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Attorneys for Plaintiff KAREEM COLES

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

KAREEM COLES, an individual, on behalf of
himself, and on behalf of all persons similarly
situated,

Plaintiff,

v.

CAREFUSION RESOURCES, LLC, a
Delaware Limited Liability Company;
BECTON DICKINSON AND COMPANY, a
New Jersey Corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No. 37-2022-00048696-CU-OE-CTL

[Complaint Filed: December 2, 2022]

**STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS**

1 This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is
2 entered into by and between Plaintiff Kareem Coles (hereinafter “Plaintiff”), an individual, on behalf
3 of himself, and on behalf of all persons similarly situated, and in his representative capacity on behalf
4 of the State of California and the Aggrieved Employees (as that term is defined below), on one hand,
5 and Defendant CareFusion Resources, LLC (“CareFusion”) and Defendant Becton, Dickinson and
6 Company (“BD”)(together, “Defendants,” and with Plaintiff, the “Parties”), on the other hand:

7 **I. DEFINITIONS**

8 A. “Action” shall mean the putative class and PAGA representative action lawsuit
9 designated *Kareem Coles v. CareFusion Resources, LLC, et al.*, San Diego County Superior Court,
10 Case No. 37-2022-00048696-CU-OE-CTL, filed December 2, 2022, as amended.

11 B. “Agreement,” “Settlement Agreement,” or “Class and PAGA Settlement” means this
12 Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims.

13 C. “Aggrieved Employees” means all non-exempt employees who worked for
14 CareFusion in California and/or all non-exempt employees employed by BD who worked for
15 CareFusion in California, at any time during the PAGA Period.

16 D. “Aggrieved Employee Payment” shall mean an Aggrieved Employee’s pro rata share
17 of twenty-five percent (25%) of the PAGA Payment (\$21,250.00) that will be distributed to the
18 Aggrieved Employee based on the Aggrieved Employee’s PAGA Payment Ratio, as described in
19 this Agreement.

20 E. “Class” or the “Class Members” means all non-exempt employees who worked for
21 CareFusion in California and/or all non-exempt employees employed by BD who worked for
22 CareFusion in California, at any time during the Class Period.

23 F. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC, and
24 Shani O. Zakay, Esq. of Zakay Law Group, APLC.

25 G. “Class Counsel Award” means the award of fees and expenses that the Court
26 authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff, the Class
27 Members and the Aggrieved Employees in the Action, consisting of attorneys’ fees not to exceed
28 one-third of the Gross Settlement Amount currently estimated to be \$650,000.00 out of

1 \$1,950,000.00, plus costs of up to \$25,000.00. Payment for attorneys' fees will be divided between
2 Class Counsel in the following percentages: 50% to JCL Law Firm, APC, and 50% to Zakay Law
3 Group, APLC, subject to court approval. Payment for attorneys' expenses shall be made to the firm
4 or firms that incurred the expenses as demonstrated through declarations with supporting invoices
5 submitted to the court, in a total amount not to exceed \$25,000, and in accordance with the process
6 outlined in Paragraph 10.

7 H. "Class Data" means information regarding Class Members that Defendants will in
8 good faith compile from their records and provide to the Settlement Administrator. It shall be
9 formatted as a password-protected Microsoft Excel spreadsheet and shall include: each Class
10 Member's full name; last known address; employee ID number; Social Security Number; his or her
11 number of workweeks worked during the Class Period as a Class Member; and his or her number of
12 pay periods worked during the PAGA Period as an Aggrieved Employee (if applicable).

13 I. "Class Payment Ratio" means the respective Workweeks for each Settlement Class
14 Member divided by the total Workweeks for all Settlement Class Members.

15 J. "Class Period" means the period beginning October 2, 2020 through November 15,
16 2023, or the date of preliminary approval of the settlement, whichever occurs first.

17 K. "Class Representative" shall mean plaintiff Kareem Coles.

18 L. "Court" means the Superior Court for the State of California, County of San Diego
19 currently presiding over the Action.

20 M. "Defendants" shall mean CareFusion Resources, LLC and Becton, Dickinson and
21 Company.

22 N. "Effective Date" means the first date upon which all of the following events have
23 occurred:

24 1. the Court has held a final fairness and approval hearing and entered the final
25 order and Judgment approving the Settlement; and,

26 2. the later of: (a) the date sixty (60) days after notice of entry of the final
27 approval order and Judgment, if no motions for reconsideration and no appeals or other efforts to
28 obtain review have been filed; or (b) in the event that a motion for reconsideration, an appeal or other
effort to obtain review of the Final Order and Judgment has been filed, the date sixty (60) days after

1 such reconsideration, appeal or review has been finally concluded. In this regard, it is the intention
2 of the Parties that the Effective Date of Settlement shall not be a date before the Court's order
3 approving the Settlement has become completely final, and there is no timely recourse by any person
4 who seeks to object to or otherwise contest the Settlement.

5 O. "Funding Date" shall mean the date by which Defendants pay the Gross Settlement
6 Amount to the Settlement Administrator in accordance with the terms of this Agreement. Defendants
7 will pay the Gross Settlement Amount to the Settlement Administrator within twenty-one (21)
8 calendar days after the Effective Date.

9 P. "Gross Settlement Amount" means One Million, Nine Hundred Fifty Thousand
10 Dollars and Zero Cents (\$1,950,000.00), which sum is inclusive of Settlement Administration Costs,
11 Class Counsel Award, Service Award, and the PAGA Payment, as approved by the Court. The Gross
12 Settlement Amount is all-in with no reversion and exclusive of the employer's share of payroll tax,
13 if any, triggered by any payment under this Settlement, as calculated by the Settlement
14 Administrator. Under no condition will Defendants be required to pay more than the Gross
15 Settlement Amount, except as provided in Section III(A)(2) below. Any amounts not approved by
16 the Court shall be added to the Net Settlement Amount to be distributed to Settlement Class Members
17 and shall not be grounds to object to or terminate the Settlement.

18 Q. "Individual Settlement Payments" means the amount payable from the Net Settlement
19 Amount to each Settlement Class Member, as calculated by the Settlement Administrator, and
20 excludes any amounts distributed to Aggrieved Employees pursuant to PAGA.

21 R. "LWDA" shall mean the California Labor and Workforce Development Agency.

22 S. "LWDA Payment" shall mean the seventy-five percent (75%) of the PAGA Payment
23 (\$63,750.00) payable to the to the LWDA.

24 T. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less Class
25 Counsel Award, Service Award, PAGA Payment, and Settlement Administration Costs.

26 U. "Notice Packet" means the Settlement Notice to be provided to the Class Members
27 by the Settlement Administrator in substantially the same form set forth as Exhibit A to this
28

1 Agreement (other than formatting changes to facilitate printing by the Settlement Administrator), as
2 approved by the Court.

3 V. “Operative Complaint” shall mean the First Amended Complaint filed by Plaintiff in
4 the Action.

5 W. “PAGA” means the California Labor Code Private Attorneys General Act of 2004,
6 Labor Code § 2698 et seq.

7 X. “PAGA Payment Ratio” means the respective Pay Periods during the PAGA Period
8 for each Aggrieved Employee divided by the total Pay Periods for all Aggrieved Employees during
9 the PAGA Period.

10 Y. “PAGA Pay Periods,” for purposes of calculating the distribution of the Aggrieved
11 Employee Payment, as defined herein, means the number of pay periods of employment during the
12 PAGA Period that each Aggrieved Employee worked in California.

13 Z. “PAGA Period” means the period beginning September 16, 2021 through November
14 15, 2023 or the date of preliminary approval of the Settlement, whichever occurs first.

15 AA. “PAGA Payment” shall mean Eighty-Five Thousand Dollars and Zero Cents
16 (\$85,000.00) to be allocated from the Gross Settlement Amount for settlement of PAGA Claims
17 asserted in the Action, as approved by the Court.

18 BB. “Parties” means Plaintiff and Defendants, collectively, and “Party” shall mean either
19 Plaintiff or Defendants, individually.

20 CC. “Plaintiff” shall mean Kareem Coles.

21 DD. Qualified Settlement Fund or “QSF” means the account established, designated, and
22 maintained under Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1
23 by the Settlement Administrator to fund the Gross Settlement Amount.

24 EE. “Released Class Claims” shall mean all the claims asserted or that could have been
25 alleged arising out of the facts, circumstances, and primary rights at issue in the operative complaints
26 and any amendments thereto which occurred during the Class Period; and, expressly excluding
27 claims for vested benefits, wrongful termination, unemployment insurance, disability, social
28 security, workers’ compensation, and class claims outside of the Class Period.

1 FF. "Released PAGA Claims" shall mean the release by the Aggrieved Employees of all
2 claims for PAGA penalties asserted or that could have been asserted arising out of the facts alleged
3 in the operative complaints and any amendments thereto, and Plaintiff's letter to the LWDA, which
4 occurred during the PAGA Period.

5 GG. "Released Parties" shall mean Defendants and their attorneys, insurers, brands,
6 concepts, parents, affiliates, subsidiaries, successors, assigns, and any individual or entity that could
7 be jointly liable with Defendants.

8 HH. "Response Deadline" means the date forty-five (45) calendar days after the Settlement
9 Administrator mails Notice Packets to Class Members and the last date on which Class Members
10 may submit requests for exclusion or objections to the Settlement. Neither side shall encourage any
11 Class Member to opt out.

12 II. "Service Award" means an award in the amount of up to \$7,500 or in an amount that
13 the Court authorizes to be paid to the Class Representative, in addition to his Individual Settlement
14 Payment and his individual Aggrieved Employee Payment, in recognition of his efforts and risks in
15 assisting with the prosecution of the Action.

16 JJ. "Settlement" means the disposition of the Action pursuant to this Agreement.

17 KK. "Settlement Administration Costs" shall mean the amount paid to the Settlement
18 Administrator from the Gross Settlement Amount for administering the Settlement pursuant to this
19 Agreement currently estimated not to exceed \$17,000.00.

20 LL. "Settlement Administrator" means Apex Class Action LLC, located at 20371 Irvine
21 Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700. The Settlement Administrator shall
22 establish, designate, and maintain, a non-interest bearing QSF under Internal Revenue Code section
23 468B and Treasury Regulation section 1.468B-1, into which the Gross Settlement Amount will be
24 deposited. The Settlement Administrator shall maintain the funds until distribution in an account(s)
25 segregated from the assets of Defendants and any person related to Defendants.

26 MM. "Settlement Class Members" or "Settlement Class" means all Class Members who
27 have not submitted a timely and valid request for exclusion as provided in this Agreement and
28 determined by the Settlement Administrator.

1 NN. "Workweeks" means the number of weeks each Class Member actually worked for
2 compensation as a Class Member during the Class Period, taking into account leaves of absence and
3 gaps in employment.

4 **II. RECITALS**

5 A. On September 16, 2022, Plaintiff filed a Class Action complaint in the San Diego
6 Superior Court, Case No. 37-2022-00037343-CU-OE-CTL ("Class Action").

7 B. On September 16, 2022, Plaintiff filed a Notice of Violations with the Labor and
8 Workforce Development Agency (LWDA) and served the same on Defendants.

9 C. On November 9, 2023, Defendants removed the Class Action from San Diego County
10 Superior Court to the Southern District of California, Case No. 22CV1762.

11 D. On December 2, 2022, Plaintiff filed a separate representative action in San Diego
12 Superior Court, Case No. 37-2022-00048696-CU-OE-CTL, for a single cause of action for violations
13 of PAGA (the "Action").

14 E. The Class Representative believes he has claims based on alleged violations of the
15 California Labor Code, and the Industrial Welfare Commission Wage Orders, and that class
16 certification is appropriate because the prerequisites for class certification can be satisfied in the
17 Action, and this action is manageable as a PAGA representative action.

18 F. Defendants deny any liability or wrongdoing of any kind associated with the claims
19 alleged in the Action, dispute any wages, damages and penalties claimed by the Class Representative,
20 alleged in the Operative Complaint, and/or alleged in the Class Representative's PAGA notices to
21 the LWDA are owed, and further contend that, for any purpose other than settlement, the Action is
22 not appropriate for class or representative action treatment. Defendants contend, among other things,
23 that at all times they complied with the California Labor Code, Industrial Welfare Commission Wage
24 Orders, and applicable law.

25 G. The Class Representative is represented by Class Counsel. Class Counsel investigated
26 the facts relevant to the Action, including conducting an independent investigation as to the
27 allegations, reviewing documents and information exchanged through informal discovery, and
28 reviewing documents and information provided by Defendants pursuant to informal requests for

1 information to prepare for mediation. Defendants produced for the purpose of settlement
2 negotiations certain employment data concerning the Class, which Class Counsel reviewed and
3 analyzed with the assistance of an expert. Based on their own independent investigation and
4 evaluation, Class Counsel are of the opinion that the Settlement with Defendants is fair, reasonable,
5 and adequate, and is in the best interest of the Class considering all known facts and circumstances,
6 including the risks of significant delay, defenses asserted by Defendants, uncertainties regarding
7 class certification, and numerous potential appellate issues. Although it denies any liability,
8 Defendants agrees to this Settlement solely to avoid the inconveniences and cost of further litigation.
9 The Parties and their counsel have agreed to settle the claims on the terms set forth in this Agreement.

10 H. On June 15, 2023, the Parties participated in mediation presided over by Louis Marlin,
11 Esq., an experienced mediator of wage and hour class and PAGA actions. The Parties accepted a
12 Mediator's settlement proposal, which was subsequently memorialized in the form of a
13 Memorandum of Understanding.

14 I. As a result of the settlement, the Parties stipulated to the filing of a First Amended
15 Complaint in the Action that consolidates the class and PAGA claims in the Action and includes
16 claims raised, negotiated, and settled at mediation, including claims under Labor Code 226 based on
17 allegedly incorrect legal employer name and/or address on wage statements. The Parties also
18 stipulated to dismiss without prejudice the Class Action.

19 J. This Agreement replaces and supersedes the Memorandum of Understanding and any
20 other agreements, understandings, or representations between the Parties. This Agreement
21 represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is
22 intended or will be construed as an admission by Defendants that the claims in the Action of Plaintiff
23 or the Class Members have merit or that Defendants bear any liability to Plaintiff or the Class on
24 those claims or any other claims, or as an admission by Plaintiff that Defendants' defenses in the
25 Action have merit.

26 K. The Parties believe that the Settlement is fair, reasonable, and adequate. The
27 Settlement was arrived at through arm's-length negotiations, considering all relevant factors. The
28 Parties recognize the uncertainty, risk, expense, and delay attendant to continuing the Action through

trial and any appeal. Accordingly, the Parties desire to settle, compromise and discharge all disputes and claims arising from or relating to the Action fully, finally, and forever.

L. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the Settlement does not become effective, Defendants reserve the right to contest certification of any class for any reason and reserve all available defenses to the claims in the Action. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on and will not be admissible in connection with any litigation.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. TERMS OF AGREEMENT

A. Settlement Consideration and Settlement Payments by Defendants.

1. Settlement Consideration. In full and complete settlement of the Action, and in exchange for the releases set forth below, Defendants will pay the Gross Settlement Amount. Other than Defendants' share of employer payroll taxes and as provided in Section III.A.2 below, as determined be the Settlement Administrator, Defendants shall not be required to pay more than the Gross Settlement Amount.

2. Class Size. Defendants represent that, at the time of mediation, the Class was comprised of approximately 1,609 individuals who collectively worked approximately 181,114 Workweeks during the Class Period. In regard hereto, Defendants will provide a declaration under penalty of perjury confirming these numbers within three (3) business days prior to Plaintiff filing the Motion for Preliminary Approval. If the total number of Workweeks exceeds 181,114 by more than 10% (i.e., if the number of Workweeks exceeds 199,226), Defendants' Counsel shall notify Class Counsel that Defendants will, at Defendants' sole discretion, either (i) increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of Workweeks worked by the Class members above ten percent (10%) (e.g., if the number of workweeks is 12 percent greater than 181,114, the Gross Settlement Amount will increase by an additional two percent), or (ii) limit /shorten the Class Period to a time period for which the total number of Workweeks does not exceed 181,114 workweeks, as determined by the Settlement Administrator.

1 3. Settlement Payment. Defendants shall deposit the Gross Settlement Amount
2 into a non-interest bearing QSF, through the Settlement Administrator on or before the Funding Date.


3 4. Defendants' Share of Payroll Taxes. Defendants' share of employer-side
4 payroll taxes shall be calculated by the Settlement Administrator and paid into the QSF in addition
5 to the Gross Settlement Amount on the Funding Date.

6 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
7 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members release the
8 Released Parties from the Released Class Claims for the Class Period.

9 C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
10 consideration set forth in this Agreement, the Plaintiff, Aggrieved Employees, LWDA, and the State
11 of California release the Released Parties from the Released PAGA Claims for the PAGA Period.
12 As a result of this release, the Aggrieved Employees shall be precluded from bringing claims against
13 Defendants for the Released PAGA Claims.

14 D. Additional General Release and Waiver of Claims by Plaintiff.

15 1. In addition to the releases set forth above, Plaintiff, in his individual
16 capacity, agrees to release the Released Parties from any and all claims, known and unknown, under
17 federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law,
18 arising as of the date of execution of this Agreement, including but not limited to claims arising from
19 or related to his employment with Defendant, separation of employment from Defendant, and any
20 acts that have or could have been asserted in any legal action or proceeding against Defendant,
21 whether known or unknown, arising under any federal, state or local law or statute, including, inter
22 alia, those arising under the California Labor Code, Fair Labor Standards Act, Americans with
23 Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income Security
24 Act, National Labor Relations Act, California Corporations Code, California Business and
25 Professions Code, California Fair Employment and Housing Act, California Constitution (all as
26 amended), and law of contract and tort, as well as for discrimination, harassment, retaliation,
27 wrongful termination, lost wages, benefits, other employment compensation, emotional distress,
28

1 medical expenses, other economic and non-economic damages, attorney fees, and costs (collectively,
2 “Plaintiff’s Released Claims”). 

3 2. This release is intended to cover any claims not covered by the separate
4 release in Plaintiff’s Individual Settlement Agreement executed contemporaneously herewith.
5 Plaintiff executes this release with the full knowledge that the release covers all possible claims
6 against the Released Parties, to the fullest extent permitted by law, except claims based on an alleged
7 breach of this Agreement and except claims that are identified in the separate Individual Settlement
8 Agreement and Release and, for those such claims, the Individual Settlement Agreement and Release
9 releases them.

10 3. Notwithstanding the foregoing, the Parties expressly agree and
11 acknowledge that nothing in this Agreement releases or waives any rights or claims the Parties may
12 have with respect to any claims for workers’ compensation or to other rights and claims that cannot
13 be waived as a matter of law or public policy.

14 4. Even if Plaintiff discovers facts in addition to or different from those
15 that he now knows or believes to be true with respect to the subject matter of Plaintiff’s Released
16 Claims, those claims will remain released and forever barred. To effect a full and complete general
17 release as described above, Plaintiff expressly waives and relinquishes all rights and benefits of
18 section 1542 of the Civil Code of the State of California, and does so understanding and
19 acknowledging the significance and consequence of specifically waiving section 1542. Section 1542
20 of the Civil Code of the State of California states as follows:

21 **A general release does not extend to claims that the creditor or releasing**
22 **party does not know or suspect to exist in his or her favor at the time of**
23 **executing the release and that, if known by him or her, would have materially**
24 **affected his or her settlement with the debtor or released party.**

25 5. Thus, notwithstanding the provisions of section 1542, and to implement
26 a full and complete release and discharge of the Released Parties, Plaintiff expressly acknowledges
27 this Settlement is intended to include in its effect, without limitation, all claims Plaintiff does not
28 know or suspect to exist in Plaintiff’s favor at the time of signing this Settlement, and that this

1 Settlement contemplates the extinguishment of any such claims. Plaintiff warrants that he has read
2 this Settlement, including this waiver of California Civil Code section 1542, and that Plaintiff has
3 consulted with or had the opportunity to consult with counsel of Plaintiff's choosing about this
4 Settlement and specifically about the waiver of section 1542, and that Plaintiff understands this
5 Settlement and the section 1542 waiver, and so Plaintiff freely and knowingly enters into this
6 Settlement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or in
7 addition to those Plaintiff now knows or believes to be true regarding the matters released or
8 described in this Settlement, and even so Plaintiff agrees that the releases and agreements contained
9 in this Settlement shall remain effective in all respects notwithstanding any later discovery of any
10 different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection
11 with the true facts involved in the matters, disputes, or controversies released or described in this
12 Settlement or with regard to any facts now unknown to Plaintiff relating thereto. Plaintiff further
13 acknowledges this waiver of the provisions of section 1542 was separately bargained for and is an
14 essential and material term of this Agreement.

15 E. Nullification of Settlement Agreement. In the event: (i) the Court does not grant
16 preliminary or final approve this Settlement Agreement; (ii) the Court does not enter a final order
17 and Judgment approving the Settlement; (iii) the Settlement does not become final or Effective; (iv)
18 Defendants are in any way prevented or prohibited from obtaining a complete resolution of the
19 Released Class Claims and Released PAGA Claims, or (v) if Defendants fail to fully fund the Gross
20 Settlement Amount:

21 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
22 and shall not be relied upon for any negotiations and/or admissible in any judicial, administrative, or
23 arbitral proceeding for any purpose or with respect to any issue, substantive or procedural;

24 2. The conditional class certification (obtained for any purpose) shall be void *ab*
25 *initio* and of no force or effect, and shall not be relied upon for any negotiations and/or admissible in
26 any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue,
27 substantive or procedural; and
28

1 3. None of the Parties to this Settlement will be deemed to have waived any
2 claims, objections, defenses, or arguments in the Action, including with respect to the issue of class
3 certification.

4 4. In the event that Defendants fail to fund the Gross Settlement Amount,
5 Defendants shall bear the sole responsibility for any cost to issue or reissue any curative notice to the
6 Settlement Class Members and all Settlement Administration Costs incurred to the date of
7 nullification.

8 F. Certification of the Class. The Parties stipulate to conditional class certification of
9 the Class for the Class Period for purposes of settlement only. In the event that this Settlement is not
10 approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court,
11 or in any way prevents or prohibits Defendants from obtaining a complete resolution of the Released
12 Class Claims and Released PAGA Claims, the conditional class certification (obtained for any
13 purpose) shall be void *ab initio* and of no force or effect, and shall not be relied upon for any
14 negotiations and/or admissible in any judicial, administrative or arbitral proceeding for any purpose
15 or with respect to any issue, substantive or procedural.

16 G. Tax Liability. The Parties make no representations as to the tax treatment or legal
17 effect of the payments called for, and Class Members and/or Aggrieved Employees are not relying
18 on any statement or representation by the Parties in this regard. Class Members and/or Aggrieved
19 Employees understand and agree that they will be responsible for the payment of any taxes and
20 penalties assessed on the Individual Settlement Payments and/or Aggrieved Employees' individual
21 shares of the Aggrieved Employee Payment described and will be solely responsible for any penalties
22 or other obligations resulting from their personal tax reporting of Individual Settlement Payments
23 and/or Aggrieved Employees' individual shares of the Aggrieved Employee Payment.

24 H. No Tax Advice. Neither Class Counsel nor Defendants' Counsel intend anything
25 contained in this Settlement to constitute advice regarding taxes or taxability, nor shall anything in
26 this Settlement be relied upon as such within the meaning of United States Treasury Department
27 Circular 230 (31 CFR Part 10, as amended) or otherwise. Plaintiff, Class Members, and Aggrieved
28 Employees understand and agree that except for Defendants' payment of the employer's portion of

any payroll taxes, they will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein.

I. Preliminary Approval Motion. As soon thereafter as practicable after the execution of this Agreement, Plaintiff shall file with the Court a Motion for Order Granting Preliminary Approval and supporting papers, which shall include this Settlement Agreement. Plaintiff will provide Defendants with a draft of the Motion at least five (5) business days prior to the filing of the Motion to give Defendants an opportunity to review and comment upon the Motion.

J. Settlement Administrator. The Settlement Administrator shall be responsible for: establishing and administering the QSF; establishing, hosting and maintaining a dedicated webpage throughout the administration process with links to pertinent documents, i.e., notice and related forms, and updates on settlement; calculating, processing and mailing payments to the Class Representative, Class Counsel, LWDA and Class Members; formatting, printing and mailing the Notice Packets to the Class Members as directed by the Court; conducting a National Change of Address search to update Class Member addresses before mailing the Notice Packets; receiving and reviewing for validity all objections and requests for exclusion; calculating workweeks, Individual Settlement Payments and Aggrieved Employee Payments, and resolving workweek disputes; re-mailing Notice Packets that are returned to the Class Member's new address; setting up, printing, and mailing reminder post cards, as needed; setting up a toll-free telephone number to receive calls from Class Members; issuing checks to effectuate the payments due under this Settlement; calculating, deducting and remitting all legally required taxes from Individual Settlement Payments and Aggrieved Employee Payments and distributing tax forms for the Wage Portion, the Penalties Portion and the Interest Portion of the Individual Settlement Payments and/or Aggrieved Employee Payment; processing and mailing tax payments to the appropriate state and federal taxing authorities and providing documentation of same to Defendants; providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; and other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities by among other things, sending a weekly status report to the Parties' counsel stating

the date of the mailing, the number of opt outs from the Settlement it receives (including the numbers of valid and deficient), and number of objections received. The Settlement Administrator will have the authority to resolve all disputes concerning the calculation of Individual Settlement Payments and Aggrieved Employee Payments, subject to the dollar limitations and calculations set forth in this Agreement. The Settlement Administration Expenses, including without limitation the cost of printing and mailing the Notice Packet, will be paid out of the Gross Settlement Amount.

K. Notice Procedure.

1. Class Data. No later than ten (10) business days after notice of entry of the Court's order granting preliminary approval of this Settlement, Defendants shall provide the Settlement Administrator with the Class Data for purposes of preparing and mailing Notice Packets to the Class Members.

2. Notice Packets. The Notice Packet shall contain the Notice of Pendency of Class and PAGA Representative Action Settlement and Final Hearing Date in a form substantially similar to the form attached as **Exhibit A**. The Notice Packet shall inform Class Members and Aggrieved Employees that they need not do anything in order to receive an Individual Settlement Payment and/or an Aggrieved Employee Payment and of their obligation to keep the Settlement Administrator apprised of their current mailing address, to which the Individual Settlement Payments and/or Aggrieved Employee Payment will be mailed following the Funding Date. The Notice Packet shall set forth the release to be given by all members of the Class who do not request to be excluded from the Settlement Class and the release to be given by Aggrieved Employees regardless of whether they exclude themselves from the Class, in exchange for their Individual Settlement Payment and Aggrieved Employee Payment, respectively; the number of Workweeks worked by each Class Member during the Class Period; and the number of PAGA Periods worked by each Aggrieved Employee during the PAGA Period, if any; and the estimated amount of their Individual Settlement Payment if they do not request to be excluded from the Settlement and the estimated amount of their Aggrieved Employee Payment, if any. The Settlement Administrator shall use the Class Data to determine Class Members' Workweeks and PAGA Pay Periods. The Notice Packet will also advise

the Aggrieved Employees that they will release the Released PAGA Claims and will receive their Aggrieved Employee Payment regardless of whether they request to be excluded from the Class.

3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. No later than fourteen (14) calendar days after receipt of the Class Data, the Settlement Administrator shall mail copies of the Notice Packet to all Class Members via regular First-Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member.

4. Undeliverable Notices. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to any forwarding address provided within seven (7) days of receiving the returned notice. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address by lawful use of skip-tracing, or other search using the name, address and/or Social Security number of the Class Member involved, and shall then perform a re-mailing, if another mailing address is identified by the Settlement Administrator. In addition, if the Notice Packet sent to any Class Member who is currently employed by Defendants is returned to the Settlement Administrator as non-delivered and no forwarding address is provided, the Settlement Administrator shall notify Defendants. Defendants will request that the currently employed Class Member provide a corrected address and transmit to the Settlement Administrator any corrected address provided by the Class Member. Class Members who received a re-mailed Notice Packet shall have their Response Deadline extended ten (10) days from the original Response Deadline. If these procedures are followed, notice to Class Members shall be deemed to have been fully satisfied, and if the intended recipient of the Notice Packet does not receive the Notice Packet, the intended recipient shall nevertheless remain a Class Member and Aggrieved Employee (if applicable) and shall be bound by all terms of the Settlement and the final order and Judgment.

1 L. Disputes Regarding Individual Settlement Payments. Class Members will have the
2 opportunity to dispute the number of Workweeks listed on his/her Notice Packet (“Workweek
3 Dispute”). Any such dispute must be mailed to the Settlement Administrator by the Response
4 Deadline. The date of the postmark on the mailing envelope will be the exclusive means to determine
5 whether a Workweek Dispute has been timely submitted. A valid Workweek Dispute must be in
6 writing and should contain: (i) the Class Member’s full name, signature, address, telephone number,
7 and the last four digits of his or her Social Security number; (ii) the number of Workweeks the Class
8 Member contends is correct; and (iii) any evidence supporting his or her contention. The information
9 identified by Defendants in the Class Data will be presumed to be correct, unless a particular Class
10 Member proves otherwise to the Settlement Administrator by credible evidence. All Workweek
11 Disputes will be resolved and decided by the Settlement Administrator and the Settlement
12 Administrator’s decision on all Workweek Disputes will be final and non-appealable.

13 M. Disputes Regarding Administration of Settlement. Any disputes not resolved by the
14 Settlement Administrator concerning the administration of the Settlement will be resolved by the
15 Court under the laws of the State of California. Before any such involvement of the Court, counsel
16 for the Parties will confer in good faith to resolve the disputes without the necessity of involving the
17 Court.

18 N. Exclusions. The Notice Packet shall state that Class Members who wish to exclude
19 themselves from the Settlement must submit a written request (“Request for Exclusion”) to the
20 Settlement Administrator by the Response Deadline. To be valid, the Request for Exclusion must be
21 in writing and must: (i) be signed by the Class Member; (ii) contain the name, address, telephone
22 number, and the last four digits of the Social Security number of the Class Member requesting
23 exclusion; (iii) clearly state the Class Member does not wish to be included in the Settlement; (iv) be
24 returned via mail to the Settlement Administrator as specified in the Notice Packet; and (v) be
25 postmarked on or before the Response Deadline. The date of the postmark on the return mailing
26 envelope will be the exclusive means to determine whether a Request for Exclusion has been timely
27 submitted. Any Class Member who submits a valid Request for Exclusion shall be excluded from
28 the Settlement Class and will not be entitled to an Individual Settlement Payment and will not be

otherwise bound by the terms of the Settlement or have any right to object, appeal, or comment thereon. However, any Class Member that submits a valid Request for Exclusion that is also an Aggrieved Employee will still receive his/her Aggrieved Employee Payment, and in consideration, will be bound by the Release by the PAGA Class as set forth herein. Class Members who fail to submit a valid Request for Exclusion shall be bound by all terms of the Settlement and any final judgment entered in this Action if the Court approves the Settlement. No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a final list of the Class Members who have submitted valid Requests for Exclusion. Defendants retain the right, in the exercise of its sole discretion, to nullify the settlement within twenty-one (21) days after expiration of the exclusion period, if ten percent (10%) or more of Class Members exclude themselves from the Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the Class to submit Requests for Exclusion from the Settlement.

O. Objections.

1. The Notice Packet shall state that Class Members who wish to object to the Settlement may submit to the Settlement Administrator a written statement of objection (“Notice of Objection”) by the Response Deadline. The postmark date of mailing shall be deemed the exclusive means for determining that a Notice of Objection was served timely. The Notice of Objection, if in writing, must be signed by the Settlement Class Member and state: (1) the case name and number; (2) the name of the Settlement Class Member; (3) the address of the Settlement Class Member; (4) the last four digits of the Settlement Class Member’s Social Security number; (5) the basis for the objection; and (6) if the Settlement Class Member intends to appear at the Final Approval/Settlement Fairness Hearing. Settlement Class Members who fail to make objections in writing in the manner specified above may still make their objections orally at the Final Approval/Settlement Fairness Hearing with the Court’s permission. Settlement Class Members will have a right to appear at the Final Approval/Settlement Fairness Hearing to have their objections heard by the Court regardless of whether they submitted a written objection. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to file or serve written objections to the Settlement or appeal from the Order and Final Judgment. Class Members who submit a written

Request for Exclusion may not object to the Settlement. Class Members may not object to the PAGA Payment.

2. A Class Member who does not submit a valid Request for Exclusion and who objects to the Settlement will still be considered a Settlement Class Member. If any Class Member submits a valid Request for Exclusion and also submits an objection to the Settlement or otherwise objects at the Final Approval/Settlement Fairness Hearing, the objection shall nullify the Request for Exclusion and the Class Member will be deemed a Settlement Class Member. In the event of a dispute regarding the validity of any objection to the Settlement, Class Counsel and Defendants' Counsel shall meet and confer in an attempt to reach agreement and, if they are unable to do so, the issue shall be submitted to the Court for determination on an expedited basis, through the submission of letter briefs of no more than five pages.

P. Allocation of the Gross Settlement Amount.

1. Calculation of Individual Settlement Payments. Individual Settlement Payments shall be paid from the Net Settlement Amount and shall be paid pursuant to the formula set forth herein. Using the Class Data, the Settlement Administrator shall add up the total number of Workweeks for all Class Members. The respective Workweeks for each Class Member will be divided by the total Workweeks for all Class Members, resulting in the Class Payment Ratio for each Class Member. Each Class Member's Class Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Class Member's estimated Individual Settlement Payments. Each Individual Settlement Payment will be reduced by any legally mandated employee tax withholdings (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class Members who submit valid and timely requests for exclusion will be redistributed to Settlement Class Members who do not submit valid and timely requests for exclusion on a pro rata basis based on their respective Class Payment Ratios.

2. Calculation of Aggrieved Employee Payments. Using the Class Data, the Settlement Administrator shall add up the total number of PAGA Pay Periods for all Aggrieved Employees during the PAGA Period. The respective PAGA Pay Periods for each Aggrieved Employees will be divided by the total PAGA Pay Periods for all Aggrieved Employees, resulting

in the “PAGA Payment Ratio” for each Aggrieved Employee. Each Aggrieved Employee’s PAGA Payment Ratio will then be multiplied by \$21,250 (i.e., 25% of the PAGA Payment that is to be allocated to Aggrieved Employees pursuant to PAGA), to calculate the individual’s Aggrieved Employee Payment.

3. Allocation of Individual Settlement Payments. For tax purposes, Individual Settlement Payments shall be allocated and treated as 10% wages (“Wage Portion”), 45% penalties (“Penalties Portion”), and 45% pre-judgment interest (“Interest Portion”). The Wage Portion of the Individual Settlement Payments shall be reported on IRS Form W-2 and the Penalty Portion and Interest Portion of the Individual Settlement Payments shall be reported on IRS Form 1099 issued by the Settlement Agreement.

4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved Employee Payments shall be allocated and treated as 100% penalties and shall be reported on IRS Form 1099.

5. No Credit Toward Benefit Plans. The Individual Settlement Payments and Aggrieved Employee Payments, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties’ intention that this Settlement Agreement will neither confer any rights, contributions, or amounts under any benefit plans nor affect any such rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

6. No Additional Compensation or Benefits. All monies received by Settlement Class Members under the Settlement which are attributable to wages shall constitute income to such Settlement Class Members solely in the year in which such monies are received by the Settlement Class Members. It is the intent of the Parties that Individual Settlement Payments and Aggrieved Employee Payments are the sole payments to be made by Defendants to Settlement Class Members and/or Aggrieved Employees in connection with this Settlement Agreement, with the exception of Plaintiff’s Service Award, and that the Settlement Class Members and/or Aggrieved Employees are not entitled

to any new or additional compensation or benefits as a result of having received the Individual Settlement Payments and/or their shares of the Aggrieved Employee Payment.

7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments shall be mailed by regular First-Class U.S. Mail to Settlement Class Members' and/or Aggrieved Employees' last known mailing address no later than fifteen (15) business days after the Funding Date. The Settlement Administrator may, in its discretion, distribute Individual Settlement Payments and Aggrieved Employee Payments by way of a single check that combines both payments.

8. Expiration. Any checks issued to Settlement Class Members and Aggrieved Employees shall remain valid and negotiable for one hundred and eighty (180) days from the date of their issuance. If a Settlement Class Member and/or Aggrieved Employees does not cash his or her settlement check within ninety (90) days, the Settlement Administrator will send a letter to such persons, advising that the check will expire after the 180th day, and invite that Settlement Class Member and/or Aggrieved Employees to request reissuance in the event the check was destroyed, lost, or misplaced. In the event an Individual Settlement Payment and/or Aggrieved Employees' individual share of the PAGA Payment check has not been cashed within one hundred and eighty (180) days, all funds represented by such uncashed checks, plus any interest accrued thereon, shall be transmitted to the State Controller's Unclaimed Property Fund in the name of the Class Member who did not claim the funds.

9. Service Award. In addition to the Individual Settlement Payment as a Settlement Class Member and his Aggrieved Employee Payment, Plaintiff will apply to the Court for an award of not more than \$7,500.00, as the Service Award. Defendants will not oppose a Service Award of not more than \$7,500.00 for Plaintiff. The Settlement Administrator shall pay the Service Award, either in the amount stated herein if approved by the Court or some other amount as approved by the Court, to Plaintiff from the Gross Settlement Amount no later than fifteen (15) calendar days after the Funding Date. Any portion of the requested Service Award that is not awarded to the Class Representative shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Plaintiff for his Service Award. Plaintiff shall be solely and legally

1 responsible to pay any and all applicable taxes on his Service Award and shall hold harmless the
2 Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of the
3 Service Award. Approval of this Settlement shall not be conditioned on Court approval of the
4 requested amount of the Service Award. If the Court reduces or does not approve the requested
5 Service Award, Plaintiff shall not have the right to object to or revoke the Settlement, and it will
6 remain binding. To receive the Service Award, Plaintiff agrees to a California Civil Code section
7 1542 waiver and general release of all claims as set forth below.

8 10. Class Counsel Award. Defendants understand, and will not oppose, a motion
9 for Attorneys' Fees not to exceed one-third of the Gross Settlement Amount, currently estimated to
10 be Six Hundred Fifty Thousand Dollars and Zero Cents (\$650,000.00), and Attorneys' Expenses
11 supported by declaration not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00).
12 Any awarded Class Counsel Award shall be paid from the Gross Settlement Amount. Any portion
13 of the requested Attorneys' Fees and/or Attorneys' Expenses that are not awarded to Class Counsel
14 shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as
15 provided in this Agreement. The Settlement Administrator shall allocate and pay the Class Counsel
16 Award to Class Counsel from the Gross Settlement Amount no later than fifteen (15) calendar days
17 after the Funding Date. Class Counsel shall be solely and legally responsible to pay all applicable
18 taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an
19 IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to this paragraph. If the
20 Court reduces or does not approve the requested Class Counsel Award, Plaintiff and Class Counsel
21 shall not have the right to object to or revoke the Settlement, or to appeal such order, and the
22 Settlement will remain binding.

23 11. PAGA Payment. Eighty-Five Thousand Dollars and Zero Cents (\$85,000.00)
24 shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under
25 the Private Attorneys General Act of 2004 ("PAGA Payment"). The Settlement Administrator shall
26 pay seventy-five percent (75%) of the PAGA Payment (\$63,750) to the California Labor and
27 Workforce Development Agency no later than fifteen (15) calendar days after the Effective Date
28 (hereinafter "LWDA Payment"). Twenty-five percent (25%) of the PAGA Payment (\$21,250) will

1 be distributed to the Aggrieved Employees as described in this Agreement. For purposes of
2 distributing the PAGA Payment to the Aggrieved Employees, each Aggrieved Employee shall
3 receive their pro-rata share using the PAGA Payment Ratio as defined above. If the Court approves
4 a PAGA Payment of less than \$85,000, the difference between \$85,000 and the amount approved
5 will be retained in the Net Settlement Amount for distribution to Settlement Class Members. If the
6 Court requires a larger PAGA Payment than \$85,000, then such additional sum will come out of the
7 Net Settlement Amount and will not be grounds to object to or revoke the Settlement, or to appeal
8 such order, and the Settlement will remain binding.

9 12. Settlement Administration Costs. The Settlement Administrator shall be paid
10 for the costs of administration of the Settlement from the Gross Settlement Amount, as documented
11 and approved by the Court. The estimate of the Settlement Administration Costs is \$17,000.00. The
12 Settlement Administrator shall be paid the Settlement Administration Costs no later than fifteen (15)
13 calendar days after the Effective Date. To the extent the Settlement Administration Costs that are
14 documented and approved by the Court are less than \$17,000, the remainder will be retained in the
15 Net Settlement Amount for distribution to Settlement Class Members. To the extent Settlement
16 Administration Costs documented and approved by the Court are more than \$17,000, the additional
17 sum will come out of the Net Settlement Amount and will not be grounds to object to or revoke the
18 Settlement, or to appeal such order, and the Settlement will remain binding.

19 Q. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to obtain a
20 hearing date for final approval when the Court grants preliminary approval of the Settlement, and
21 will comply with the Court's requirements on timely filing a motion for final approval ("Final
22 Approval Motion"). Unless otherwise ordered by the Court, the Final Approval Motion will seek
23 determination and approval of the amounts payable for the Service Award, the Class Counsel Award,
24 the PAGA Payment, and the Settlement Administration Costs, and provide supporting document and
25 declarations as necessary. Plaintiff will provide Defendants with a draft of the Final Approval Motion
26 at least three (3) business days prior to filing it to give Defendants an opportunity to propose changes
27 or additions to the Motion.
28

1 1. Declaration by Settlement Administrator. No later than seven (7) days after
2 the Response Deadline, the Settlement Administrator shall submit a declaration in support of
3 Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed
4 and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely
5 requests for exclusion, the employee number of any Class Members who opt out of the Settlement,
6 the number of objections received, the amount of the average, lowest, and highest Individual
7 Settlement Payments, the amount of the average, lowest, and highest Aggrieved Employee
8 Payments, the Settlement Administration Costs, and any other information as the Parties mutually
9 agree or the Court orders the Settlement Administrator to provide.

10 2. Final Approval Order and Judgment. Class Counsel shall present an Order
11 Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment
12 thereon, at the time Class Counsel files the Motion for Final Approval.

13 R. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
14 an opportunity for Counsel for Defendants to review the Motions for Preliminary and Final Approval,
15 including the Order Granting Final Approval of Class Action Settlement, and Judgment at least three
16 (3) business days in advance of filing with the Court. The Parties and their counsel will cooperate
17 with each other and use their best efforts to affect the Court's approval of the Motions for Preliminary
18 and Final Approval of the Settlement, and entry of Judgment.

19 S. Cooperation. The Parties and their counsel will cooperate with each other and use
20 their best efforts to implement the Settlement.

21 T. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
22 except such proceedings necessary to implement and complete the Settlement, pending the Final
23 Approval/Settlement Fairness Hearing to be conducted by the Court.

24 U. Amendment or Modification. This Agreement may be amended or modified only by
25 a written instrument signed by counsel for all Parties or their successors-in-interest.

26 V. Plaintiff's Individual Claims. In addition to this Agreement and the claims he is
27 releasing hereby, Plaintiff is entering into a separate Individual Settlement Agreement, which shall
28 provide for a separate individual payment, and which shall provide for an additional broad release,

1 including a waiver of Civil Code Section 1542. That release, waiver and discharge of all claims shall
2 include, but will not be limited to, any and all claims not covered by the releases herein, as well as
3 additional claims described in the individual settlement agreement, which are separate and different
4 from the claims alleged in the Action. The Parties acknowledge such approval of this Agreement
5 may require disclosure of the Individual Settlement, and consent to same for that limited purpose.

6 W. Entire Agreement. Except with respect to Plaintiff's Individual Settlement
7 Agreement, described in paragraph "V" immediately above, this Agreement and any attached Exhibit
8 constitute the entire Agreement among these Parties, and no oral or written representations,
9 warranties or inducements have been made to any Party concerning this Agreement or its Exhibit
10 other than the representations, warranties and covenants contained and memorialized in this
11 Agreement and its Exhibit.

12 X. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant
13 and represent they are expressly authorized by the Parties whom they represent to negotiate this
14 Agreement and to take all appropriate Action required or permitted to be taken by such Parties
15 pursuant to this Agreement to effectuate its terms, and to execute any other documents required to
16 effectuate the terms of this Agreement. The person signing this Agreement on behalf of Defendants
17 represents and warrants that he/she is authorized to sign this Agreement on behalf of Defendants.
18 Plaintiff represents and warrants that he is authorized to sign this Agreement and that he has not
19 assigned any claim, or part of a claim, covered by this Settlement to a third-party.

20 Y. No Public Comment: The Parties and their counsel agree that they will not issue any
21 press releases, initiate any contact with the press, respond to any press inquiry, or have any
22 communication with the press about the fact, amount, or terms of the Settlement Agreement. Class
23 Counsel further agrees not to use the Settlement Agreement or any of its terms for any marketing or
24 promotional purposes. Class Counsel will not use or reference the Settlement Agreement or any of
25 its terms on their website(s) or social media accounts. Nothing herein will restrict Class Counsel
26 from including publicly available information regarding this settlement in future judicial submissions
27 regarding Class Counsel's qualifications and experience. Further, Class Counsel will not include,
28

reference, or use the Settlement Agreement for any marketing or promotional purposes, either before or after the Motion for Preliminary Approval is filed.

Z. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the heirs, successors and/or assigns of the Parties, as previously defined.

AA. California Law Governs. All terms of this Agreement and the Exhibit and any disputes shall be governed by and interpreted according to the laws of the State of California.

BB. Counterparts. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement shall exchange among themselves copies or originals of the signed counterparts.

CC. This Settlement Is Fair, Adequate, and Reasonable. The Parties believe this Settlement is a fair, adequate, and reasonable settlement of this Action and have arrived at this Settlement after extensive arms-length negotiations, taking into account all relevant factors, present and potential.

DD. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement and all orders and judgments entered in connection with this Agreement.

EE. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

FF. No Unalleged Claims. Except with respect to individual claims alleged by Plaintiff and settled separately by an individual settlement agreement between the Parties described in paragraph “V” above, Plaintiff and Class Counsel represent that they do not currently intend to pursue any claims against the Released Parties, including, but not limited to, any and all claims relating to or arising from Plaintiff’s employment with Defendants, regardless of whether Class

Counsel is currently aware of any facts or legal theories upon which any claims or causes of action could be brought against Released Parties, including those facts or legal theories alleged in the operative complaint in this Action. The Parties further acknowledge, understand, and agree that this representation is essential to the Agreement and that this Agreement would not have been entered into were it not for this representation.

GG. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this Settlement only.

HH. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the Released Class Claims and Released PAGA Claims have merit and give rise to liability on the part of Defendants. Defendants claim that the Released Class Claims and Released PAGA Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no documents referred to and no action taken to carry out this Agreement may be construed or used as an admission by or against the Defendants or Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other than as may be specifically set forth herein, each Party shall be responsible for and shall bear its/his own attorney's fees and costs.

AGREED AS TO FORM AND CONTENT, BY PLAINTIFF:

DATED: Sep 5, 2023


Kareem Coles (Sep 5, 2023 09:30 PDT)

KAREEM COLES

AGREED AS TO FORM AND CONTENT, BY DEFENDANTS:

DATED: _____

CAREFUSION RESOURCES, LLC

Printed Name

1 Counsel is currently aware of any facts or legal theories upon which any claims or causes of action
2 could be brought against Released Parties, including those facts or legal theories alleged in the
3 operative complaint in this Action. The Parties further acknowledge, understand, and agree that this
4 representation is essential to the Agreement and that this Agreement would not have been entered
5 into were it not for this representation.

6 GG. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
7 class certification for purposes of this Settlement only.

8 HH. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
9 Released Class Claims and Released PAGA Claims have merit and give rise to liability on the part
10 of Defendants. Defendants claim that the Released Class Claims and Released PAGA Claims have
11 no merit and do not give rise to liability. This Agreement is a compromise of disputed claims.
12 Nothing contained in this Agreement and no documents referred to and no action taken to carry out
13 this Agreement may be construed or used as an admission by or against the Defendants or Plaintiff
14 or Class Counsel as to the merits or lack thereof of the claims asserted. Other than as may be
15 specifically set forth herein, each Party shall be responsible for and shall bear its/his own attorney's
16 fees and costs.

17 AGREED AS TO FORM AND CONTENT, BY PLAINTIFF:

18 DATED: _____

19
20 KAREEM COLES

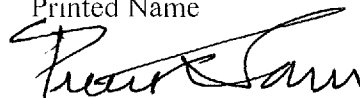
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22 AGREED AS TO FORM AND CONTENT, BY DEFENDANTS:

23
24 DATED: September 13, 2023

25 CAREFUSION RESOURCES, LLC

26 Puneet Sarin
WW President, MMS

27 Printed Name

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Title

DATED: 9-11-23

BECTON DICKINSON AND COMPANY

MICHAEL GARRISON

Printed Name



Title

Executive VP and President
medical Segment

1 AGREED AS TO FORM BY COUNSEL:

2
3 DATED: September 5, 2023

JCL LAW FIRM, A.P.C.

4 By: 

5 Attorneys for Plaintiff and the Settlement Class
6 Members

7
8
9 DATED: September 5, 2023

ZAKAY LAW GROUP, APLC

10 By: 

11 Attorneys for Plaintiff and the Settlement Class
12 Members

13
14 DATED: _____

OGLETREE, DEAKINS, NASH, SMOAK &
15 STEWART, P.C.

16 By: _____

17 Spencer C. Skeen, Esq.
18 Marlene M. Moffitt, Esq.
19 Attorneys for Defendants
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1 AGREED AS TO FORM BY COUNSEL:

2
3 DATED: _____

JCL LAW FIRM, A.P.C.

4 By: _____

5 Attorneys for Plaintiff and the Settlement Class
6 Members

7
8
9 DATED: _____

ZAKAY LAW GROUP, APLC

10 By: _____

11 Attorneys for Plaintiff and the Settlement Class
12 Members

13
14 DATED: September 14, 2023

OGLETREE, DEAKINS, NASH, SMOAK &
15 STEWART, P.C.

16 By:  _____

17 Spencer C. Skeen, Esq.

18 Marlene M. Moffitt, Esq.
19 Attorneys for Defendants

EXHIBIT A

**NOTICE OF PENDENCY OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT
AND FINAL HEARING DATE**

(Kareem Coles v. CareFusion Resources, LLC, et al, San Diego County Superior Court Case No. 37-2022-00048696-CU-OE-CTL)

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT.
PLEASE READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Individual Settlement Payment is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendants as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class and PAGA representative action settlement (the “Settlement”) of the above-referenced lawsuit pending in the Superior Court for the State of California, County of San Diego (the “Court”) has been reached between Plaintiff Kareem Coles (“Plaintiff”) and Defendants CareFusion Resources, LLC and Becton Dickinson and Company (together, “Defendants”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Settlement Notice because you have been identified as a member of the Class, which is defined as:

All non-exempt employees who worked for CareFusion Resources, LLC (“CareFusion”) in California and/or all non-exempt employees employed by Becton, Dickinson and Company who worked for CareFusion in California, at any time during the period beginning October 2, 2020 through <<[REDACTED]>> [November 15, 2023 or preliminary approval, whichever is earlier] (“Class Period”).

This Settlement Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On September 16, 2022, Plaintiff filed a class action lawsuit against Defendants, alleging various wage-and-hour violations under California law. Plaintiff also filed a Notice of Violations with the Labor and Workforce Development Agency (“LWDA”) pursuant to the California Labor Code Private Attorneys General Act (“PAGA”), and served the same on Defendants.

On December 2, 2022, Plaintiff initiated the present action (“Action”) against Defendants under PAGA, alleging similar underlying wage-and-hour violations as the class action. The class and PAGA actions were ultimately consolidated in the present action. The operative complaint is the First Amended Complaint that alleges claims for: (1) Unfair Competition In Violation Of Cal. Bus. & Prof. Code §17200 *et seq*; (2) Failure To Pay Minimum Wages In Violation Of Cal. Lab. Code §§ 1194, 1197 & 1197.1; (3) Failure To Pay Overtime Wages In Violation Of Cal. Lab. Code §§ 510, *et seq*; (4) Failure To Provide Required Meal Periods In Violation Of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; (5) Failure To Provide Required Rest Periods In Violation Of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; (6) Failure To Reimburse Employees For Required Expenses In Violation Of Cal. Lab. Code § 2802; (7) Failure To Provide Wages When Due In Violation Of Cal. Lab. Code §§ 201, 202 And 203; (8) Failure To Provide Accurate Itemized Statements In Violation Of Cal. Lab. Code § 226; and (9) Violations of the Private Attorneys General Act at Labor Code Sections 2698 Et Seq.

Defendants expressly deny any liability or wrongdoing of any kind associated with the claims alleged in the Action, dispute any wages, damages and penalties claimed by the Class Representative are owed, and further contend that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment. Defendants contend, among other things, that at all times they complied with the California Labor Code, the Industrial Welfare Commission Wage Orders, and all applicable law.

On June 15, 2023, the Parties participated in an all-day mediation with Louis Marlin, Esq., an experienced mediator of wage and hour class and PAGA actions. The Parties accepted a Mediator’s settlement proposal and reached an agreement for settlement. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an “all in” amount of One Million, Nine Hundred Fifty Thousand Dollars and Zero Cents (\$1,950,000.00) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount includes the payment of all Individual Settlement Payments, Settlement Administration Costs, Class Counsel Award, Service Award, and the PAGA Payment.

After the Judgment becomes Final, Defendants will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed, and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- i. Settlement Administration Costs. Payment to the Settlement Administrator, estimated not to exceed \$17,000.00, for expenses incurred in administering the Settlement, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.

- ii. Class Counsel Award. Payment to Class Counsel of an award of attorneys' fees of no more than 1/3 of the Gross Settlement Amount (currently \$650,000.00) and actually incurred litigation expenses of not more than \$25,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
 - iii. Service Award. A Service Award of up to Seven Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate his for services on behalf of the Class in initiating and prosecuting the Action.
 - iv. PAGA Payment. A payment of \$85,000.00 for PAGA penalties, \$63,750.00 of which will be paid to the LWDA and the remaining \$21,250.00 ("Individual PAGA Portion") will be distributed to Aggrieved Employees as described herein..
- Calculation of Payments to Settlement Class Members. After all the above payments of the court-approved Class Counsel Award, the Service Award, the PAGA Payment, and the Settlement Administration Costs are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Individual Settlement Payment for each Settlement Class Member will be calculated by dividing the respective Workweeks for that Settlement Class Member by the total Workweeks for all Settlement Class Members, and multiplying that result by the Net Settlement Amount.
 - A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendants' records, a member of the class worked at least one-day during any such workweek.
 - Calculation of Aggrieved Employees Payments to Aggrieved Employees. The Individual PAGA Portion shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out of this Settlement. An Aggrieved Employee's payment from the Individual PAGA Portion ("Aggrieved Employee Payment") will be calculated by dividing the individual's respective pay periods worked during the PAGA Period by the total pay periods for all Aggrieved Employees during the PAGA Period, and multiplying that result by the Individual PAGA Portion. "Aggrieved Employee" means all non-exempt employees who worked for CareFusion in California and/or all non-exempt employees employed by Becton, Dickinson and Company who worked for CareFusion in California, at any time during the period beginning September 16, 2021, through <<INSERT END DATE>> [November 15, 2023 or preliminary approval, whichever is earlier] ("PAGA Period").

If the Court grants final approval of the Settlement, you will automatically be mailed a check for your Individual Settlement Payment and Aggrieved Employee Payment (if applicable) to the same address as this Settlement Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Ten percent (10%) of each Individual Settlement Payment is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. Forty-five percent (45%) of each Individual Settlement Payment is allocated to penalties ("Penalty Portion"). Forty-five percent (45%) of each Individual Settlement Payment is allocated to pre-judgment interest ("Interest Portion"). Each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for their Penalty Portion and Interest Portion of the Individual Settlement Payments. In addition, no taxes will be withheld from the Aggrieved Employee Payment, and each Aggrieved Employee will be issued an

Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendants' counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement. The Settlement Administrator may distribute the Individual Settlement Payment and Aggrieved Employee Payment to you in a single check that combines both payments.

No Credit Toward Benefit Plans. The Individual Settlement Payments and Aggrieved Employee Payments will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not confer or affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon funding of the Gross Settlement Amount by Defendants, Plaintiff and the Settlement Class Members shall release the Released Parties from all Released Class Claims for the Class Period. Released Class Claims means all the claims asserted or that could have been alleged arising out of the facts, circumstances, and primary rights at issue in the operative complaints and any amendments thereto which occurred during the Class Period; and, expressly excluding claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period. Upon funding of the Gross Settlement Amount by Defendants, Plaintiff, all Aggrieved Employees, the LWDA, and the State of California shall release the Released Parties from all Released PAGA Claims for the PAGA Period, irrespective of whether they opted-out of the class settlement, and will be bound by this PAGA Release (the "PAGA Release"). "Released PAGA Claims" means all claims for PAGA penalties asserted or that could have been alleged arising out of the facts alleged in the operative complaints and any amendments thereto and Plaintiff's letter to the LWDA which occurred during the PAGA Period.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendants' records reflect that you have <<____>> Workweeks worked during the Class Period October 2, 2020 through <<INSERT END DATE>> [November 15, 2023 or preliminary approval, whichever is earlier]).

Based on this information, your estimated Individual Settlement Payment is <<____>>.

Defendants' records reflect that you have <<____>> pay periods worked during the PAGA Period (September 16, 2021 through <<INSERT END DATE>> [November 15, 2023 or preliminary approval, whichever is earlier]).

Based on this information, your estimated Aggrieved Employee Payment is <<____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address

provided in this Notice no later than _____ [forty-five (45) days after the Notice or ten (10) days from the original response deadline for a re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Settlement Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: Apex Class Action LLC.

The Court will hold a hearing on _____ to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www._____.com.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive your Aggrieved Employee Payment (if you qualify).

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than _____. The address for the Settlement Administrator is 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700. The request for exclusion must state in substance that the Class Member has read the Class Notice and that he or she wishes to be excluded from the settlement of the class action lawsuit entitled *Kareem Coles v. CareFusion Resources, LLC, et al.*, currently pending in Superior Court of San Diego, Case No. 37-2022-00048696-CU-OE-CTL. The request for exclusion must contain your name, current address, telephone number, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

If you have not opted out and believe the Settlement should not be finally approved by the Court for any reason, you may object to the proposed Settlement. Objections may be in writing and state the your name, current address, telephone number, signature, and last four digits of your Social Security Number for verification purposes, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is ***Kareem Coles v. CareFusion Resources, LLC, et al., San Diego County Superior Court, Case No. 37-2022-00048696-CU-OE-CTL***. Regardless of whether you submit a written objection, you may also appear at the final approval hearing (described in Section 9 below) and object..

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound

by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than [REDACTED]. The address for the Settlement Administrator is 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600 San
Diego, CA 92121
Tel.: (619) 599-8292
Fax: (619) 599-2891
E-Mail: jlapuyade@jcl-lawfirm.com

Class Counsel:

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Counsel for Defendants:

Marlene M. Moffitt, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, P.C.
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900
San Diego, CA 92122
T: 858-652-3110
F: 858-652-3101
marlene.moffitt@ogletreedeakins.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at 00:00 AM/PM on [REDACTED], at the San Diego County Superior Court, Department C-64, located at 330 West Broadway, San Diego, CA 92101 before Judge Loren Freestone. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at _____ or write to ***Kareem Coles v. CareFusion Resources, LLC, et al., San Diego County Superior Court, Case No. 37-2022-00048696-CU-OE-CTL***, Settlement Administrator, 20371 Irvine Avenue, Newport Beach, CA 92660 c/o _____.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment, or other Settlement documents by visiting the Settlement Administrator's website at www._____.com.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to the State Controller's Unclaimed Property Fund. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.