXPENSES

93. **Attorneys' Fees and Costs and Expenses.** At least fourteen (14) days before the Final Approval Hearing, Class Counsel will file a motion for an award of attorneys' fees and litigation costs and expenses to be paid from the Settlement Fund. Avem agrees not to oppose Class Counsel's request for an award of attorneys' fees not to exceed thirty percent (30.00%) of the Settlement Fund and reimbursement of litigation costs and expenses not to exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00). Fee Award and Costs shall be paid by the Settlement Administrator from the Settlement Fund, in the amount approved by the Court, immediately upon the Court's Order.

94. **Allocation.** Unless otherwise ordered by the Court, Class Counsel shall have the sole and absolute discretion to allocate any approved Fee Award and Costs amongst Plaintiffs' counsel and any other attorneys for Plaintiffs. Avem and its insurers and reinsurers shall have no liability or other responsibility for allocation of any such attorneys' fees and costs.

95. **No Effect on Agreement.** In the event the Court declines to approve, in whole or in part, the payment of attorneys' fees and costs and expenses in the amount requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the service awards shall constitute grounds for termination of this Agreement.

XVII. NO ADMISSION OF LIABILITY

96. **No Admission of Liability.** The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties or Released Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

97. **No Use of Agreement.** Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (i) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Plaintiffs; or (ii) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission by Avem or Released Parties in the Action or in any proceeding in any court, administrative agency or other tribunal.

XVIII. MISCELLANEOUS

98. **Integration of Exhibits.** The exhibits to this Agreement and any exhibits thereto are a material part of the Settlement and are incorporated and made a part of the Agreement.

99. **Entire Agreement.** This Agreement, including all exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the subject matter hereof and shall supersede any previous agreements, representations, communications and understandings among the Parties. This Agreement may not be changed, modified, or amended except in writing signed by all Parties, subject to Court approval. The Parties contemplate that, subject to Court approval or without such approval where legally

permissible, the exhibits to this Agreement may be modified by subsequent Agreement of counsel for the Parties prior to dissemination of the Settlement Class Notice to the Settlement Class.

100. **Deadlines.** If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day. All reference to “days” in this agreement shall refer to calendar days unless otherwise specified.

101. **Singular and Plurals.** As used in this Agreement, all references to the plural shall also mean the singular and to the singular shall also mean the plural whenever the context so indicates.

102. **Headings.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

103. **Construction.** For the purpose of construing or interpreting this Agreement, the Parties agree that this Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party.

104. **Cooperation of Parties.** The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, defend Court approval, and to do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

105. **Obligation to Meet and Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted in good faith.

106. **No Conflict Intended.** Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

107. **Governing Law.** The Agreement shall be construed in accordance with, and be governed by, the laws of the State of Oklahoma, without regard to the principles thereof regarding choice of law.

108. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically, by facsimile, or through e-mail of an Adobe PDF shall be deemed an original.

109. **Notices.** All notices to Class Counsel provided for herein, shall be sent by overnight mail and email to:

William B. Federman
FEDERMAN & SHERWOOD
10205 N. Pennsylvania Avenue
Oklahoma City, Oklahoma 73120
Email: wbf@federmanlaw.com

All notices to Avem provided for herein, shall be sent by overnight mail and email to:

Casie D. Collignon
BAKER & HOSTETLER LLP
1801 California Street, Suite 4400
Denver, CO 80202
Email: ccollignon@bakerlaw.com

The notice recipients and addresses designated above may be changed by written notice.

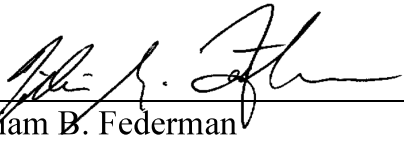
110. **Authority.** Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

[SIGNATURES ON NEXT PAGE]

SIGNATURES

FEDERMAN & SHERWOOD

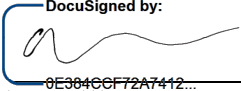
*Executed on behalf of and as Counsel
for Plaintiffs and the Class*

By: 
William B. Federman

Date: 8/17/2023

BAKER & HOSTETLER LLP

*Executed on behalf of and as Counsel
for Defendant Avem Health Partners, Inc.*

By: 
Casie Collignon

Date: 8/17/2023