

**IN THE CIRCUIT COURT  
THIRD JUDICIAL CIRCUIT  
MADISON COUNTY, ILLINOIS**

GENTES TRUST #1 and GENTES TRUST #2,     )  
individually, and on behalf of all             )  
others similarly situated,                         )

Plaintiffs,   )

Case No. 2022-LA-000269

vs.   )

FRONTIER-MT CARROLL MUTUAL                 )  
INSURANCE,   )

Defendant.   )

**COMBINED STIPULATION AND SETTLEMENT AGREEMENT AMONG  
PLAINTIFFS GENTES TRUST #1 AND GENTES TRUST #2 AND THE DEFENDANT,  
FRONTIER-MT CARROLL MUTUAL INSURANCE**

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Individually, and on behalf of all	)	
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Plaintiffs,	)	Case No. 2022-LA-000269
	)	
vs.	)	
	)	
FRONTIER-MT CARROLL MUTUAL	)	
INSURANCE,	)	
	)	
Defendant.	)	

IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiffs Gentes Trust #1 and Gentes Trust #2 (the “Representative Plaintiffs” as defined below) and Defendant Frontier-Mt Carroll Mutual Insurance (“Frontier” as defined below), and the Settlement Class as defined herein, in consideration of the promises and covenants set forth in this Stipulation and Settlement Agreement (“Agreement”) and, upon entry by the Court of an order of Final Judgment in the lawsuit captioned *Gentes Trust #1 and Gentes Trust #2 v. Frontier-Mt Carroll Mutual Insurance*, Madison County, Illinois, Case No. 2022-LA-000269 (the “Action”), and the matters raised by Representative Plaintiffs in the Action against Defendant are settled, compromised, and dismissed on the merits and with prejudice on the terms and conditions set forth in this Agreement.

**1.0 RECITALS**

1.1 On February 28, 2022, the Representative Plaintiffs filed the Action against Frontier, alleging that it improperly deducted labor depreciation from actual cash value payments when adjusting claims for structural losses under Frontier policies. The Representative Plaintiffs alleged claims on behalf of a class of Frontier insureds with

structural loss claims in Illinois for breach of contract, declaratory relief, and for violating Illinois statutes governing fair claims handling practices.

1.2 On May 6, 2022, Frontier filed a Motion to Dismiss or Compel Appraisal and Stay Litigation Pending Appraisal. The Court denied Frontier's motion on July 13, 2022.

1.3 The Parties in the Action then engaged in informal discovery, including Frontier producing claims data for the putative class members.

1.4 After the Parties engaged in informal discovery and had extensive discussions to ensure the class data produced by Frontier was complete, the Parties engaged in extensive arm's-length settlement discussions. The Parties eventually reached the terms of a settlement which are contained in this Agreement.

1.5 Class Counsel have significant experience with labor depreciation claims, having represented insureds in numerous putative class actions. Based on this experience, Class Counsel believe that the Representative Plaintiffs' claims and allegations relating to labor depreciation asserted in the Action have significant merit. Class Counsel recognize and acknowledge, however, that prosecuting such claims through further fact and expert discovery, class certification, dispositive motions, trial, and appeals will involve considerable uncertainty, time, and expense.

1.6 Class Counsel have concluded that it is in the best interests of the Settlement Class that the claims asserted by the Representative Plaintiffs against Frontier in the Action be resolved on the terms and conditions set forth in this Agreement. After extensive consideration and analysis of the factual and legal issues presented in the Action, Class Counsel have reached the conclusion that the substantial benefits that Class Members will receive as a result of this Settlement are a very good result in light of the risks and uncertainties of continued litigation, the time and expense

that would be necessary to prosecute the Action through class certification, trial and any appeals that might be taken, and the likelihood of success at trial.

1.7 Frontier denies, and continue to deny, each and every allegation of liability, wrongdoing, and damages, as they believe they have substantial factual and legal defenses to all claims and class allegations relating to labor depreciation in the Action. Frontier has always maintained, and continue to maintain, that they have acted in accordance with all applicable agreements and governing law. Nonetheless, Frontier has concluded that because the continuation of the claims and allegations in the Action would be protracted and expensive, it is desirable that such claims be fully and finally settled on a class-wide basis (without any admission of fault or liability) in the manner and upon the terms set forth in this Agreement.

1.8 Without admitting any liability or wrongdoing, Frontier agrees to the terms of this Agreement, provided that Final Judgment approving the Settlement is entered and all Released Claims are settled, compromised, and released, in order to resolve all issues relating to Labor Depreciation that were asserted, or that could have been asserted, in the Action.

## **2.0 DEFINITIONS**

In addition to terms defined elsewhere in this Agreement, the following terms shall be defined as follows:

2.1 “Action” means the lawsuit captioned *Gentes Trust #1 and Gentes Trust #2 v. Frontier-Mt Carroll Mutual Insurance*, filed in the Circuit Court of Madison County, Illinois, Case No. 2022-LA-000269.

2.2 “ACV Payment” means an actual cash value payment made on an insurance claim for a Structural Loss, calculated by estimating the replacement cost value of covered damage, and subtracting depreciation, including Labor Depreciation, and any applicable deductible.

2.3 “Administrator” means Atticus Administration LLC, a third-party administrator retained by Defendant to assist in administering and implementing the Settlement.

2.4 “Agreement,” “Proposed Settlement” and “Settlement” means this Stipulation and Settlement Agreement, including all corresponding exhibits.

2.5 “Claim Form” means the Court-approved claim form, without material change from Exhibit C, that a Class Member must submit to be considered eligible for a Claim Settlement Payment under the Settlement as provided in Sections 6 and 7.

2.6 “Claim Settlement Payment” means the sole payment to which a Class Member filing a valid and timely Claim Form may be entitled, as described in Section 6.

2.7 “Claim Deadline” means the date by which the Claim Forms must be postmarked in order to be considered timely, as further provided in Section 6.

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

David T. Butsch  
Christopher E. Roberts  
Butsch Roberts & Associates LLC  
231 S. Bemiston Ave., Suite 260  
Clayton, MO 63105  
Tel: (314) 863-5700  
Fax: (314) 863-5711  
butsch@butschroberts.com  
roberts@butschroberts.com

Christopher W. Byron  
Christopher J. Petri  
Byron Carlson Petri & Kalb, LLC  
411 St. Louis Street  
Edwardsville, IL 62025  
Tel: (618) 655-0600  
Fax: (618) 655-4004  
cwb@bcpldaw.com  
cjp@bcpldaw.com

2.9 “Class Member” means any Person who (a) is included within the definition of the Settlement Class and (b) does not timely and properly request exclusion from the Settlement Class, as provided in Section 10.

2.10 “Class Notice” means the notice mailed to potential Class Members of the preliminary approval of this Agreement and of the proposed Settlement, as provided in Section 5, in substantially the same form as Exhibit B.

2.11 “Class Period” includes only policyholders whose loss accrued between February 28, 2020 and September 17, 2021, and who submitted timely notice of their loss.

2.12 “Court” means the Circuit Court of Madison County, Illinois.

2.13 “Covered Loss” means a first party insurance claim for Structural Loss, as defined below, that (a) occurred during the Class Period, and (b) resulted in an ACV Payment by Frontier, or would have resulted in an ACV Payment but for the deduction of Labor Depreciation.

2.14 “Defendant’s Counsel” means:

Thomas A. Gamache  
Leahy, Eisenberg & Fraenkel, Ltd.  
33 West Monroe Street, Suite 1100  
Chicago, Illinois 60603  
Tel: 312-368-4554  
tag@lefltd.com

2.15 “Effective Date” shall be the first date on which all of the following conditions have occurred:

- (a) all Parties have executed this Agreement;
- (b) no party has terminated the Agreement;
- (c) the Court has entered the Preliminary Approval Order substantially the same as the attached Exhibit A;
- (d) the Court has entered a Final Judgment substantially the same as the attached Exhibit E, approving this Agreement and the Proposed Settlement, releasing all of the Released Persons from all of the Released Claims, and dismissing the Action with prejudice and without leave to amend; and,
- (e) the Final Judgment has become Final.

2.16 “Frontier” means Frontier-Mt Carroll Mutual Insurance.

2.17 “Final” when referring to a judgment or order means that:

(a) the time has expired to file an appeal with no such appeal having been filed; or

(b) if an appeal has been filed, (i) the judicial ruling or order has been affirmed without modification and with no further right of review, or (ii) such appeal has been denied or dismissed with no further right of review, in all cases so as to permit the implementation of the Proposed Settlement in accordance with and without material change to this Agreement.

2.18 “Final Approval Hearing” means a hearing to consider final approval of the Proposed Settlement and entry of Final Judgment, as provided in Sections 3.3 and 12.

2.19 “Final Judgment” means the order and judgment to be entered by the Court substantially the same in form and content as Exhibit E without material change (as determined by the Defendant or Class Counsel), adopting this Agreement, approving the Settlement as fair, reasonable, adequate, and in the best interests of the Class Members, and fully and finally disposing of all claims asserted in the Action against Frontier. If the Frontier or the Representative Plaintiffs contend there is a material change, then such parties shall immediately seek to terminate this Agreement as provided for herein.

2.20 “Labor Depreciation” means any costs depreciated by Frontier or its independent adjusters from an actual cash value payment that are attributable to labor costs. For purposes of this Agreement: (A) For claims in which an .esx file was available to counsels, the amount of “Labor Depreciation” withheld from an ACV payment is reflected in column “AI” of the spreadsheet produced by Frontier on February 24, 2023; (B) For claims in which no .esx file was available to counsels, the amount of “Labor Depreciation” is calculated as 49.3% of the total withheld depreciation. (This percentage reflects the proportionate share of labor depreciation to total withheld depreciation from those claims in which an .esx file was available.)



2.21 “Legally Authorized Representative” means an administrator/administratrix, personal representative, or executor/executrix of a deceased Class Member’s estate, a guardian, conservator, attorney-in-fact, or next friend of an incapacitated Class Member or any other legally appointed Person or entity responsible for the handling of the business affairs of a Class Member, in all cases as established by written evidence of a Legally Authorized Representative’s authority. However, any named insured is a Legally Authorized Representative for claims under that named insured’s policy without any further written evidence of authority.

2.22 “Parties” means the Representative Plaintiffs and Frontier.

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

2.24 “Preliminary Approval” means the Preliminary Approval Order substantially the same in form and content as Exhibit A without material change (as determined by the Defendant or the Plaintiff) to be entered by the Court, as provided in Section 3.2. If any Party reasonably contends there is a material change, then such Party may immediately move to set aside the Preliminary Approval Order and terminate this Agreement as provided for herein prior to the issuance of Class Notice.

2.25 “Released Claims” means the claims released by Final Judgment, as defined in Section 9.1.

2.26 “Released Persons” means, individually and collectively, (a) Frontier and all independent adjusting companies acting for Frontier, and (b) all past and present affiliates, successors and predecessors in interest, assigns, acquirers, divisions, representatives, officers, directors, shareholders, agents, managing agents, employees, attorneys, auditors, accountants, brokers, surplus lines brokers, underwriters, advisers, insurers, co-insurers, re-insurers,

consultants, vendors, independent contractors, and legal representatives of the Persons listed in subsection (a).

2.27 “Releasing Persons” mean the Representative Plaintiffs, all Class Members who do not properly and timely opt out of the Settlement Class, and their respective spouses, family members, executors, representatives, administrators, guardians, wards, heirs, attorneys-in-fact, estates, bankruptcy estates, bankruptcy trustees, successors, predecessors, attorneys, agents and assigns, and all those who claim through them or who assert claims (or could assert claims) on their behalf.

2.28 “Representative Plaintiffs” means Plaintiff Gentes Trust #1 and Gentes Trust #2, individually and as representatives of the Settlement Class.

2.29 “Settlement Class” means all policyholders (or their lawful assignees) under any commercial or personal lines property insurance policy issued by Frontier who made: (a) a Structural Loss claim for property located in the State of Illinois during the applicable Class Periods as defined in Section 2.11; and, (b) that resulted in an ACV Payment from which Labor Depreciation was withheld, or that would have resulted in an ACV Payment but for the withholding of Labor Depreciation causing the loss to drop below the applicable deductible.

2.30 Excluded from the Settlement Class are:

2.30.1 Policyholders whose claims arose under policy forms, endorsements, or riders expressly permitting the Labor Depreciation within the text of the policy form, endorsement or rider, *i.e.*, by express use of the words “depreciation” and “labor”, including FMC Endorsements CL 05H 08 20, CL 05F 08 20, and CL 05D 08 20;

2.30.2 Policyholders who received one or more ACV Payments for claims, but not replacement cost value payments, that exhausted the applicable limits of insurance;

2.30.3 Policyholders whose claims were denied or abandoned without ACV Payment;

2.30.4 Frontier and its officers and directors;

2.30.5 Members of the judiciary and their staff to whom this action is assigned and their immediate families; and,

2.30.6 Class Counsel and their immediate families.

2.33 “Structural Loss” means physical damage to a home, building, manufactured home, condo, rental dwelling, or other structure in Illinois while covered by any Personal Lines or Commercial Lines insurance policy issued by Frontier.

2.36 “Unknown Claim” is defined in Section 9.2.

### **3.0 CONDITIONS**

3.1. The Settlement is expressly contingent upon the satisfaction in full of the material conditions set forth below, including all other terms and conditions of this Agreement.

3.2. **Condition No. 1: Approval.** The Settlement must be approved by the Court in accordance with the following steps:

3.2.1 **Motion for Preliminary Approval.** After good faith consultation with the Defendant’s Counsel, Class Counsel will file with the Court a motion for preliminary approval by April 27, 2023. The motion for preliminary approval shall include a Preliminary Approval Order, a Class Notice, Claim Form, a Postcard Notice, and a Final Judgment, all substantially in form and content as Exhibits A-E. The Parties shall take reasonable steps to secure expeditious entry by the Court of the Preliminary Approval Order and shall request that the Court schedule a Final Approval Hearing no earlier than one-hundred and five (105) days after entry of the Preliminary Approval Order.

3.2.2 **Settlement Class Certification.** Pursuant to the motions for preliminary and final approval of the proposed Settlement, the Representative Plaintiffs shall seek orders (preliminary and final, respectively) certifying the Settlement Class pursuant to 735 ILCS § 5/2-801 *et seq.*, for purposes of this Settlement only.

3.2.3 **Entry of Preliminary Approval Order.** The Court shall enter a Preliminary Approval Order substantially similar in form and content as Exhibit A, which shall, among other things:

- a. Certify the Settlement Class for purposes of settlement, approve the Representative Plaintiffs as the class representative of the Settlement Class, and appoint Class Counsel, pursuant to Illinois Statute 735 ILCS 5/2-801 *et seq.*;
- b. Preliminarily approve the Settlement as fair, reasonable and adequate and approve selection of the Administrator;
- c. Order the issuance of Class Notice to Class Members pursuant to this Agreement, and determine that such Notice complies with all requirements, including, but not limited to, Illinois Statute 735 ILCS 5/2-801 *et seq.* and the Due Process Clause of the United States Constitution;
- d. Schedule a date and time for a Final Approval Hearing to determine whether the Settlement should be finally approved by the Court;
- e. Require persons within the Settlement Class who wish to exclude themselves to submit an appropriate and timely written request for exclusion by the opt out deadline in the Preliminary Approval Order, and advise that a failure to do so shall bind those Class Members who remain in the Settlement Class;
- f. Require Class Members who wish to object to the Settlement to submit a timely written objection by an objection deadline in the Preliminary Approval Order, and advise that a failure to do so shall prevent those Class Members from objecting to the Settlement;
- g. Require any Class Member who objects to the Settlement and wishes to appear at the Final Approval Hearing to file a notice of intent to appear;
- h. Provide that the Final Approval Hearing may take place, at the sole discretion of the Court, via telephone or video so as to allow the Final Approval Hearing to proceed despite any limitations on in-court hearings related to the COVID-19 pandemic and provide that any Class Member who files a notice of intent to appear shall be provided with information necessary to access the telephone or video hearing;
- i. Order that the Class Notice and Claim Form be sent to Class Members and set the Claim Deadline;
- j. Preliminarily enjoin all Class Members, unless and until they have timely and properly excluded themselves from the Settlement Class, from (i) filing, commencing, prosecuting, maintaining, intervening

in, or participating as a plaintiff, claimant, or class member in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction, individually or as a class action on behalf of any Class Members who have not timely excluded themselves, based on or arising from the Released Claims; and (ii) attempting to effect an opt-out class of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on or arising from the Released Claims;

- k. Authorize the Parties to take all necessary and appropriate steps to implement the Settlement as set forth in this Agreement; and
- l. Such additional provisions as provided in Exhibit A as necessary to implement this Agreement and the Settlement, and to issue related orders to effectuate the preliminary approval of the Settlement Agreement.

**3.3 Final Approval Hearing.** In connection with the motion for preliminary approval, the Parties shall request that the Court schedule and conduct a Final Approval Hearing not less than one-hundred and five (105) days after entry of the Preliminary Approval Order, at which time it will consider whether the Settlement is fair, reasonable, and adequate pursuant to 735 ILCS 5/2-801 *et seq.* Class Counsel, after good faith consultation with counsel for Frontier, shall request that, at or after the Final Approval Hearing, the Court: (i) enter the Final Judgment, granting final approval of the Settlement and dismissing with prejudice the claims of the Representative Plaintiffs and the Settlement Class in this Action; (ii) determine the attorneys' fees and expenses that should be awarded to Class Counsel as contemplated in the Agreement; and (iii) determine the service awards, if any, that should be issued to the Representative Plaintiffs, as contemplated by the Agreement.

**3.4 Condition No. 2: Finality of Judgment.** The Court shall enter a Final Judgment substantially similar in form and content as Exhibit E, as described in Section 12, the Final Judgment must become Final, and the Effective Date must occur.

#### **4.0 SETTLEMENT CONSIDERATION**

4.1 In compromise of disputed claims and in consideration of this Agreement, as well as additional consideration described in this Agreement, the Parties have agreed that Frontier will pay the following, subject and pursuant to the terms of this Agreement, in exchange for a release of the Released Persons of Released Claims, entry of Final Judgment as contemplated herein, and dismissal with prejudice of the Action:

**4.1.1 LABOR DEPRECIATION + INTEREST PAYMENTS:**

Pursuant to Section 6.4, subject to the terms, limits, conditions, coverage limits, and deductibles of policies, Claim Settlement Payments to Settlement Class Members who timely file valid Claim Forms by the Claims Deadline will be equal to 112.5% of the still unrecovered Labor Depreciation that was withheld from their respective ACV Payments (or that would have resulted in an ACV Payment but for the Labor Depreciation withholding to cause the loss to fall below the deductible) for which there remains some amount of outstanding Labor Depreciation on the claim; and

**4.1.2 INTEREST ONLY PAYMENTS:**

Pursuant to Section 6.5, Class Members who had Labor Depreciation initially withheld from their ACV Payments, but who later recovered all outstanding Labor Depreciation through the claim process, will receive an interest payment calculated by multiplying (a) the total Labor Depreciation amount initially withheld by (b) a percentage rate, determined by the number of months the withheld Labor Depreciation was withheld (as reflected in column "T" of the spreadsheet produced by Frontier on February 24, 2023), according to the following schedule:

<b><u>Number of Months Labor Depreciation Amounts Initially Withheld</u></b>	<b><u>Percentage of Total Labor Depreciation Amounts Initially Withheld</u></b>
0-4	2.5%
5-9	5%
10+	10%

4.1.3 Subject to the conditions set forth in this Agreement, attorneys' fees and reasonable litigation expenses totaling \$250,000.00 to Class Counsel;

4.1.4 Subject to the conditions set forth in this Agreement, a service award, of \$10,000.00 to the Representative Plaintiffs.

4.1.5 The costs of Class Notice and settlement administration, as provided in this Agreement; and

4.2 Until such time as the foregoing payments are made, all sums to be paid by Frontier shall remain under the control and ownership of Frontier, the Administrator, or their independent contractors. Neither Class Members nor any other Person shall have any right to, or ownership or expectation interest in, Claim Settlement Payments or any other sums unless and until timely and eligible claims of Class Members have been submitted and checks in payment of same have been issued and timely negotiated by Class Members, as described in this Agreement.

## **5.0 NOTICE**

5.1 **Class Notice.** As soon as practicable after Preliminary Approval of the Proposed Settlement, but in any event no more than seven (7) days after the filing of the Motion for Preliminary Approval, Frontier shall conduct a reasonable search of its records and provide to the Administrator for each Person reasonably believed to be a potential Class Member, the following information, if reasonably available: name, last known mailing address, date of Covered Loss during the Class Periods, policy number, claim number for the Covered Loss.

5.2 The Administrator shall mail a copy of the Class Notice and Claim Form in a form and content substantially similar to Exhibits B and C, by first-class U.S. Mail, to each potential Class Member identified by the Defendant. Prior to mailing, the Administrator shall run the addresses one time through the National Change of Address database in order to obtain any updated addresses for potential Class Members.

5.3 The Administrator shall complete mailing of the Class Notice and Claim Form to potential Class Members not less than seventy-five (75) days prior to the Final Approval Hearing. Any material change(s) to the Class Notice or Claim Form agreed to by the Parties, after entry of the Preliminary Approval Order, must be approved by the Court prior to mailing.

5.4 If a Class Notice and Claim Form sent to any potential Class Member is returned as undeliverable, the Administrator will promptly log such return as undeliverable and provide copies of the log to the Defendant and Class Counsel as requested. If the mailing is returned to the Administrator with a forwarding address, the Administrator will forward the mailing to that address. For other returned mailings, the Administrator will run the name and address one time through a single commercial database (*e.g.*, Accurant) chosen by the Administrator, and should the commercial database show a more current address, the Administrator shall re-mail the returned Class Notice and Claim Form to the more current address. If a more current mailing address cannot be found by searching the commercial database referenced in the preceding sentence, the Administrator shall send one message to the last known e-mail address as contained in Defendant's records (when available) for such Class Member and attempt to contact such Class Member to obtain a current address. If a more current address cannot be found through either of the two methods described above, then no further efforts to locate or to find a more current address for Class Members is required.

5.5 **Postcard Notice.** No later than 30 days before the Claim Deadline, the Administrator shall mail a postcard reminder in the form attached as Exhibit D (the "Postcard Notice") with information regarding the Claim Deadline, the Settlement Website address, and how to request a copy of the Claim Form. The Postcard Notice will be mailed to each Class Member who has not submitted a Claim Form and who has not timely and properly excluded themselves.

5.6 **Settlement Website.** No later than the posting of the Class Notice, the Settlement Administrator shall establish a website containing copies of the Agreement and Exhibits, the Preliminary Approval Order, the Class Notice, Claim Form, and such other documents and information about the Settlement as Class Counsel and Frontier's Counsel agree upon. The Claim



Form shall be available to download or print from the Settlement website. A signed, completed, and scanned Claim Form may also be uploaded and submitted on the Settlement Website.

5.6.1 The Settlement Website shall use a Uniform Resource Locator that identifies the internet address as [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com), or such other URL as Class Counsel and Frontier's Counsel agree upon. The Settlement website shall not include any advertising and shall not bear or include any logos or trademarks of Frontier other than those appearing in the Agreement. The Settlement website shall cease to operate and the Administrator shall remove all information from the Settlement website no later than the Final Accounting as described in Section 7.

5.7 **Toll-free Number.** No later than the posting of the Class Notice, the Administrator shall establish a toll-free interactive voice response phone number, with script recordings of information about the Settlement, including information about the Claim Form, utilizing relevant portions of the Class Notice and Claim Form. The Administrator shall send the Class Notice and Claim Form, upon request of any Class Members. The phone number shall remain open and accessible through the Claim Deadline and allow for Class Members to leave recorded messages and also provide for live operators during select times to answer certain basic questions about the Settlement. Except for requests for the Class Notice or Claim Form, the Administrator will promptly advise Class Counsel of recorded messages left by Class Members concerning the Action and/or the Settlement, or direct any Class Members with questions that cannot be answered, to Class Counsel, so that Class Counsel may timely and accurately respond to such inquiries.

5.8 The Parties agree that the foregoing procedures are reasonable and the best practicable notice under the circumstances, and are an appropriate and sufficient effort to locate

current addresses for Class Members such that no additional efforts to do so shall be required. Upon reasonable request, the Administrator shall advise Class Counsel and Frontier's Counsel of the progress of the notice program to monitor compliance with this Agreement.

## **6.0 SUBMISSION OF CLAIM FORMS**

6.1 Claim Forms mailed to Class Members shall be pre-populated with the Class Member's name, current address, and the date of Covered Loss, to the extent feasible, if such information is reasonably available.

6.2 To be considered valid and timely, a Claim Form must be materially complete, signed by or on behalf of the Class Member, and mailed to the Administrator's address as specified in the Claim Form, postmarked by the Claim Deadline, which shall be forty-five (45) days after the scheduled date of the Final Approval Hearing. Signed and completed Claim Forms may also be scanned and uploaded on the Settlement Website by the Claim Deadline or sent to the Administrator via e-mail. Claim Forms may be submitted on behalf of deceased or incapacitated Class Members by Legally Authorized Representatives, with written evidence of authority.

6.3 The Claim Form will reasonably request of Class Members such information as described on the attached Exhibit C. To be eligible for a Claim Settlement Payment, Class Members must, on or with the Claim Form:

- 6.3.1 Affirm that they have not assigned the claim for the Covered Loss upon which the ACV Payment was calculated, other than an interest that may be held by a mortgagee;
- 6.3.2 Confirm that the pre-populated contact information contained on the Claim Form is correct, or, if necessary update, correct, or provide additional information;
- 6.3.3 If the Class Member under the Covered Loss is deceased or incapacitated, include written evidence that the Person submitting the Claim Form is the Legally Authorized Representative of the Class Member.

The Claim Form will not require that a Class Member sign under penalty of perjury or be notarized.

6.4 Class Members, who timely submit a materially complete Claim Form, and for whom there remains some amount of outstanding Labor Depreciation on the claim, shall be paid a Claim Settlement Payment equal to 112.5% of the outstanding Labor Depreciation.

6.5 Class Members who timely submit a materially complete Claim Form, but for whom all outstanding Labor Depreciation that was withheld from ACV Payments was subsequently paid, shall be paid interest as described in Section 4.1.2 above.

6.6 The foregoing Claim Settlement Payments are the only payments to which Class Members will be entitled under the Proposed Settlement. Any rights to Claim Settlement Payments under this Agreement shall inure solely to the benefit of Class Members and are not transferable or assignable, unless the insurance claim was assigned by the Class Member before the date of Preliminary Approval in the ordinary course to a contractor who performed, or intends to perform, repair or replacement work to which the insurance claim relates. Provided, however, that any such assignee submits written evidence of such an assignment must agree in writing to indemnify the Defendant for any loss should the assignor-policyholder later dispute payment to the assignee-contractor before payment will be made to the assignee.

6.7 The opportunity to submit Claim Forms for Claim Settlement Payments and other obligations incurred by Frontier, pursuant to this Agreement, shall be in full and final disposition of the Action, and in full consideration for the release of any and all Released Claims as against any and all Released Persons, regardless of whether or not a Class Member receives a Class Notice, submits a Claim Form, or timely negotiates a Claim Settlement Payment check.

## **7.0 CLAIMS ADMINISTRATION AND PAYMENTS**

7.1 **Claims Determinations.** The settlement administrator shall pay 112.5% of outstanding “Labor Depreciation” to all class members who fall within Sections 4.1.1 / 6.4. The settlement administrator shall pay the respective percentages that apply to the withheld “Labor Depreciation” to all class members who fall within Sections 4.1.2 / 6.5.

7.2 The Administrator shall notify, in writing, those Class Members who submit an untimely Claim Form that their claim is denied and will not be processed further. The Administrator’s determination of whether a Claim Form was timely submitted shall be final, binding, not reviewable by the Neutral Evaluator, and not appealable, and may not be the basis for an objection.

7.3 The Administrator shall notify, in writing, those Class Members who submit a timely but materially deficient Claim Form that they have thirty (30) days to correct the deficiency. The notice will identify the deficiency and state that any response must be postmarked within thirty (30) days of the date of the notice of the deficiency.

7.4 The Administrator will weekly update Class Counsel and Frontier’s Counsel on the claims process and provide, a list of: (a) Class Members who submitted Claim Forms; (b) the amount of the Claim Settlement Payment, if any, owing to each; (c) if no Claim Settlement Payment is owing, a brief explanation why; (d) a list of Class Members who have opted out of or have objected to the Settlement. The Administrator must advise Frontier as to how much is being paid, to each individual Class Member, so that Frontier can assign specific amounts to specific claim files.

7.5 **Funding.** Within the later of (a) ten (10) days after the Effective Date or (b) thirty (30) days after the final determinations of Claim Settlement Payments described in Section 7.4, the Defendant shall send to the Administrator adequate funds for deposit to an account

established by the Administrator to pay Claim Settlement Payments. In no event shall Frontier be liable to pay Claim Settlement Payments before that time.

**7.6 Checks.** Within ten (10) days of receipt of funds described in Section 7.5, the Administrator shall mail to each Class Member who timely submitted an eligible Claim Form, as determined above, a settlement check for the Claim Settlement Payment to which each Class Member is entitled. The Administrator shall use addresses used to send the Class Notice, subject to any updates received from Class Members on Claim Forms or otherwise.

**7.7** Checks shall be issued in the names of Class Members as reflected on the Defendant's records, and shall state on their face that they expire and are void 120 days from the date of issuance, after which the Administrator may close the account. Prior to the expiration of checks, Class Members may request replacement checks be issued by the Administrator if they lose or misplace their original check. In the event any check issued pursuant to this Agreement is uncashed, returned and the payee cannot be located, or expires or becomes void, the Administrator will follow their standard escheatment procedures for the State of Illinois.

**7.8 Final Accounting.** Within thirty (30) days after completion of the escheatment procedures pursuant to Section 7.7 and all claims have been resolved, including claims disputed by Class Members, the Administrator shall provide a final accounting to the Parties.

**7.9 Taxes.** Frontier and the Administrator will comply with all federal, state, and local tax reporting obligations in connection with the payments made to the Representative Plaintiffs (service award) and Class Counsel. Settlement Class members payments shall not be reported as taxable income by Frontier or the Administrator. Frontier and the Administrator are not obligated to compute, estimate, or pay any taxes on behalf of, and are not liable for any taxes

owed by, the Representative Plaintiffs, Class Counsel, or any Class Member as a result of the payments contemplated by the Settlement.

7.10 **Information Available to Class Counsel.** Class Counsel shall have the right to interact directly with the Administrator regarding the administration of the Settlement.

## **8.0 COVENANTS, REPRESENTATIONS AND WARRANTIES**

8.1 **Covenants Not to Sue.** The Representative Plaintiffs and Class Members covenant and agree:

- 8.1.1 not to file, commence, prosecute, maintain, intervene in, or participate in (as parties, class members or otherwise) any action in any jurisdiction based on or relating to any of the Released Claims, or the facts and circumstances relating thereto, against any of the Released Persons;
- 8.1.2 not to organize or to solicit the participation of Class Members in a separate class for purposes of pursuing any action (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action in any jurisdiction) based on or relating to any of the Released Claims or the facts and circumstances relating thereto; and,
- 8.1.3 that the foregoing covenants and this Agreement shall be a complete defense to any of the Released Claims asserted against any of the Released Persons.

8.2 The Representative Plaintiffs represent and warrant that they are the sole and exclusive owner of their Released Claims and that they have not assigned or otherwise transferred any interest in any Released Claims against any Released Persons, and further covenant that they will not assign or otherwise transfer any interest in their Released Claims.

8.3 The Representative Plaintiffs represent and warrant that, after entry of Final Judgment, they have no surviving claim or cause of action against any of the Released Persons with respect to any of the Released Claims.

8.4 The Representative Plaintiffs and Class Counsel represent and warrant that there are no outstanding liens or claims against the Action, and acknowledge that the Representative

Plaintiffs and Class Counsel will be solely responsible for satisfying any liens or claims asserted against the Action.

8.5 The Parties, and each of them on his, her, or its own behalf only, represent and warrant that they are voluntarily entering into the Agreement as a result of arms-length negotiations among their counsel; that in executing the Agreement, they are relying solely upon their own judgment, belief, and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent and duration of their rights and claims hereunder and regarding all matters that relate in any way to the subject matter hereof; and that, except as provided herein, they have not been influenced to any extent whatsoever in executing the Agreement by representations, statements, or omissions pertaining to any of the foregoing matters by any Party or by any person representing any Party. Each of the Parties assumes the risk of mistake as to facts or law.

## **9.0 RELEASES**

9.1. **Released Claims.** Upon the Effective Date, Releasing Persons, including the Representative Plaintiffs and each Class Member, shall, by operation of the Final Judgment, be deemed to have fully, conclusively, irrevocably, forever, and finally released, relinquished, and discharged Frontier and all other Released Persons from any and all claims, Unknown Claims, actions, causes of action, suits, debts, sums of money, payments, obligations, reckonings, promises, damages, interest, penalties, attorney's fees and costs, liens, judgments, and demands of any kind whatsoever that each Releasing Person has or may have had prior to the Effective Date and arising from a loss during the Class Period, whether *ex contractu* or *ex delicto*, debts, liens, contracts, liabilities, agreements, attorneys' fees, costs, penalties, interest, expenses, or losses (including actual, consequential, statutory, extra-contractual and punitive or exemplary damages),

and whether arising under, or based on, contract, extra-contractual or tort theories, at law or in equity, or under federal, state or local law, statute, ordinance, rule or regulation, whether asserted individually or in a representative capacity, whether past or present, mature or not yet mature, that the Representative Plaintiff or Class Members have or may have had against any of the Released Persons that relate to, concern, arise from, or pertain in any way to:

- 9.1.1 Depreciation of Labor costs (including, but not limited to, calculation, deduction, determination, inclusion, modification, omission, and/or withholding of labor costs as depreciation) in the adjustment and/or payment of any Covered Loss;
- 9.1.2 any and all claims that were or could have been brought, whether based upon contract, statute, regulation, or tort, pertaining to the calculation, deduction, determination, inclusion, modification, omission, and/or withholding of the depreciation of Labor Costs in the adjustment and/or payment of any Covered Loss;
- 9.1.3 the allegations and claims contained in the complaint in the Action concerning the alleged systematic practice of deducting Labor Depreciation through the use of estimating software;

(“Released Claims”). This release does not apply to any coverages other than for loss or damage to structures or buildings. For example, this release does not encompass any claims for additional living expenses or contents. Further, this release does not apply to Class Members’ claims for replacement cost benefits under Structural Loss insurance claims that are made after the date of Preliminary Approval and determined pursuant to the terms and conditions of policies of insurance. This release only applies to claims arising under insurance policies issued by Frontier.

9.2 **Unknown Claims.** The Representative Plaintiffs, for themselves and on behalf of Class Members, explicitly acknowledge that Unknown Claims, within the scope of Released Claims, could possibly exist and that any present losses may have been underestimated in amount or severity. The Representative Plaintiffs or any Class Member may hereafter discover facts other than or different from those that it knows or believes to be true with respect to the subject matter



of the Released Claims, or the law applicable to such claims may change. Nonetheless, the Representative Plaintiffs and each Class Member expressly agree that they shall have irrevocably waived and fully, finally and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, contingent or non-contingent, claims with respect to all Released Claims, including Unknown Claims within the scope of the Released Claims. Further, the Representative Plaintiffs and Class Members agree and acknowledge that they are bound by this Agreement, including by the Releases, and that all of their claims in the Action asserted against the Defendant shall be dismissed, with prejudice, and released, without regard to subsequent discovery of different or additional facts or subsequent changes in the law, and regardless of whether unknown losses or claims exist or whether present losses may have been underestimated in amount or severity, and even if they never received actual notice of the Settlement or received a Claim Settlement Payment. The Parties acknowledge that the foregoing Releases were bargained for and are a material element of the Agreement.

9.3 Provided, however, that the Released Claims do not include: (a) claims arising after the Effective Date or outside the Class Period; (b) claims for valuation or payment of a Covered Loss under any residential homeowners, manufactured home, condo, dwelling or rental property insurance policies issued by the Defendant that are not related to the withholding of payment as Labor Depreciation; (c) Class Members' rights and obligations under this Agreement; and (d) the rights of potential Class Members who timely and properly submit a request for exclusion from the Settlement Class in accordance with this Agreement.

9.4 The administration and consummation of the Settlement as embodied in this Agreement shall be under the authority of the Court. The Court shall retain jurisdiction to protect, preserve, and implement the Agreement, including, but not limited to, enforcement of the releases

contained in the Agreement, and to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Agreement and Final Judgment.

## **10.0 REQUESTS FOR EXCLUSION**

10.1 A person within the Settlement Class who wishes to opt out of the Settlement Class must do so in writing. Any Class Member who does not opt out of the Settlement Class in the manner described herein shall be deemed to be a Class Member and shall be bound by all proceedings, orders, and judgments.

10.2 In order to opt out, a person within the Settlement Class must complete and send to the Administrator, at the address listed in the Class Notice and on the Settlement website, a request for exclusion postmarked no later than the opt out deadline of thirty (30) days before the Final Approval Hearing, as identified in the Preliminary Approval Order. The request for exclusion must: (a) identify the case name; (b) identify the name and address of the Class Member; (c) be personally signed by the Class Member requesting exclusion; and, (d) state a desire to be excluded from the Settlement Class, such as “I hereby request to be excluded from the proposed Settlement Class in the Frontier Class Action.” Persons must request exclusion individually, and mass or class opt outs are prohibited.

10.3 A Class Member, who desires to opt out, must take timely affirmative written action pursuant to Section 10.2, even if the Class Member desiring to opt out (a) files or has filed a separate action against any of the Released Persons, or (b) is or becomes a putative or actual class member in any other class action filed against any of the Released Persons. The Administrator shall provide Class Counsel and Frontier’s Counsel a list of all timely requests for exclusion as set forth in this Section

10.4 Any Class Member, who timely and properly opts out of the Settlement Class, shall not: (a) be bound by any orders or judgments relating to the Settlement; (b) be entitled to relief under or be affected by the Agreement; (c) gain any rights by virtue of the Agreement; or, (d) be entitled to object to any aspect of the Settlement.

## **11.0 OBJECTIONS**

11.1 **Overview.** Any Class Member who does not submit a valid request for exclusion may object to the Settlement by complying with the procedures and deadlines in this Agreement. The Class Notice and Settlement website will identify the requirements to assert a valid written objection.

11.2 **Filing.** Any Class Member who wishes to object to the Settlement must do so in a writing, filed with the Clerk of Court, and a copy mailed to the Administrator at the address identified in the Mail Notice and on the Settlement website, postmarked no later than the objection deadline of thirty (30) days before the Final Approval Hearing, as identified in the Preliminary Approval Order. To be valid, a written objection must include: (a) the case name and number; (b) the name and address of the objecting Class Member and of counsel, if represented; and, (c) the basis for the objection.

11.3 **Waiver.** Any Class Member, who fails to object to the Settlement in the manner described in this Section, shall be deemed to have waived any objection, shall not be permitted to object to any terms or approval of the Settlement at the Final Approval Hearing, and shall be foreclosed from seeking any review of the Settlement or the terms of the Agreement by appeal or other means.

11.4 **Appearance.** Subject to approval of the Court, any Class Member who files and serves a timely written objection in accordance with this Section, may appear, in person or by

counsel, at the Final Approval Hearing, whether it is held in the courtroom or via telephone or video conference, to show cause why the proposed Settlement should not be approved as fair, adequate, and reasonable, but only if the objecting Class Member: (a) files with the Clerk of the Court a notice of intention to appear at the Final Approval Hearing by the objection deadline; and (b) mails copies of the notice to Class Counsel and the Defendant's Counsel identified in Section 2 of this Agreement, postmarked by the objection deadline. The notice must include copies of any papers, exhibits, or other evidence that the objecting Class Member will present to the Court in connection with the Final Approval Hearing. Any Class Member who does not file a notice of intention to appear in accordance with the Agreement shall not be entitled to appear at the Final Approval Hearing.

## **12.0 FINAL JUDGMENT**

12.1 Not less than ten (10) days before the Final Approval Hearing, the Administrator will provide Class Counsel and Frontier's counsel with an affidavit or declaration attesting that Class Notice has been disseminated and published in accordance with the Preliminary Approval Order and this Agreement, confirming the timely mailing of notices concerning the Settlement identifying Persons who submitted timely and valid Requests for Exclusion. Class Counsel shall file the affidavit(s) or declaration(s) with the Court before the Final Approval Hearing.

12.2 Prior to the Final Approval Hearing, Class Counsel will file a motion seeking the Court's final approval of the Settlement and entry of Final Judgment, in the form and content attached as Exhibit E, without material change, which:

- 12.2.1 Approves the Settlement as described in this Agreement and directs the Parties and counsel to comply with and consummate the terms of this Agreement;
- 12.2.2 Confirms certification of the Settlement Class for settlement purposes only;

- 12.2.3 Finds that Class Counsel and the Representative Plaintiffs have adequately represented and protected the interests of the Settlement Class;
- 12.2.4 Finds that the terms of this Agreement are fair, reasonable, and adequate and in the best interests of the Settlement Class;
- 12.2.5 Provides that each Class Member shall be bound by the provisions of this Agreement and the Final Judgment, including the Releases set forth in Section 9;
- 12.2.6 Finds that the Class Notice, the establishment of an automated toll-free interactive voice response phone system, the Settlement website, internet advertising, and the Postcard Notice were reasonable, the best notice practicable under the circumstances, and satisfy the requirements of the Illinois Rules of Civil Procedure, due process under the United States Constitution, and the requirements of any other applicable rules or law;
- 12.2.7 Finds that all notices concerning the Settlement required have been sent and that the Defendant has fully complied with the notice requirements;
- 12.2.8 Dismisses all claims in the Action by the Representative Plaintiffs and Class Members against the Defendant on the merits and with prejudice, and entering Final Judgment thereon;
- 12.2.9 In order to protect the continuing jurisdiction of the Court and to effectuate this Agreement and the Final Judgment, permanently enjoins Class Members who have not opted out, and anyone acting or purporting to act on their behalf, from filing, commencing, prosecuting, intervening in, maintaining, or participating in (as parties, class members, or otherwise) any new or existing action or proceeding before any court or tribunal regarding any Released Claims against any Released Persons, and from organizing any Class Members into a separate class for purposes of pursuing as a purported class action any lawsuit regarding any Released Claims against any Released Persons, and provides that any person in violation of the injunction may be subject to sanctions, including payment of reasonable attorneys' fees incurred in seeking enforcement of the injunction;
- 12.2.10 Approves payment of attorneys' fees and litigation expenses to Class Counsel and service awards to the Representative Plaintiffs, in both respects not exceeding the maximum amounts identified in this Agreement;
- 12.2.11 Reserves continuing jurisdiction of the Court over all matters relating to the administration, consummation, enforcement, construction and interpretation of the Settlement, this Agreement, and the Final Judgment;

12.2.12 Holds that there is no just reason for delay and that the Final Judgment shall be final and appealable, irrespective of the Court's continuing jurisdiction over administration of the Settlement; and

12.2.13 Contains such additional provisions as provided in Exhibit E as necessary to implement this Agreement and the Settlement.

**12.3 Effect of Final Judgment.** Upon entry of Final Judgment:

12.3.1 the Agreement shall be the exclusive remedy for all Class Members, except those who have properly submitted a Request for Exclusion (opted out) in accordance with the terms and provisions hereof; and

12.3.2 except as set forth in this Agreement, the Released Persons shall not be subject to liability or expense for any of the Released Claims to any Class Member(s).

12.4 Except for persons who timely and properly send a request for exclusion in accordance with Section 10, all Class Members will be deemed to be members of the Settlement Class and, upon entry of the Final Judgment, will have received full and final redress and relief for the Released Claims in Section 9, including, but not limited, to any refund, reimbursement, restitution, or damages for the conduct covered by the release, and will be bound by the terms of this Settlement regardless of whether they receive Claim Settlement Payments or any other relief.

12.5 The Defendant will not oppose final approval of the proposed Settlement in the form of the Final Judgment attached as Exhibit E and may, in its sole discretion, file a memorandum in support of final approval of the Proposed Settlement.

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

12.7 Upon compliance of the terms of this settlement Class Counsel, on behalf of the Representative Plaintiffs, shall file a satisfaction of judgment with the Court.

### **13.0 ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

13.1 The total of all applications for attorneys' fees and reasonable litigation expenses by Class Counsel and any other person on behalf of Class Members shall not exceed \$250,000.00. Class Counsel agree that the amount of such fees and expenses awarded shall fully compensate them for all work and expenses in this Action for the claims asserted before and after entry of Final Judgment. Frontier agrees not to oppose or otherwise object to an application by Class Counsel for, and Class Counsel agree not to seek, an award of attorneys' fees and expenses in this Action that does not exceed the foregoing total amounts.

13.2 The amount of attorneys' fees, costs and expenses to be awarded by this Court will not reduce the award to any Class Member.

13.3 Within seven (7) days after the Effective Date, the Defendant shall pay to the Administrator funds for the amount of attorneys' fees and expenses awarded by the Court (not to exceed the amounts identified in Section 13.1), and the Administrator shall pay such funds by wire transfer to an account as directed by Butsch Roberts & Associates LLC who shall distribute it to Class Counsel.

13.4 Except as expressly provided in this Agreement, Frontier is not liable or responsible for any other expenses, costs, damages, or fees incurred by any other person, including, but not limited to, the Representative Plaintiff, any Class Member, any person who objects to the Settlement or excludes themselves from the Settlement Class, or any of their attorneys, experts, advisors, investigators, agents, or representatives. Any award of attorneys' fees and expenses by the Court, as provided in this Section 13, will be in complete satisfaction of any and all claims for

attorneys' fees and expenses that the Representative Plaintiffs, Class Members, Class Counsel, or any other person or their counsel has or may have against the Defendant arising out of or in connection with this Action, the Released Claims, or this Settlement.

13.5 The Representative Plaintiffs, the Settlement Class, and Class Counsel hereby waive, discharge and release Frontier from any and all other claims for attorneys' fees, by lien, statute, or otherwise for legal services in connection with this Action upon payment of the amounts set forth in Section 13.1. Frontier shall not be responsible for and shall have no liability whatsoever with respect to the allocation, distribution, or apportionment of any award of attorneys' fees and expenses among Class Counsel or any other person who may assert a claim thereto. Once payment is made pursuant to Section 13.1 above, the Defendant will not be subject to any claims for additional payments to Class Counsel or any attorney who is or was a member of, partner of, or otherwise associated with any of the firms representing the Representative Plaintiffs, the Settlement Class, or any Class Member. Class Counsel shall defend, hold harmless, and indemnify the Defendant and Defendant's Counsel from and against any claims, damages, liabilities, causes of action, liens, and expenses, including reasonable attorneys' fees and expenses, resulting from any action or proceeding involving the payment or apportionment of the award of attorneys' fees and expenses in this Action, to, or among the Representative Plaintiffs, Class Counsel, or any attorney or firm that alleges to have provided services to the Representative Plaintiffs.

13.6 In addition to the Claim Settlement Payments that may otherwise be due, Frontier agrees to pay the Representative Plaintiffs Gentes Trust #1 and Gentes Trust #2, a service award of \$10,000.00 (\$5,000.00 each), by check delivered or wire transfer to Class Counsel's trust account within seven (7) days after the Effective Date. The Representative Plaintiffs shall each



provide the Administrator with a completed W-9 form within seven (7) days after entry of Final Judgment.

#### **14.0 TERMINATION RIGHTS**

14.1 Within twenty (20) days after notice of the occurrence of any of the following events, either Frontier or the Representative Plaintiffs shall have the right, exercisable in their absolute discretion, to terminate this Agreement and the Settlement by delivering written notice of such election to Class Counsel, if:

- 14.1.1 The Court, or any appellate court(s), rejects, denies approval, disapproves, or modifies the Agreement, Preliminary Approval Order, or Final Judgment in a manner that the Defendant, in its sole judgment and discretion, and in good faith, believes to be material;
- 14.1.2 The Court, or any appellate court(s), does not completely and unconditionally enter or affirm any portion of the Agreement, Preliminary Approval Order, or Final Judgment in a manner that the Defendant, in its sole judgment and discretion, in good faith, believes to be material;
- 14.1.3 Any regulatory agency objects to or challenges any of the terms of the Agreement in a way that the Defendant, in its sole judgment and discretion, believes to be materially adverse to the Defendant's interests;
- 14.1.4 The number of Persons who exclude themselves from the Settlement Class exceeds 20% of the total potential Class Members;
- 14.1.5 The Representative Plaintiffs opt out of the Settlement Class or objects to the Settlement or this Agreement;
- 14.1.6 The total of all awards of attorneys' fees and costs in this Action to any person, including Class Counsel, the Representative Plaintiff, the Settlement Class, or any other person, exceeds the maximum amount set forth in Section 13.1;
- 14.1.7 Any Person is allowed to intervene in this Action to assert claims against the Defendant based on Structural Loss claims in states other than Illinois; or
- 14.1.8 A financial obligation is imposed upon the Defendant in addition to or greater than those expressly set forth in this Agreement.

14.2 If an option to terminate this Agreement and the Settlement arises, the Representative Plaintiffs or Frontier are not required to exercise their/its option to terminate.

14.3 If the Agreement fails for any reason, or if this Agreement is terminated by the Representative Plaintiffs or Frontier pursuant to Section 14.1:

- 14.3.1 This Agreement and the Proposed Settlement shall have no further force or effect, and all proceedings that have occurred with regard to this Agreement and the Proposed Settlement shall be without prejudice to the rights and contentions of the Parties and any Class Members;
- 14.3.2 This Agreement and all negotiations, statements and proceedings relating to them shall be without prejudice to the rights of the Parties, each of whom shall be restored to their respective positions existing immediately before the execution of this Agreement;
- 14.3.3 This Agreement, and the fact of this Agreement having been made, shall not be admissible or entered into evidence for any purpose whatsoever and shall not be subject to discovery;
- 14.3.4 Any judgment or order entered in the Action relating to this Agreement or the Settlement, including, without limitation, any order certifying the Settlement Class, shall be automatically vacated *nunc pro tunc*, without the requirement of any motion or further order of the Court, and will be without any force or effect;
- 14.3.5 The Parties shall not thereafter argue or raise a claim or defense, including, but not limited to, waiver, estoppel, or any other similar or related theories, based on the Agreement (including without limitation the provisions regarding class certification) and related pleadings and orders, the fact of this Agreement having been made, or that any settlement negotiations preclude the Defendant from opposing class certification or the claims in the Action or any other proceeding.

14.4 Section 14.3 shall survive the termination of this Agreement.

## **15.0 DENIAL OF LIABILITY**

15.1 Frontier enters into this Agreement without admitting, conceding or acknowledging any fault, liability, or wrongdoing of any kind. This Agreement or the negotiations or proceedings connected with it shall not be construed as an admission or concession by Frontier of the truth of

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

15.2 This Agreement, the negotiations leading to the Settlement, administration of the Settlement, and any pleadings, motions, or other document related in any way to the Agreement (excluding any orders entered by the Court) shall not be offered into evidence in the Action: (a) in support of or in opposition to a motion to certify a contested class against Frontier; or (b) as an admission or concession of liability or wrongdoing by Frontier.

## **16.0 COMMUNICATIONS**

16.1 Any inquiries to Frontier from Class Members regarding the Settlement will be directed to Class Counsel or the Administrator. Nothing herein shall preclude Frontier or its agents from discussing matters unrelated to the Settlement with their present, former or prospective policyholders or customers or from communicating with their agents and employees concerning the existence, terms, and implementation of the Settlement, orally or in writing, and they may do so through any appropriate means.

16.2 If any media organization contacts any Party or its counsel seeking information or a statement regarding the Settlement, in the absence of a response agreed upon by all Parties, no information will be provided in response to such inquiries except to the extent such information appears as part of the public record.

## **17.0 MISCELLANEOUS**

17.1 Frontier shall provide Class Counsel with an affidavit from a representative of Frontier providing that the information provided to Class Counsel was a good faith estimate of the value of the class claims, based in fact, and derived from the information in Frontier's files.

17.2 The Administrator, Class Counsel and Frontier shall retain copies or images of all returned Class Notices, Claim Forms, and correspondence relating thereto, for a period of one (1) year after the Final Accounting. Thereafter the Administrator, Class Counsel and Frontier may destroy such documents they have in their possession. Nothing in this Agreement shall be construed to require the Administrator, Class Counsel or the Defendant to retain records beyond their respective, discretionary, record retention policies.

17.3 The Parties and their counsel agree to undertake their best efforts and to cooperate with each other to effectuate this Agreement and the terms of the proposed Settlement, including taking all steps and efforts contemplated by this Agreement, and any other reasonable steps and efforts that may become necessary by order of the Court or otherwise. The Parties further agree to cooperate in respect to reasonable, agreed extensions to the timetable hereunder, subject to such Court approval as may be required.

17.4 The terms and conditions set forth in this Agreement, including documents referenced herein and all attached exhibits, contains the entire and exclusive agreement of the Parties hereto and supersede any prior agreements, negotiations, representations, or understandings between them, and may not be contradicted or supplemented by evidence of any prior or contemporaneous agreement. The Parties further intend that this Agreement and all attached exhibits constitute the complete and exclusive statement of its terms as between the Parties and that no extrinsic evidence may be introduced in any proceeding concerning the terms

of the proposed Settlement. Prior or contemporaneous representations not contained in this Agreement shall be of no force or effect.

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

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

17.7 This Agreement shall be governed by the laws of the State of Illinois.

17.8 The exhibits to this Agreement are integral parts of the Settlement and are hereby incorporated and made a part of this Agreement.

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

17.10 Nothing contained in this Agreement or in any proceedings concerning the Settlement shall in any way affect the Defendant's rights to seek contribution, indemnity or any other relief from any person or entity not a party to the Action. All such rights and remedies of the Defendant are specifically retained and preserved.

17.11 Unless otherwise noted, all references to “days” in this Agreement shall be to calendar days. In the event any deadline under this Agreement is a weekend or legal holiday, such deadline shall be on the first business day thereafter.

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

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

17.14 This Agreement may be executed in counterparts, each of which shall constitute an original. This Agreement shall be deemed to have been executed upon the last date of execution by all the undersigned Parties or counsel.

17.15 This Agreement may be executed by electronic or handwritten signature.

17.16 The Parties agree that the statute of limitations and/or Frontier’s Limitation of Action provisions will be tolled and not enforced by the Parties and/or any Court as it respects any Class Member whose claim expire during the Administration of this Settlement.

**REPRESENTATIVE PLAINTIFFS:**

Gentes Trust #1

Dated this \_\_\_\_ day of April 2023

By: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Gentes Trust #2

Dated this \_\_\_\_ day of April 2023

By: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

**CLASS COUNSEL:**

Dated this \_\_\_\_ day of April, 2023

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David T. Butsch #06205434  
Christopher E. Roberts #6302857  
Butsch Roberts & Associates LLC  
231 S. Bemiston Ave., Suite 260  
Clayton, MO 63105  
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roberts@butschroberts.com

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Christopher W. Byron #6230810  
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411 St. Louis Street  
Edwardsville, IL 62025  
Tel: (618) 655-0600  
Fax: (618) 655-4004  
cwb@bcpldaw.com  
cjp@bcpldaw.com

**DEFENDANT:**

Frontier-Mt Carroll Mutual Insurance

Dated this \_\_\_\_ day of April, 2023

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed name

**COUNSEL FOR DEFENDANT:**

Dated this \_\_\_\_ day of April, 2023

By: \_\_\_\_\_  
Thomas A. Gamache #6281435  
Leahy, Eisenberg & Fraenkel, Ltd.  
33 West Monroe Street, Suite 1100  
Chicago, Illinois 60603  
Tel: (312) 368-4554  
tag@lefltd.com



# **EXHIBIT A**

**EXHIBIT A**

**IN THE CIRCUIT COURT  
THIRD JUDICIAL CIRCUIT  
MADISON COUNTY, ILLINOIS**

GENTES TRUST #1 and GENTES TRUST #2,	)	
individually, and on behalf of all	)	
others similarly situated,	)	
	)	
Plaintiffs,	)	Case No. 2022-LA-000269
	)	
vs.	)	
	)	
FRONTIER-MT CARROLL MUTUAL	)	
INSURANCE,	)	
	)	
Defendant.	)	

**[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION SETTLEMENT, CERTIFYING  
SETTLEMENT CLASS, DIRECTING CLASS NOTICE, AND  
SCHEDULING A FINAL APPROVAL HEARING**

Upon review and consideration of Motion for Preliminary Approval of Class Action Settlement of Plaintiffs Gentes Trust #1 and Gentes Trust #2, (the “Representative Plaintiffs”), with Defendant Frontier-Mt Carroll Mutual Insurance (“Frontier” or the “Defendant”), including the parties’ Stipulation and Settlement Agreement signed by the Representative Plaintiffs and Frontier in April 2023 (the “Agreement”) and all corresponding exhibits, and having been fully advised of the particulars, it is HEREBY ORDERED, ADJUDGED and DECREED as follows:

1. **Settlement.** The Representative Plaintiffs and Frontier have negotiated a proposed settlement of the Representative Plaintiffs’ claims in this action, individually and on behalf of a class of policyholders of Frontier, described below as the Settlement Class, to avoid the expense, uncertainties, and burden of protracted litigation, and to resolve the Released Claims against the Released Persons as set forth in the Agreement. The Court has carefully reviewed the Agreement, as well as the files, records, and proceedings to date in this matter. The terms and conditions in

the Agreement are incorporated here as though fully set forth in this Order, and, unless otherwise indicated, capitalized terms in this Order shall have the same definitions that are in the Agreement.

2. **Preliminary Approval.** The Agreement entered into, by and among the Representative Plaintiffs and Frontier, was negotiated at arm's length and is approved on a preliminary basis as fair, reasonable, and adequate, subject to further consideration at the Final Approval Hearing.

3. **Settlement Class Relief.** The proposed Claim Settlement Payments to Class Members and the settlement consideration, as identified in Sections 4, 6, and 7 of the Agreement, is approved on a preliminary basis as fair, reasonable, and adequate.

- a. The "Settlement Class" shall be defined as: All policyholders (or their lawful assignees) under any commercial or personal lines property insurance policy issued by Frontier who made: (a) a Structural Loss claim for property located in the State of Illinois during the applicable Class Periods as defined below; and, (b) that resulted in an ACV Payment from which Labor Depreciation was withheld, or that would have resulted in an ACV Payment but for the withholding of Labor Depreciation causing the loss to drop below the applicable deductible.

- b. Excluded from the Settlement Class are:

Policyholders whose claims arose under policy forms, endorsements, or riders expressly permitting the Labor Depreciation within the text of the policy form, endorsement or rider, *i.e.*, by express use of the words "depreciation" and "labor", including FMC Endorsements CL 05H 08 20, CL 05F 08 20, and CL 05D 08 20;

Policyholders who received one or more ACV Payments for claims, but not replacement cost value payments, that exhausted the applicable limits of insurance;

Policyholders whose claims were denied or abandoned without ACV Payment;

Frontier and its officers and directors;

Members of the judiciary and their staff to whom this action is assigned and their immediate families; and,

Class counsel and their immediate families.

- c. The “Class Period” includes only policyholders whose loss accrued between February 28, 2020 and September 17, 2021, and who submitted timely notice of their loss.

4. **Preliminary Certification of Settlement Class.** For settlement purposes only, the Court makes the following determinations as to certification of the Settlement Class:

- a. The Court preliminarily certifies the Settlement Class for purposes of settlement only, under 735 ILCS 5/2-801;
- b. The Settlement Class is so numerous that joinder of all members is impracticable;
- c. There are questions of law or fact common to the members of the Settlement Class, which common questions predominate over any questions affecting only individual members;
- d. The Representative Plaintiffs are capable of fairly and adequately protecting the interests of the members of the Settlement Class, in connection with the Agreement; and
- e. The class action is an appropriate method for the full and efficient adjudication of the controversy.

5. **Designation of Class Representatives.** The Representative Plaintiffs are designated as the representatives of the Settlement Class for the purpose of seeking approval of and administering the Settlement Agreement.

6. **Designation of Class Counsel** David T. Butsch and Christopher E. Roberts of Butsch Roberts & Associates LLC and Christopher J. Petri and Christopher W. Byron of Byron Carlson Petri & Kalb, LLC as Class Counsel for the Settlement Class for the sole purpose of the Settlement.

7. **Final Approval Hearing.** A hearing regarding final approval of the Settlement (“Final Approval Hearing”) will be held at :00 .m. on 2023 [at least 105 days after preliminary approval], in the Circuit Court of Madison County, Illinois before the Honorable Judge Dennis R. Ruth, to determine, among other things: (i) whether final judgment

should be entered resolving and approving the proposed Settlement of the Representative Plaintiffs' and the Settlement Class' claims against the Defendant in the Action as fair, reasonable, and adequate; (ii) whether the Representative Plaintiffs' and Settlement Class' claims against the Defendant in the Action should be dismissed, with prejudice, pursuant to the Agreement; (iii) whether the Settlement Class Members should be bound by the Release set forth in the Agreement; and (iv) whether the application of Class Counsel for an award of attorneys' fees and expenses, and for a proposed service award to the Representative Plaintiffs, should be approved and in what amount. The Final Approval Hearing may take place, at the sole discretion of the Court, via telephone or video conference so as to allow the Final Approval Hearing to proceed despite limitations on in-court hearings related to the COVID-19 pandemic. Any Class Member, who files a notice of intent to appear, shall be provided with information required to access a telephonic or video hearing.

## **8. Class Notice.**

8.1 The Court approves the methods of providing notice to Class Members as described in the Agreement, including the Class Notice, attached as Exhibit B to the Agreement, and the manner of providing notice to Class Members described in Section 5 of the Agreement. The Court finds that notice as described in the Agreement is reasonably calculated, under all the circumstances, to apprise Class Members of the pendency of this Action, the terms of the Agreement, and their right to object to the Settlement or to exclude themselves from the Settlement Class. The Court further finds that the Class Notice, the Settlement website, and the other forms of notice described in the Agreement are reasonable, constitute due, adequate, and sufficient notice to all persons entitled to receive notice, and meet all legal requirements, including the requirements of ILCS 5/2-801 and Due Process.

8.2 The Class Notice, in the form and content of Exhibit B to the Settlement Agreement, shall be mailed, by the Settlement Administrator, not less than seventy-five (75) days before the Final Approval Hearing regarding the Settlement, in the manner described in the Agreement.

8.3 No later than the posting of the Class Notice, the Settlement Administrator shall establish a website containing copies of the Agreement and Exhibits, the Preliminary Approval Order, the Class Notice, Claim Form, and such other documents and information

about the Settlement as Class Counsel and Defendant's Counsel agree upon. The Claim Form shall be available to download or print from the Settlement website, and signed, scanned, completed copies of the Class Form may be uploaded on the Settlement website. The Settlement website shall have a Uniform Resource Locator which identifies the Settlement website as [www.frontierdepreciationsettlement.com](http://www.frontierdepreciationsettlement.com), or such other URL as Class Counsel and the Defendant's Counsel agree upon. The Settlement website shall not include any advertising and shall not bear any logos or trademarks of the Defendant other than those appearing in the Agreement. The Settlement website shall cease to operate, and the Administrator shall remove all information from the Settlement website, no later than the Final Accounting as set forth in section 7.8 of the Agreement. Ownership of the Settlement website URL shall be transferred to the Defendant within ten (10) days after operation of the Settlement website ends.

8.4 No later than the posting of the Class Notice, the Administrator shall establish a toll-free, interactive, voice response phone number, with script recordings of information about this Settlement, including information about the Claim Form, utilizing the relevant portions of the Class Notice and Claim Form. At the Defendant's option, the Administrator may also provide live operators during select times to answer certain basic questions about the Settlement. The Administrator shall send the Class Notice and Claim Form, upon request, to any Class Members. The phone number shall remain open and accessible through the Claim Deadline and allow for Class Members to leave recorded messages. Except for requests for the Class Notice or Claim Form, the Administrator will promptly advise Class Counsel of recorded messages left by Class Members, concerning the Action and/or the Settlement, or direct any Class Members with questions, that cannot be answered, to Class Counsel, so that Class Counsel may timely and accurately respond to such inquiries.

8.5 Settlement Class Members may submit Claim Forms in the form attached to the Agreement, as Exhibit C, requesting a Claim Settlement Payment in accordance with the terms of the Agreement. To be considered valid and timely, a Claim Form must be materially complete, signed by or on behalf of the Class Member, and either: (a) mailed to the Administrator's address, as specified in the Claim Form, and postmarked by [45 days after Final Approval Hearing]; or (b) uploaded on the settlement website by [same date] ("Claim Deadline"). Claim Forms may be submitted on behalf of deceased or incapacitated Class Members only by Legally Authorized Representatives, with written evidence of authority.

8.6 No later than 30 days before the Claim Deadline, the Administrator shall mail a postcard reminder in the form attached to the Agreement as Exhibit D (the "Postcard Notice") with information regarding the Claim Deadline, the Settlement website address, and how to request a copy of the Claim Form. The Postcard Notice will be mailed to each Class Member who has not submitted a Claim Form and who has not timely and properly excluded themselves.

8.7 Class Counsel and the Defendant's Counsel, as jointly agreed, along with the Administrator, are authorized, prior to mailing, to complete any omitted information

and to make any non-substantive revisions to the Claim Form and Class Notice, as necessary, that do not materially reduce the rights of Class Members in order to fulfill the purposes of the Settlement. The font size, layout, and other presentation elements of the Claim Form and Class Notice may be adjusted to accommodate printing and mailing considerations.

9. **Settlement Administrator.** The Court approves and authorizes the Defendant to retain Atticus Administration LLC, as the Administrator, to implement the terms of the Agreement, and authorizes and directs the Administrator to (a) mail the Class Notice, the Claim Form, and the Postcard Notice; (b) establish the interactive, voice response, phone line system; (c); establish the Settlement website; (d) receive and process Claim Forms; and, (e) carry out such other responsibilities as are provided for in the Agreement or as may be agreed to by Class Counsel and the Defendant, all according to and as provided in the Agreement.

10. **Exclusion from the Settlement Class.** Any Class Member who wishes to be excluded from the Settlement Class must complete and send to the Administrator, at the address listed in the Class Notice and on the Settlement website, a request for exclusion postmarked no later than [REDACTED] (“Opt Out Deadline”), which is no less than thirty (30) days before the Final Approval Hearing.

10.1 To be valid, the request for exclusion must: (a) identify the case name; (b) identify the name and address of the Class Member; (c) be personally signed by the Class Member requesting exclusion; and (d) state a desire to be excluded from the Settlement Class, such as “I hereby request that I be excluded from the proposed Settlement Class in the Frontier Class Action” Except for deceased or incapacitated Class Members, for whom Legally Authorized Representatives may act with written evidence of authority, Class Members must request exclusion individually and not through another acting on their behalf, and mass or class opt outs are prohibited.

10.2 A Class Member who desires to opt out must take timely affirmative written action, pursuant to this Order and the Agreement, even if the Class Member desiring to opt out (a) files or has filed a separate action against any of the Released Persons, or (b) is or becomes a putative or actual class member in any other class action filed against any of the Released Persons. The Administrator shall provide Class Counsel and the Defendant’s Counsel a list of all timely requests for exclusion not less than ten (10) days before the Final Approval Hearing.

10.3 Except for Class Members who timely submit a valid request for exclusion from the Settlement Class, all other Class Members will be deemed to be Class Members for all purposes under the Agreement, and upon the Effective Date will be bound by its terms, including, but not limited to, the Releases in Section 9 of the Agreement and Final Judgment approving the Settlement.

10.4 If the proposed Settlement is finally approved, any Class Member who has not submitted a timely, written, request for exclusion, from the Settlement Class, shall be bound by the Final Judgment and all subsequent proceedings, orders, and judgments in this Action, even if he or she has pending, or subsequently initiates, litigation against the Defendant or any Released Persons relating to any of the Released Claims as defined in the Agreement.

10.5 If the proposed Settlement is finally approved, any Class Member, who has not submitted a timely, written, Request for Exclusion, from the Settlement Class, shall be bound by the Judgment and all subsequent proceedings, orders, and judgments, even if he or she has pending, or subsequently initiates, litigation against the Defendant or any Released Persons relating to any of the Released Claims as defined in the Agreement.

11. **Objections and Appearances.** Any Class Member, who does not submit a valid request for exclusion from the Settlement Class and who complies with the requirements of this Order and the Agreement, may object to the proposed Settlement. Any Class Member, who wishes to object to the Settlement, must do so in writing, filed with the Clerk of Court, and a mail a copy to the Administrator, at the address in the Class Notice and on the Settlement website, a written statement of objection, in accordance with the requirements set forth below and in the Agreement, postmarked no later than [REDACTED] (“the Objection Deadline”), which is no less than thirty (30) days before the Final Approval Hearing.

11.1 A valid written objection must include: (a) the case name and number; (b) the name and address of the objecting Class Member and of counsel, if represented; and (c) the basis for the objection. These requirements shall also be set forth in the Class Notice and on the Settlement website.

11.2 Subject to approval of the Court, any Class Member, who files and serves a timely written objection, may appear, in person or by counsel, at the Final Approval Hearing, to show cause why the proposed Settlement should not be approved as fair, adequate, and reasonable, but only if the objecting Class Member: (a) files with the Clerk of the Court, by the Objection Deadline, a notice of intention to appear at the Final Approval Hearing, and (b) mails copies of the notice to the Administrator, at the address set forth in the Class Notice and on the Settlement website. The notice must include copies



of any papers, exhibits, or other evidence that the objecting Class Member will present to the Court in connection with the Final Approval Hearing. Any Class Member, who does not file a notice of intention to appear in accordance with the deadlines and other requirements of this Order and the Agreement, shall not be entitled to appear at the Final Approval Hearing.

11.3 Any Class Member, who fails to object to the Settlement in the manner described in this Order, shall be deemed to have waived any objection, shall not be permitted to object to any terms or approval of the Settlement at the Final Approval Hearing, and shall be foreclosed from seeking any review of the Settlement or the terms of the Agreement by appeal or other means.

12. **Releases.** If the Settlement is finally approved, all Releasing Persons, including the Representative Plaintiffs and each Class Member, shall, by operation of the Final Judgment, be deemed to have fully, conclusively, irrevocably, forever, and finally released, relinquished, and discharged Frontier and all other Released Persons from any and all claims, Unknown Claims, actions, causes of action, suits, debts, sums of money, payments, obligations, reckonings, promises, damages, interest, penalties, attorney's fees and costs, liens, judgments, and demands of any kind whatsoever that each Releasing Person has or may have had prior to the Effective Date and arising from a loss during the Class Period, whether *ex contractu* or *ex delicto*, debts, liens, contracts, liabilities, agreements, attorneys' fees, costs, penalties, interest, expenses, or losses (including actual, consequential, statutory, extra-contractual and punitive or exemplary damages), and whether arising under, or based on, contract, extra-contractual or tort theories, at law or in equity, or under federal, state or local law, statute, ordinance, rule or regulation, whether asserted individually or in a representative capacity, whether past or present, mature or not yet mature, that the Representative Plaintiff or Class Members have or may have had against any of the Released Persons that relate to, concern, arise from, or pertain in any way to:

12.1.1 Depreciation or Labor Costs (including, but not limited to, calculation, deduction, determination, inclusion, modification, omission, and/or withholding of Labor Depreciation) in the adjustment and/or payment of any Covered Loss;

- 12.1.2 any and all claims that were, or could have been, brought pertaining to the calculation, deduction, determination, inclusion, modification, omission, and/or withholding of Depreciation of Labor Costs in the adjustment and/or payment of any Covered Loss;
- 12.1.3 the allegations and claims contained in the Action concerning the alleged systematic practice of deducting Labor Depreciation through the use of estimating software. (Section 12.1 through Section 12.3 are collectively referred to as the “Released Claims”).
- 12.1.4 “Released Persons” means, individually and collectively, (a) Frontier and all independent adjusting companies acting for Frontier, and (b) all past and present affiliates, successors and predecessors in interest, assigns, acquirers, divisions, representatives, officers, directors, shareholders, agents, managing agents, employees, attorneys, auditors, accountants, brokers, surplus lines brokers, underwriters, advisors, insurers, co-insurers, re-insurers, consultants, vendors, independent contractors, and legal representatives of the Persons listed in subsection (a).
- 12.1.5 The Released Claims do not include claims under any coverages other than for loss or damage to structures or buildings. Further, the Released Claims do not apply to Class Members’ claims for replacement cost benefits under Structural Loss insurance claims that are made after the date of Preliminary Approval or outside the Class Period and determined pursuant to the terms and conditions of policies of insurance. Further, this release only applies to claims arising under insurance policies issued by Frontier.

13. **Attorneys’ Fees and Expenses, and Case Contribution Awards.** The Representative Plaintiffs and Class Counsel shall not seek an award of attorneys’ fees and reasonable litigation expenses in this Action in a total amount that exceeds \$250,000.00. Class Counsel and the Representative Plaintiffs agree not to seek service awards that exceed \$10,000 in total to the Representative Plaintiffs, Gentes Trust #1 and Gentes Trust #2, for their work and assistance in this Action. The Defendant agrees not to oppose applications for attorneys’ fees and expenses and for a service award that do not exceed the foregoing amounts.

14. **Preliminary Injunction.** In order to protect the continuing jurisdiction of the Court, and to effectuate this Order, the Agreement, and the Settlement, all Class Members, who do not timely exclude themselves from the Settlement Class, and anyone acting, or purporting to

act on their behalf, are preliminarily enjoined from directly or indirectly (a) filing, commencing, prosecuting, maintaining, intervening in, or participating in (as parties, class members or otherwise), any new or existing action or proceeding before any court or tribunal regarding any Released Claims against any of the Released Persons; and (b) organizing any Class Members into a separate class for purposes of pursuing, as a purported class action any lawsuit (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a new or pending action), based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in this Action and/or the Released Claims.

15. **Service of Papers.** Class Counsel and the Defendant's Counsel shall promptly furnish to each other any objections or requests for exclusion that they receive and shall file such objections with the Court on or before the Final Approval Hearing, unless such documents already appear on the Court's docket.

16. **Termination of Settlement.** This Order shall become null and void, and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if: (a) the proposed Settlement is not finally approved by the Court, or Final Judgment is not entered or does not become Final, or the Effective Date does not occur; or (b) the Settlement Agreement is terminated, pursuant to the terms of the Agreement, for any reason. In such event, and except as provided therein, the proposed Settlement and Agreement shall have no further force or effect, and all proceedings that have occurred, with regard to the Agreement and the Proposed Settlement, shall be without prejudice to the rights and contentions of the Parties and any Class Members; the preliminary certification of the Settlement Class for settlement purposes shall be automatically vacated; all communications and documents related to the Settlement will be subject to Illinois Rules of

Evidence and all other applicable settlement and negotiation privileges; this Order and other orders, entered by the Court pursuant to the Agreement, will be treated as vacated, *nunc pro tunc*; the Agreement and the Court's orders, including this Order, shall not be used or referred to for any purpose whatsoever; and the Parties shall retain, without prejudice, any and all objections, arguments, and defenses with respect to class certification.

17. **Use of Order Following Termination of Settlement.** This Order shall be of no force and effect, if the Settlement does not become Final, and shall not be construed or used as an admission, concession, or declaration, by or against the Defendant, of any fault, wrongdoing, breach, or liability, or by or against the Representative Plaintiffs or Class Members that their claims lack merit or that the relief requested in this Action is inappropriate, improper, or unavailable, or as a waiver by any party of any defenses.

18. **Stay.** All proceedings in the Action (as defined in the Agreement), as to the claims of the Representative Plaintiff against the Defendant, are stayed, except as necessary to effectuate the terms of the Settlement.

19. **Necessary Steps.** The Court authorizes and directs the Parties to take all other necessary and appropriate steps to implement the Settlement as set forth in the Agreement.

So Ordered: \_\_\_\_\_  
Hon. Dennis R. Ruth

Date: \_\_\_\_\_

## **EXHIBIT B**

## EXHIBIT B

*Gentes Trust #1 and Gentes Trust #2 v. Frontier-Mt Carroll Mutual Insurance*  
Case No. 2022-LA-000269  
Circuit Court for the Third Judicial Circuit of Madison County, Illinois

### **A class action settlement involving certain Illinois property insurance structural damage claims may provide payments to those who qualify.**

- A proposed settlement has been reached in a class action about whether Frontier-Mt Carroll Mutual Insurance properly deducted labor depreciation when adjusting certain insurance claims in Illinois.
- You may be eligible for a payment if you qualify and timely submit a valid claim form.
- Your legal rights are affected whether you act or don't act. Please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS UNDER THIS SETTLEMENT:	
SUBMIT A CLAIM FORM	The only way to get a payment.
ASK TO BE EXCLUDED	You get no payment. This is the only option that allows you to individually sue the Insurer over the claims resolved by this settlement.
OBJECT	Write to the Court about why you don't agree with the settlement.
GO TO A HEARING	Ask to speak in Court about the settlement.
DO NOTHING	You get no payment. You give up rights.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. If it does, and if any appeals are resolved in favor of the settlement, then money will be distributed to those who timely submit claims and qualify for payment. Please be patient.

## EXHIBIT B

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## EXHIBIT B

### BASIC INFORMATION

#### 1. Why was this notice issued?

A Court authorized this notice because you have a right to know about a proposed settlement of this class action, including the right to claim money, and about your options regarding this settlement before the Court decides whether to give “Final Approval” to the settlement. If the Court approves the parties’ Settlement Agreement, and if any appeals are resolved in favor of the settlement, then payments will be made to those who qualify and timely submit a valid claim. This notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who may be eligible for them, and how to get them.

The Circuit Court for the Third Judicial Circuit of Madison County, Illinois is overseeing this class action. The case is called *Gentes Trust #1 and Gentes Trust #2 v. Frontier-Mt Carroll Mutual Insurance*, Case No. 2022-LA-000269. The trusts that sued are called the “Plaintiffs,” and the company they sued is called the “Defendant.”

#### 2. What companies are part of the settlement?

The settlement includes Defendant Frontier-Mt Carroll Mutual Insurance.

#### 3. What is this lawsuit about?

The lawsuit claims that Frontier-Mt Carroll Mutual Insurance improperly deducted depreciation attributable to the estimated costs of labor from insureds’ actual cash value payments when adjusting some insurance claims in Illinois. Frontier maintains that it paid claims reasonably and appropriately and denies all allegations that it acted wrongfully or unlawfully.

#### 4. Why is this a class action?

In a class action, one or more persons, organizations or trusts called “Class Representatives” (in this case, Gentes Trust #1 and Gentes Trust #2) sued on behalf of others who have similar claims. All of those included are a “Class” or “Class Members.” One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

#### 5. Why is there a settlement?

The Court did not decide in favor of the Plaintiffs or the Defendant and has not found that the Defendant did anything wrong. Instead, both sides agreed to settle. That way, the parties avoid the cost of litigation, a trial and, potentially, an appeal, and the people and organizations who qualify will get compensation. The Class Representatives and their attorneys think the settlement is best for all Class Members. The settlement does not mean that the Defendant did anything wrong, no trial has occurred, and no merits determinations have been made.

### WHO IS IN THE SETTLEMENT?

To see if you are eligible for benefits from this settlement, you first have to determine if you are a Class Member.



## **6. How do I know if I am part of the settlement?**

If you received this Notice, then you have been identified as someone who is likely to be a member of the Class. The Class includes: All policyholders under any Commercial or Personal Lines property insurance policy issued by Frontier, who made a Structural Loss claim for property located in the State of Illinois during the applicable Class Periods, that resulted in an ACV Payment from which Labor Depreciation was withheld, or that would have resulted in an ACV Payment but for the withholding of Labor Depreciation causing the loss to drop below the applicable deductible.

A Structural Loss means physical damage to a home, building, manufactured home, condo, rental dwelling, or other structure in Illinois while covered by any Personal Lines or Commercial Lines insurance policy issued by Frontier.

“Covered Loss” means a first party insurance claim for Structural Loss, as defined above, that (a) occurred during the Class Period, and (b) resulted in an ACV Payment by Frontier, or would have resulted in an ACV Payment but for the deduction of Labor Depreciation.

“Labor Depreciation” means any costs depreciated by Frontier or its independent adjusters from an actual cash value payment that are attributable to labor costs. For purposes of the Settlement: (A) For claims in which an .esx file was available to counsels, the amount of “Labor Depreciation” withheld from an ACV payment is reflected in column “AI” of the spreadsheet produced by Frontier on February 24, 2023; (B) For claims in which no .esx file was available to counsels, the amount of “Labor Depreciation” is calculated as 49.3% of the total withheld depreciation. (This percentage reflects the proportionate share of labor depreciation to total withheld depreciation from those claims in which an .esx file was available.)

The Class Period means the following time-period:

For Illinois policyholders of Frontier-Mt Carroll Mutual Insurance, with Structural Loss claims with dates of loss between February 28, 2020, and September 17, 2021, and who submitted timely notice of their loss.

## **7. Are there exceptions to being included in the Class?**

Excluded from the Class are: (a) policyholders whose claims arose under policy forms, endorsements, or riders expressly permitting deduction of Labor Depreciation within the text of the policy form, endorsement or rider, *i.e.*, by express use of the words “depreciation” and “labor”; (b) policyholders who received one or more ACV payments that exhausted the applicable limits of insurance; (c) policyholders whose claims were denied or abandoned without ACV payments; (d) Frontier and its officers and directors; (e) members of the judiciary and their staff to whom this action is assigned and their immediate families; and (f) Class Counsel and their immediate families (collectively, “Exclusions”).

## **8. I’m still not sure I’m included.**

If you are not sure whether you are included in the Class, you may call the toll free number 1-  
[REDACTED] with questions or visit [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com).

## THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

### 9. How much will settlement payments be?

Class Members who complete and sign a claim form and timely mail it to the proper address, or submit the claim form by uploading it on the settlement website, may be eligible for a payment. Under the settlement, Frontier has agreed to pay Class Members who timely submit valid claims, determined as follows:

(a) for Class Members to whom all Labor Depreciation has not been paid (which is a majority of Class Members), 112.5% of the net estimated Labor Depreciation that was withheld from ACV Payments and not subsequently paid. This is calculated by determining the total amount of outstanding withheld Labor Depreciation and multiplying that figure by 1.125. The average claim payment for these Class Members is estimated to be \$1,722.06. If you fall in this group, your claim will most likely be different (lower or higher) than this amount and dependent upon your own claim;

and,

(b) for Class Members who recovered all outstanding Labor Depreciation through the claim process with Frontier, a one-time payment ranging from 2.5% to 10% of the total amount of labor depreciation initially withheld depending on the length of time said amount was withheld. If labor depreciation costs were withheld for 0-4 months, you will receive 2.5% of the amount initially withheld; if withheld for 5-9 months you will receive 5% of the amount of Labor Depreciation initially withheld; and, if withheld for 10 months or more, you will receive 10% of the amount of Labor Depreciation initially withheld. The average claim for these “interest only” Class Members is approximately \$60.40, but your payment will be dependent upon the amount of labor depreciation withheld and the length of time said Labor Depreciation was withheld.

You **must submit a claim form** in order to determine whether you are eligible for and the amount of your settlement payment. If you do not, you will not receive a settlement payment. For additional details on the payment terms, please see the Settlement Agreement, which is available at [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com), or call toll free 1- [REDACTED].

## HOW TO GET A PAYMENT—SUBMITTING A CLAIM FORM

### 10. How can I get a payment?

To find out whether you are eligible for a payment, you must complete and sign a claim form truthfully, accurately, and completely, to the best of your ability. **You must mail the completed claim form to the following address, postmarked no later than [REDACTED], [REDACTED]:**

[REDACTED] Settlement  
PO Box [REDACTED]  
[REDACTED]

You can also upload to the settlement website at [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com) a signed, scanned copy of a completed claim form before midnight Eastern Daylight Time on [REDACTED], [REDACTED]. A copy of the claim form was mailed with this Notice. You may obtain an

additional claim form by calling the Settlement Administrator at [redacted] or visiting [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com). If you sign a claim form as the representative of a deceased or incapacitated Class Member, you must also submit written proof that you are the legally authorized representative. If you are a contractor to whom an insurance claim was properly assigned by a policyholder, you must submit written proof of the assignment with the filed claim form.

#### 11. When will I get my payment?

If the Court grants Final Approval of the settlement, and if any appeals are resolved in favor of the settlement, then payments will be mailed to eligible Class Members after the claims administration process is completed. This process can take time, so please be patient.

#### 12. What am I giving up to get a payment or stay in the Class?

Unless you exclude yourself, you are staying in the Class, and that means you can't individually sue Frontier over the claims settled in this case relating to deduction of Labor Depreciation from payments for Covered Losses. It also means that all of the Court's orders will apply to you and legally bind you.

If you submit a Claim Form, or if you do nothing and stay in the Class, you will agree to release all Released Claims against all Released Persons. "Released Claims" and "Released Persons" are defined in the Settlement Agreement, which you can request by calling [redacted] or view at: [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com).

### EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want a payment from this settlement, and/or if you want to keep the right to individually sue about the issues in this case, then you must take steps to get out of the settlement. This is called excluding yourself from—or "opting out" of—the Class.

#### 13. How do I get out of the settlement?

To exclude yourself from the settlement, you must mail a letter saying that you want to be excluded from the *Gentes Trust #1 and Gentes Trust #2 v. Frontier-Mt Carroll Mutual Insurance*, Case No. 2022-LA-000269 settlement. Your letter must include your full name, address, and be signed. You must also include a clear statement that you wish to be excluded from the settlement class. You must mail your request for exclusion postmarked by [redacted] [insert date], [redacted] to:

[redacted] Settlement  
PO Box [redacted]  
[redacted]

More instructions are in the Settlement Agreement available at: [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com). You cannot exclude yourself by phone, by email, or on the website. The right to exclude yourself from the proposed settlement must be exercised individually, not as a member of a group and, except for a deceased or incapacitated Class Member, not by another person acting or purporting to act in a representative capacity. If you request exclusion on behalf of a deceased or incapacitated Class Member, you must also submit written proof that you are the legally authorized representative.

**14. If I don't exclude myself, can I sue the Insurance Company for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue Frontier for the claims that this settlement resolves. You must exclude yourself from the Class to individually sue Frontier over the claims resolved by this settlement. Remember, the exclusion deadline is [insert date],

**15. If I exclude myself, can I get a payment from this settlement?**

No. If you exclude yourself from the settlement, do not submit a Claim Form to ask for a payment.

**THE LAWYERS REPRESENTING YOU**

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

The Court appointed the following law firms to represent you and other Class Members as Class Counsel:

David T. Butsch  
Christopher E. Roberts  
BUTSCH ROBERTS & ASSOCIATES LLC  
231 S. Bemiston Ave., Suite 260  
Clayton, MO 63105  
Tel: (314) 863-5700  
Fax: (314) 863-5711  
[butsch@butschroberts.com](mailto:butsch@butschroberts.com)  
[roberts@butschroberts.com](mailto:roberts@butschroberts.com)

Christopher W. Byron  
Christopher J. Petri  
BYRON CARSLON PETRI & KALB, LLC  
411 St. Louis Street  
Edwardsville, IL 62025  
Phone: (618) 655-0600  
Fax: (618) 655-4004  
[cwb@bcpldaw.com](mailto:cwb@bcpldaw.com)  
[cjp@bcpldaw.com](mailto:cjp@bcpldaw.com)

You do not have to pay Class Counsel. If you want to be represented by your own lawyer, and potentially have that lawyer appear in court for you in this case, you may hire one at your own expense.

**17. How will the lawyers and Class Representatives be paid?**

Class Counsel will ask the Court for up to \$250,000.00 for attorneys' fees and reasonable litigation expenses, and will ask the Court to award the Class Representatives \$10,000 in total for their efforts in prosecuting this case (called a service award). Frontier agreed not to oppose the request for fees, expenses, and service awards up to these amounts. The Court may award less than these amounts. Frontier will pay these fees, expenses, and service awards in addition to amounts due to

Class Members. These payments will not reduce the amount distributed to Class Members. Frontier will also separately pay the costs to administer the settlement.

### OBJECTING TO THE SETTLEMENT

You can tell the Court if you don't agree with the settlement or some part of it.

#### 18. How do I tell the Court if I don't agree with the settlement?

If you don't want the Court to approve the settlement you must file a written objection with the Court and send a copy to the Settlement Administrator by the deadline noted below. You should include the name of the cases (*Gentes Trust #1 and Gentes Trust #2 v. Frontier-Mt Carroll Mutual Insurance*, Case No. 2022-LA-000269), your full name, address, telephone number, your signature, the specific reasons why you object to the settlement, and state whether you intend to appear at the Final Approval Hearing in person or through counsel. If you have a lawyer file an objection for you, he or she must follow all local rules and you must list the attorney's name, address, and telephone number in the written objection filed with the Court.

If you intend to appear at the Final Approval Hearing to object to the settlement, you must also provide the Court with your written objection a detailed statement of the specific legal and factual reasons for each objection, a list of any witnesses you may call at the hearing with each witness's address and summary of the witness's testimony, and a description of any documents you may present to the Court at the hearing. You or your lawyer may appear at the Final Approval Hearing if you have filed a written objection as provided above. (See the section on the "Court's Final Approval Hearing" below). The right to object to the Proposed Settlement must be exercised individually by an individual Class Member, not as a member of a group and, except in the case of a deceased or incapacitated Class Member, not by another person acting or purporting to act in a representative capacity. If you file an objection as the representative of a Class Member, you must also submit written proof that you are the legally authorized representative.

File the objection with the Clerk of the Court at the address below by [insert date]. Note: You may send it by mail, but it must be received and filed by the Clerk by this date.	And mail a copy of the objection to the Administrator at the following address so that it is postmarked by [insert date]:
Court	Administrator
Clerk of Court [insert address]	[redacted] Settlement PO Box _____ _____

#### 19. What's the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class or the settlement. If you exclude yourself, you have no basis to object because the case no longer affects you. If you object, and the Court approves the settlement anyway, you will still be legally bound by the result.

## THE COURT'S FINAL APPROVAL HEARING

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

### 20. When and where will the Court decide whether to approve the settlement?

The Court has scheduled a Final Approval Hearing at [insert time] \_\_.m., on [insert date], at the Circuit Court Third Judicial Circuit, Madison County, Illinois, [address], Courtroom \_\_\_\_\_, [city], Illinois. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them at that time. The Court may listen to people who have asked to speak about their objection. The Court may also decide how much to award Class Counsel for fees and expenses for representing the Class and how much to award the Class Representatives as service awards. At or after the hearing, the Court will decide whether to approve the settlement. It is not known how long this decision will take. Check the settlement website before to make sure the hearing hasn't been rescheduled, or to see whether the Court has scheduled the hearing to proceed by video conference or teleconference only, instead of in person.

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

You are not required to attend, and Class Counsel will answer any questions that the Court may have. If you wish to attend the hearing, you may come at your own expense. You may also pay your own lawyer to attend, but it's not necessary, unless you choose to have a lawyer appear on your behalf to object to the settlement.

### 22. May I speak at the hearing?

If you submitted a proper written objection to the settlement, you or your lawyer acting on your behalf may speak at the Final Approval Hearing. You cannot speak at the Hearing if you exclude yourself.

## IF YOU DO NOTHING

### 23. What happens if I do nothing at all?

If you do nothing, you'll get no payment from this settlement. But, unless you exclude yourself from the settlement, you won't be able to individually sue for the claims resolved in this case.

## GETTING MORE INFORMATION

### 24. How do I get more information about the settlement?

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. If you have questions or if you want to request a copy of the Settlement Agreement, which provides more information, call 1-[redacted] or visit [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com).

**PLEASE DO NOT CALL OR WRITE THE COURT, THE JUDGE OR HIS STAFF, OR THE INSURANCE COMPANY OR ITS COUNSEL FOR INFORMATION OR ADVICE ABOUT THE SETTLEMENT**

# **EXHIBIT C**

## EXHIBIT C

### CLASS ACTION SETTLEMENT CLAIM FORM

Name: \_\_\_\_\_

Address: \_\_\_\_\_

**IMPORTANT:** You have been identified as a claimant who is likely a Class Member.

If you are a Class Member and fail to submit this claim form, then you will receive nothing but still be bound by the settlement. If you are a Class Member and you submit this Claim Form, then you will receive a check. Only those insureds who fall within the definition of “Class Member” in the accompanying Class Notice will receive a check, and not all who receive the Class Notice are Class Members. There is no cost to you submit a claim form.

The records of Frontier – Mt Carroll Mutual Insurance indicate that you might be a member of the Class in the case named *Gentes Trust #1 and Gentes Trust #2 v. Frontier-Mt Carroll Mutual Insurance*, Case No. 2022-LA-000269, Circuit Court for the Third Judicial Circuit of Madison County, Illinois. However, information in Frontier’s records need to be reviewed to determine whether you are in fact a member of the Class, and if so, how much money you may be entitled to receive.

Please read the accompanying Class Notice before you complete this Claim Form. To participate in this Settlement, your Claim Form must be completed to the best of your ability, signed, and then: (1) mailed and postmarked by [DATE] to [ADDRESS]; (2) scanned or photographed and uploaded at [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com); OR (3) e-mailed to [E-MAIL ADDRESS].

Frontier’s records reflect that the following claim may be at issue:

Policy Number: XXXXXXXXXXXX

Claim Number: XXXXXXXXXXXX

Date of Loss: X/X/20XX

Address of Insured Premises: XXXXXXXXXXXX

***This Claim Form applies only to the Covered Loss listed above.*** If you had more than one Covered Loss during the Class Period, then you may receive separate Claim Form(s) for those losses, and you must complete and mail those Claim Form(s) to be eligible for payment on those losses.

***Please do not call Frontier or your insurance agent to discuss this lawsuit or this Claim Form. You may, however, continue to call Frontier or your agent regarding any other insurance matters.***

***If you have any questions, please visit [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com), or call***



**COMPLETE THE FOLLOWING QUESTIONS IF THEY APPLY:**

1. Please provide your current mailing address **only if** the address listed above is not correct.

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2. ***Leave this section blank if all of the named policyholders are alive and capable of completing this form.*** If *all* of the named policyholders for the claim identified above are either dead or incapable of completing this form, and you are submitting this Claim Form as the legally authorized representative, please state how and when you became the legally authorized representative and provide a copy of any documentation you may have supporting the fact that you are the legally authorized representative

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3. ***Leave this section blank if you have not signed a contract giving your insurance claim to someone else.*** If you have signed a contract giving your insurance claim to someone else (an “assignment”), please attach a written copy of the contract or the insurance claim was assigned to you and you are the contractor, please list the name and address of the contractor person to whom the insurance claim was assigned, when, and why, unless clearly identified in the attached contract. An assignment is a written agreement allowing another party, like a roofer or contractor, to recover and keep your insurance benefits.

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**SIGN AND DATE YOUR CLAIM FORM:**

I wish to make a claim associated with the class action settlement, and all information provided above is true and correct to the best of my knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**MAIL YOUR CLAIM FORM OR SUBMIT YOUR CLAIM FORM ONLINE:**

***Once signed***, this Claim Form and any attachments must be:

(1) scanned or photographed, and uploaded on or before [date] at the website:  
www.Frontierdepreciationsettlement.com;

OR

(2) postmarked on or before [DATE], and mailed to:

*Gentes Trust #1 and Gentes Trust #2 v. Frontier-Mt Carroll Mutual Insurance* Notice  
Administrator

c/o TBD

[address]

OR

(3) e-mailed to [e-mail address]

**CLAIMS ADMINISTRATION:**

Please be patient. If you qualify for payment under the Settlement, a Settlement Check will be mailed to you. If you do not qualify, a letter will be mailed to you explaining why.

## **EXHIBIT D**

**IMPORTANT NOTICE** – You are receiving this because you are likely a member of a class action lawsuit involving Frontier-Mt Carroll Mutual Insurance and you have not submitted a claim form. If you **FAIL** to submit a claim form and you are a Class Member, then you will **LOSE** your right to seek payment(s) that may be made available to you under the settlement.

You were previously mailed a court-authorized Notice explaining that you may be a Class Member in a class action settlement regarding depreciation of estimated labor costs in making actual cash value claim payments under insurance policies. **Our records indicate that you have not submitted a Claim Form or request for exclusion.**

This is only a reminder. For more information regarding the proposed Settlement, including who's included in the settlement class and important deadlines, please review the Notice or the settlement website at [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com), or call [REDACTED].

In order to receive any monetary benefits from the settlement, you **MUST** complete a Claim Form and mail it to the following address or upload and scan the form to [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com):

[REDACTED]  
[REDACTED]  
[REDACTED]

If you did not receive or no longer have the Notice or Claim Form, you may request that they be mailed to you by calling the phone number below or download them at [www.Frontierdepreciationsettlement.com](http://www.Frontierdepreciationsettlement.com). You may also call with any questions you have about the proposed Settlement. Please do not call your insurance company or your insurance agent to discuss this lawsuit or whether to file a claim form.

**IN ORDER TO PARTICIPATE IN THIS SETTLEMENT, YOUR CLAIM FORM MUST BE SUBMITTED OR POSTMARKED OR SUBMITTED ELECTRONICALLY NO LATER THAN [DEADLINE].**

# **EXHIBIT E**

**IN THE CIRCUIT COURT  
THIRD JUDICIAL CIRCUIT  
MADISON COUNTY, ILLINOIS**

GENTES TRUST #1 and GENTES TRUST #2,	)	
individually, and on behalf of all	)	
others similarly situated,	)	
	)	
Plaintiffs,	)	Case No. 2022-LA-000269
	)	
vs.	)	
	)	
FRONTIER-MT CARROLL MUTUAL	)	
INSURANCE,	)	
	)	
Defendant.	)	

**[PROPOSED] ORDER AND FINAL JUDGMENT GRANTING FINAL APPROVAL TO  
CLASS ACTION SETTLEMENT**

The claims of the Representative Plaintiffs, Gentes Trust #1 and Gentes Trust #2, (the “Representative Plaintiffs”) against the Defendant, Frontier-Mt Carroll Mutual Insurance, (“Frontier” or the “Defendant”), have been settled, individually and on behalf of a class of policyholders of Frontier, pursuant to the Stipulation and Settlement Agreement signed by the Parties in March 2023 (the “Agreement”). On XXXXXX, 2023, the Court granted preliminary approval of the proposed class action settlement set forth in the Agreement (the “Settlement”) and provisionally certified the Settlement Class for settlement purposes only.

On XXXXXX, 2023, the Court held a duly noticed final approval hearing to consider: (1) whether the terms and conditions of the Agreement are fair, reasonable and adequate; (2) whether judgment should be entered for the claims of the Representative Plaintiffs, including the claims of Class Members who have not requested exclusion from the Settlement Class; and (3) whether, and in what amount, to award attorneys’ fees and expenses to Class Counsel and a service award to the Representative Plaintiffs.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED and DECREED that:

1. The terms and conditions of the Agreement, which were attached to the motion for preliminary approval filed with the Court, are hereby incorporated as though fully set forth in this Judgment, and unless otherwise indicated, capitalized terms in this Judgment shall have the meanings attributed to them in the Agreement.

2. The Court has personal jurisdiction over the Representative Plaintiffs, the Defendant, and Class Members. Venue is proper and the Court has subject matter jurisdiction to approve the Agreement including all exhibits thereto, and the Court has jurisdiction to enter this Judgment. Without in any way affecting the finality of this Judgment, the Court retains jurisdiction as to all matters relating to administration, consummation, enforcement, construction, and interpretation of the Agreement and of this Judgment. Further, the Court retains jurisdiction to protect, preserve, and implement the Agreement, including, but not limited to, enforcement of the releases contained in the Agreement, and to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Agreement.

3. The Settlement was negotiated at arm's length, by experienced counsel who were fully informed of the facts and circumstances of this Action and of the strengths and weaknesses of their respective positions. The Settlement was reached after the Parties had engaged in extensive and multiple settlement negotiation sessions after exchanging complete class member data regarding the amounts of costs withheld from actual cash value payments and the dates of withholding. Counsel for the Parties were, therefore, well positioned to evaluate the benefits of the Settlement, considering the risks and uncertainties of continued litigation, the time and expense that would be necessary to prosecute the Action through class certification, trial and any appeals that might be taken, and the likelihood of success.

4. The Court finds that the prerequisites for a class action under 735 ILCS 5/2-801 have been satisfied, for settlement purposes, in that: (a) the number of Class Members is so numerous that joinder of all members is impracticable; (b) there are questions of law and fact common to the Settlement Class, which common questions predominate over any questions affecting only individual members; (c) the Representative Plaintiffs and Class Counsel have, and will continue to, fairly and adequately represented the interests of the Settlement Class for purposes of the Settlement; and (d) a class action is an appropriate method for the fair and efficient adjudication of the controversy. Accordingly, and pursuant to 735 ILCS 5/2-801, this Court hereby finally certifies the Settlement Class.

5. Pursuant to 735 ILCS 5/2-801, the Court hereby finally certifies the Settlement Class for settlement purposes only, as identified in the Settlement Agreement, defined as follows:

- a. “Settlement Class” means: All policyholders (or their lawful assignees) under any commercial or personal lines property insurance policy issued by Frontier, who made: (a) a Structural Loss claim for property located in the State of Illinois during the applicable Class Periods as defined below; and, (b) that resulted in an ACV Payment from which Labor Depreciation was withheld, or that would have resulted in an ACV Payment but for the withholding of Labor Depreciation causing the loss to drop below the applicable deductible.

- b. Excluded from the Settlement Class are:

Policyholders whose claims arose under policy forms, endorsements, or riders expressly permitting Labor Depreciation within the text of the policy form, endorsement or rider, *i.e.*, by express use of the words “depreciation” and “labor”, including FMC Endorsements CL 05H 08 20, CL 05F 08 20, and CL 05D 08 20;

Policyholders who received one or more ACV payments for claims, but not replacement cost value payments, that exhausted the applicable limits of insurance;

Policyholders whose claims were denied or abandoned without ACV payment;

Frontier and its officers and directors;



Members of the judiciary and their staff to whom this action is assigned and their immediate families; and,

Class counsel and their immediate families.

- c. The “Class Period” includes only policyholders whose loss accrued between February 28, 2020 and September 17, 2021, and who submitted timely notice of their loss.

6. Pursuant to 735 ILCS 5/2-801 the Court appoints David T. Butsch and Christopher E. Roberts of Butsch Roberts & Associates LLC and Christopher J. Petri and Christopher W. Byron of Byron Carlson Petri & Kalb, LLC as Class Counsel for the Settlement Class.

7. The Court also designates Representative Plaintiffs Gentes Trust #1 and Gentes Trust #2 as the representatives of the Settlement Class.

8. The Court makes the following findings with respect to Class Notice to the Settlement Class:

- a. The Court finds that the Class Notice, the establishment of an automated toll-free, interactive, voice response phone system, and the Settlement website, all as provided for in the Settlement Agreement and the Preliminary Approval Order, (i) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the Settlement, their right to object or to exclude themselves from the Settlement, and their right to appear at the Final Approval Hearing; (ii) were reasonable and constituted due, adequate and sufficient notice to all persons entitled to be provided with notice; and (iii) complied fully with all legal requirements, including the requirements of 735 ILCS 5/2-801, the United States Constitution, the Rules of this Court, and any other applicable law.

- b. Class Counsel has filed with the Court an affidavit from Atticus Administration LLC Administration, the independent third-party Administrator for the Settlement, establishing that the Class Notice and Claim Form were mailed to Class Members on XXXXX, 2023, the Settlement website was established on XXXXXX, 2023, and the telephone line available for Class Members to call was available beginning XXXXX, 2023. Adequate notice was given to the Settlement Class in compliance with the Settlement Agreement and the Preliminary Approval Order.

9. Persons who wished to be excluded from the Settlement Class were provided an opportunity to request exclusion as described in the Class Notice and on the Settlement website. The Court finds that the individual interests of the persons who timely sought exclusion from the

Settlement Class are preserved and that no person was precluded from being excluded from the Settlement Class if desired. Those persons who timely and properly excluded themselves from the Settlement Class are identified in the attached Exhibit 1.

10. Defendant has complied with all notice obligations in connection with the proposed Settlement.

11. XXXXX objections to the Settlement were filed.

12. Class Members, who did not timely file and serve an objection in writing to the Settlement Agreement, to the entry of this Judgment, to Class Counsel's application for fees, costs, and expenses, or to the service awards to the Representative Plaintiff, in accordance with the procedure set forth in the Class Notice and mandated in the Preliminary Approval Order, are deemed to have waived any such objection through any appeal, collateral attack, or otherwise.

13. The terms and provisions of the Agreement, including all Exhibits thereto, have been entered into in good faith and, pursuant to 735 ILCS 5/2-801, are hereby fully and finally approved as fair, reasonable, adequate as to, and in the best interests of, Class Members. The Court hereby enters judgment approving and adopting the Settlement and the Agreement.

14. Pursuant to 735 ILCS 5/2-801, the Court hereby awards Class Counsel attorneys' fees and reasonable litigation expenses in the total amount of Two Hundred Fifty Thousand dollars (\$250,000.00), payable by the Defendant pursuant to the terms of the Agreement. The Court also awards service awards in the amount of \$10,000.00 in total to the Representative Plaintiffs Gentes Trust #1 and Gentes Trust #2, payable by the Defendant pursuant to the terms of the Agreement. The Defendant shall not be responsible for and shall not be liable with respect to the allocation among Class Counsel or any other person who may assert a claim thereto of attorneys' fees and expenses awarded by the Court.

15. The terms of the Agreement, including all Exhibits thereto, and of this Judgment, shall be forever binding on, and shall have *res judicata* and preclusive effect in and on, all Released Claims by the Representative Plaintiffs and each Class Member, who did not timely and properly exclude itself, himself or herself from the Settlement Class, as well as each of their respective heirs, beneficiaries, administrators, successors, and assigns, and all other Releasing Persons.

16. The Releases set forth in Section 9 of the Settlement Agreement are incorporated herein, in all respects, and are effective as of the entry of this Judgment. The Released Persons are forever released, relinquished, and discharged by the Releasing Persons, including all Class Members who did not timely exclude themselves from the Settlement Class, from all Released Claims (as that term is defined below and in the Agreement).

a. Although the definitions in the Agreement are incorporated in, and are a part of this Judgment, for avoidance of doubt and ease of reference, some of those definitions are repeated as follows:

- i. “ACV Payment” means an actual cash value payment made on an insurance claim for a Structural Loss, calculated by estimating the replacement cost value of covered damage, and subtracting depreciation, including Labor Depreciation, and any applicable deductible.
- ii. “Covered Loss” means a first party insurance claim for Structural Loss, as defined below, that (a) occurred during the Class Period, and (b) resulted in an ACV payment by Frontier, or would have resulted in an ACV payment but for the deduction of Labor Depreciation.
- iii. “Labor Depreciation” means any costs depreciated by Frontier or its independent adjusters from an actual cash value payment that are attributable to labor costs. For purposes of this Settlement, (A) For claims in which an .esx file was available to counsels, the amount of “Labor Depreciation” withheld from an ACV payment is reflected in column “AI” of the spreadsheet produced by Frontier on February 24, 2023; (B) For claims in which no .esx file was available to counsels, the amount of “Labor Depreciation” is calculated as 49.3% of the total withheld depreciation. (This percentage reflects the proportionate share of labor depreciation to total withheld depreciation from those claims in which an .esx file was available.)

- iv. “Effective Date” means the first date on which all of the following conditions have occurred: (a) all Parties have executed this Agreement; (b) no party has terminated the Agreement; (c) the Court has entered the Preliminary Approval Order; (c) the Court has entered a Final Judgment, approving the Agreement and the Proposed Settlement, releasing all of the Released Persons from all of the Released Claims and dismissing the Action with prejudice and without leave to amend; and, (e) the Final Judgment has become Final.
- v. “Final” means, with respect to a judgment or order that: (a) the time has expired to file an appeal with no such appeal having been filed; or (b) if an appeal has been filed, (i) the judicial ruling or order has been affirmed without modification and with no further right of review, or (ii) such appeal has been denied or dismissed with no further right of review, in all cases so as to permit the implementation of the Proposed Settlement in accordance with and without material change to this Agreement.
- vi. “Released Persons” means, individually and collectively, (a) Frontier and all independent adjusting companies acting for Frontier, and (b) all past and present affiliates, successors and predecessors in interest, assigns, acquirers, divisions, representatives, officers, directors, shareholders, agents, managing agents, employees, attorneys, auditors, accountants, brokers, surplus lines brokers, underwriters, advisors, insurers, co-insurers, re-insurers, consultants, vendors, independent contractors, and legal representatives of the Persons listed in subsection (a).
- vii. “Releasing Persons” means the Representative Plaintiffs, all Class Members who do not properly and timely opt out of the Settlement Class, and their respective spouses, family members, executors, representatives, administrators, guardians, wards, heirs, attorneys-in-fact, estates, bankruptcy estates, bankruptcy trustees, successors, predecessors, attorneys, agents and assigns, and all those who claim through them or who assert claims (or could assert claims) on their behalf.
- viii. “Structural Loss” means physical damage to a house, building, manufactured house, condo, farm/ranch, rental dwelling, or other structure in Illinois while covered by a Personal Lines or Commercial Lines insurance policy, issued by Frontier.

b. The Representative Plaintiffs, and each Class Member, shall, by operation of the Final Judgment, be deemed to have fully, conclusively, irrevocably, forever, and finally released, relinquished, and discharged Frontier and all other Released Persons from any and all claims, Unknown Claims, actions, causes of action, suits, debts, sums of money, payments, obligations, reckonings, promises, damages, interest, penalties, attorney’s fees and costs, liens,

judgments, and demands of any kind whatsoever that each Releasing Person has, or may have had, prior to the Effective Date, and arising from a loss during the Class Periods, whether *ex contractu* or *ex delicto*, debts, liens, contracts, liabilities, agreements, attorneys' fees, costs, penalties, interest, expenses, or losses (including actual, consequential, statutory, extra-contractual and punitive or exemplary damages), and whether arising under or based on contract, extra-contractual or tort theories, at law or in equity, or federal, state or local law, statute, ordinance, rule or regulation, whether asserted individually or in a representative capacity, whether past or present, mature or not yet mature, that the Representative Plaintiff or Class Members have, or may have, had against any of the Released Persons that relate to, concern, arise from, or pertain in any way to (the "Released Claims"):

- i. Depreciation or Labor Costs (including, but not limited to, calculation, deduction, determination, inclusion, modification, omission, and/or withholding of Labor Depreciation) in the adjustment and/or payment of any Covered Loss;
- ii. any and all claims that were or could have been brought, whether based upon contract, statute, regulation or tort, pertaining to the calculation, deduction, determination, inclusion, modification, omission, and/or withholding of the depreciation or Labor Costs in the adjustment and/or payment of any Covered Loss;
- iii. the allegations and claims contained in the complaint in the Action concerning the alleged systematic practice of deducting Labor Depreciation through the use of estimating software.
- iv. The Released Claims do not include claims under any coverages other than for loss or damage to structures or buildings. Further, the Released Claims do not apply to Class Members' claims for replacement cost benefits under Structural Loss insurance claims that are made after the date of Preliminary Approval or outside the class period and determined pursuant to the terms and conditions of policies of insurance. Further, this release only applies to claims arising under insurance policies issued by Frontier.

c. In agreeing to the foregoing Releases, the Representative Plaintiffs, for itself and on behalf of Class Members, explicitly acknowledges that Unknown Claims could possibly

exist and that any present losses may have been underestimated in amount or severity. The Representative Plaintiffs, or any Class Member, may hereafter discover facts other than or different from those that he/she knows or believes to be true with respect to the subject matter of the Released Claims or the law applicable to such claims may change. Nonetheless, the Representative Plaintiff and each Class Member expressly agree that he/she/they shall have irrevocably waived and fully, finally and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, contingent or non-contingent, claims with respect to all Released Claims. Further, the Representative Plaintiffs and Class Members agree and acknowledge that they are bound by the Settlement Agreement, including by the Releases, and that all of their claims in Action asserted against the Defendant shall be dismissed, with prejudice, and released, without regard to subsequent discovery of different or additional facts or subsequent changes in the law, and regardless of whether unknown losses or claims exist, or whether present losses may have been underestimated in amount or severity, and even if they never received actual notice of the Settlement or never received a Claim Settlement Payment. The Parties acknowledge that the foregoing Releases were bargained for and are a material element of the Agreement.

d. This Judgment does not release and determine: (a) claims arising after the Effective Date; (b) claims for valuation or payment of a Covered Loss under any property insurance policies issued by the Defendant that are not related to the withholding of payment for Labor Depreciation; (c) Class Members' rights and obligations under this Agreement; and, (d) the rights of potential Class Members who timely and properly submit a request for exclusion from the Settlement Class in accordance with this Agreement.

e. The Representative Plaintiffs and Class Counsel have represented and warranted that there are no outstanding liens or claims against the Action and have acknowledged that the Representative Plaintiffs and Class Counsel will be solely responsible for satisfying any liens or claims asserted against the Action.

f. The Representative Plaintiffs and each Class Member is deemed to agree and acknowledge that the foregoing Releases were bargained for and are a material element of the Agreement.

g. The Agreement shall be the exclusive remedy for all Class Members with regards to the Released Claims.

17. Neither the Agreement, the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein, nor this Judgment, nor any of its terms and provisions, nor any pleadings, motions, or other document related in any way to the Agreement shall be:

a. Construed as an admission or concession by the Defendant of the truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing of any kind by the Defendant or any Released Persons;

b. Offered or admitted into evidence in the Action, or in any other proceeding, in support of, or in opposition to, a motion to certify a contested class against the Defendant or any Released Persons;

c. Offered or admitted into evidence in the Action, or in any other proceeding, as an admission or concession of liability or wrongdoing by the Defendant or any Released Persons;

d. Offered or received in evidence in any action or proceeding, against the Defendant or any Released Persons, in any court, administrative agency, or other tribunal for any purpose

whatsoever, other than to enforce or otherwise effectuate the Settlement Agreement (or any agreement or order relating thereto), including the Releases or this Judgment.

18. If the Effective Date does not occur, this Judgment shall automatically be rendered null and void and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void.

19. This Judgment and the Agreement (including the Exhibits thereto) may be filed in any action against, or by, any Released Person in order to support any argument, defense or counterclaim, including, without limitation, those based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion, issue preclusion, or similar defense or counterclaim.

20. The Representative Plaintiffs and all Class Members, and their respective spouses, family members, executors, representatives, administrators, guardians, wards, heirs, attorneys-in-fact, estates, bankruptcy estates, bankruptcy trustees, successors, predecessors, attorneys, agents and assigns, have released the Released Claims as against the Released Persons, and are, from this day forward, hereby permanently barred and enjoined from filing, commencing, prosecuting, intervening in, maintaining, or participating in (as parties, class members or otherwise), any new or existing action or proceeding, before any court or tribunal, regarding any Released Claims against any Released Persons, and from organizing any Class Members into a separate class for purposes of pursuing, as a purported class action, any lawsuit regarding any Released Claims against any Released Persons, and any person in violation of this injunction may be subject to sanctions, including payment of reasonable attorneys' fees incurred in seeking enforcement of the injunction.



21. The Released Claims of Representative Plaintiffs Gentes Trust #1 and Gentes Trust #2, individually, and on behalf of the Settlement Class, are hereby settled, compromised, and resolved as to the Defendant without fees (including attorneys' fees) or costs to any party except as otherwise provided in this Judgment.

22. The Parties are hereby directed to implement and consummate the Settlement, according to its terms and provisions, as may be modified by Orders of this Court. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Agreement, as may be modified by the Preliminary Approval Order or this Judgment.

23. Upon completion of all the terms of the Agreement, Plaintiffs shall file a satisfaction of judgment.

24. The Court hereby enters Final Judgment, as described herein, and expressly determines that there is no just reason for delay. Without impacting the finality of this Judgment, the Court shall retain jurisdiction over the construction, interpretation, consummation, implementation, and enforcement of the Agreement and this Judgment, including jurisdiction to enter such further orders as may be necessary or appropriate.

So Ordered: \_\_\_\_\_  
Hon. Dennis R. Ruth

Date: \_\_\_\_\_