

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice (the “United States”), Pacific Toxicology Laboratories (“PacTox”), and Elizabeth Buonauro (the “Relator”) (hereafter collectively referred to as the “Parties”), through their authorized representatives.

RECITALS

A. PacTox is a toxicology laboratory headquartered in Chatsworth, California. PacTox operates a clinical laboratory and offers clinical laboratory services to health care providers and patients, including, among other things, urine drug testing (“UDT”). PacTox performs UDT for providers across the United States.

B. On or about November 18, 2021, Relator filed a *qui tam* action in the United States District Court for the District of Massachusetts, captioned *United States ex rel. Buonauro v. Pacific Toxicology Laboratories and Abbott Laboratories*, No. 21-cv-11875-GAO (D. Mass. 2021) (the “Civil Action”).

C. On or about April 15, 2019, relator Yvonne Huemoeller filed a *qui tam* action in the United States District Court for the Central District of California, captioned *United States ex rel. Huemoeller v. Pacific Toxicology Laboratories, et al.*, No. 19-cv-2900-MWF (C.D. Cal. 2019). In a separate settlement agreement, PacTox is resolving the *Huemoeller* action at or around the same time as this action.

D. The United States contends that PacTox submitted or caused to be submitted claims for payment to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395111 (“Medicare”).

E. The United States contends that it has certain civil claims against PacTox for

submitting false claims for confirmatory UDT to the Medicare Program (“Medicare”), Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395111.

F. PacTox admits, acknowledges, and accepts responsibility for the following facts. As of January 1, 2020, Medicare established regulations concerning payment to Opioid Treatment Programs (“OTPs”) for opioid use disorder treatment services furnished to Medicare beneficiaries. Medicare established a bundled payment rate for OTPs’ provision of opioid use disorder treatment services, including, but not limited to, dispensing and administration of opioid treatment medications, substance use counseling, individual and group therapy services, intake activities, periodic assessment services, and toxicology (UDT) testing. 42 C.F.R. § 410.67(b). From on or around January 1, 2020 through March 31, 2023, PacTox performed UDT for OTP clients. From January 1, 2020 through March 14, 2023, PacTox separately billed Medicare for confirmatory UDT services, using Common Procedural Terminology Codes G0480-83 that it performed outside of the bundled payment rate established by 42 C.F.R. § 410.67.

G. The foregoing conduct described in recital (F) is hereinafter referred to as the “Covered Conduct.”

In consideration of the mutual promises and obligations of this Agreement, the Parties agree, and covenant as follows.

TERMS AND CONDITIONS

1. PacTox shall pay to the United States the sums specified in this Paragraph (collectively, the “Settlement Amount”) pursuant to the terms and conditions specified herein.
 - a. PacTox shall make an initial payment of \$250,000 (the “Initial Payment”) to the United States within ten (10) days of the Effective Date of this Agreement.
 - b. PacTox shall thereafter make an annual payment of \$150,000 (the “Annual

Payment”) to the United States. PacTox shall make the Annual Payment each year for five (5) years, for a total of five (5) Annual Payments. PacTox shall make the first Annual Payment one (1) year after the date of the Initial Payment. For the avoidance of any doubt, PacTox shall make the first Annual Payment in 2025; the second Annual Payment in 2026; the third Annual Payment in 2027; the fourth Annual Payment in 2028; and the fifth and final Annual Payment in 2029.

- c. In addition to the Initial Payment and the Annual Payment, PacTox shall also make annual payments of 25% of its Ordinary Business Income for the previous calendar year (as defined on Line 22 of Internal Revenue Service Form 1120-S for the previous calendar year, or any amended Form 1120-S for that year filed within 180 days of the conclusion of it) (the “OBI Payment”). PacTox shall make the OBI Payment each year for five (5) years, for a total of five (5) OBI Payments. PacTox shall make the first of the OBI Payments no later than 195 days after the conclusion of the previous calendar year. For the avoidance of any doubt, PacTox shall make the first OBI Payment in 2025 (covering OBI in 2024); the second OBI Payment in 2026 (covering OBI in 2025); the third OBI Payment in 2027 (covering OBI in 2026); the fourth OBI Payment in 2028 (covering OBI in 2027); and the fifth and final OBI Payment in 2029 (covering OBI in 2028). In the event PacTox’s Ordinary Business is a loss for any year, no OBI Payment is due under this Paragraph for that year.
- d. In the event that PacTox, or any of its assets individually or collectively, is sold in any transaction that yields proceeds, after payments of any transaction fees, or federal, state, or local taxes due on account of effectuating the transaction (“net

proceeds”), of an amount greater than or equal to \$5,000,000 but less than \$10,000,000 during the five (5)-year period that ends five (5) years after the date of the Initial Payment (or that PacTox agrees to such a sale within this time period but it is not yet consummated), then PacTox shall pay the United States 50% of such net proceeds (the “50 Percent Payment”).

- e. The combined total amount of PacTox’s Initial Payment, Annual Payments, OBI Payments, and any 50 Percent Payment made pursuant to this Agreement and the settlement agreement in the matter of *United States ex rel. Huemoeller v. Pacific Toxicology Laboratories*, CV19-2900-MWF (C.D. Cal.) cumulatively shall not exceed \$5,000,000 (“Term Payment Cap”) and no further Annual Payment, OBI Payment, or 50 Percent Payment shall be due once the Term Payment Cap is reached; subject, however, to Paragraph 1(f).
- f. In the event that PacTox, or any portion of its assets, is sold in any transaction that yields net proceeds of an amount greater than or equal to \$10,000,000 during the five (5)-year period that ends five (5) years after the date of the Initial Payment (or that PacTox agrees to such a sale within this time period but it is not yet consummated), then PacTox shall pay the United States 20% of the portion of such net proceeds that exceed \$10,000,000 (the “20 Percent Payment”). For avoidance of doubt, the Term Payment Cap does not apply to the 20 Percent Payment, but the 20 Percent Payment shall not exceed \$20,000,000 in total for this Agreement and the settlement agreement in *United States ex rel. Huemoeller v. Pacific Toxicology Laboratories*, CV19-2900-MWF (C.D. Cal.).
- g. The provisions for OBI payment, 50 Percent Payment, and 20 Percent Payment,

described in Paragraphs 1(c), (d), and (f), if triggered, require PacTox to make payments that aggregate to the total amount designated in this Agreement, which amount is to be apportioned on a 50-50 basis between this Agreement and the settlement agreement in *United States ex rel. Huemoeller v. Pacific Toxicology Laboratories*, CV19-2900-MWF (C.D. Cal. 2019).

h. The full Settlement Amount constitutes restitution to the United States.

2. As applicable pursuant to Paragraph 1, PacTox shall make all payments in Paragraph 1 owed to the United States by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office for the District of Massachusetts. For payments due under Paragraph 1(b), PacTox shall pay interest on the unpaid balance at the rate of 4.5% per annum from the date of December 18, 2023. For the OBI payments in Paragraph 1(c), interest shall accrue at the same rate, beginning January 1 of the year after the OBI was earned. For example, the OBI payment due in 2025, if any, will accrue interest beginning January 1, 2025. Other than the payments PacTox is obligated to make in Paragraphs 1(c), 1(d), and 1(f) (if applicable in the cases of 1(d) and 1(f)), PacTox may pay the entire balance of the Settlement Amount, or any portion thereof, without premium or penalty. If PacTox elects to prepay the Settlement Amount, or any portion thereof, interest shall accrue through the date on which PacTox makes such prepayment. Provided, however, that PacTox must make the payments in Paragraphs 1(c), 1(d), and 1(f) (if applicable in the cases of 1(d) and 1(f)) and cannot prepay those portions of the Settlement Amount.

3. Conditioned upon the United States receiving the Settlement Amount payments, the United States agrees that it shall pay to Relator by electronic funds transfer twenty (20) percent of each such payment received under this Agreement (the "Relator's Share") as soon as feasible

after receipt of the payment.

4. Pursuant to 31 U.S.C. § 3730(d)(2), PacTox shall pay a total amount of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) (Relator's Fees) to Relator's counsel for Relator's reasonable expenses, attorneys' fees, and costs on the following schedule, pursuant to written instructions to be provided by Relator's counsel: within ten (10) calendar days of the Effective Date (same date as Initial Payment described above), PacTox will pay \$50,000, followed by \$25,000 one year after the date of the Initial Payment, \$25,000 two years after the date of the Initial Payment, and \$25,000 three years after the date of the Initial Payment. No interest will accrue on payments due under this Paragraph and there is no prepayment penalty.

5. Subject to the exceptions in Paragraph 7 (concerning reserved claims), Paragraph 10 (concerning disclosure of assets), Paragraph 17 (concerning default), and Paragraph 18 (concerning bankruptcy) below, and upon the United States' receipt of the Settlement Amount, plus interest due under Paragraph 2, the United States releases PacTox, its predecessors, its current and former parents, divisions, subsidiaries, successors, and assigns from any civil monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake, unjust enrichment, and fraud.

6. Subject to the exceptions in Paragraph 7 (concerning reserved claims), Paragraph 10 (concerning disclosure of assets), Paragraph 17 (concerning default), and Paragraph 18 (concerning bankruptcy) below, and upon the United States' receipt of the Settlement Amount plus interest due under Paragraph 2, Relator, for herself and for her heirs, successors, attorneys, agents, and assigns, releases PacTox its predecessors, its current and former parents, divisions,

subsidiaries, successors, and its current or former owners, officers, directors, employees, and affiliates from any civil monetary claim the Relator has from any and all manner of claims, proceedings, liens, and causes of action of any kind or description that Relator has or may have against PacTox related to in any way or arising in any way out of the Complaint filed in the Civil Action, including, but not limited to, any claims under the False Claims Act, 31 U.S.C. §§ 3729-3733, the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake, unjust enrichment, and fraud.

7. Notwithstanding the releases given in Paragraphs 5 and 6 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, including mandatory or permissive exclusion from federal health care programs;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement; and
- f. Any liability of individuals.

8. Relator and her heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Relator's receipt

of the Relator's Share, Relator and her heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

9. Relator, for herself, and for her heirs, successors, attorneys, agents, and assigns, releases PacTox, and its officers, agents, and employees, from any liability to Relator arising from the filing of the Civil Action, or under 31 U.S.C. § 3730(d) for expenses or attorneys' fees and costs.

10. PacTox has provided sworn financial disclosures and supporting documents ("Financial Disclosures") to the United States, and the United States has relied on the accuracy and completeness of those Financial Disclosures in reaching this Agreement. PacTox warrants that the Financial Disclosures are complete, accurate, and current as of the date provided. If, after the Effective Date of this Agreement, the United States learns of asset(s) in which PacTox has an interest of any kind as of the date of the disclosures (including, but not limited to, promises by insurers or other third parties to satisfy PacTox's obligations under this Agreement) that were not disclosed in the Financial Disclosures, or if the United States learns of any false statement or misrepresentation by PacTox on, or in connection with, the Financial Disclosures, and if such nondisclosure, false statement, or misrepresentation changes the estimated net worth set forth in the Financial Disclosures by \$200,000 or more, the United States may at its option: (a) rescind this Agreement and reinstate its suit or file suit based on the Covered Conduct, or (b) collect the Maximum Payment in accordance with the Agreement plus one hundred percent (100%) of the net value of PacTox's previously undisclosed assets. PacTox agrees not to contest any collection

action undertaken by the United States pursuant to this provision, and agrees that it will immediately pay the United States (i) a ten-percent (10%) surcharge of the amount collected in the collection action, or (ii) the United States' reasonable attorneys' fees and expenses incurred in such an action, in each case, to the extent allowed by 28 U.S.C. § 3011. In the event that the United States, pursuant to this Paragraph, rescinds this Agreement, PacTox waives and agrees not to plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any civil or administrative claims that (a) are filed by the United States within 120 calendar days of written notification to PacTox that this Agreement has been rescinded, and (b) relate to the Covered Conduct, except to the extent these defenses were available on November 18, 2021.

11. PacTox waives and shall not assert any defenses PacTox may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

12. PacTox fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that PacTox has asserted, could have asserted, or may assert in the future against the United States, and its agencies, officers, agents, employees, and servants related to the Covered Conduct and the United States' investigation and prosecution thereof.

13. PacTox fully and finally releases the Relator from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that PacTox has asserted, could have asserted, or may assert in the future against the Relator, related to the Civil Action and the

Relator's investigation and prosecution thereof.

14. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare contractor (e.g., Medicare Administrative Contractor, fiscal intermediary, carrier) or any state payer, related to the Covered Conduct; and PacTox agrees not to resubmit to any Medicare contractor or any state payer any previously denied claims related to the Covered Conduct, agrees not to appeal any such denials of claims, and agrees to withdraw any such pending appeals.

15. PacTox agrees to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395111 and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of PacTox, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil and any criminal investigation(s) of the matters covered by this Agreement;
- (3) PacTox's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement; and

(5) the payment PacTox makes to the United States pursuant to this Agreement

are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP) (hereinafter referred to as “Unallowable Costs”).

- b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by PacTox, and PacTox shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement, or payment request submitted by PacTox or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.
- c. Treatment of Unallowable Costs Previously Submitted for Payment: PacTox further agrees that within 90 days of the Effective Date of this Agreement it shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid and FEHBP fiscal agents, any Unallowable Costs (as defined in this Paragraph) included in payments previously sought from the United States, or any State Medicaid program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by PacTox or any of its subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to

account for the effect of the inclusion of the Unallowable Costs. PacTox agrees that the United States, at a minimum, shall be entitled to recoup from PacTox any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted cost reports, information reports, cost statements, or requests for payment. Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by PacTox or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this Paragraph) on PacTox's or any of its subsidiaries or affiliates' cost reports, cost statements, or information reports.

- d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine PacTox's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

16. PacTox agrees to cooperate fully and truthfully with the United States' investigation of individuals and entities not released in this Agreement. Upon reasonable notice, PacTox shall encourage, and agrees not to impair, the cooperation of its directors, officers, and employees, and shall use its best efforts to make available, and encourage the cooperation of, former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. PacTox further agrees to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in its possession, custody, or control concerning any investigation of the

Covered Conduct that it has undertaken, or that has been performed by another on its behalf.

17. The Settlement Amount represents the amount the United States is willing to accept in compromise of its civil claims arising from the Covered Conduct due solely to PacTox's financial condition as reflected in the Financial Disclosures referenced in Paragraph 10.

- a. In the event that PacTox fails to pay the Settlement Amount as provided in the payment schedule set forth in Paragraph 1 above, PacTox shall be in Default of PacTox's payment obligations ("Default"). The United States will provide a written Notice of Default, and PacTox shall have an opportunity to cure such Default within seven (7) calendar days from the date of receipt of the Notice of Default by making the payment due under the payment schedule and paying any additional interest accruing under this Agreement up to the date of payment. Notice of Default will be delivered to PacTox, or to such other representative as PacTox shall designate in advance in writing. If PacTox fails to cure the Default within seven (7) calendar days of receiving the Notice of Default and in the absence of an agreement with the United States to a modified payment schedule ("Uncured Default"), the remaining unpaid balance of the Settlement Amount shall become immediately due and payable, and interest on the remaining unpaid balance shall thereafter accrue at the rate of 12% per annum, compounded daily from the date of Default, on the remaining unpaid total (principal and interest balance).
- b. In the event of Uncured Default, PacTox agrees that the United States, at its sole discretion, may (i) retain any payments previously made, rescind this Agreement and pursue the Civil Action or bring any civil and/or administrative claim, action, or proceeding against PacTox for the claims that would otherwise be covered by

the releases provided in Paragraphs 5 and 6 above with any recovery reduced by the amount of any payments previously made by PacTox to the United States under this Agreement; (ii) take any action to enforce this Agreement in a new action or by reinstating the Civil Action; (iii) offset the remaining unpaid balance from any amounts due and owing to PacTox and/or affiliated companies by any department, agency, or agent of the United States at the time of Default or subsequently; and/or (iv) exercise any other right granted by law, or under the terms of this Agreement, or recognizable at common law or in equity. The United States shall be entitled to any other rights granted by law or in equity by reason of Default, including referral of this matter for private collection. In the event the United States pursues a collection action, PacTox agrees immediately to pay the United States the greater of (i) a ten-percent (10%) surcharge of the amount collected, as allowed by 28 U.S.C. § 3011(a), or (ii) the United States' reasonable attorneys' fees and expenses incurred in such an action. In the event that the United States opts to rescind this Agreement pursuant to this Paragraph, PacTox waives and agrees not to plead, argue, or otherwise raise any defenses of statute of limitations, laches, estoppel or similar theories, to any civil or administrative claims that are (i) filed by the United States against PacTox within 120 days of written notification that this Agreement has been rescinded, and (ii) relate to the Covered Conduct, except to the extent these defenses were available on November 18, 2021. PacTox agrees not to contest any offset, recoupment, and/or collection action undertaken by the United States pursuant to this Paragraph, either administratively or in any state or federal court, except on the grounds of actual payment to the United States.

c. In the event of an Uncured Payment Default or Uncured Obligation Default, OIG-HHS may exclude PacTox from participating in all federal health care programs until PacTox pays the Settlement Proceeds, with interest, as set forth above (the “Exclusion for Default”). OIG-HHS will provide written notice of any such exclusion to PacTox. PacTox waives any further notice of the exclusion under 42 U.S.C. § 1320a-7(b)(7), and agrees not to contest such exclusion either administratively or in any state or federal court. Reinstatement to program participation is not automatic. If, at the end of the period of exclusion, PacTox wishes to apply for reinstatement, it must submit a written request for reinstatement to OIG-HHS in accordance with the provisions of 42 C.F.R. §§ 1001.3001-.3005. PacTox will not be reinstated unless and until OIG-HHS approves such request for reinstatement. The option for Exclusion for Default is in addition to, and not in lieu of, the options identified in this Agreement or otherwise available.

18. In exchange for valuable consideration provided in this Agreement, PacTox and Relator acknowledge the following:

- a. PacTox has reviewed its financial situation and warrants that it is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I) and shall remain solvent following payment to the United States of the Initial Payment.
- b. In evaluating whether to execute this Agreement, the Parties intend that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value given to PacTox, within the meaning of 11 U.S.C. § 547(c)(1), and the Parties conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange.

- c. The mutual promises, covenants, and obligations set forth herein are intended by the Parties to, and do in fact, constitute a reasonably equivalent exchange of value.
- d. The Parties do not intend to hinder, delay, or defraud any entity to which PacTox was or became indebted on or after the date of any transfer contemplated in this Agreement, within the meaning of 11 U.S.C. § 548(a)(1).
- e. If any of PacTox's payments or obligations under this Agreement are avoided for any reason (including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code) or if, before the Settlement Amount is paid in full, PacTox or a third party commences a case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors seeking any order for relief of PacTox's debts, or to adjudicate PacTox as bankrupt or insolvent; or seeking appointment of a receiver, trustee, custodian, or other similar official for PacTox or for all or any substantial part of PacTox's assets:
 - (i) the United States may rescind the releases in this Agreement and bring any civil and/or administrative claim, action, or proceeding against PacTox for the claims that would otherwise be covered by the releases provided in Paragraphs 5 and 6 above;
 - (ii) the United States has an undisputed, noncontingent, and liquidated allowed claim against PacTox in the total amount of \$15,000,000, less any payments received pursuant to Paragraph 1 of this Agreement, provided, however, that such payments are not otherwise avoided and recovered from the United States by a receiver, trustee, creditor, custodian, or similar official;
 - (iii) if any payments are avoided and recovered by a receiver, trustee, creditor,

custodian, or similar official, the United States shall not be responsible for the return of any amounts already paid by the United States to the Relator; and

(iv) if, notwithstanding subparagraph (iii), any amounts already paid by the United States to the Relator pursuant to Paragraph 3 are recovered from the United States in an action or proceeding filed by a receiver, trustee, creditor, custodian, or similar official in or in connection with a bankruptcy case that is filed within two years of the Effective Date of this Agreement or of any payment made under Paragraph 1 of this Agreement, Relator shall, within thirty days of written notice from the United States to the undersigned Relator's counsel, return to the United States all amounts recovered from the United States.

f. PacTox agrees that any civil and/or administrative claim, action, or proceeding brought by the United States under Paragraph 18(e) is not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) because it would be an exercise of the United States' police and regulatory power. PacTox shall not argue or otherwise contend that the United States' claim, action, or proceeding is subject to an automatic stay and, to the extent necessary, consents to relief from the automatic stay for cause under 11 U.S.C. § 362(d)(1). PacTox waives and shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claim, action, or proceeding brought by the United States within 120 days of written notification to PacTox that the releases have been rescinded pursuant to this Paragraph, except to the extent such defenses were available on November 18, 2021.

19. This Agreement is intended to be for the benefit of the Parties only. The Parties do

not release any claims against any other person or entity, except to the extent provided for in Paragraph 20 (waiver for beneficiaries), below.

20. PacTox agrees that it waives and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third-party payors based upon the claims defined as Covered Conduct.

21. Upon receipt of the Initial Payment described in Paragraph 1 above, the United States and Relator shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal of the Civil Action as follows:

- a. Dismissal shall be with prejudice as to the United States for the Covered Conduct;
- b. Dismissal shall be without prejudice to the United States as to all other claims against PacTox in the Civil Action;
- c. Dismissal shall be without prejudice as to the other government plaintiffs; and
- d. Dismissal shall be with prejudice to Relator as to all claims against PacTox in the Civil Action.

Provided, however, that the United States may move to reopen the case in the event that PacTox does not make any payment it is required to make pursuant to Paragraph 1, and PacTox shall not oppose such motion.

22. Other than as described above in Paragraph 4, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

23. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

24. This Agreement is governed by the laws of the United States. The exclusive venue for any dispute relating to this Agreement is the United States District Court for the District of Massachusetts. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

25. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

26. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

27. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

28. This Agreement is binding on PacTox's successors, transferees, heirs, and assigns.

29. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

30. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

31. This Agreement shall become effective on the date of the signature of the last signatory to the Agreement ("Effective Date" of this Agreement). Facsimiles and electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

SIGNATURES TO FOLLOW ON NEXT PAGE

THE UNITED STATES OF AMERICA

DATED: _____

BY: **ABRAHAM
GEORGE**
ABRAHAM R. GEORGE
Assistant U.S. Attorney
United States Attorney's Office
District of Massachusetts

Digitally signed by
ABRAHAM GEORGE
Date: 2024.07.01
18:32:20 -04'00'

PACIFIC TOXICOLOGY LABORATORIES

DATED: 6-24-2024

BY: *Suzanne Barbosa*
SUZANNE BARBOSA
Chief Executive Officer
Pacific Toxicology Laboratories

DATED: 6/24/2024

BY: *M. Diggs*
MATTHEW D. DIGGS
ANNA R. BUONO
Counsel for Pacific Toxicology Laboratories

RELATOR

DATED: _____

BY: _____
ELIZABETH BUONAURO

DATED: _____

BY: _____
CHARLIE WYSONG
Counsel for Relator

THE UNITED STATES OF AMERICA

DATED: _____

BY: _____

ABRAHAM R. GEORGE
Assistant U.S. Attorney
United States Attorney's Office
District of Massachusetts

PACIFIC TOXICOLOGY LABORATORIES

DATED: _____

BY: _____

SUZANNE BARBOSA
Chief Executive Officer
Pacific Toxicology Laboratories

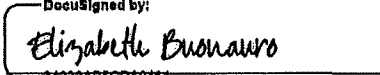
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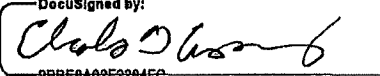
MATTHEW D. DIGGS
ANNA R. BUONO
Counsel for Pacific Toxicology Laboratories

RELATOR

DATED: 6/24/2024

BY: 
ELIZABETH BUONAURO

DATED: 6/24/2024

BY: 
CHARLIE WYSONG
Counsel for Relator

