VIRGINIA:

IN THE CIRCUIT COURT OF AMHERST COUNTY

COMMONWEALTH OF VIRGINIA, *ex rel.*
ELLEN BOWYER, in her official capacity as
County Attorney for the County of Amherst,
Virginia,

Plaintiff,

v.

SWEET BRIAR INSTITUTE, Case No. CL15009373-00

PAUL G. RICE,

and

JAMES F. JONES, JR.,

Defendants.

CONSENT SETTLEMENT ORDER

This matter comes before the Court on the joint motion of all parties. The parties have resolved their disputes at issue in the above-referenced action pursuant to the Settlement Agreement attached hereto as Exhibit 1 (the "Settlement Agreement") and filed with the Court, conditioned on the entry by the Court of substantially identical consent settlement orders in *Commonwealth of Virginia, ex rel. Ellen Bowyer, in her official capacity as County Attorney for the County of Amherst, Virginia v. Sweet Briar Institute, et al.,* Case No. CL15009373-00 (the "Bowyer Suit"), *Jessica Campbell, et al., v. Sweet Briar Institute, et al.*, Case No. CL15009390-00 (the "Campbell Suit"), and *John Gregory Brown, et al., v. Sweet Briar Institute*, Case No. CL15009395-00 (the "Faculty Suit"), all pending in this Circuit.

In support of the joint motion, the Court has received the following representations:

Ellen Bowyer, in her capacity as County Attorney for Amherst County, along with Saving Sweet Briar, Inc. ("SSB") (together, the "Bowyer Plaintiff Parties") represent that SSB has obtained written pledges from donors who have agreed to make gifts to the College of at least Eighteen Million Five Hundred Thousand Dollars ($18,500,000) over five years. The Bowyer Plaintiff Parties further represent that such pledges are for donations that may be used for the general operations of the College and are not otherwise restricted as to time or use, with the exception of one pledge identified in Section 1 of the Settlement Agreement;

A total of at least Twelve Million Dollars ($12,000,000) will be transferred by SSB to the College or be otherwise received by the College from Donors (as defined in the Settlement Agreement), in the following installments: (i) the first installment of at least Two Million Five Hundred Thousand Dollars ($2,500,000) to be transferred or received by the College within seven (7) business days of the Effective Date (as defined in the Settlement Agreement) of the Settlement Agreement (as defined in the Settlement Agreement, the "Fund Transfer Obligation"); (ii) the second installment of at least Six Million Dollars ($6,000,000) to be transferred or received within thirty (30) days after the College has received the first installment of donations described in the immediately preceding clause (i); and (iii) the third installment of at least Three Million Five Hundred Thousand Dollars ($3,500,000) to be transferred or received within thirty (30) days after the College has received the second installment of donations described in the immediately preceding clause (ii);

Upon receipt of each installment of donated funds described above, the College will request that the Attorney General of Virginia initiate the process of consenting to the release of restrictions on the use of the College's institutional funds under the Virginia Uniform Prudent Management of Institutional Funds Act ("UPMIFA") in an amount of up to Sixteen Million

Dollars ($16,000,000) in order to continue operations of the College. Such consent will be granted if the Attorney General determines, after careful analysis, that such use of funds will be consistent with the charitable purposes expressed in individual gift instruments. The requests and subsequent releases of restrictions on these institutional funds will be made in installments as outlined in Section 1(f) of the Settlement Agreement;

The Bowyer Plaintiff Parties represent that they believe that, together, these funds will be sufficient to operate the College for the 2015-16 academic year;

The Bowyer Plaintiff Parties represent that they believe that the College has a sustainable future and that funds can be raised, other than by release of restrictions on the College's institutional funds under UPMIFA or otherwise (except as set forth herein), to operate and transform the College to reach that sustainable future; and

The Bowyer Plaintiff Parties represent that they have a general understanding of and acknowledge the obligations that the College has to its creditors to the extent such obligations are listed on Exhibit F of the Settlement Agreement, and the Bowyer Plaintiff Parties further warrant that they will ensure that the College's new directors are informed as to the general nature of such obligations that the College has to its creditors.

Having considered the joint motion, the representations to the Court, and noting the consent thereto of the Attorney General of Virginia, it is hereby:

ORDERED that the Settlement Agreement is approved; and it is further

ORDERED that, upon SSB's timely satisfaction of the Fund Transfer Obligation within seven (7) business days of the Effective Date as set forth in the Settlement Agreement: at least thirteen (13) current members of the College's Board of Directors (the "Board") will resign; eighteen (18) new directors nominated by the Bowyer Plaintiff Parties, Campbell Plaintiff

Parties, and the Faculty Plaintiff Parties will be elected to the Board, and upon their election, those directors will constitute a majority of the Board; and College President James F. Jones, Jr. will resign; and it is further

ORDERED that the releases of claims set forth in Settlement Agreement are approved by the Court and hereby deemed released; and it is further

ORDERED that the College will indemnify and hold harmless the current and past directors and officers of the College as set forth in the Settlement Agreement; and it is further

ORDERED that the College will maintain insurance coverage for the current and past directors and officers of the College as set forth in the Settlement Agreement; and it is further

ORDERED that the Settlement Agreement is hereby incorporated by reference into and is an integral part of this Consent Order; and it is further

ORDERED that the failure to reference any provision of the Settlement Agreement in this Consent Order will have no effect on the Court's approval and authorization of, or the validity, binding effect or enforceability of, the Settlement Agreement in its entirety; and it is further

ORDERED that all claims asserted herein are DISMISSED WITH PREJUDICE, with each party to bear its own attorneys' fees and costs.

The Court shall retain jurisdiction over this matter in order to enforce the terms of the Settlement Agreement and this Consent Order.

For purposes of the Settlement Agreement and the Effective Date thereof, the entry of this Order shall be deemed to occur as of June 23, 2015.

Circuit Court Judge

Bedford County Circuit Court, VA

A copy teste:

☐ Clerk ☑ ~~Dep.~~ Clerk

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WE ASK FOR THIS:

COMMONWEALTH OF VIRGINIA, EX REL.
ELLEN BOWYER,
COUNTY ATTORNEY FOR THE COUNTY OF AMHERST, VIRGINIA

By: ______________________
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Amherst County, Virginia
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SWEET BRIAR INSTITUTE

By: ______________________
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JAMES F. JONES, JR., and
PAUL G. RICE

By: ______________________
Counsel

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Richmond, Virginia 23219

SEEN AND AGREED:

THE HONORABLE MARK R. HERRING
ATTORNEY GENERAL

By: Mark R. Herring

The Honorable Mark R. Herring
Attorney General

By: ______________________

John W. Daniel, II
Deputy Attorney General
Commerce, Environment and Technology/Procurement

Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219

Cc: 6-22-15 ac
Piepgrass

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SETTLEMENT AGREEMENT

This Settlement Agreement ("Settlement Agreement") is made by and between the parties identified on Exhibit A hereto (together referred to as the "Parties" and each individually as "Party") as a compromise among the Parties for the complete and final settlement of their claims and differences with respect to the matters described below. This Settlement Agreement shall become effective (the "Effective Date") upon the entry of the proposed court order attached hereto as Exhibit B ("Settlement Order") in each of the Bowyer Suit, the Campbell Suit and the Faculty Suit, defined below.

RECITALS

WHEREAS, on or about March 3, 2015, Sweet Briar Institute (the "College") announced that it would permanently cease academic operations as of August 25, 2015, and that it would pursue an orderly wind down of those operations, taking into account the interests of College students, faculty, staff, creditors, and other constituencies.

WHEREAS, on or about March 25, 2015, the College wrote to the Office of the Attorney General of Virginia (the "OAG"), stating its intent to seek the release of restrictions on certain of its institutional funds under the Virginia Uniform Prudent Management of Institutional Funds Act ("UPMIFA") in order to pursue an orderly wind down of academic operations.

WHEREAS, on or about March 9, 2015, a group of College alumnae created Saving Sweet Briar, Inc., a Virginia nonstock corporation ("SSB"), for the purpose of taking actions to ensure the ongoing operation of the College, including the raising of funds needed to pay certain College operating expenses.

WHEREAS, on or about March 30, 2015, Ellen Bowyer, in her capacity as the County Attorney for the County of Amherst filed suit in Amherst County Circuit Court, *Commonwealth* *of Virginia, ex rel. Ellen Bowyer, in her official capacity as County Attorney for the County of Amherst, Virginia v. Sweet Briar Institute, et al.,* Case No. CL15009373-00 (the "Bowyer Suit"), seeking, along with other relief, to enjoin the closing of the College. SSB and Bowyer share common interests, and SSB is supporting the Bowyer Suit. Together, Bowyer and SSB are the "Bowyer Plaintiff Parties."

WHEREAS, on or about April 17, 2015, Jessica Campbell and others filed suit in Amherst County Circuit Court, *Jessica Campbell, et al., v. Sweet Briar Institute, et al.,* Case No. CL15009390-00 (the "Campbell Suit"), seeking, along with other relief, to enjoin the closing of the College. The "Campbell Plaintiff Parties" are defined on Exhibit A.

WHEREAS, on or about April 24, 2015, John Gregory Brown and others filed suit in Amherst County Circuit Court, *John Gregory Brown, et al., v. Sweet Briar Institute,* Case No. CL15009395-00 (the "Faculty Suit"), seeking, along with other relief, to enjoin the closing of the College. The "Faculty Plaintiff Parties" are defined on Exhibit A.

WHEREAS, commencing on May 6, 2015, the OAG convened a mediation among the Parties to address the claims asserted in the Bowyer Suit, the Campbell Suit and the Faculty Suit, as well as the College's request for release of restrictions on certain of its institutional funds under UPMIFA.

WHEREAS, pursuant to UPMIFA, the OAG intends to consent to the release of various restrictions contained in certain of the College's institutional funds to permit such funds to be reclassified as temporarily restricted investments.

WHEREAS, the Bowyer Plaintiff Parties, Campbell Plaintiff Parties and Faculty Plaintiff Parties on the one hand, and the Defendant Parties (defined on Exhibit A) on the other hand, now desire to resolve and settle the disputes and claims among them in accordance with the terms set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the premises recited above, which are considered a part of this Settlement Agreement, the mutual covenants, promises, undertakings, and agreements contained in this Settlement Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Money Raised for the College – SSB represents that it has obtained written pledges from donors who have agreed to make gifts to the College of at least Eighteen Million Five Hundred Thousand Dollars ($18,500,000) over five years. SSB further represents that such pledges are for donations that may be used for the general operations of the College and are not otherwise restricted as to time or use. One pledge, however, is limited to certain environmental science uses, and any funds converted from that pledge shall not be counted toward the amounts to be transferred to or received by the College pursuant to the following subsections (a), (b), and (c).

(a) First Installment of Donations – With regard to the first transfer of donations, SSB agrees that Two Million Five Hundred Thousand Dollars ($2,500,000) will be transferred by SSB to the College, or otherwise received by the College as gifts from donors, within seven (7) business days after the Effective Date. For purposes of this provision, July 3 shall not constitute a business day. Such donations shall include the market value of any securities transferred or received. The Parties understand that such funds will be for the College's use in its ongoing operations in the normal course of business (including, but not limited to, paying any amounts due pursuant to Section 3 hereof) and that such funds cannot be otherwise restricted as to time or use.

(b) Second Installment of Donations – SSB further agrees that funds in the amount of at least Six Million Dollars ($6,000,000) will be transferred by SSB to the College, or otherwise received by the College as gifts from donors, within thirty (30) days after the College has received the initial donations totaling Two Million Five Hundred Thousand Dollars ($2,500,000) referenced herein. Such donations shall include the market value of any securities transferred or received. The Parties understand that such funds will be for the College's use in its ongoing operations in the normal course of business (including, but not limited to, paying any amounts due pursuant to Section 3 hereof) and that such funds cannot be otherwise restricted as to time or use.

(c) Final Installment of Donations – SSB further agrees that funds in the amount of at least Three Million Five Hundred Thousand Dollars ($3,500,000) will be transferred by SSB to the College, or otherwise received by the College as gifts from donors, within thirty (30) days after the College has received the second installment of donations totaling at least Six Million Dollars ($6,000,000). Such donations shall include the market value of any securities transferred or received. The Parties understand that such funds will be for the College's use in its ongoing operations in the normal course of business (including, but not limited to, paying any amounts due pursuant to Section 3 hereof) and that such funds cannot be otherwise restricted as to time or use.

(d) Eligible Donors – For purposes of SSB's obligations contained in subsections (a), (b), and (c), above, a donor ("Donor") shall mean an individual or foundation, or SSB or any other corporation, or any other entity, that has pledged to make a donation of cash or securities for the use of the College as evidenced by any form of written confirmation, including an electronic communication, received by SSB or its Board members, officers, or agents no later than 11:59 p.m. on the Effective Date. In addition, an eligible Donor shall also include any individual, foundation, corporation, or other entity that has made a donation in the form of cash, check, or securities that were actually received by SSB or its Board members, officers, or agents, or by the College, no later than 11:59 p.m. on the Effective Date, whether or not in fulfillment of a pre-existing pledge.

(e) Eligible Donations – For purposes of SSB's obligations contained in subsections (a), (b), and (c), above, cash, checks, or securities provided by each Donor shall be counted toward the applicable installments of donations if timely received by the specified deadlines. Such donations of cash, checks, or securities made by a Donor and received by the College, either from SSB or directly from a Donor (including a broker, financial advisor, or other agent of the individual or the individual's affiliated foundation or other entity) shall be deemed to be timely made when received by the College by any method including without limitation the following: (i) receipt by the College by delivery in person, by courier, or by other agent, to a location at Sweet Briar specified by the College, by 11:59 p.m. on the final day of the applicable installment period; (ii) receipt by the College of cash by wire transfer initiated no later than 5:00 p.m. on the final day of the applicable installment period; (iii) receipt by the College of book-entry securities by the initiation of an electronic transaction to the College's brokerage account no later than 5:00 p.m. on the final day of the applicable installment period, (iv) receipt by the College in the United States mail on or after the final day of the applicable installment period if postmarked no later than the final day of the applicable installment period, or (v) receipt by the College of written notification from SSB no later than 11:59 p.m. on the final day of the applicable installment period that SSB has received one or more checks or wire transfers from Donors that have been deposited in SSB's checking account but such funds had not cleared as of that day and were not then available for use by SSB.

(f) Release of Funds by OAG – Following the College's receipt of the initial Two Million Five Hundred Thousand Dollars ($2,500,000), the College will request that the OAG initiate the process of consenting to a series of three releases of restrictions on the use of the College's institutional funds, pursuant to UPMIFA, in a total amount of up to Sixteen Million Dollars ($16,000,000) for the purpose of continuing the operations of the College (including, but not limited to, paying any amounts due pursuant to Section 3 hereof), which consent will be granted only if the OAG determines, after careful analysis, that use of the funds will be consistent with the charitable purposes expressed in individual gift instruments. The College's initial request made after the first installment period above shall seek the OAG's consent to the release of restrictions on the use of institutional funds in the amount of at least Three Million Three Hundred Thousand Dollars ($3,300,000). After the second installment period above, the College will request that the OAG consent to the release of restrictions on the use of additional funds in the amount of at least Eight Million Dollars ($8,000,000). After the third installment period above, the College will request that the OAG consent to the release of restrictions on the use of additional funds in the amount of at least Four Million Seven Hundred Thousand Dollars ($4,700,000).

(g) Public Announcement of Funds Donated and Cooperation of Parties – Following the final day of each installment period specified in subsections (a), (b), and (c), the College will make a public announcement of the total donations transferred by SSB to the College or otherwise received as gifts in accordance with subsections (a), (b) and (c) and whether the conditions set forth therein have been achieved, and may make such other statements regarding fundraising efforts as it may desire to make. The Parties agree to cooperate in good faith for purposes of effectuating the terms of the Settlement Agreement. Specifically, for purposes of determining compliance with subsections (a), (b) and (c), the College shall cooperate with SSB in the determination of eligible donations received by the College directly from Donors. The College shall also provide SSB with written electronic notice, on a daily basis after the Effective Date, of all donations received by the College during the previous day, including the name of the donor, the amount of the donation, and the form (cash, check, securities) of the donation.

2. Leadership Change – As of 11:59 p.m. on the seventh business day after the entry of the Settlement Order (the "Leadership Change Date"), the College agrees to implement the following changes in its leadership structure, subject to the condition that SSB has satisfied its obligation (the "Fund Transfer Obligation") to transfer the first installment of donations to the College no later than the Leadership Change Date, as more fully specified in Section 1 of this Settlement Agreement. The College agrees that at least 13 of the current members of the College's Board of Directors (the "Board") will resign effective as of the Leadership Change Date. Each such Board member has executed a resignation letter conditioned upon SSB's satisfaction of its Fund Transfer Obligation, and such resignation letters are attached as Exhibit C.

The College further agrees that 18 new directors will be appointed to the Board from individuals nominated by the Bowyer Plaintiff Parties, the Campbell Plaintiff Parties, and the Faculty Plaintiff Parties, effective as of the Leadership Change Date. The current Board has adopted a resolution, a copy of which is attached as Exhibit D, appointing the new directors specified therein, conditioned upon SSB's satisfaction of its Fund Transfer Obligation.

The College agrees that its President will resign effective as of the Leadership Change Date but that such resignation shall not operate as such under his Employment Agreement effective August 15, 2014 ("Agreement"); rather the resignation shall be considered for all purposes of his Agreement as a termination without cause, pursuant to Section G. 2, entitling the President to the severance specified therein, together with accrued but unused vacation leave under Section D. 4 and moving expenses under Section D. 3, in addition to any other benefits and payments to which he is entitled under the College's various benefit plans, subject to applicable withholdings and deductions. The President has executed a resignation letter conditioned upon SSB's satisfaction of its Fund Transfer Obligation, and such resignation letter is attached as Exhibit E.

Upon or after the Leadership Change Date, the new Board will appoint a new president and other officers for the College. It is further anticipated that the new Board will take action to confirm that the College will continue its academic operations beyond August 25, 2015. The Bowyer Plaintiff Parties represent that they believe that the College has a sustainable future and that funds can be raised, other than by release of restrictions on the College's institutional funds under UPMIFA or otherwise (except as set forth herein), to operate and transform the College to reach that sustainable future. The Bowyer Plaintiff Parties represent that they have a general understanding of and acknowledge the obligations that the College has to its creditors, to the extent such obligations are listed on the attached Exhibit F, and the Bowyer Plaintiff Parties further warrant that they will ensure that the new directors are informed as to the general nature of such obligations that the College has to its creditors (including, but not limited to, the owners of homes located on the College campus or other real property owned by the College).

3. Faculty and Staff Severance – The Parties agree that, subject to dismissal with prejudice of the Faculty Suit:

(a) If any member of the College faculty or staff (a "Member") (i) is (or, if any person who was a Member as of February 28, 2015, was) terminated by the College without cause or on the basis of financial exigency, or (ii) resigns or resigned from his or her employment by the College after having received notice from the College that his or her employment by the College will be terminated without cause or on the basis of financial exigency (including, in either case, any previously-terminated Member that is (x) reinstated or otherwise re-hired by the College after the Effective Date of this Settlement Agreement and (y) thereafter terminated without cause or on the basis of financial exigency), such Member shall be entitled to receive severance pay equal to six (6) months' of his or her base salary or wages (subject to applicable tax withholding) as of the last date of such Member's employment by the College (the "Severance Pay").

(b) For any Member whose termination date has occurred prior to the Effective Date of this Agreement, the Severance Pay shall be payable in six (6) equal monthly installments with the first installment commencing on the last day of the first month immediately following the Effective Date of this Agreement and on each of monthly anniversary thereafter; provided, however, that for any Member whose employment with the College terminated prior to the Effective Date of this Agreement and who is reinstated or otherwise re-hired by the College on or before July 31, 2015, the amount of the Severance Pay for the period of unemployment prior to July 31, 2015 shall be capped at the lower of (i) six (6) months or (ii) the period of unemployment prior to July 31, 2015.

(c) For any Member whose termination date has not occurred prior to the Effective Date of this Agreement, the Severance Pay shall be payable in six (6) equal monthly installments with the first installment commencing on the last day of the first month immediately following the effective date of the Member's termination and each monthly anniversary thereof; provided, however, that for any Member whose employment with the College terminated after the Effective Date of this Agreement and who is reinstated or otherwise re-hired by the College on or before July 31, 2015, the amount of the Severance Pay for the period of unemployment prior to July 31, 2015 shall be capped at the lower of (i) six (6) months or (ii) the period of unemployment prior to July 31, 2015.

(d) Notwithstanding Sections 3(b) and (c) hereof, the College shall be required to pay any Member reinstated or otherwise re-hired by the College after the Effective Date of this Agreement and subsequently terminated (other than on or after June 30, 2016) without cause or on the basis of financial exigency the full amount of the Severance Pay (i.e., six (6) months) in the event of such termination without any offset or deduction based on any Severance Pay paid to such Member for the period prior to July 31, 2015.

(e) The College agrees that it will not seek to recover payment(s) or submit a claim(s) to United Educators for any obligation arising under paragraph 3 of this Agreement.

4. Reinstatement or Re-hiring of Members of Faculty and Staff – The Parties agree that any Member (i) whose employment is reinstated, (ii) who is otherwise re-hired, or (iii) as to whom a notice of termination issued prior to the Effective Date of this Settlement Agreement is withdrawn or otherwise rescinded, by the College on or after the Effective Date of this

Settlement Agreement shall be reinstated, be otherwise re-hired or remain employed by the College, as applicable, at the same rank, tenure and salary or wage, as applicable, to which such Member was entitled (or that had been conferred by the College) as of March 3, 2015; provided, however, that the College shall not be prevented from seeking to modify such employment terms with the agreement of such Member following the reinstatement or re-hiring of such Member or the withdrawal or rescission of the notice of termination issued to such Member.

5. Release of Claims of Bowyer and Campbell Plaintiff Parties – The Bowyer Plaintiff Parties and the Campbell Plaintiff Parties, on behalf of themselves and all of their affiliates, parents, subsidiaries, predecessors, successors and assigns and, in their capacity as such, each of their officers, directors, shareholders, agents, employees, attorneys, insurers, and representatives, hereby release, remise and forever discharge the College, and all of its affiliates, parents, subsidiaries, predecessors, successors and assigns, and, in their capacity as such, each of their current and past officers, directors, shareholders, agents, employees, attorneys, insurers, and representatives, from any and all actions, causes of action, claims, liabilities, obligations or losses of any kind or nature, whether at law or in equity, whether known or unknown, and whether now existing or which may hereafter accrue by reason of any facts or circumstances existing on or before the Effective Date, including but not limited to those arising from or related to the announced closing of the academic operations of the College or the implementation of that decision, including all claims asserted in the Bowyer Suit and Campbell Suit and all claims related to the facts alleged therein. The Parties agree to seek entry of the Settlement Order in each of the Bowyer Suit, the Campbell Suit and the Faculty Suit, substantially in the form of Exhibit B hereto, reflecting this agreed release.

6. Release of Claims of Faculty Plaintiff Parties – The Faculty Plaintiff Parties, on behalf of themselves and any successors or assigns, hereby release, remise and forever discharge the College, and all of its affiliates, parents, subsidiaries, predecessors, successors and assigns, and, in their capacity as such, each of their current and past officers, directors, shareholders, agents, employees, attorneys, insurers, and representatives, from any and all actions, causes of action, claims, liabilities, obligations or losses of any kind or nature, whether at law or in equity, whether known or unknown, and whether now existing or which may hereafter accrue by reason of any facts or circumstances existing on or before the Effective Date that arose from or are related to the announced closing, and planned cessation of the academic operations of the College or the implementation of that decision, including the College's declaration of financial exigency, the College's termination of the employment of any Faculty Plaintiff Parties in connection with the announced closing, and further including all claims asserted in the Faculty Suit and all claims related to the facts alleged therein.

For the avoidance of doubt, the foregoing release by the Faculty Plaintiff Parties does not include, however, a release of the Faculty Plaintiff Parties' rights, if any, to payment of vested qualified retirement benefits under the College's ERISA plans and the right, if any, to continuation in the College's medical plans as provided by COBRA. Nothing in this Section, or any other provision of this Agreement, waives or affects Faculty Plaintiff Party's right to file a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") or to provide information to, or participate as a witness in, an investigation undertaken or a proceeding initiated by the EEOC. In addition, the foregoing release does not include a release of any contract claims the Faculty Plaintiff Parties may assert as the owners of homes located on the College campus or other real property owned by the College, or claims the Faculty Plaintiff

Parties may assert against the College involving amounts to be paid pursuant to Section 3 or any other provision of this Settlement Agreement. The Parties further agree that nothing in this Agreement shall be construed to prohibit the exercise of any rights by any Party that such Party may not waive as a matter of law. If SSB fails to satisfy the Fund Transfer Obligation and the Leadership Change Date does not occur, the release set forth in this Section 6 shall be void and have no effect.

The Parties agree to seek entry of the Settlement Order in each of the Bowyer Suit, the Campbell Suit and the Faculty Suit, substantially in the form of Exhibit B hereto, reflecting this agreed release.

7. Release of Potential Claims by the College – The College releases all claims it might have against the Bowyer Plaintiff Parties and the Campbell Plaintiff Parties and their respective counsel including any and all actions, causes of action, claims, liabilities, obligations or losses of any kind or nature, whether at law or in equity, whether known or unknown, and whether now existing or which may hereafter accrue by reason of any facts or circumstances existing on or before the Effective Date. The College also releases all claims it might have against its current and past directors, officers, employees, agents, attorneys, and representatives, related to the management of the College and its resources or the announced closing of the academic operations of the College or the implementation of that decision or the Bowyer Suit. However, this release shall not be construed to include any claims the College may have for acts of criminal misconduct, acts in violation of any federal or state employment laws, or acts involving the misappropriation of funds or property for personal enrichment or the enrichment of others; further provided that notwithstanding the forgoing, this release does include all claims the College may have arising from or related to the conduct alleged in the Bowyer Suit, Campbell

Suit and Faculty Suit. The Parties agree to seek entry of the Settlement Order in each of the Bowyer Suit, the Campbell Suit and the Faculty Suit, substantially in the form of Exhibit B hereto, reflecting this agreed release.

8. Dismissal of Suits with Prejudice – The Bowyer Suit, Campbell Suit and Faculty Suit will each be dismissed with prejudice; provided, however, that if SSB fails to satisfy the Fund Transfer Obligation and the Leadership Change Date does not occur, the College and the Faculty Plaintiff Parties agree that the Settlement Order entered in the Faculty Suit shall be subject to vacatur on motion of the Faculty Plaintiff Parties, which vacatur shall be consented to by the College. The Parties agree to seek entry of the Settlement Order in each of the Bowyer Suit, the Campbell Suit and the Faculty Suit, substantially in the form of Exhibit B hereto.

9. Retention of Employee Severance Payments – If any employee of the College is terminated after the Leadership Change Date on the basis that he or she participated in the announced closing of the academic operations of the College or the implementation of that decision, or any other action or inaction related to the management of the College and its resources known to the current Board, and notwithstanding any amounts to which such employees may be entitled under Section 3 hereof, if any, such employee shall be entitled to severance payments, if any, required by his or her valid employment contract for a termination without cause.

10. Indemnification of Directors and Officers – To the maximum extent permissible by law, the College will indemnify and hold harmless the current and past directors and officers of the College from any and all claims arising from or related to the announced closing of the academic operations of the College or the implementation of that decision. This right is in addition to, and in no way limits, rights to indemnification otherwise provided to directors and

officers of the College by the College's articles of incorporation, bylaws, or other agreements, or any such rights otherwise arising under law.

11. Insurance Coverage for Directors and Officers – The College will maintain insurance coverage for the current and past directors and officers of the College for a period of six years following the Effective Date. As of the Effective Date, the College maintains the following such coverage: (a) Educators Legal Liability Insurance Policy number ELS201400462200 issued by United Educators ("UE"), for the June 1, 2014, to June 1, 2015 Policy Period, with an Extended Discovery Period that continues through June 1, 2016 (which policy shall not be further extended or renewed); and (b) D&O Private Company Policy number SISIFNL20205915, for the June 1, 2015 to June 1, 2016 Policy Period, as well as certain D&O Excess Policies (which policies the College will use commercially reasonable efforts to renew or replace as of their expiration date to the extent required by this Section 11). The College refers to the policies themselves for a complete statement of their terms, conditions, limitations and exclusions.

12. Agreed Statement – The Parties and the OAG agree, upon entry of the Settlement Order, to issue jointly the agreed statement set forth on Exhibit G, or such further or amended statement as may be agreed to by all Parties and the OAG at that time.

13. Non-Disparagement – The Parties shall not, from and after the Effective Date of this Settlement Agreement, in any public statement, disparage any other Party or any of the current, past, or future directors and officers of the College with respect to (ii) the management of the College and its resources, (ii) the decision to close the College or the implementation of that decision, or (iii) any opposition to the decision to close the College or the implementation of that decision.

14. <u>No Admission of Liability or Wrongdoing</u> – The Parties agree and acknowledge that this Settlement Agreement, and the settlement it represents, does not constitute or evidence an admission or inference of liability, fault or wrongdoing on the part of any Party.

15. <u>No Assignment or Transfer of Claims</u> – The Parties represent and warrant that they hold as sole owner and have not assigned or transferred, or purported to assign or transfer, to any person or entity any claims released in this Settlement Agreement.

16. <u>Construction and Severability</u> – The Parties agree that this Settlement Agreement should be construed to the greatest extent possible to be valid and that, if any portion of this Settlement Agreement is found to be invalid, the remainder of this Settlement Agreement shall remain valid and shall be enforced to the greatest extent possible. Notwithstanding the foregoing, the entry of the Settlement Order substantially in the form of <u>Exhibit B</u> in each of the Bowyer Suit, the Campbell Suit and the Faculty Suit is an express condition of this Settlement Agreement. Should the court decline to enter the Settlement Order substantially in the form of <u>Exhibit B</u> in the Bowyer Suit, the Campbell Suit or the Faculty Suit, this Settlement Agreement shall be void and have no effect. Notwithstanding the foregoing, the validity of the obligations under Section 3 of this Settlement Agreement is an express condition of this Settlement Agreement for the Faculty Plaintiff Parties.

17. <u>Governing Law</u> – This Settlement Agreement shall be governed by and construed in accordance with the substantive laws of the Commonwealth of Virginia. The Parties submit to the jurisdiction of the court sitting in the Commonwealth of Virginia for purposes of this Settlement Agreement. Venue for any claims arising under this Agreement shall be exclusively in a court of competent jurisdiction in the Commonwealth of Virginia.

18. Binding on Successors – This Settlement Agreement shall be binding upon and inure to the benefit of the Parties, and to their respective successors and assigns.

19. Third Party Beneficiaries – It is expressly acknowledged and agreed that the current and past directors and officers of the College are intended beneficiaries of this Settlement Agreement with the same right as the Parties to enforce the terms of this Settlement Agreement. It is further expressly acknowledged that the members of the faculty and staff of the College (other than the Faculty Plaintiff Parties) entitled to (i) receive Severance Pay pursuant to Section 3 of this Settlement Agreement, and (ii) the rights, benefits and protections to be afforded by Section 4 of this Settlement Agreement, are intended beneficiaries of Sections 3 and 4 of this Settlement Agreement with the same right as the Parties to enforce those provisions of this Settlement Agreement.

20. Knowing and Voluntary Execution – The Parties represent that they are signing this Settlement Agreement knowingly and voluntarily, and that the terms of the Settlement Agreement have been reached by mutual agreement after negotiation, with consideration by and participation of the Parties and their respective counsel.

21. Entire Understanding – This Settlement Agreement embodies the entire understanding between the Parties relating to the resolution of their disputes. Any and all prior correspondence, understandings or memoranda are merged herein and replaced hereby. No change, alteration or modification hereof may be made except in writing signed by all Parties.

22. Counterparts – This Settlement Agreement may be executed by counsel for the Parties, in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Any Party may execute this Settlement Agreement by

transmitting the signature of its counsel by facsimile or electronic means, which signature shall be deemed an original signature for purposes of this Settlement Agreement.

SIGNATURE PAGE FOLLOWS

Each undersigned counsel, being duly authorized, has caused this Settlement Agreement to be executed.

SAVING SWEET BRIAR, INC.

By: ______________________
Counsel

By: ______________________
Counsel

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Ashley L. Taylor, Jr.
George A. Somerville
Nancyellen Keane
Stephen C. Piepgrass
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COMMONWEALTH OF VIRGINIA, EX REL.,
ELLEN BOWYER,
COUNTY ATTORNEY FOR THE COUNTY OF AMHERST, VIRGINIA

By: ______________________
Counsel

Ellen Bowyer
Amherst County Attorney
Amherst County, Virginia
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SEEN AND AGREED:

THE HONORABLE MARK R. HERRING
ATTORNEY GENERAL

By: Mark R Herring

The Honorable Mark R. Herring
Attorney General

By: John W. Daniel

John W. Daniel, II
Deputy Attorney General
Commerce, Environment and Technology/Procurement

Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219

EXHIBIT A

Parties to the Settlement Agreement are:

Bowyer Plaintiff Parties
Commonwealth of Virginia, *ex rel.*, Ellen Bowyer, in her capacity as County Attorney for the County of Amherst, Virginia
Saving Sweet Briar, Inc.

Campbell Plaintiff Parties
Jessica Campbell
Brittany Behrens
Donna Behrens
John Behrens
Molly Phemister
Alexia Redick Bartlett
Lelia Dunning
Andrew C. Benjamin
Janice I. Benjamin
Makayla B. Benjamin
Catherine Peek

Faculty Plaintiff Parties
John Gregory Brown
Robert Alexander
John Ashbrook
Spencer Bakich
Camillia Smith Barnes
Stephen Bragaw
Eric Casey
John Casteen
Claudia Chang
Katherine Chavigny
Jill Clements
Robin Davies
Danielle Delude
Pamela DeWeese
Deborah Durham
Linda Fink
Holly Gould
John Goulde
Jill Granger
Robert Granger
Cathy Gutierrez

Tracy Hamilton
Joshua Harris
Alessandra Chiriboga Holzheu
Scott Hyman
Jeffrey Jones
William Kershner
Marie-Therese Killiam
James Kirkwood
Lynn Laufenburg
Anthony Lilly
Tim Loboschefski
Thomas Loftus
Hannah Lott
Ella Magruder
Mark Magruder
Cheryl Mares
John Morrissey
Thomas O'Halloran
Matthew Payne
Laura Pharis
Robert Scott Pierce
Marcia Robertson
Raina Robeva
Thomas Rogers
Roberta Sadler
Jessica Salvatore
Pam Simpson
Bryce Walker
Cheryl Warnock
Stephen Wassell
Christopher Witcombe
Loretta Wittman
Hank Yochum
Abraham Yousef

Defendant Parties
Sweet Briar Institute
Paul G. Rice
James F. Jones

EXHIBIT B

[CASE STYLE FOR EACH OF BOWYER SUIT, CAMPBELL SUIT AND FACULTY SUIT]

CONSENT SETTLEMENT ORDER

This matter comes before the Court on the joint motion of all parties. The parties have resolved their disputes at issue in the above-referenced action pursuant to the Settlement Agreement attached hereto as Exhibit 1 (the "Settlement Agreement") and filed with the Court, conditioned on the entry by the Court of substantially identical consent settlement orders in *Commonwealth of Virginia, ex rel. Ellen Bowyer, in her official capacity as County Attorney for the County of Amherst, Virginia v. Sweet Briar Institute, et al.*, Case No. CL15009373-00 (the "Bowyer Suit"), *Jessica Campbell, et al., v. Sweet Briar Institute, et al.*, Case No. CL15009390-00 (the "Campbell Suit"), and *John Gregory Brown, et al., v. Sweet Briar Institute*, Case No. CL15009395-00 (the "Faculty Suit"), all pending in this Circuit.

In support of the joint motion, the Court has received the following representations:

Ellen Bowyer, in her capacity as County Attorney for Amherst County, along with Saving Sweet Briar, Inc. ("SSB") (together, the "Bowyer Plaintiff Parties") represent that SSB has obtained written pledges from donors who have agreed to make gifts to the College of at least Eighteen Million Five Hundred Thousand Dollars ($18,500,000) over five years. The Bowyer Plaintiff Parties further represent that such pledges are for donations that may be used for the general operations of the College and are not otherwise restricted as to time or use, with the exception of one pledge identified in Section 1 of the Settlement Agreement;

A total of at least Twelve Million Dollars ($12,000,000) will be transferred by SSB to the College or be otherwise received by the College from Donors (as defined in the Settlement Agreement), in the following installments: (i) the first installment of at least Two Million Five

Hundred Thousand Dollars ($2,500,000) to be transferred or received by the College within seven (7) business days of the Effective Date (as defined in the Settlement Agreement) of the Settlement Agreement (as defined in the Settlement Agreement, the "Fund Transfer Obligation"); (ii) the second installment of at least Six Million Dollars ($6,000,000) to be transferred or received within thirty (30) days after the College has received the first installment of donations described in the immediately preceding clause (i); and (iii) the third installment of at least Three Million Five Hundred Thousand Dollars ($3,500,000) to be transferred or received within thirty (30) days after the College has received the second installment of donations described in the immediately preceding clause (ii);

Upon receipt of each installment of donated funds described above, the College will request that the Attorney General of Virginia initiate the process of consenting to the release of restrictions on the use of the College's institutional funds under the Virginia Uniform Prudent Management of Institutional Funds Act ("UPMIFA") in an amount of up to Sixteen Million Dollars ($16,000,000) in order to continue operations of the College. Such consent will be granted if the Attorney General determines, after careful analysis, that such use of funds will be consistent with the charitable purposes expressed in individual gift instruments. The requests and subsequent releases of restrictions on these institutional funds will be made in installments as outlined in Section 1(f) of the Settlement Agreement;

The Bowyer Plaintiff Parties represent that they believe that, together, these funds will be sufficient to operate the College for the 2015-16 academic year;

The Bowyer Plaintiff Parties represent that they believe that the College has a sustainable future and that funds can be raised, other than by release of restrictions on the College's institutional funds under UPMIFA or otherwise (except as set forth herein), to operate and transform the College to reach that sustainable future; and

The Bowyer Plaintiff Parties represent that they have a general understanding of and acknowledge the obligations that the College has to its creditors to the extent such obligations are listed on Exhibit F of the Settlement Agreement, and the Bowyer Plaintiff Parties further warrant that they will ensure that the College's new directors are informed as to the general nature of such obligations that the College has to its creditors.

Having considered the joint motion, the representations to the Court, and noting the consent thereto of the Attorney General of Virginia, it is hereby:

ORDERED that the Settlement Agreement is approved; and it is further

ORDERED that, upon SSB's timely satisfaction of the Fund Transfer Obligation within seven (7) business days of the Effective Date as set forth in the Settlement Agreement: at least thirteen (13) current members of the College's Board of Directors (the "Board") will resign; eighteen (18) new directors nominated by the Bowyer Plaintiff Parties, Campbell Plaintiff Parties, and the Faculty Plaintiff Parties will be elected to the Board, and upon their election, those directors will constitute a majority of the Board; and College President James F. Jones, Jr. will resign; and it is further

ORDERED that the releases of claims set forth in Settlement Agreement are approved by the Court and hereby deemed released; and it is further

ORDERED that the College will indemnify and hold harmless the current and past directors and officers of the College as set forth in the Settlement Agreement; and it is further

ORDERED that the College will maintain insurance coverage for the current and past directors and officers of the College as set forth in the Settlement Agreement; and it is further