

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

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**In re SCOR HOLDING (SWITZERLAND) AG** : **Case No. 04 Civ. 7897 (DLC)**  
**SECURITIES LITIGATION** :  
: X

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**AMENDED STIPULATION OF SETTLEMENT  
AS TO ZURICH FINANCIAL SERVICES**

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WHEREAS Zurich Financial Services (“ZFS”) has been named as a defendant in one or more putative class actions brought by the Public Employees’ Retirement System of Mississippi (“MPERS”) and Avalon Holdings, Inc. (“Avalon”) and additional named plaintiff the Louisiana State Employees Retirement System (“LASERS”) (collectively, “Plaintiffs”), on their own behalf and on behalf of specified class members, alleging that the defendants engaged in certain conduct in violation of the federal securities laws; and

WHEREAS the class actions are pending before the Honorable Denise Cote, in the United States District Court for the Southern District of New York (the “Court”), and the Court has consolidated the class actions under the caption *In re SCOR Holding (Switzerland) AG Securities Litigation*, No. 04 Civ. 7897 (DLC), formerly known as *In re Converium Holding AG Securities Litigation* (the “Action”); and

WHEREAS Plaintiffs and ZFS previously agreed to settle the Action, subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, and pursuant to the terms documented in a Stipulation of Settlement dated as of August 24, 2007 (the “Original ZFS Stipulation”); and

WHEREAS the Court preliminarily approved the parties' proposed settlement on September 4, 2007; and

WHEREAS Plaintiffs and ZFS wish to amend the Original ZFS Stipulation for the reasons discussed below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the undersigned, including MPERS (individually and in its representative capacity) and ZFS, by and through their duly authorized counsel, that the Action and the matters raised by it are hereby settled and compromised as to ZFS, that the Action will be dismissed on the merits and with prejudice as to ZFS, and that the Released Plaintiffs' Claims will be released as to the Releasees based upon the terms and conditions set forth in this Amended Stipulation of Settlement (including the Release), subject to the Court's approval and its becoming Final.

## **I. INTRODUCTION AND DEFINITIONS**

### **A. Procedural History**

1. Beginning in October 2004, seven putative class actions were filed by certain purchasers of Converium Holding AG's ("Converium's") securities against Converium, certain of Converium's officers and directors, and ZFS, alleging violations of the federal securities laws.

2. Pursuant to an order issued by the Court on July 14, 2005, MPERS and Avalon were appointed lead plaintiffs in the Action.

3. Pursuant to the same July 14, 2005 order, the law firms of Bernstein Litowitz Berger & Grossmann LLP, Cohen, Milstein, Hausfeld & Toll, P.L.L.C., and Spector, Roseman & Kodroff, P.C., were appointed as lead counsel for the putative class ("Lead Counsel").

4. On September 23, 2005, MPERS and Avalon filed a Consolidated Amended Class Action Complaint on behalf of all persons and entities who had purchased or otherwise acquired Converium shares or American Depositary Shares (“ADSs”) during the period from December 11, 2001 through September 2, 2004, inclusive (the “Putative Class”).

5. The Complaint included as defendants: Converium; certain officers of Converium (who formerly were officers or employees of ZFS or its subsidiaries), namely, Dirk Lohmann, Martin Kauer, and Richard Smith (the “Officer Defendants”); certain directors of Converium, namely, Terry G. Clarke, Peter C. Colombo, George F. Mehl, Jurgen Foerterer, Anton K. Schnyder, Derrell J. Hendrix, and George G.C. Parker (the “Director Defendants”); ZFS; and UBS AG and Merrill Lynch International (the “Underwriter Defendants”), the lead underwriters in the initial public offering of Converium Common Stock or ADSs that took effect on or about December 11, 2001 and was completed in January 2002 (the “Converium IPO”).

6. The Complaint asserted claims under the Securities Act of 1933 (the “Securities Act”) against all defendants and under the Securities Exchange Act of 1934 (the “Exchange Act”) against Converium, ZFS, the Officer Defendants, and the Director Defendants (other than Mr. Clarke).

7. On December 23, 2005, all defendants filed motions to dismiss all claims against them in the Action.

8. On April 21, 2006, MPERS and Avalon moved for leave to amend the Complaint to add Claims based on Converium’s restatement of its previously issued

financial results as of and for the years ended December 31, 1998 through 2004 and the quarters ended March 31, 2003 through June 30, 2005 (the “Converium Restatement”).

9. On May 25, 2006, defendants opposed the motion for leave to amend the Complaint.

10. Pursuant to an order issued by the Court on November 16, 2006, the following cases were consolidated into the Action: case numbers 04 Civ. 7897, 04 Civ. 8038, 04 Civ. 8060, 04 Civ. 8295, 04 Civ. 8994, 04 Civ. 9479, and 05 Civ. 3871.

11. On December 1, 2006, MPERS and Avalon filed a notice seeking to substitute a new version of the proposed Consolidated Second Amended Class Action Complaint (the “Proposed Second Amended Complaint”) as an exhibit to their then-pending motion for leave to amend, which had been filed on April 21, 2006.

12. On December 28, 2006, the Court issued orders *(i)* dismissing the Securities Act claims against all defendants, *(ii)* dismissing the Exchange Act claims against all defendants based on alleged misrepresentations or omissions in connection with the Converium IPO, *(iii)* denying dismissal of the Exchange Act claims against Converium and the Officer Defendants based on alleged misrepresentations or omissions after the Converium IPO, and *(iv)* denying the motion to amend the Complaint.

13. The automatic stay of discovery was lifted as to Converium and the Officer Defendants upon entry of the Court’s December 28, 2006 Order denying in part their Motion to Dismiss.

14. On January 12, 2007, MPERS and Avalon moved for reconsideration of the Court’s December 28, 2006 order to the extent that it had dismissed *(i)* the Exchange Act § 10(b) claim on behalf of Converium IPO aftermarket purchasers

against Converium and the Officer Defendants based on alleged misrepresentations or omissions in connection with the Converium IPO, (ii) the Exchange Act § 20(a) claims against ZFS and the Officer and Director Defendants (other than Mr. Clarke) arising from Converium's alleged liability to the Converium IPO aftermarket purchasers based on purported misrepresentations or omissions in connection with the Converium IPO, and (iii) the Securities Act claims against all defendants. MPERS and Avalon also asked the Court to reconsider its denial of leave to amend the Complaint.

15. On March 9, 2007, MPERS and Avalon, Converium, and the Officer Defendants exchanged their automatic disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) and have subsequently produced documents pursuant to Federal Rule of Civil Procedure 34.

16. In addition, MPERS and Avalon have sought and obtained documents from third parties pursuant to Federal Rule of Civil Procedure 45.

17. On April 9, 2007, the Court denied MPERS' and Avalon's motion for reconsideration of the dismissal of the Securities Act claims against all defendants, but granted reconsideration of the dismissal of the Exchange Act § 10(b) claims against Converium and the Officer Defendants and the Exchange Act § 20(a) claims against ZFS, the Officer Defendants, and the Director Defendants (other than Mr. Clarke) on behalf of Converium IPO aftermarket purchasers alleging misrepresentations or omissions in connection with the Converium IPO. The Court also declined to reconsider its refusal to allow MPERS and Avalon to amend the Complaint.

18. After the Court's ruling on MPERS' and Avalon's motion for reconsideration, ZFS's Counsel and Lead Counsel commenced settlement discussions



regarding (i) the structure and terms of a proposed settlement agreement and (ii) the confirmatory discovery that MPERS and Avalon would require before any settlement as to ZFS could be finalized.

19. On August 24, 2007, Plaintiffs and ZFS executed the Original ZFS Stipulation, providing for ZFS to pay US\$30,000,000.00 to resolve all claims that were or could have been asserted against it in the Action by or on behalf of Plaintiffs and the Putative Class (the “Original ZFS Settlement”). The Original ZFS Settlement was subject to confirmatory discovery, as described below.

20. On September 4, 2007, the Court issued an order preliminarily certifying the Putative Class for settlement purposes as to ZFS and preliminarily approving the proposed Original ZFS Settlement.

21. On approximately September 18, 2007, ZFS paid the US\$30,000,000.00 settlement amount into an interest-bearing escrow account pursuant to the Original ZFS Stipulation.

22. On September 28, 2007, MPERS and Avalon moved (i) to certify this Action as a class action pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3) as to the Putative Class and the nonsettling defendants; (ii) to appoint MPERS and Avalon as representatives of the Putative Class, and (iii) to appoint Lead Counsel as Class Counsel in accordance with Fed. R. Civ. P. 23(g) (the “Class Motion”).

23. On October 19, 2007, Defendants other than ZFS and the Underwriter Defendants filed their opposition to the Class Motion.

24. By orders entered on March 6 and March 19, 2008, the Court certified a Class consisting of all U.S. residents who had purchased shares of Converium

on the SWX Swiss Exchange, and all persons who had purchased Converium's ADSs on the NYSE, from January 7, 2002 through September 2, 2004, inclusive (the "Class"). The Court excluded from the Class all purchasers of Converium shares on the SWX Swiss Exchange who were not residents of the United States (the "Foreign Investors"). The Court named MPERS as the sole Class Representative and excluded Avalon from the Class because it was a Foreign Investor.

25. On March 20, 2008, MPERS and Avalon moved for reconsideration of the Court's March 6, 2008 Opinion and Order to the extent it excluded the Foreign Investors (including Avalon) from the Class.

26. On March 26, 2008, MPERS and Avalon moved for leave to file an amended complaint to include evidence obtained through discovery concerning Defendants' allegedly fraudulent conduct in the United States.

#### **B. Renewed Settlement Discussions**

1. After the Court's class-certification ruling, ZFS's Counsel and Lead Counsel commenced further settlement discussions regarding the terms of the Original ZFS Settlement and the possibility of restructuring it in light of the Court's March 6 and 19, 2008 Orders on class certification and of MPERS and Avalon's pending motions for reconsideration and leave to file an amended complaint.

2. During the course of the renewed settlement discussions, MPERS and Avalon also entered into a Memorandum of Understanding with Converium to settle Plaintiffs' and the Putative Class's claims against Converium and the Officer Defendants, and the parties are preparing a formal Stipulation of Settlement embodying the terms of their agreement (the "Converium Settlement"). The Converium Settlement led certain of

Converium's insurance carriers to raise objections to the Original ZFS Settlement, to the extent that it would bar certain Officer Defendants' alleged rights to seek indemnification from ZFS under Swiss law (and the insurers' alleged rights to assert, as subrogees, the Officer Defendants' purported claims against ZFS).

3. On July 3, 2008, counsel for Converium's insurers, Plaintiffs, ZFS, and Converium participated in a mediation and reached an agreement to resolve the Officer Defendants' and the pre-IPO insurers' threatened claims against ZFS arising from the Original ZFS Settlement. Those agreements will be documented in a separate settlement agreement (the "Release Agreement").

4. ZFS and Plaintiffs also agreed that Plaintiffs and the Putative Class would reduce the settlement amount in the Original ZFS Settlement from US\$30,000,000 to US\$28,000,000 in exchange for ZFS's agreeing (i) to restructure the Original ZFS Settlement as described in this Amended Stipulation of Settlement and (ii) to delete Section XI.C.4 of the Original ZFS Stipulation, which required Plaintiffs and the preliminarily certified settlement class to give ZFS an additional judgment-reduction credit if the Officer Defendants or their insurers were to prevail against ZFS on a claim for indemnification or contribution arising out of the Converium IPO Registration Statement and Prospectus.

5. Pursuant to these various discussions, MPERS, Avalon, and ZFS now agree to settle the Action on behalf of the Putative Class in two separate settlements: the parties will attempt (i) to resolve the Class's Claims in the Court pursuant to this Amended Stipulation of Settlement (the "U.S. Class Settlement") and (ii) to resolve the

Foreign Investors' Claims in the Amsterdam Court of Appeals, in the Netherlands, pursuant to the terms of a separate, independent settlement agreement.

6. The settlement with the Foreign Investors will be embodied in a separate settlement agreement between ZFS and the Stichting SCOR Securities Compensation Foundation, a Dutch entity that represents purchasers of Converium Common Stock on the SWX Swiss Exchange (excluding shares falling within the Class) during the Class Period. The Foreign Investors will seek judicial approval in the Netherlands pursuant to the Netherlands Act on Collective Settlement of Mass Damage Claims (*Wet Collectieve Afwikkeling Massaschade*, articles 907-910 of the Civil Code of the Netherlands and articles 1013-1018 of the Code of Civil Procedure of the Netherlands). If the Amsterdam Court of Appeals declines to issue a binding declaration approving the settlement with the Foreign Investors, the parties shall then seek to obtain within a reasonable period of time, not to exceed two (2) years from the date of the Amsterdam Court of Appeals' ruling, judicial approval of the proposed collective settlement in another mutually acceptable European or other forum. If such judicial approval cannot be obtained within that time period, the Foreign Investors will promptly cause the balance of the escrow account established to hold the Foreign Investors' Settlement Amount (plus interest, less taxes and expenses) to be repaid to ZFS.

7. MPERS, Avalon, and ZFS agree to divide ZFS's US\$28,000,000 settlement payment (plus accrued interest less amounts already used for expenses and taxes) *pro rata* between the total shares falling within the Class and the total shares purchased by the Foreign Investors.

8. The parties have estimated that Class Members held and traded approximately 90% of NYSE shares and 29% of SWX shares, while Foreign Investors held and traded approximately 10% of NYSE shares and 71% of SWX shares, yielding a prorated allocation of approximately 34% of the original settlement amount to the Class and 66% of the original settlement amount to the Foreign Investors. Accordingly, the parties agree to allocate US\$9,600,000 of ZFS's original settlement payment to the Class, and US\$18,400,000 to the Foreign Investors.

9. Throughout the pendency of the action and the settlement negotiations, MPERS, Avalon, and ZFS have been advised by various consultants and experts, including individuals with expertise in estimating potential damages in cases involving allegations of securities fraud, and by counsel competent in securities lawsuits such as this Action.

**C. Discovery and Confirmatory Discovery**

1. MPERS and Avalon have conducted approximately 30 depositions of current and former Converium employees, including defendants Kauer and Smith, as well as representatives of third parties, including B&W Deloitte, Tillinghast Towers Perrin, and the Connecticut Department of Insurance. MPERS and Avalon have also obtained, reviewed, and analyzed millions of pages of documents from Defendants and third parties.

2. In addition, as provided in the Original ZFS Stipulation, MPERS and Avalon reviewed and analyzed thousands of pages of documents produced by ZFS and subsequently interviewed eight current and former ZFS employees who had knowledge about the circumstances surrounding Converium's initial public offering.

3. MPERS and Avalon also retained experts to testify on issues relating to liability, loss-reserving, the reinsurance industry, market efficiency, and damages.

**D. Settlement Considerations**

1. Based upon their investigation and evaluation of the facts and law relating to the Claims alleged in this Action, Lead Counsel's pre-filing investigations, the discovery already obtained from Defendants other than ZFS and from certain third parties, and the confirmatory discovery obtained from ZFS, and based upon the Court's March 6, 2008 opinion and order concerning class certification (the "Class Certification Opinion"), MPERS and Lead Counsel have agreed to settle the Action and release the Releasees with respect to the Released Plaintiffs' Claims pursuant to the terms of this Settlement Agreement after considering, among other things: (i) the substantial benefits that the terms of this Settlement Agreement would provide to Class Members; (ii) the attendant risks of litigation, especially in complex actions such as this, the defenses available to ZFS, and the difficulties and delays inherent in such litigation; (iii) the attendant risk that the Court would deny MPERS' and Avalon's motion to reconsider the Class Certification Opinion; (iv) the desirability of consummating this Settlement Agreement promptly to provide effective relief to Class Members, and (v) MPERS' and Lead Counsel's belief, supported by the full discovery record (including confirmatory discovery), that the settlement is fair, reasonable, and adequate, and in the best interests of Class Members.

2. ZFS expressly denies the wrongdoing alleged in this Action and does not concede any wrongdoing or liability in connection with any facts or Claims that have been or could have been alleged against it in the Action; nor does ZFS concede that

the Court would have personal jurisdiction over ZFS if the Action were to continue to be litigated against it. However, ZFS considers it desirable for the Action to be settled and dismissed because the proposed settlement will, among other things: (i) bring to an end the substantial expense, burdens, and uncertainties associated with continued litigation of the Claims made in this Action; (ii) finally put to rest those Claims and the underlying matters, and (iii) confer substantial benefits upon ZFS, including, without limitation, the avoidance of further expense and the disruption of the management and operation of ZFS's business due to the pendency and defense of the Action. This Settlement Agreement, the offer of this Settlement Agreement, and compliance with this Settlement Agreement shall not constitute or be construed to be an admission by ZFS or the Releasees, or any of them individually, of any wrongdoing or liability.

3. Except as provided in Subsection XV.R below and for use in the Dutch proceedings (or in any other proceedings involving the Foreign Investors if the Amsterdam Court of Appeals declines to approve the proposed Dutch settlement), this Settlement Agreement shall not be admissible in any judicial, administrative, or other proceeding or cause of action as an admission of liability or for any purpose other than to enforce the terms of this Settlement Agreement or any related insurance release.

#### **E. Definitions**

As used in this Settlement Agreement, the following terms have the meanings set forth herein:

1. "Action" means the consolidated putative securities class action pending in this Court under the caption *In re SCOR Holding (Switzerland) AG Litigation*, No. 04 Civ. 7897 (DLC), formerly known as *In re Converium Holding AG Securities*

*Litigation*, including all cases consolidated into No. 04 Civ. 7897 (DLC) as of the Final Settlement Date.

2. “ADS” means an American Depositary Share, and “ADSs” means American Depositary Shares, of Converium Holding AG.

3. “Approval Date” means the date on which the Final Judgment and Order of Dismissal is entered by the Court.

4. “Attorneys’ Fees and Expenses Application” means the motion for fees and expenses to be made by Lead Counsel pursuant to Section X below.

5. “Attorneys’ Fees and Expenses Award” means the amounts awarded to Lead Counsel to compensate them for their fees and expenses in connection with investigating, prosecuting, and/or settling the Action as provided for in Section X below.

6. “Authorized Claimant” means a Class Member (or the representative of such Class Member, including, without limitation, agents, administrators, executors, heirs, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.(b), or assigns) who submits a valid Proof of Claim.

7. “Claim” or “Claims” means any and all actions, causes of action, proceedings, adjustments, executions, offsets, contracts, judgments, obligations, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, variances, covenants, trespasses, damages, demands (whether written or oral), agreements, promises, liabilities, controversies, costs, expenses, attorneys’ fees, and losses whatsoever, whether in law, in admiralty, or in equity and whether based on any federal, state, or foreign statutory or common-law right of action or otherwise, foreseen or unforeseen, matured or



unmatured, known or unknown, accrued or not accrued, existing now or to be created in the future, including Unknown Claims.

8. “Claims Administrator” means, subject to Court approval, the third-party agent(s) or administrator(s) that the Court shall appoint in the Preliminary Approval Order to effectuate providing notice to the potential Class Members, to process Proof of Claim forms, and to administer and distribute the Net Settlement Amount in accordance with the terms of this Settlement Agreement.

9. “Class” or “Class Members” means, for purposes of this settlement and pursuant to the Court’s opinions and orders of March 6 and March 19, 2008, all persons or entities who, during the Class Period, (i) were U.S. residents and purchased Converium Common Stock on the SWX Swiss Exchange and/or (ii) purchased Converium ADSs on the NYSE. Each member of the Class (hereinafter referred to as a “Class Member”) is a Class Member only as to Converium Common Stock or ADSs that fall within either of the above two categories. (Thus, for example, a non-U.S. person or entity is a Class Member to the extent he, she, or it purchased Converium ADSs, but is not a Class Member to the extent he, she, or it purchased Converium Common Stock on the SWX Swiss Exchange.) Excluded from the Class are such persons or entities who are or were: ZFS; Converium; the Director Defendants; the Officer Defendants; Family Members of any Officer or Director Defendant; Underwriters of the Converium IPO; any person who was an officer or director of Converium, ZFS, or any of the Underwriters of the Converium IPO at the time of the Converium IPO or during the Class Period; any firm, trust, corporation, officer, or other entity in which Converium, ZFS, the Officer Defendants, the Director Defendants or the Underwriters of the Converium IPO has, have

or had a Controlling Interest; and the legal representatives, agents, affiliates, heirs, successors-in-interest, or assigns of any person or entity excluded pursuant to this Subsection I.E.9. Also excluded from the Class are such persons or entities who submit valid and timely requests for exclusion from the Class.

10. “Class Period” means, pursuant to the Class Certification Opinion, the period of time from January 7, 2002 through September 2, 2004, inclusive.

11. “Complaint” means the Consolidated Amended Class Action Complaint that MPERS and Avalon filed on September 23, 2005.

12. “Complete Bar Order” means the bar order, the text of which is set forth in Subsection XII.C below.

13. “Confidentiality Order” means the Stipulation and Agreed Confidentiality Order entered into by MPERS, Avalon, Converium, and the Officer Defendants and approved by the Court on March 22, 2007.

14. “Controlling Interest” means an interest in an entity where such interest is sufficient to allow the interest holder directly or indirectly to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting shares, by contract, or otherwise; provided that any disputes as to whether the ZFS Releasees have a Controlling Interest in an entity or whether an entity has a Controlling Interest in the ZFS Releasees shall, for purposes of determining whether a Controlling Interest exists under this Settlement Agreement and for that purpose only, be submitted to the Court for resolution, and the ZFS Releasee shall, as the case may be, bear the burden of proof as to whether or not the interest is or was a Controlling Interest for purposes of this Settlement Agreement.

15. “Converium” means Converium Holding AG, now known as SCOR Holding (Switzerland) AG (“SHS”), and any and all of its respective parents, successors, predecessors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), divisions, business units, subsidiaries, and entities in which it has a Controlling Interest or that have a Controlling Interest in it; *provided, however*, that the terms “Converium” and “SHS” shall not include ZFS, Zurich Insurance Company (including, without limitation, its Zurich Re Division), Zurich Ruckversicherung (Köln) AG, HAVG Hamburger Versicherungs-Aktiengesellschaft, Zurich Re Servizi di Riassicurazioni S.R.L., SATEC S.R.L., Zurich Re Representaciones S.A., Zurich Re Servicios Tecnicos Ltda, Zurich Re PCC Ltd., MDU Services Ltd., Zurich Reinsurance Centre Holdings, Inc., Zurich Reinsurance (North America), Inc., ZC Insurance Company, or Zurich Specialties London (f/k/a Zurich Re (UK)).

16. “Converium Common Stock” means the common shares of Converium Holding AG, which were traded on the SWX Swiss Exchange.

17. “Converium IPO” means the initial public offering of Converium Common Stock and ADSs that took effect on or about December 11, 2001 and was completed in January 2002.

18. “Converium Restatement” means Converium’s restatement of its previously issued financial results as of and for the years ended December 31, 1998 through 2004 and the quarters ended March 31, 2003 through June 30, 2005.

19. “Converium Settlement” means the Stipulation of Settlement between MPERS (on behalf of itself and the Class) and Converium and the Officer

Defendants, as set forth in the Stipulation of Settlement as to SCOR Holding (Switzerland) AG.

20. “Court” means the Court in which this Action is pending.

21. “Damaged Shares” means shares of Converium Common Stock purchased on the SWX during the Class Period by U.S. residents, and Converium ADSs purchased on the NYSE during the Class Period by any person. For purposes of the calculation of “Damaged Shares,” a Converium ADS shall be counted as one half of one share of Converium Common Stock.

22. “Defendants” means each and all of ZFS, SHS, Converium, the Officer Defendants, the Director Defendants, and the Underwriter Defendants.

23. “Director Defendants” means Terry G. Clarke, Peter C. Colombo, George F. Mehl, Jurgen Foerterer, Anton K. Schnyder, Derrell J. Hendrix, and George G.C. Parker.

24. “Escrow Account” means the interest-bearing account described in Section II into which the Settlement Amount shall be paid, which account shall be treated for tax purposes as part of a single Qualified Settlement Fund, as defined below.

25. “Escrow Agent” means the individual or entity acting as escrow agent for the Escrow Account.

26. “Escrow Balance” means the aggregate of all monies in the Escrow Account as of the date on which the payment required by Subsection II.B below is made.

27. “Execution Date” means the date by which this Settlement Agreement has been executed by all Settling Parties.

28. “Fairness Hearing” means the hearing at or after which the Court will be asked to make a final decision, pursuant to Fed. R. Civ. P. 23, as to whether this Settlement Agreement is fair, reasonable, and adequate to settle the Class Members’ Claims against ZFS and, therefore, should be approved by the Court.

29. “Family Members” means an individual’s father, mother, grandfather, grandmother, sister, brother, spouse/partner, son, and/or daughter.

30. “Final” means, when used in connection with any court order or judgment, that the relevant order or judgment will be final:

a. if no appeal is taken therefrom, on the date on which the time to appeal therefrom (including any potential extension of time) has expired; or

b. if any appeal is taken therefrom, on the date on which all appeals therefrom, including petitions for rehearing or reargument, petitions for rehearing en banc, and petitions for certiorari or any other form of review, have been finally disposed of, such that the time to appeal therefrom (including any potential extension of time) has expired, in a manner resulting in an affirmance of the Final Judgment and Order of Dismissal.

31. “Final Judgment and Order of Dismissal” means the judgment entered by the Court as contemplated in Section XII of this Settlement Agreement, which judgment shall be substantially in the form set out as Exhibit B.

32. “Final Settlement Date” means the date on which the Final Judgment and Order of Dismissal becomes Final.

33. “Foreign Investors” means all persons and entities who, during the Class Period, were not U.S. residents and purchased Converium Common Stock on the SWX Swiss Exchange.

34. “Foreign Investors’ Escrow Account” means the interest-bearing account described in Subsection II.A.2 into which the Foreign Investors’ Settlement Amount shall be paid.

35. “Foreign Investors’ Settlement Amount” means eighteen million four hundred thousand United States dollars (US\$18,400,000).

36. “Individual Notice” means the notice described in Subsection IV.A substantially in the form of Exhibit A-1 hereto, as approved by the Court, that Lead Counsel or the Claims Administrator will disseminate to potential Class Members informing them of the settlement contemplated by this Settlement Agreement.

37. “Investment Decision” means a decision regarding an investment in Converium Common Stock or ADSs including, without limitation, a decision to hold Converium Common Stock or ADSs.

38. “Lead Counsel” means the law firms of Bernstein Litowitz Berger & Grossmann LLP, Spector, Roseman & Kodroff, P.C., and Cohen, Milstein, Hausfeld & Toll, P.L.L.C.

39. “Lead Plaintiff” means MPERS, in its individual capacity and in its capacity as the representative of the Class.

40. “Net Settlement Amount” means the balance remaining in the Escrow Account (including any interest that has accrued less Tax Expense paid or owing)

after payments of the Notice and Administrative Expenses and the Attorneys' Fees and Expenses Award pursuant to Sections II and X below have been made.

41. "Nominees" means brokerage firms, banks, and other institutions that hold Converium securities in street name or other similar fashion for the benefit of another person or entity.

42. "Notice and Administrative Expenses" means all expenses associated with the administration of the settlement contemplated by this Settlement Agreement, including, but not limited to, the fees and expenses associated with printing and sending the Individual Notice to potential Class Members, publishing the Summary Notice, assisting Class Members with filing Proofs of Claim, processing Proofs of Claim, setting up and maintaining the toll-free telephone number, and distributing the Net Settlement Amount; *provided, however*, that Notice and Administrative Expenses shall not include the amount of the Attorneys' Fees and Expenses Award.

43. "NYSE" means the New York Stock Exchange.

44. "Officer Defendants" means Dirk Lohmann, Martin Kauer, and Richard Smith.

45. "Original ZFS Stipulation" means the Stipulation of Settlement dated as of August 24, 2007, executed by Lead Counsel and ZFS's Counsel.

46. "Original ZFS Settlement" means the settlement embodied in the Original ZFS Stipulation.

47. "Plan of Allocation" means the terms and procedures for allocating the Net Settlement Amount among, and distributing the Net Settlement Amount to, Authorized Claimants, or such other Plan of Allocation as the Court shall approve.

48. “Preliminary Approval Date” means the date on which the Court enters the Preliminary Approval Order.

49. “Preliminary Approval Hearing” means the hearing at or after which the Court preliminarily approves this Settlement Agreement.

50. “Preliminary Approval Order” means the order to be entered by the Court, substantially in the form set out in Exhibit A hereto, (i) preliminarily approving the proposed settlement, (ii) certifying the Class for settlement purposes as to ZFS, (iii) appointing the Claims Administrator, (iv) preliminarily determining that the proposed provision of notice to potential members of the Class meets the requirements of Rule 23 of the Federal Rules of Civil Procedure, the PSLRA, the Constitution of the United States, and any other applicable law, and that such notice is the best practicable notice under the circumstances and constitutes due and sufficient notice to all persons entitled to such notice, and (v) scheduling the Fairness Hearing.

51. “Proof of Claim” means the claim form substantially in the form of Exhibit A-2 hereto, and as approved by the Court, that will be delivered to potential Class Members and pursuant to which such Class Members will submit a claim under the procedures set out in this Settlement Agreement.

52. “Proposed Second Amended Complaint” means the proposed complaint filed with the court on December 1, 2006, as a proposed substitute attachment or exhibit to MPERS’ and Avalon’s April 21, 2006 motion for leave to amend the Complaint.

53. “PSLRA” means the Private Securities Litigation Reform Act of 1995, 15 U.S.C. §§ 78u-4, *et seq.*



54. “PSLRA Contribution Bar Order” means the order, the text of which is set forth in Subsection XII.B below, to be entered by the Court pursuant to section 21D(f)(7)(A) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(f)(7)(A).

55. “Putative Class” means all persons and entities who purchased or otherwise acquired Converium shares or ADSs during the period from December 11, 2001 through September 2, 2004, inclusive.

56. “Qualified Settlement Fund” means a fund within the meaning of Treasury Regulations § 1.468B-1. The Escrow Account shall be treated for tax purposes as a Qualified Settlement Fund under this Settlement Agreement.

57. “Registration Statement and Prospectus” means the Registration Statement and Prospectus for the Converium IPO, which documents became effective on December 11, 2001.

58. “Release Agreement” means the separate agreement among ZFS, Converium, SHS, the Officer Defendants, the Director Defendants, and certain of Converium’s insurance carriers.

59. “Released Plaintiffs’ Claims” means each and every Claim or Unknown Claim that Lead Plaintiff, LASERS, or any Class Member (*i*) asserted against any of the Releasees in the Action (including all Claims asserted in the Complaint or the Proposed Second Amended Complaint) or (*ii*) could have asserted or could assert against any of the Releasees, whether arising under any federal, state, or foreign statutory or common-law rule, in any other court, tribunal, agency, or other forum, that arises out of or relates to (x) the purchase of, or any other Investment Decision concerning, Converium Common Stock during the Class Period by any person or entity who was a U.S. resident

during that period, or (y) the purchase of, or any other Investment Decision concerning, Converium ADSs by any person or entity during the Class Period. Without limiting the generality of the foregoing, the term Released Plaintiffs' Claims includes, without limitation, any Claims or Unknown Claims arising out of or relating to:

a. any or all of the acts, failures to act, omissions, misrepresentations, facts, events, matters, transactions, statements, occurrences, or oral or written statements or representations of Releasees that have been, could have been, or could be directly or indirectly alleged, complained of, asserted, set forth, or otherwise referred to in the Action;

b. any regulatory filing (including any filing with the SEC or any other U.S. or non-U.S. governmental agency or market regulator), public statement, press release, disclosure, or representation relating to the Converium IPO, Converium Common Stock or ADSs, Converium's or the ZFS Releasees' financial position, Converium's or the ZFS Releasees' loss reserves, Converium's or the ZFS Releasees' reinsurance contracts or coverage, Converium's or the ZFS Releasees' calculation of and/or accrual for reserves for any period, or Converium's or the ZFS Releasees' accounting treatment of its or their reinsurance contracts for any period;

c. any financial statement (or portion thereof), whether audited or unaudited, or any report or opinion relating to any financial statement (or portion thereof), or any internal or external memorandum, report, analysis, or opinion relating to the Converium IPO, Converium Common Stock or ADSs, Converium's or the ZFS Releasees' financial position, Converium's or the ZFS

Releasees' loss reserves, Converium's or the ZFS Releasees' reinsurance contracts or coverage, Converium's or the ZFS Releasees' calculation of and/or accrual for reserves for any period, or Converium's or the ZFS Releasees' accounting treatment of its or their reinsurance contracts for any period; and

d. any or all Claims arising from or relating to the Converium IPO, the Converium Restatement, Converium's or the ZFS Releasees' calculation of and/or accrual for reserves for any period, Converium's or the ZFS Releasees' entering into reinsurance contracts that Converium later restated, Converium's or the ZFS Releasees' accounting treatment of its or their reinsurance contracts for any period, Converium's or the ZFS Releasees' use or alleged misuse of finite or traditional insurance or reinsurance, Converium's or the ZFS Releasees' recordkeeping during the Class Period, or any of the Releasees' alleged control over Converium; but

e. *not* any claim by a Foreign Investor involving a purchase, sale, or Investment Decision concerning Converium Common Stock.

60. "Released ZFS Claims" means each and every Claim or Unknown Claim that has been or could have been asserted in the Action by ZFS or the successors and assigns of ZFS against the Lead Plaintiff, LASERS, Class Members, or their attorneys arising out of or relating in any way to the institution, prosecution, or settlement of the Action (except for claims to enforce the Settlement).

61. "Releasee" means each and every one of, and "Releasees" means all of, the following:

a. ZFS and each and every entity that falls within the definition of “ZFS Releasees” (which term does not include Converium);

b. each of the ZFS Releasees’ respective past and present directors, executive committee members, officers, employees, members, partners, principals, agents, attorneys (including their General Counsel and other inside or outside attorneys employed by the ZFS Releasees), advisors, trustees, administrators, fiduciaries, consultants, representatives, accountants, accounting advisors, auditors, and insurance carriers (but only to the extent each such insurance carrier provides the full amount of insurance coverage or indemnity sought from it for losses incurred in connection with the Action) for any actual or alleged conduct, act, or omission occurring or engaged in (i) on behalf of the ZFS Releasees at any time and/or (ii) on behalf of Converium before January 10, 2002, and for any Claims based on or arising out of any such alleged conduct, acts, or omissions (including, without limitation, in connection with the Registration Statement and Prospectus); *provided, however*, that the definition of “Release” in this Subsection I.E.61.b expressly excludes the release of any Claims against the Officer Defendants;

c. each of Converium’s or SHS’s respective past and present directors (including the Director Defendants), executive committee members, officers (including the Officer Defendants), employees, members, partners, principals, agents, attorneys (including its General Counsel and other inside or outside attorneys), advisors, trustees, administrators, fiduciaries, consultants, representatives, accountants, accounting advisors, auditors, and

insurance carriers (but only to the extent each such insurance carrier provides the full amount of insurance coverage or indemnity sought from it for losses incurred in connection with the Action) for any actual or alleged conduct, act, or omission occurring or engaged in (i) on behalf of the ZFS Releasees at any time and/or (ii) on behalf of Converium before January 10, 2002, and for any Claims based on or arising out of any such alleged conduct, acts, or omissions (including, without limitation, in connection with the Registration Statement and Prospectus); *provided, however,* that the definition of “Releasee” in this Subsection I.E.61.c expressly excludes the release of any and all Claims based on any statements published or made on behalf of Converium or SHS after January 9, 2002 by any of the persons or entities set forth above in this Subsection I.E.61.c or by Converium or SHS; *provided further,* that the Officer Defendants are not released for any Claims falling within provision (ii) of this Subsection I.E.61.c to the extent those claims are based on or arise out of any alleged conduct, acts, or omissions on or after December 10, 2001 (including the Registration Statement and Prospectus); however, nothing in this paragraph shall preclude Lead Plaintiff from introducing evidence of conduct, acts, or omissions in support of any claims based on or arising out of the Registration Statement and Prospectus or any statement made after January 9, 2002; and

d. each of the Underwriters of the Converium IPO, including the Underwriter Defendants; but

e. *not* SHS, Converium, the Officer Defendants, or the Director Defendants except to the extent described elsewhere in this Subsection I.E.61.

62. “SEC Filing” means any written statement filed with or submitted to the Securities and Exchange Commission.

63. “Settlement” means the settlement contemplated by this Settlement Agreement.

64. “Settlement Agreement” means this Amended Stipulation of Settlement and any accompanying Exhibits, including any subsequent amendments thereto and any Exhibits to such amendments.

65. “Settlement Amount” means nine million six hundred thousand United States dollars (\$9,600,000), to be paid to the Class.

66. “Settling Parties” means Lead Plaintiff (on behalf of itself, LASERS, and the Class Members) and ZFS.

67. “SHS” means SCOR Holding (Switzerland) AG.

68. “Stichting SCOR Securities Compensation Foundation” means the legal Dutch entity that represents the interests of the Foreign Investors, to the extent they purchased Converium Common Stock during the Class Period.

69. “Summary Notice” means the notice described in Subsection IV.B. and substantially in the form of Exhibit A-3 hereto.

70. “Tax Expenses” means (i) all taxes on the income of the monies in the Escrow Account and (ii) any expenses and costs incurred in connection with the

taxation of the Escrow Account (including, without limitation, expenses of tax attorneys and accountants).

71. “Underwriters of the Converium IPO” means UBS AG, Merrill Lynch International, Banc of America Securities, Fox-Pitt, Kelton N.V., Schroder Salomon Smith Barney, Groupement des Banquiers Privés Genevois, Zürcher Kantonalbank, Bank Sarasin & Co., Bank Vontobel AG, and Keefe, Bruyette & Woods, Inc., and any or all of their respective parents, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), divisions, business units, subsidiaries, and entities in which they have a Controlling Interest or that have a Controlling Interest in them.

72. “Underwriter Defendants” means UBS AG and Merrill Lynch International, and any or all of their respective parents, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), divisions, business units, subsidiaries, and entities in which they have a Controlling Interest or that have a Controlling Interest in them.

73. “Unknown Claims” means any and all Released Plaintiffs’ Claims that Lead Plaintiff, LASERS, or any Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of the Releasees, and any Released ZFS Claims that ZFS does not know or suspect to exist in its favor, which, if known by Lead Plaintiff, LASERS, any Class Member, or ZFS, might have affected his, her, or its decision(s) with respect to the Settlement. As to any and all Released Plaintiffs’ Claims and Released ZFS Claims, the Settling Parties stipulate and agree that, upon entry of the Final Judgment, Lead Plaintiff, LASERS, and ZFS shall expressly waive, and each other Class Member shall be deemed to have waived, and by operation of the Final Judgment

shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or of any other country, or any principle of common law, that is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

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

Lead Plaintiff, LASERS, and ZFS acknowledge, and the other Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Plaintiffs’ Claims and Released ZFS Claims was separately bargained for and was a key element of the Settlement.

74. “U.S. Settlement” means the settlement embodied in this Settlement Agreement.

75. “ZFS” means Zurich Financial Services.

76. “ZFS’s Counsel” means Dewey & LeBoeuf LLP.

77. “ZFS Releasees” means each and all of ZFS and any or all of its respective past or present parents, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), divisions, business units, subsidiaries *except* Converium and SHS, and entities in which ZFS has a Controlling Interest or that has a Controlling Interest in it.

#### **F. Capitalized Terms**

1. Capitalized terms used in this Settlement Agreement, but not defined above, shall have the meaning ascribed to them in this Settlement Agreement.



## **II. TERMS AND CONDITIONS OF THE SETTLEMENT**

### **A. The Escrow Account**

1. On approximately September 18, 2007, ZFS paid the sum of US\$30,000,000 into the Escrow Account.
2. Within five (5) business days after entry of the Preliminary Approval Order, Lead Counsel will transfer the sum of two million U.S. dollars (US\$2,000,000) from the Escrow Account to ZFS, to an account that ZFS will designate.
3. Within ten (10) business days after the later of entry of the Preliminary Approval Order or the execution of a stipulation of settlement by ZFS and the Stichting SCOR Securities Compensation Foundation, Lead Counsel, for the parties' convenience, will transfer the Foreign Investors' Settlement Amount (US\$18,400,000), plus prorated accrued interest, minus disbursements from the Escrow Account for the payment of required tax expenses or notice and administration expenses, as set forth in the Original ZFS Stipulation, from the Escrow Account into the Foreign Investors' Escrow Account.
4. The remaining amount of money in the Escrow Account after the transfers described in the preceding Subsection II.A.3 (US\$9,600,000 plus prorated accrued interest, minus disbursements from the Escrow Account for the payment of required tax expenses or notice and administration expenses, as set forth in the Original ZFS Stipulation) shall remain in the Escrow Account for the benefit of the Class.
5. The U.S. Settlement is not a claims-made settlement. Once the Final Settlement Date occurs, there will be no reversion or return of consideration paid, and neither Defendants nor any other person or entity who or that paid any portion of the settlement monies may get back any of those monies.

**B. The Escrow Agent**

1. The Escrow Agent shall administer the Escrow Account and shall invest the Settlement Amount in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. The Escrow Agent shall bear all risks related to investment of the amounts in the Escrow Account.

2. The Escrow Agent shall establish the Escrow Account as a separate bank account, segregated from all other assets of the Escrow Agent, and the proceeds of which shall be disbursed only as provided in this Settlement Agreement, by an order of the Court, or, before the Final Settlement Date, with the written agreement of ZFS's Counsel and Lead Counsel; *provided, however*, that disbursements from the Escrow Account for the payment of Tax Expenses or Notice and Administration Expenses, as set forth herein, shall be made by the Escrow Agent at the direction of Lead Counsel. After the Final Settlement Date, Lead Counsel shall have sole responsibility for the administration of the Escrow Account in accordance with the terms of this Settlement Agreement.

3. Subject to further order and/or direction as may be made by the Court, the Escrow Agent is authorized to execute such transactions on behalf of the Class Members as are consistent with the terms of this Settlement Agreement.

4. The Settlement Amount and the Net Settlement Amount shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as they may be distributed pursuant to this Settlement Agreement and/or further order(s) of the Court.

5. Before the Final Settlement Date, Lead Counsel may direct the Escrow Agent to pay from the Settlement Amount in the Escrow Account all reasonable Notice and Administration Expenses. After the Final Settlement Date, Lead Counsel may, without further Order of the Court, direct the payment from the Settlement Amount of any Notice and Administrative Expenses that Lead Counsel believes in its discretion are necessary and appropriate to carry out the terms of this Settlement Agreement.

6. The terms and conditions of the separate stipulation of settlement between ZFS and the Stichting SCOR Securities Compensation Foundation shall govern the use and distribution of the Foreign Investors' Settlement Amount to members of the Foreign Investors class and the payment of attorneys' fees and reimbursement of their expenses.

**C. Qualified Settlement Fund**

1. All counsel agree to take all necessary steps to enable the Escrow Account to be treated as a Qualified Settlement Fund for tax purposes, including the timely filing by Lead Counsel and/or their agents for tax purposes of all elections and statements required pursuant to Treas. Reg. §§ 1.468B-0 through 1.468B-5, or any other relevant statutes, regulations, or published rulings now or hereafter enacted or promulgated, for all taxable years of the Escrow Account, beginning with the date of its establishment. Lead Counsel shall be the "administrator" of the Qualified Settlement Fund for tax purposes under Treas. Reg. §§ 1468 B-0 through B-5, and shall file or cause to be filed on a timely basis any required federal, state, and local tax returns and shall cause any taxes due on the income of the Qualified Settlement Fund to be paid from the Escrow Account. The parties hereto agree that the Escrow Account shall be treated as a

Qualified Settlement Fund, as provided in Treas. Reg. §§ 1.468B-0 through 1.468B-5, from the earliest date possible, and hereby agree to any relation-back election required to treat the Escrow Account as a Qualified Settlement Fund from the earliest date possible. In no event shall ZFS have any responsibility whatsoever for filing election or other required statements, or tax returns, or for paying the costs associated therewith, any taxes due, or the expenses of notice or administration of the Escrow Account. Lead Counsel and ZFS's Counsel shall cooperate to the extent necessary to comply with this Subsection II.C. ZFS agrees to provide promptly to Lead Counsel the statement described in Treasury Regulation § 1.468B-3(e).

2. Upon request by ZFS's Counsel, Lead Counsel shall promptly provide to ZFS's Counsel all information available to Lead Counsel and requested in connection with any tax returns ZFS or any Releasee must file or with any other report or filing ZFS or any Releasee must make with respect to the Settlement Amount or any portion of it.

**D. Distribution of the Net Settlement Amount**

1. If the proposed settlement as to ZFS becomes Final, the Net Settlement Amount shall be distributed pursuant to such Plan of Allocation as the Court approves for the certified Class.

2. No person or entity shall have any Claim against Lead Plaintiff, Lead Counsel, the Claims Administrator, the Escrow Agent, or any of their agents, or against ZFS's Counsel or any Releasee, with respect to or arising out of any distributions or lack thereof made under any Court-approved Plan of Allocation, this Settlement Agreement, or orders of the Court.

3. The Settling Parties understand and agree that, notwithstanding any other provision of this Settlement Agreement, the proposed Plan of Allocation is not a part of this Settlement Agreement, and no order or proceedings relating to the Plan of Allocation shall operate to modify, terminate, or cancel this Settlement Agreement or affect the finality of the Final Judgment and Order of Dismissal or any other orders entered by the Court giving effect or pursuant to this Settlement Agreement.

4. ZFS, the Releasees, and their respective counsel, including, but not limited to, ZFS's Counsel, shall have no role in, responsibility for, or liability with respect to the Plan of Allocation, the form, substance, method, or manner of allocation, administration, or distribution of the Net Settlement Amount, or any tax liability that a Class Member might incur as a result of this Settlement Agreement, or as a result of any action taken pursuant to this Settlement Agreement, the administration or processing of Claims, including, without limitation, determinations as to the validity of Proofs of Claim, the amounts of claims or distribution of the Net Settlement Amount, or (except as set out in Subsection II.C above) the maintenance of the Escrow Account as a Qualified Settlement Fund.

5. Class Members shall look solely to the Net Settlement Amount for settlement and satisfaction of all Released Plaintiffs' Claims and only to the extent expressly provided by this Settlement Agreement, the Court-approved Plan of Allocation, or an order of the Court. Under no circumstances will any of the Settling Parties or any Releasee be responsible for the payment of any fees, costs, expenses, or other funds associated with or arising out of the settlement contemplated by this Settlement Agreement.

6. To the extent that any monies remain in the Escrow Account after the Claims Administrator has caused initial distributions to be made from the Net Settlement Amount to all Authorized Claimants, whether by reason of uncashed distributions or otherwise, such monies shall be: (a) used for the payment of any unpaid costs or fees incurred in administering the Escrow Account for such re-distribution and then (b) distributed to Class Members who have cashed their initial distribution checks and who would receive at least \$10.00 from such re-distribution. If after six (6) months after such re-distribution any funds remain in the Escrow Account, Lead Counsel shall make an application to the Court to distribute the sum of the unpaid residue to a non-sectarian, not-for-profit, section 501(c)(3) organization.

**E. Plan of Allocation**

1. All cash distributions to Authorized Claimants shall be from the Net Settlement Amount pursuant to a Plan of Allocation approved by the Court.

2. The Plan of Allocation is not a necessary term of this Settlement Agreement, and this Settlement Agreement is not conditioned on the approval of any particular Plan of Allocation.

3. To receive a cash distribution from the Net Settlement Amount pursuant to any approved Plan of Allocation, a Class Member must be an Authorized Claimant pursuant to the procedures set out in this Settlement Agreement or by order of the Court, and must submit a Proof of Claim.

4. Unless otherwise authorized by the Court, each Authorized Claimant who wishes to receive a distribution from the Net Settlement Amount must complete and submit a Proof of Claim, as directed in the Individual Notice or the Proof of

Claim, postmarked no later than the date stated on the Proof of Claim form. The address to which the Proof of Claim must be sent shall be stated in the Proof of Claim form itself.

5. The Proof of Claim must be sworn on oath or made subject to the penalties of perjury pursuant to 28 U.S.C. § 1746, and be supported by such documents and other information as called for in the Proof of Claim

6. The validity of each filed Proof of Claim initially will be determined by the Claims Administrator in accordance with the Plan of Allocation approved by the Court. The Claims Administrator shall promptly advise the Class Member in writing if it determines to reject the claim. Lead Counsel shall have the right, but not the obligation, to advise the Claims Administrator to waive, in the interests of achieving substantial justice, what Lead Counsel deems to be formal or technical defects in any Proofs of Claim submitted. Lead Counsel, its designees or agents, Lead Plaintiff, ZFS's Counsel, ZFS, and Releasees shall not have any liability arising out of any such determination.

7. If any Class Member whose claim has been rejected in whole or in part desires to contest such rejection, the Class Member must, within twenty (20) days after the date of such rejection, submit to the Claims Administrator and Lead Counsel a notice and statement of reasons explaining the Class Member's grounds for contesting the rejection, along with any supporting documentation, and request a review thereof by the Court. If a dispute concerning a claim cannot be otherwise resolved, Lead Counsel shall thereafter present the request for review to the Court. The administration of the Escrow Account and the Net Settlement Amount, and decisions on all disputed questions of law and fact with respect to the validity of any Proof of Claim or regarding the rejection or

amount of any claim, shall remain under the jurisdiction of the Court. All Class Members and Settling Parties expressly waive trial by jury (to the extent any such right might exist) and any right of appeal or review with respect to such determinations. Any Class Member pursuing a dispute shall be responsible for his, her, or its own costs, including, without limitation, attorneys' fees, incurred in pursuing the dispute.

8. Lead Counsel will apply to the Court, on notice to ZFS's Counsel, for an order approving the Claims Administrator's determinations concerning the acceptance and rejection of the claims submitted by Class Members and approving any fees and expenses of the Claims Administrator not previously applied for, including the balance of any unpaid fees and expenses of the Claims Administrator and, if the Final Settlement Date has occurred, directing payment of the Net Settlement Fund to Authorized Claimants.

9. Unless otherwise ordered by the Court, any Class Member who fails to submit a valid and timely Proof of Claim shall be barred from receiving a distribution from the Net Settlement Amount but shall nevertheless be bound by the Release and all proceedings, orders, and judgments in the Action even if he, she, or it has pending, or subsequently initiates, any litigation, arbitration, or other proceeding, or has any Claim, against any or all of the Releasees that is a Released Plaintiffs' Claim.

**F. Fair Funds Payments**

1. ZFS shall endeavor to ensure that, pursuant to 15 U.S.C. § 7246(b), any civil penalties paid by ZFS in the disposition of any judicial or administrative action brought by the Securities and Exchange Commission under the securities laws that arises out of or is related to any alleged securities-law violation that is the subject matter of the



Released Plaintiffs' Claims will be distributed by the Commission for the benefit of the victims of those alleged violations. In no event, however, will ZFS have any liability or responsibility in connection with the Commission's distribution decision, and that decision will not affect the Settlement Amount, the Release, or any other terms of this Settlement Agreement. ZFS agrees to this Subsection II.F solely for settlement purposes and without conceding in any way that any such distribution to Foreign Investors means that the U.S. securities laws apply to those investors' claims.

### **III. TERMS AND CONDITIONS CONCERNING FOREIGN INVESTORS' SETTLEMENT**

A. Lead Counsel shall be responsible to ensure that the Stichting SCOR Securities Compensation Foundation is created in a timely manner under the laws of the Netherlands.

B. Lead Counsel and ZFS's Counsel, and their respective Dutch counsel, shall use their best efforts to obtain judicial approval in the Netherlands, before the Amsterdam Court of Appeals, of the settlement of the Foreign Investors' claims pursuant to the Netherlands Act on Collective Settlement of Mass Damage Claims. If the Amsterdam Court of Appeals declines to grant such approval, the parties shall then seek to obtain, within a reasonable period of time not to exceed two (2) years from the date of the Amsterdam Court of Appeals' ruling, judicial approval of the proposed collective settlement in another mutually acceptable European or other forum. If such judicial approval cannot be obtained within that time period, the Foreign Investors will promptly cause the balance of the escrow account established to hold the Foreign Investors' Settlement Amount (plus interest, less taxes and expenses) to be repaid to ZFS.

#### **IV. NOTICE TO THE CLASS**

##### **A. Individual Notice**

1. Subject to the requirements of the Preliminary Approval Order, and in accordance with all applicable laws, Lead Counsel shall cause to be delivered a copy of the Individual Notice and the Proof of Claim by first-class mail to all potential Class Members who can be identified through reasonable efforts from Converium's stock-transfer records and/or from related inquiries conducted by the Claims Administrator.

2. Notwithstanding the terms of Subsection IV.A.1, potential Class Members who reside in Switzerland shall be served with a copy of the Individual Notice in accordance with the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

##### **B. Summary Notice**

1. Subject to the requirements of the Preliminary Approval Order, and in accordance with all applicable laws, Lead Counsel shall cause to be published a copy of the Summary Notice once each in the global edition of *The Wall Street Journal*, the European edition of *The Economist*, the *Neue Zürcher Zeitung* (Zurich, Switzerland), and *Le Temps* (Geneva, Switzerland).

#### **V. APPOINTMENT OF CLAIMS ADMINISTRATOR**

A. As provided in the Preliminary Approval Order, the Claims Administrator shall be appointed to help implement the settlement contemplated by this Settlement Agreement. ZFS shall cooperate in the administration of the Settlement Agreement to the extent reasonably necessary to effectuate its terms (but not including any acts that the Claims Administrator or other Settling Parties are required to undertake pursuant to this Settlement Agreement).

B. The Claims Administrator shall perform various tasks as directed by Lead Counsel, including, without limitation: (i) distributing the Individual Notice to potential Class Members; (ii) arranging for publication of the Summary Notice; (iii) publishing the Individual Notice on the Claims Administrator's website; (iv) answering written inquiries from potential Class Members and/or forwarding such inquiries to Lead Counsel; (v) providing additional copies of the Individual Notice, upon request, to Nominees or potential Class Members; (vi) receiving and maintaining on behalf of the Court any requests for exclusion from the settlement received from potential Class Members; (vii) receiving and processing Proofs of Claim from Class Members; (viii) mailing or causing to be mailed to Authorized Claimants their distributions under the Plan of Allocation, and (ix) otherwise administering and implementing this Settlement Agreement.

C. As ordered by the Court in the Preliminary Approval Order or in subsequent Orders, the Claims Administrator shall establish and staff with representatives knowledgeable about this Settlement Agreement and the Plan of Allocation a toll-free telephone number for responding to inquiries from potential Class Members about this Settlement Agreement and any issues relating to the Action.

## **VI. RIGHT TO COMMUNICATE WITH CLASS MEMBERS**

A. Lead Plaintiff acknowledges and agrees that the ZFS Releasees have the right to communicate orally and in writing with Converium's or SHS's shareholders and to respond to inquiries from potential Class Members, including, without limitation:

1. Communications regarding the subject matter of this Settlement Agreement between potential Class Members and representatives of the ZFS Releasees whose responsibilities include investor relations, to the extent such communications are

initiated by the potential Class Members, and in such circumstances the ZFS Releasees shall use their best efforts to direct such potential Class Members to the Claims Administrator or to the Claims Administrator's website, or to Lead Counsel;

2. Communications as may be necessary to implement the terms of this Settlement Agreement; and

3. Such communications as may be made in the conduct of the ZFS Releasees' business.

B. Subject to Subsection XV.C below, Lead Plaintiff, Lead Counsel, ZFS, and ZFS's Counsel agree to cooperate in good faith to ensure that any comments about or descriptions of the settlement contemplated by this Settlement Agreement are balanced, fair, and accurate. Lead Plaintiff, Lead Counsel, ZFS, and ZFS's Counsel agree that they will refrain from asserting that the Action was brought or defended in bad faith. Other than the Individual Notice and the Summary Notice, or as permitted by Sections V, VI.A, and XV.C, the Settling Parties, Lead Counsel, and ZFS's Counsel agree that none of them will comment publicly on the merits of the Claims asserted against ZFS in the Action.

## **VII. REQUESTS FOR EXCLUSION FROM THE CLASS**

A. Any potential Class Member who wishes to be excluded from the Class must mail by first-class mail or otherwise deliver a written request for exclusion to the Claims Administrator, care of the address provided in the Individual Notice, such that it is received no later than twenty (20) days before the Fairness Hearing, or as the Court may otherwise direct. A list of the persons and entities who have validly and timely requested exclusion from the Class shall be provided by the Settling Parties to the Court at or before the Fairness Hearing.

B. A potential Class Member's request for exclusion shall be directed to include the following information: (i) name, (ii) address, (iii) telephone number, (iv) number of shares of Converium Common Stock purchased or sold on the SWX Swiss Exchange, and/or ADSs purchased or sold on the NYSE, during the Class Period, (v) prices paid or value at receipt, and (vi) the date of each such transaction involving each Converium Common Stock and/or ADS. In addition, if the potential Class Member is requesting exclusion for shares of Converium Common Stock purchased during the Class Period, the request for exclusion also must state where the potential Class Member resided at the time of such purchase.

C. Unless otherwise ordered by the Court, any potential Class Member who does not submit a timely written request for exclusion as provided by this Section VII shall nevertheless be bound by the Release and by all proceedings, orders, and judgments in the Action, even if he, she, or it has pending or subsequently initiates any litigation, arbitration, or other proceeding, or has any other Claim, against any or all of the Releasees relating to any of the Released Plaintiffs' Claims.

## **VIII. OBJECTIONS TO SETTLEMENT**

A. Any Class Member who wishes to object to the fairness, reasonableness, or adequacy of this Settlement Agreement, to any term(s) of this Settlement Agreement, to the Plan of Allocation, or to the proposed Attorneys' Fees and Expenses Award must both serve on Lead Counsel and file with the Court a statement of his, her, or its objection(s); *provided, however*, that a potential Class Member who requests exclusion from the Class shall not be entitled to submit an objection. Any such objection must be received by Lead Counsel and the Court as provided in the Individual Notice, or as the Court may otherwise direct.

B. The Class Member's statement of objection shall state the specific reason(s), if any, for each objection, including any legal support the Class Member wishes to bring to the Court's attention and any evidence the Class Member wishes to introduce in support of such objection. Any objection also must include the following information about the Class Member: (i) name, (ii) address, (iii) telephone number, (iv) number of shares of Converium Common Stock and/or Converium ADSs purchased or sold during the Class Period, (v) prices paid or value at receipt, and (vi) the date of each transaction. In addition, if the objecting Class Member purchased shares of Converium Common Stock during the Class Period, the statement of objection also must state where the Class Member resided at the time of such purchase.

C. Any Class Member may file an objection on his, her, or its own, or through an attorney hired at his, her, or its own expense. If a Class Member hires an attorney to represent him, her, or it in connection with filing an objection, the attorney must both serve on Lead Counsel and file with the Court a notice of appearance. Any such notice of appearance must be received by Lead Counsel and the Court by no later than twenty (20) days before the Fairness Hearing, or as the Court otherwise may direct.

D. Any requests by Class Members, or by an attorney hired at their expense, for access to the discovery materials in the Action shall be governed by the provisions of the Preliminary Approval Order.

E. Lead Counsel shall inform ZFS's Counsel promptly of any request by Class Members or their attorneys for access to the discovery materials in the Action, and identify for ZFS's Counsel any such Class Member (as well as his, her, or its attorney (if

any)) who requests access to the discovery materials and the date on which such access is requested.

F. Any Class Member who files and serves a written objection pursuant to this Section VIII – and, unless otherwise ordered by the Court, only such Class Members – may appear at the Fairness Hearing, either in person or through counsel hired at the Class Member’s expense, to object to the fairness, reasonableness, or adequacy of this Settlement Agreement, to any term(s) of this Settlement Agreement, or to the proposed Attorneys’ Fees and Expenses Award. Class Members or their attorneys intending to make an appearance at the Fairness Hearing must both serve on Lead Counsel and file with the Court a notice of intention to appear. Any such notice must be received by Lead Counsel and the Court by the date set in the Individual Notice, or as the Court otherwise may direct.

G. Any Class Member who fails to comply with any of the provisions of this Section VIII shall waive and forfeit any and all rights he, she, or it might otherwise have to appear separately at the Fairness Hearing and/or to object to this Settlement Agreement, and shall be bound by all the terms of this Settlement Agreement and by all proceedings, orders, and judgments in the Action.

H. Lead Counsel promptly shall forward to ZFS’s Counsel copies of all objections, notices of appearance, and other materials received pursuant to this Section VIII.

## **IX. RELEASE AND WAIVER, AND ORDER OF DISMISSAL**

### **A. Release and Waiver**

1. Pursuant to the Final Judgment and Order of Dismissal, without further action by anyone, and whether or not a Proof of Claim has been executed and/or

delivered by or on behalf of any such Class Member, and subject to Subsection IX.A.4 below, on and after entry of the Final Judgment, Lead Plaintiff, LASERS, and any and all Class Members, on behalf of themselves, their heirs, executors, administrators, beneficiaries, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), and assigns, and any person or entity claiming by or through any of the Class Members, for good and sufficient consideration, shall be deemed to have, and by operation of law and of the Final Judgment and Order of Dismissal shall have, fully, finally, and forever released, relinquished, settled, and discharged:

- a. all Released Plaintiffs' Claims against each and every one of the Releasees;
- b. all Claims, damages, and liability as to any or all of the Lead Plaintiff, LASERS, Lead Counsel, ZFS's Counsel, and each and every one of the Releasees that relate in any way to any or all acts, omissions, nondisclosures, facts, matters, transactions, occurrences, or oral or written statements or representations in connection with, or directly or indirectly relating to, the prosecution, defense, or settlement of the Action or to this Settlement Agreement; and
- c. all Claims against any of the Releasees for attorneys' fees, costs, or disbursements incurred by Lead Counsel or other counsel representing Lead Plaintiff, LASERS, or the Class Members (or any of them) in the Action, or any of them, in connection with or related in any manner to the Action, the settlement of the Action, or the administration of the Action and/or its settlement except to the extent otherwise specified in this Settlement Agreement.



2. Pursuant to the Final Judgment and Order of Dismissal, without further action by anyone, and subject to Subsection IX.A.4 below, on and after the Final Judgment, ZFS's Counsel and any or all Releasees, on behalf of themselves, their heirs, executors, administrators, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), assigns, any person or entity claiming by or through ZFS, and any person or entity representing ZFS, for good and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, shall be deemed to have, and by operation of law and of the Final Judgment and Order of Dismissal shall have, fully, finally, and forever released, relinquished, settled, and discharged Lead Counsel, Lead Plaintiff, and LASERS from any and all Claims, whether known Claims or Unknown Claims, that relate in any way to any and all acts directly or indirectly relating to the prosecution, defense, or settlement of the Action, or to this Settlement Agreement.

3. Pursuant to the Final Judgment and Order of Dismissal, without further action by anyone, and subject to Subsection IX.A.4 below, on and after the entry of the Final Judgment, Lead Counsel, on behalf of themselves, their heirs, executors, administrators, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), assigns, and any person or entity claiming by or through any of them, for good and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, shall be deemed to have, and by operation of law and of the Final Judgment and Order of Dismissal shall have, fully, finally, and forever released, relinquished, settled, and discharged ZFS's Counsel and all Releasees from any and all Claims, whether known Claims or Unknown Claims, that relate in any way to any and all acts directly or indirectly

relating to the prosecution, defense, or settlement of the Action, or to this Settlement Agreement.

4. Notwithstanding Subsections IX.A.1, IX.A.2, and IX.A.3 above, nothing in the Final Judgment and Order of Dismissal shall bar any action or Claim by the Settling Parties to enforce the terms of this Settlement Agreement or the Final Judgment and Order of Dismissal.

5. The releases and waivers contained in this Section IX were separately bargained for and are essential elements of this Settlement Agreement.

#### **B. Final Judgment and Order of Dismissal**

1. The Settling Parties will seek and obtain from the Court a Final Judgment and Order of Dismissal as further described in Section XII below.

### **X. ATTORNEYS' FEES AND EXPENSES**

#### **A. Attorneys' Fees and Expenses**

1. Lead Counsel may apply for an award of Attorneys' Fees and Expenses at or after the time of the Fairness Hearing. ZFS shall take no position on any request for Attorneys' Fees by Lead Counsel.

2. Subject to Subsections X.A.3 and X.A.4, below, the Attorneys' Fees and Expenses Award shall be paid to Lead Counsel from the Escrow Account within five business days after the Court issues the order setting out the Attorneys' Fees and Expenses Award. Such payment shall be made pursuant to this Subsection X.A.2 notwithstanding the existence of any timely filed objections or appeals to the Attorneys' Fees and Expenses Award; *provided, however*, that such payment shall be subject to Lead Counsel's obligation to make appropriate repayment to the Escrow Account (plus interest calculated at the same net rate as earned by the balance of the Escrow Account, such

calculation to begin as of the day the Attorneys' Fees and Expenses Award was paid and to end as of the day the repayment is made pursuant to this Subsection X.A.2) within five (5) business days if, as a result of any reconsideration proceedings, appellate review, and/or further proceedings on remand, the Attorneys' Fees and Expenses Award is reduced or reversed, or if this Settlement Agreement is properly and timely terminated in accordance with its terms.

3. As a condition of receiving the Attorneys' Fees and Expenses Award, Lead Counsel, on behalf of themselves and each of their partners and/or shareholders, agree that the law firms and their partners and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing this obligation. Without limitation, Lead Counsel and each of their partners and/or shareholders agree that the Court may, upon application of ZFS, on notice to Lead Counsel, summarily issue orders, including, but not limited to, judgments and attachment orders, and may make appropriate findings of or sanctions for contempt, against them or any of them (if applicable), should any of Lead Counsel fail timely to repay any amounts pursuant to this Subsection X.A.

4. No Releasee shall be liable or obligated to pay any fees, expenses, costs, or disbursements to, or incur any expense on behalf of, any person or entity (including, without limitation, Lead Plaintiff, LASERS, and Lead Counsel), directly or indirectly, in connection with the Action or this Settlement Agreement, except as expressly provided for in this Settlement Agreement.

**XI. PRELIMINARY APPROVAL HEARING AND PRELIMINARY APPROVAL ORDER**

A. Promptly after this Stipulation has been fully executed, Lead Counsel and ZFS's Counsel jointly shall apply to the Court for entry of a Preliminary Approval Order, substantially in the form annexed hereto as Exhibit A.

B. Lead Plaintiff and ZFS stipulate to the certification of the Class and certification of Lead Plaintiff as representative of the Class solely for the purpose of this Settlement. If the Settlement is not approved by the Court or is not consummated for any other reason, ZFS reserves the right to oppose certification of the Class, or any other class, and to oppose certification or appointment of Lead Plaintiff as representative of the Class, or any other class, in the Action.

**XII. FINAL APPROVAL, AND FINAL JUDGMENT AND ORDER OF DISMISSAL**

A. If the Court approves the Settlement contemplated by this Stipulation, Lead Counsel and ZFS's Counsel jointly shall request that the Court enter a Final Judgment and Order of Dismissal substantially in the form annexed hereto as Exhibit B.

B. The Settling Parties shall request that the Court enter a PSLRA Contribution Bar Order as follows: In accordance with 15 U.S.C. § 78u-4(f)(7)(A), any and all Claims for contribution arising out of any Released Plaintiffs' Claim (i) by any person or entity against any of the Releasees and (ii) by any of the Releasees against any person or entity other than as set out in 15 U.S.C. § 78u-4(f)(7)(A)(ii) are hereby permanently barred, extinguished, discharged, satisfied, and unenforceable. Accordingly, without limitation to any of the above, (i) any person or entity, including, without limitation, SHS, Converium, the Officer Defendants, the Director Defendants, and the

Underwriter Defendants, is hereby permanently enjoined from commencing, prosecuting, or asserting against any of the Releasees any such Claim for contribution, and (ii) the Releasees are hereby permanently enjoined from commencing, prosecuting, or asserting against any person or entity, including, without limitation, any of SHS, Converium, the Officer Defendants, the Director Defendants, and the Underwriter Defendants, any such Claim for contribution. In accordance with 15 U.S.C. § 78u-4(f)(7)(B), any final verdict or judgment that might be obtained by or on behalf of the Class or a Class Member against any person or entity for loss for which such person or entity and any Releasees are found to be jointly liable shall be reduced by the greater of (i) an amount that corresponds to the percentage of responsibility of any such Releasee(s) for common damages or (ii) the amount paid to the Class by or on behalf of each such Releasee for common damages.

C. The Settling Parties also shall request that the Court enter a Complete Bar Order at the time the Court approves the Settlement Agreement. The Complete Bar Order shall provide as follows:

1. Any and all persons and entities, including, without limitation, SHS, Converium, the Officer Defendants, the Director Defendants, and the Underwriter Defendants, are permanently barred, enjoined, and restrained from commencing, prosecuting, or asserting any Claim against any Releasee arising under any federal, state, or foreign statutory or common-law rule, contract, or otherwise, however styled, whether for indemnification or contribution or otherwise denominated, including, without limitation, Claims for breach of contract and for misrepresentation, where the Claim is or arises from a Released Plaintiffs' Claim and the alleged injury to such person or entity arises from that person's or entity's alleged liability to the Class or any Class Member,

including, without limitation, any Claim in which a person or entity seeks to recover from any of the Releasees (i) any amounts such person or entity has or might become liable to pay to the Class or any Class Member and/or (ii) any costs, expenses, or attorneys' fees from defending any Claim by the Class or any Class Member. All such Claims are hereby extinguished, discharged, satisfied, and unenforceable, subject to a hearing to be held by the Court, if necessary. The provisions of this Subsection XII.C are intended to preclude any liability of any of the Releasees to any person or entity (including SHS, Converium, the Officer Defendants, the Director Defendants, and the Underwriter Defendants) for indemnification, contribution, or otherwise on any Claim that is or arises from a Released Plaintiffs' Claim and where the alleged injury to such person or entity arises from that person's or entity's alleged liability to the Class or any Class Member; *provided, however*, that if the Class or any Class Member obtains any judgment against any such person or entity based upon, arising out of, or relating to any Released Plaintiffs' Claim for which such person or entity and any of the Releasees are found to be jointly liable, that person or entity shall be entitled to a judgment credit equal to an amount that is the greater of (i) an amount that corresponds to the percentage of responsibility of any such Releasee(s) for common damages or (ii) the amount paid to the Class by or on behalf of each such Releasee for common damages.

2. Each and every Releasee is permanently barred, enjoined, and restrained from commencing, prosecuting, or asserting any Claim against any other person or entity (including, without limitation, any other Releasee and any of SHS, Converium, the Officer Defendants, the Director Defendants, and the Underwriter Defendants) arising under any federal, state, or foreign statutory or common-law rule, contract, or otherwise,

however styled, whether for indemnification or contribution or otherwise denominated, including, without limitation, Claims for breach of contract and for misrepresentation, where the Claim is or arises from a Released Plaintiffs' Claim and the alleged injury to such Releasee arises from that Releasee's alleged liability to the Class or any Class Member, including, without limitation, any Claim in which any Releasee seeks to recover from any person or entity, including another Releasee or SHS, Converium, the Officer Defendants, the Director Defendants, and the Underwriter Defendants, (i) any amounts any such Releasee has or might become liable to pay to the Class or any Class Member and/or (ii) any costs, expenses, or attorneys' fees from defending any Claim by the Class or any Class Member. All such Claims are hereby extinguished, discharged, satisfied and unenforceable.

3. Notwithstanding anything stated in the Complete Bar Order, if any person or entity (for purposes of this Subsection XII.C.3, a "petitioner") commences against any of the Releasees any action either (i) asserting a Claim that is or arises from a Released Plaintiffs' Claim and where the alleged injury to such person or entity arises from that person's or entity's alleged liability to the Class or any Class Member or (ii) seeking contribution or indemnity for any liability or expenses incurred in connection with any such Claim, and if such action or Claim is not barred by a court pursuant to this Subsection XII.C. or is otherwise not barred by the Complete Bar Order, neither the Complete Bar Order nor the Settlement Agreement shall bar Claims by that Releasee against (a) such petitioner, (b) any person or entity who is or was controlled by, controlling, or under common control with the petitioner, whose assets or estate are or were controlled, represented, or administered by the petitioner, or as to whose Claims the

petitioner has succeeded, and (c) any person or entity that participated with any of the preceding persons or entities described in items (a) and (b) of this Subsection XII.C.3 in connection with the assertion of the Claim brought against the Releasee(s); *provided, however,* that the Settlement Agreement and the Complete Bar Order shall not bar or enjoin the Class or any Class Member from bringing any and all Claims against any non-Releasee; *provided, further,* that nothing in the Complete Bar Order or Settlement Agreement shall prevent the Settling Parties from taking such steps as are necessary to enforce the terms of the Settlement Agreement.

4. If any term of the Complete Bar Order entered by the Court is held to be unenforceable after the date of entry, such provision shall be substituted with such other provision as may be necessary to afford all of the Releasees the fullest protection permitted by law from any Claim that is based upon, arises out of, or relates to any Released Plaintiffs' Claim.

5. Notwithstanding the Complete Bar Order or anything else in the Settlement Agreement, nothing shall release, interfere with, limit, or bar the assertion by any Releasee of any Claim for insurance coverage under any insurance, reinsurance, or indemnity insurance policy that provides coverage respecting the conduct at issue in the Action.

### **XIII. MODIFICATION OR TERMINATION OF THIS SETTLEMENT AGREEMENT**

A. The terms and provisions of this Settlement Agreement may not be altered or modified except pursuant to Subsection XV.K; *provided, however,* that, after entry of the Final Judgment and Order of Dismissal, Lead Counsel, on behalf of Lead Plaintiff, and ZFS's Counsel, on behalf of ZFS, may by written agreement effect any amendments,



modifications, or expansions of this Settlement Agreement and its implementing documents (including all exhibits to this Settlement Agreement) without notice to or approval by the Court if such changes are not materially inconsistent with the Court's Final Judgment and Order of Dismissal and do not materially limit the rights of Class Members under this Settlement Agreement.

B. Subject to Sections XIV and XV below, this Settlement Agreement will terminate at the sole option and discretion of ZFS's Counsel (on behalf of ZFS) and/or Lead Counsel (on behalf of Lead Plaintiff) if (i) the Court, or any appellate court(s), rejects, modifies, or denies approval of any portion of this Settlement Agreement or the proposed settlement that the terminating Settling Party reasonably and in good faith determines is material, including, without limitation, the terms of relief, the findings of the Court, the provisions relating to notice, the definition of the Class, the Complete Bar Order, and/or the terms of the Release, or (ii) the Court, or any appellate court(s), does not enter or completely affirm, or alters or expands, any portion of the Preliminary Approval Order or the Final Judgment and Order of Dismissal that the terminating Settling Party reasonably and in good faith believes is material; *provided* that any decision to terminate the Settlement Agreement pursuant to this Section XIII shall be subject to review by the Court as to whether the decision was reasonable and made in good faith. The terminating Settling Party must exercise the option to withdraw from and terminate this Settlement Agreement, as provided in this Section XIII, no later than thirty (30) days after receiving actual notice of the event prompting the termination.

C. Notwithstanding the preceding Subsection XIII.B, neither Lead Plaintiff nor Lead Counsel may terminate this Settlement Agreement on the basis of the

Attorneys' Fees and Expenses Award ordered by the Court, or as modified by any appellate court(s).

#### **XIV. ZFS'S TERMINATION RIGHTS**

A. Without limiting any other rights under this Settlement Agreement, by no later than two (2) days before the Fairness Hearing, ZFS may unilaterally withdraw from and terminate this Settlement Agreement if requests for exclusion are received from potential Class Members whose allegedly damaged shares of Converium Common Stock and/or ADSs, in the aggregate, exceed an amount equal to or larger than four percent (4%) of the damaged Converium Common Stock and/or ADSs eligible to participate in this U.S. Settlement. For the purposes of the calculation under this Subsection XIV.A, a Converium ADS shall be counted as one half of one share of Converium Common Stock. An equivalent provision shall be included in the stipulation of settlement between ZFS and the Stichting SCOR Compensation Foundation.

B. Lead Counsel may attempt to cause retraction of any exclusion requests by potential Class Members. If ZFS has exercised its option to withdraw from and terminate the Settlement based on Subsection XIV.A, and if Lead Counsel succeed in causing the retraction (within the time period for such retractions specified in the next sentence) of sufficient requests for exclusion such that the remaining requests for exclusion do not exceed the amounts set forth in the preceding paragraph, ZFS's notice of withdrawal from the Settlement automatically shall be deemed a nullity. To retract a prior request for exclusion, a potential Class Member must provide to ZFS's Counsel, at least five business days before the Settlement Hearing, or any adjournment thereof, a written notice signed by the potential Class Member stating his, her, or its desire to retract the request

for exclusion from the Class. An equivalent provision shall be included in the stipulation of settlement between ZFS and the Stichting SCOR Compensation Foundation.

C. ZFS also may terminate this Settlement Agreement if the Release Agreement does not take effect in accordance with its terms, which require Final approval of Converium's separate settlement of this Action and the making of the payments prescribed in the Release Agreement. If ZFS elects to exercise its termination right under this Subsection XIV.C, it must do so within ten (10) business days after that right arises.

## **XV. GENERAL MATTERS AND RESERVATIONS**

A. If an option to withdraw from and terminate this Settlement Agreement arises under this Settlement Agreement, (i) neither ZFS nor Lead Plaintiff will be required for any reason or under any circumstance to exercise that option, and (ii) if ZFS or Lead Plaintiff exercises the option to withdraw from or terminate the Settlement, it shall exercise that option in good faith.

B. If this Settlement Agreement does not become Final or is otherwise terminated pursuant to the terms hereof, then:

1. This Settlement Agreement shall be null and void and shall have no force or effect, and no party to this Settlement Agreement shall be bound by any of its terms, except for the terms set out in this Section XV;

2. This Settlement Agreement, all of its provisions, and all negotiations, statements, and proceedings relating to it shall be without prejudice to the rights of ZFS, Lead Plaintiff, LASERS, or any other Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Settlement Agreement, except with respect to the payment from the Settlement Amount of

such Notice and Administrative Expenses and Tax Expenses as have been actually expended or incurred, as described in Section II above;

3. Releasees and their current and former predecessors, successors, heirs, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), agents, attorneys, representatives, and assigns expressly and affirmatively reserve all defenses, arguments, and motions as to all Claims that have been or might later be asserted in the Action, including (without limitation) any argument that the Action may not be litigated as a class action;

4. Lead Plaintiff, LASERS, and their current and former predecessors, successors, heirs, affiliates (as defined in 17 C.F.R. Part 210.1-02.b), agents, attorneys, representatives, and assigns expressly and affirmatively reserve all motions as to, and arguments in support of, all Claims that have been or might later be asserted in the Action, including (without limitation) any argument concerning class certification;

5. Neither this Settlement Agreement nor the fact of its having been made shall be admissible or entered into evidence for any purpose whatsoever;

6. Within five (5) calendar days after its receipt of notice of termination, the Escrow Agent shall return to ZFS both (i) any portion of the Settlement Amount in the Escrow Account and (ii) any portion of the Foreign Investors' Settlement Amount, if the disposition of that money is not otherwise governed by a stipulation of settlement between ZFS and the Stichting SCOR Securities Compensation Foundation and if ZFS requests the return of that money; and

7. Except as specifically provided herein, nothing in this Settlement Agreement shall create any obligation on the part of any Settling Party to pay any other Settling Party's fees or expenses.

C. Except as provided in this Section XV, or as may otherwise be required by law, the Settling Parties and their counsel agree to keep the contents of this Settlement Agreement and all related negotiations confidential until the Execution Date and, with respect to any initial press release announcing the settlement described in this Settlement Agreement, to attempt in good faith to coordinate the timing of such press release, which coordination shall include, for each Settling Party issuing such release, affording the other Settling Party the opportunity to review and comment on such release in advance thereof; *provided, however*, that this Section XV shall not prevent earlier disclosure of such information by ZFS's Counsel and Lead Counsel to any person or entity (such as clients, experts, courts, regulatory entities, and/or administrators) to whom the Settling Parties agree disclosure must be made to effectuate the terms and conditions of this Settlement Agreement; *provided further*, that ZFS shall be entitled to make, without prior notification to or review or approval by Lead Counsel, any and all disclosures regarding this Settlement Agreement that it believes might be required or appropriate to its insurance carriers, the Securities and Exchange Commission, the Department of the Treasury, the Department of Homeland Security, the Swiss Stock Exchange, the New York Stock Exchange, the Internal Revenue Service, the Federal Office of Private Insurance of the Swiss Federation, any other regulatory body (including, without limitation, any Committee of the United States Congress), and the ZFS Releasees' former or current independent auditors, accountants, attorneys, financial institutions, or lenders

when disclosure to such individuals or entities is required in the normal course of the ZFS Releasees' business; *provided, however*, that any and all such disclosures or statements shall be balanced, fair, and accurate, and ZFS shall refrain from asserting that any Claim asserted in the Action was brought in bad faith; *provided further*, that Lead Counsel and ZFS's Counsel shall be able to speak with media representatives regarding the terms of this Settlement Agreement before the Execution Date, but only to the extent consistent with this Settlement Agreement, and only if they obtain an agreement from such media representatives not to publish any information regarding this Settlement Agreement until on or after the Execution Date.

D. All of the exhibits attached to this Settlement Agreement are incorporated by reference as though fully set forth herein.

E. The parties to this Settlement Agreement intend that the Settlement Agreement shall be a final and complete resolution of all disputes that were, could have been, or could be asserted by the Class Members against the Releasees with respect to Released Plaintiffs' Claims. Accordingly, Lead Plaintiff and ZFS agree not to assert in any forum that any conduct of Lead Plaintiff and/or ZFS in connection with this Action, the settlement of this Action, or any of the Released Plaintiffs' Claims was in bad faith or was unreasonable. No Settling Party shall assert any Claim that any other Settling Party violated Rule 11 of the Federal Rules of Civil Procedure relating to the prosecution, defense, or settlement of the Action.

F. The Settling Parties agree that the amount paid and the other terms of the Settlement Agreement were negotiated at arm's length in good faith by the Settling

Parties and reflect an agreement that was reached voluntarily, after consultation with experienced legal counsel.

G. Lead Counsel and ZFS's Counsel signing this Settlement Agreement each represents that he or she is authorized to enter into this Settlement Agreement on behalf of his or her clients.

J. Lead Plaintiff, through a duly authorized representative, represents that it (i) has agreed to serve as a representative of the Class proposed to be certified herein, (ii) has consulted with Lead Counsel about the Action, this Settlement Agreement, and the obligations of a representative of the Class, and (iii) will remain in and not request exclusion from the Class and will serve as a representative of the Class until the terms of this Settlement Agreement are effectuated, this Settlement Agreement is terminated in accordance with its terms, or the Court at any time determines that Lead Plaintiff cannot represent the Class.

K. This Settlement Agreement sets forth the entire agreement among the Settling Parties with respect to its subject matter and may not be altered or modified except by a written instrument executed by Lead Counsel and ZFS's Counsel. Lead Plaintiff, on the one hand, and ZFS, on the other, expressly acknowledge that there are no agreements, arrangements, or understandings among or between them with respect to the subject matter of this Settlement Agreement other than those expressed or referred to in this Settlement Agreement. In entering into this Settlement Agreement, no Settling Party has relied upon any representation or warranty not set forth expressly herein.

L. This Settlement Agreement shall be governed by and interpreted according to the laws of the State of New York, excluding its conflict-of-laws provisions.

M. Any action arising under or to enforce this Settlement Agreement shall be commenced and maintained only in the Court, which shall retain continuing jurisdiction over all matters relating to the Settlement.

N. Whenever this Settlement Agreement requires or contemplates that a Settling Party shall or may give notice to the other, notice shall be provided by facsimile and/or next-day (excluding Saturday, Sunday, and legal holidays) express delivery service as follows, and shall be deemed effective upon such facsimile transmission or delivery to the facsimile number or address, as the case may be, below:

1. If to ZFS, then to:

Ralph C. Ferrara  
Dewey & LeBoeuf LLP  
1101 New York Avenue, N.W.  
Suite 1100  
Washington, D.C. 20005  
Telephone: (202) 346-8000  
Facsimile: (202) 346-8102

2. If to Lead Plaintiff, then to:

John P. Coffey  
Bernstein Litowitz Berger & Grossmann LLP  
1285 Avenue of the Americas  
New York, NY 10019  
Telephone: (212) 554-1400  
Facsimile: (212) 554-1444

O. All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Settlement Agreement or by order of the Court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a



legal holiday, or, when the act to be done is the filing of a paper in Court, a day on which weather or other conditions have made the office of the Clerk of Court inaccessible, in which event the period shall run until the end of the next day that is not one of the aforementioned days. As used in this Section, “legal holiday” includes New Year’s Day, the observance of the Birthday of Martin Luther King, Jr., Presidents’ Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a federal or New York state holiday in the United States or as a holiday in the Canton of Zurich, Switzerland.

P. The Settling Parties reserve the right, subject to the Court’s approval, to make any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

Q. All Settling Parties agree that this Settlement Agreement was drafted by counsel for the Settling Parties at arm’s length and that no parol or other evidence may be offered to explain, construe, contradict, or clarify its terms, the intent of the Settling Parties or their counsel, or the circumstances under which this Settlement Agreement was made or executed. Nor shall there be any presumption for or against any Settling Party that drafted all or any portion of this Settlement Agreement.

R. This Settlement Agreement, offer of this Settlement Agreement, and compliance with this Settlement Agreement shall not constitute or be construed as an admission by any of the Releasees of any wrongdoing or liability. This Settlement Agreement is to be construed solely as a reflection of the Settling Parties’ desire to facilitate a resolution of the Claims in the Complaint and the Proposed Second Amended Complaint and of the Released Plaintiffs’ Claims. The Settling Parties agree that no

party was or is a “prevailing party” in this case. In no event shall this Settlement Agreement, any of its provisions, or any negotiations, statements, or court proceedings relating to its provisions in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in the Action, any other action, or any judicial, administrative, regulatory, or other proceeding, except in a proceeding to enforce this Settlement Agreement or in the Dutch proceedings (or any other proceedings involving the Foreign Investors if the Amsterdam Court of Appeals declines to approve the proposed Dutch settlement). Without limiting the foregoing, neither this Settlement Agreement nor any related negotiations, statements, or court proceedings shall be construed as, offered as, received as, used as, or deemed to be evidence or an admission or concession of any liability or wrongdoing whatsoever on the part of any person or entity, including, but not limited to, ZFS, or as a waiver by ZFS of any applicable defense, or as a waiver by Lead Plaintiff, LASERS, or the Class of any Claims, causes of action, or remedies.

S. No opinion or advice concerning the tax consequences of the proposed settlement to individual Class Members or any of the Settling Parties is being given or will be given by ZFS’s Counsel and/or Lead Counsel; nor is any representation or warranty in this regard made by virtue of this Settlement Agreement. Class Members will be directed to consult their own tax advisors regarding the tax consequences of the proposed settlement and any tax reporting obligations they might have with respect to it. Each Class Member’s tax obligations, and the determination thereof, are the sole responsibility of the Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Class Member.

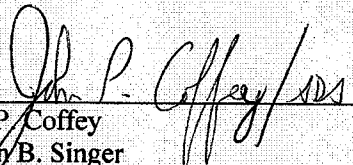
T. The Settling Parties, their successors and assigns, and their attorneys undertake to implement the terms of this Settlement Agreement in good faith and to use good faith in resolving any disputes that might arise in the implementation of the terms of this Settlement Agreement.

U. The Settling Parties, their successors and assigns, and their attorneys agree to cooperate fully with one another in seeking Court approval of this Settlement Agreement and to use all reasonable efforts to effect the prompt consummation of this Settlement Agreement and the proposed settlement.


V. This Settlement Agreement may be signed in counterparts, each of which shall constitute a duplicate original. Execution by facsimile shall be fully and legally binding on a Settling Party.

W. All Releasees who are not Settling Parties are intended third-party beneficiaries who are entitled as of the Final Settlement Date to enforce the terms of the Release set forth in this Settlement Agreement.

Agreed to as of this 25 day of July, 2008.

  
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