

## SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General (OIG-HHS) of the Department of Health and Human Services (HHS), (collectively, the “United States”); the State of California, acting through the California Department of Justice, Office of Attorney General, Division of Medi-Cal Fraud and Elder Abuse (“California”); the State of Oregon, acting through the Oregon Department of Justice, Medicaid Fraud Control Unit (“Oregon”) (collectively, the “Government”); Francis P. Lagattuta, M.D.; Lags Spine & Sportscare Medical Centers, Inc., as well as its affiliates and subsidiaries;<sup>1</sup> and Steven Capeder (“Relator”); (hereafter collectively referred to as “the Parties”), through their authorized representatives.

### RECITALS

A. Lags Spine & Sportscare Medical Centers, Inc., is a California medical corporation with a principal executive office located at 206 East Ocean Avenue, Lompoc, California 92358. Lags Spine & Sportscare Medical Centers, Inc., along with its affiliates and subsidiaries, as defined in Footnote 1 (collectively, “Lags Medical”), own and operated pain management clinics, ambulatory surgical centers, and a physician-owned laboratory. Lags

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<sup>1</sup> Lags Spine & Sportscare Medical Centers, Inc.’s current and former affiliates and subsidiaries include Lags Spine & Sportscare Medical Centers, Inc., LAGZ Corporation; Lags Recovery Centers, Inc.; Lags Spine & Sportscare Central Coast Medical, Inc.; Spine and Pain Medical Treatment Center of Santa Barbara, Inc.; Spine and Pain Medical Treatment Center of Santa Maria, Inc.; JC Medical of Santa Maria, LLC; Lags Medical Centers, OR, P.C.; Lags 13th Grover Beach LLC; JC Medical of Grover Beach LLC; Lags 25th Merced LLC; Lags 50, LLC; LAGS Bradenton LLC; Lags Douty Hanford LLC; LAGS Lodi LLC; LAGS Lompoc LLC; LAGS Los Banos LLC; LAGS Modesto LLC; LAGS Porterville LLC; Lags Shields Fresno, LLC; LAGS Software Solutions, LLC; Lags Templeton LLC; Lags Whitendale Visalia LLC; Lags Yosemite Madera LLC; MAP Ambulatory Surgical Center, LLC; MAP Medical Centers, P.A.; Lags Venice LLC; Lagattuta Cavalli, LLC; Lagattuta Land LLC; Lagattuta Wines, LLC; JC Medical of Bakersfield LLC; JC Medical of Washington LLC; Key Diagnostic Laboratories LLC; LAGS First Fresno LLC; LAGS Stockton LLC, Professional Sports Physiatrists, S.C.; Pure Health and Wellness, Inc.; Pure Health Management LLC; and Regenerative Spine Pain and Neuropathy Centers, Inc.

Medical is enrolled as a provider with Medicare, California's Medicaid program, Medi-Cal, and Oregon Medicaid.

B. Francis P. Lagattuta, M.D. ("Dr. Lagattuta"), is a physical medicine and rehabilitation physician and the founder, owner, and medical director of Lags Medical. Dr. Lagattuta is enrolled with Medicare, Medi-Cal, and Oregon Medicaid as a rendering provider for Lags Medical.

C. On November 15, 2018, Steven Capeder filed a *qui tam* action in the United States District Court for the Eastern District of California captioned *United States and California ex rel. Steven Capeder v. Francis P. Lagattuta, M.D., Lagz Corporation, Spine & Pain Treatment Medical Center of Santa Barbara, Inc., and LAGS Spine & Sportscare Medical Centers, Inc.*, Case No. 2:18-cv-2928 KJM KJN, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) ("FCA") and the California False Claims Act, Cal. Gov't Code § 12652(c) ("CFCA") (the "Civil Action"). Relator alleges, *inter alia*, that Dr. Lagattuta, Lags Spine & Sportscare Medical Centers, Inc., LAGZ Corporation, and Spine and Pain Medical Treatment Center of Santa Barbara, Inc., submitted false claims to Medicare and Medi-Cal for services and procedures that were not reasonable or necessary in violation of the FCA and CFCA.

D. Lags Medical and Dr. Lagattuta submitted or caused to be submitted claims for payment to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll ("Medicare"), and the California and Oregon Medicaid Programs, 42 U.S.C. §§ 1396-1396w-5 ("Medicaid").

E. The United States, California, and Oregon contend that they have certain civil claims against Dr. Lagattuta and Lags Medical for knowingly submitting and causing the submission of false claims to Medicare and the California and Oregon Medicaid programs for

services and procedures that were not medically reasonable or necessary, including epidermal nerve fiber density testing (using Current Procedural Terminology (CPT) codes 11100, 11101, 11104, 11105, 88305, 88314, 88319, 88344, 88356, and 88360), spinal cord stimulation procedures (using CPT Codes 63650, 63661, 63663, 63685, and 63688), and definitive urine drug testing (using Healthcare Common Procedure Coding System (HCPCS) Code G0483), during the period from March 14, 2016, through August 11, 2021. That conduct, coupled with the conduct in Paragraph F (including subparagraphs F.1 through F.20), is referred to below as the “Covered Conduct.”

F. Subject to Paragraph G below, Dr. Lagattuta and Lags Medical acknowledge and accept the following facts in subparagraphs F.1 through F.20 below and agree not to make any public statement denying or contesting those facts. Nothing in this Paragraph, however, affects their: (i) testimonial obligations; or (ii) right to take legal or factual positions, or make arguments, in litigation or other legal proceedings in which the United States is not a party—including positions and arguments contrary to those of the United States in this matter.

### **Epidermal Nerve Fiber Density Testing**

1. From March 14, 2016, through August 11, 2021, Dr. Lagattuta and Lags Medical submitted or caused to be submitted claims for reimbursement to Medicare, California Medicaid, and Oregon Medicaid for skin biopsies and associated epidermal nerve fiber density testing (“ENFD”) under CPT codes 11100, 11101, 11104, 11105, 88305, 88314, 88319, 88344, 88356 and 88360.

2. ENFD testing involves performing biopsies or “punch biopsies” of skin. The skin samples from the biopsy are analyzed in a laboratory to measure small fiber neuropathy, a disease that causes burning pain with numbness and tingling in the feet and lower extremities. Below is a picture of Dr. Lagattuta performing a biopsy on a patient’s leg:



3. In early 2016, Dr. Lagattuta created a protocol for Lags Medical providers across more than thirty pain clinics to conduct medical procedures on all their patients, including punch biopsies. Around that time, Dr. Lagattuta emailed Lags Medical’s Chief Operations Officer (COO) and stated that, under this protocol, most of their patients would need a punch biopsy, and “[o]nce a diagnosis of small fiber neuropathy is made a battery of tests can be done.”

4. In mid-2016, Dr. Lagattuta stated in an email to Lags Medical executives and managers that “every provider does 2-3 [punch biopsies] a day period” and instructed that, “even if they are not scheduled, look at the current schedule and make sure 2 to 4 [biopsies] are done if they are Medicare [patients].” Lags Medical’s COO said to providers that, “[f]or our protocols, this is like a getting a flu shot for us.” In early 2018, a monthly report stated that “Team Neuro” had a goal of performing 250 biopsies per week.

5. Dr. Lagattuta told Lags Medical providers to resign if they refused to perform skin biopsies. In November 2019, Lags Medical’s Chief Executive Officer (CEO) texted Dr. Lagattuta that Lags Medical performed high numbers of skin biopsies that week with a picture of a money bag and a smiley face. Dr. Lagattuta responded: “Great. Hopefully my threatening worked.”

6. According to Lags Medical’s protocol, Lags Medical providers were instructed to immediately start a tapering program for patients on opioid medication who did not consent to undergo skin biopsies. When a patient refused a skin biopsy, Lags Medical staff read from a written script stating that the patient’s “provider will have no other choice but to possibly adjust your treatment which unfortunately may include reducing the amount of medication you are receiving and continue, over the next several months, to continue to taper down your medication until a solution can be found.” The patient was also asked to sign an “Against Medical Advice” form informing them of the possible medical consequences of not undergoing the skin biopsy. The form stated that “[a] refusal to undergo the recommended biopsy may lead to ... a decrease or stop in opioid therapy” and “arrhythmic heart rate changes that can cause a heart attack or sudden death[,]” among other medical consequences.

7. Dr. Lagattuta created what he named an “Artificial Intelligence Team” or “AI Team” of non-provider staff to screen patient charts and order skin biopsies for patients without the consent of their treating providers at Lags Medical. Dr. Lagattuta stated that, if Lags Medical providers did not order biopsies for their own patients, then the AI Team would order biopsies

for them “automatically.” The AI Team ordered biopsies under Dr. Lagattuta’s name and changed the order date of the biopsy to the patient’s last established office visit. The patient’s treating medical provider decided at the time of the visit whether to perform the biopsy, but they could not cancel the order without Dr. Lagattuta’s approval. Lagattuta stated that, “[o]nly I can cancel a procedure and no one else” and the COO reiterated that policy: “[i]n order to change an ENFD appointment, a provider needs to get approval from Dr. Lag[attuta].”

8. Some Lags Medical providers objected to performing skin biopsies. In December 2016, a medical assistant informed Lags Medical’s CEO that providers at Lags Medical asked the AI Team to stop inputting orders for biopsies for their own patients. The CEO responded that “[I] don’t think providers should get to determine policy.” Despite those objections, Dr. Lagattuta and other Lags Medical providers continued to perform biopsies.

9. The AI Team was required to screen patient files one week ahead and order at least 150 skin biopsies per week. In June 2019, after a Lags Medical executive informed Dr. Lagattuta that providers in Oregon were not performing enough biopsies, Dr. Lagattuta responded, “[l]et’s get AI on that immediately. Let’s get 40 punches in the next 30 days.” In May 2020, Lags Medical’s COO told clinic managers that “[y]ou should be frustrated if the AI Team puts an ENFD on your schedule, you should feel insulted, because that means you guys should have done it and didn’t.”

10. Each patient file contained identical order forms for skin biopsies, usually from Dr. Lagattuta stating that every patient had the same symptoms of small fiber neuropathy. The symptoms alleged in those order forms were inconsistent with the patients’ symptoms documented by their treating providers. Lags Medical providers often did not explain in their medical notes why their patients needed biopsies, nor did they document an individualized plan to treat small fiber neuropathy.

11. The Lags Medical protocol stated that providers were required to repeat biopsies on the same patients each year “to determine if [their] illness has progressed or improved.” Lags Medical executives stated in meeting minutes that, “[o]ut of 1000 new patients we generate 630 [ENFDs] then we can do a 2<sup>nd</sup> ENFD and we can generate another 630.” Sixteen percent (16%) of all Lags Medical patients covered by Medicare, Medi-Cal, and Oregon Medicaid received multiple biopsies.

12. Skin biopsy results must be interpreted by a trained pathologist or neurologist. Dr. Lagattuta once stated in a presentation that a “[skin] biopsy is read by a trained neuropathologist.” At Lags Medical, Dr. Lagattuta’s relative, who had no formal medical training, and a former Lags Medical executive’s spouse, who was a respiratory therapist, counted the visible nerve end fibers of the skin biopsies.

13. For over three years, Medicare and Medicaid insurance providers notified Dr. Lagattuta and Lags Medical that they determined that Lags Medical’s claims for skin biopsies were medically unnecessary and excessive.

### **Spinal Cord Stimulation**

14. From February 21, 2018, through August 11, 2021, Dr. Lagattuta and Lags Medical submitted or caused to be submitted claims for reimbursement to Medicare and

California Medi-Cal for spinal cord stimulation (“SCS”) procedures under CPT Codes 63650, 63661, 63663, 63685, and 63688. Spinal cord stimulation is an invasive surgery of last resort for the treatment of chronic pain and is intended to improve a patient’s pain for years. SCS implants apply low voltage electrical pulses to nerve fibers, usually within the dorsal column of the spinal cord.

15. Medicare and Medicaid reimburse providers for performing medically necessary SCS procedures. According to Medicare guidelines, before receiving SCS, patients must first undergo conservative therapies, such as physical therapy, injections, psychosocial therapy, and cognitive therapy. In addition, patients must be evaluated to determine whether they have any psychological disorders that may lead to a poor response to the surgery. These disorders may include active psychosis, major untreated mood disorders like depression, somatization disorder (excessive thoughts about physical pain), and substance abuse.

16. Dr. Lagattuta retained a psychiatrist and paid him \$3,000 per month to state to Medicare and Medicaid insurers that the psychiatrist performed a psychological evaluation of each Lags Medical patient before the patient received an SCS surgery and that the patient did not have any preexisting psychological or active substance use disorders that would adversely affect the outcome of the procedure. Lags Medical executives knew that the psychiatrist did not perform in-person psychological evaluations of any of the patients who received SCS procedures. The psychiatrist represented to Medicare and Medicaid that every patient was an appropriate candidate for an SCS procedure and ignored indications that many patients suffered from psychological or substance use disorders.

17. In one example, a social worker at Lags Medical recommended that a young patient should not receive an SCS surgery because the patient had bipolar disorder, she had already had an SCS procedure which failed, and she suffered from auditory and visual hallucinations. The patient’s hallucinations included seeing shadows and hearing a man’s voice pulling her out of bed. Yet the Lags Medical psychiatrist signed a letter stating that the patient “has no ... underlying psychological conditions, which would adversely affect the outcome of this procedure,” as he did with all Lags Medical patients undergoing SCS procedures. The procedure did not improve that patient’s chronic pain.

### **Definitive Urine Drug Testing**

18. From April 17, 2017, through August 11, 2021, Dr. Lagattuta and Lags Medical submitted or caused to be submitted claims for reimbursement to Medicare, Medi-Cal, and Oregon Medicaid for definitive urine drug testing (UDT) under HCPCS Code G0483. Definitive urine drug testing identifies the concentration of specific medications, illicit substances, and metabolites in urine samples.

19. Blanket orders of UDTs—identical orders for all patients without regard to each patient’s individualized medical necessity for the test—are not covered by Medicare insurance. Dr. Lagattuta and Lags Medical providers made identical orders of UDTs for all patients to be tested every four months. Lags Medical’s CEO stated to Dr. Lagattuta that performing definitive UDTs on all their patients “[s]hould be a big money maker” and called it “Operation GO483!”

20. In addition, at Dr. Lagattuta’s direction, Lags Medical tested each patient for the maximum allowable number of drug panels reimbursed by Medicare under HCPCS Code

G0483, which reimbursed at the highest rate. When a new consultant for Lags Medical told Dr. Lagattuta that it was “medically unnecessary but also wasteful” to order the maximum number of drug panels for each patient, Dr. Lagattuta directed a Lags Medical executive not to contact the consultant “because she might report us. For anything.”

G. This Settlement Agreement is neither an admission of liability by Dr. Lagattuta or Lags Medical nor a concession by the United States, California, and Oregon that their claims are not well founded.

H. Beginning on or around June 12, 2020, the Centers for Medicare and Medicaid Services (“CMS”) suspended and withheld Medicare payments to Lags Medical (“Suspension”). In addition, on May 4, 2021, Medi-Cal temporarily suspended and deactivated Dr. Lagattuta and Lags Medical pursuant to Cal. Welf. & Inst. Code §§ 14107.11 and 14043.36(a) and 42 C.F.R. § 455.23.

I. Relator claims entitlement under 31 U.S.C. § 3730(d) and Cal. Gov’t Code § 12652(g) to a share of the proceeds of this Agreement and to Relator’s reasonable expenses, attorneys’ fees, and costs.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Agreement, the Parties agree and covenant as follows:

#### TERMS AND CONDITIONS

1. Dr. Lagattuta and Lags Medical jointly and severally agree to pay the United States the sum of eleven million, two hundred sixty-seven thousand, one hundred and fourteen dollars and forty-three cents (\$11,267,114.43), plus interest as provided herein (the “Settlement Amount”), in the manner set forth in Paragraphs 1.a. and 1.b. below, and through the United States’ retention of \$4,096,284.47 dollars held by the Suspension, as set forth in Paragraph 1.d. below. Dr. Lagattuta and Lags Medical will make the payments to the United States in Paragraphs 1.a. and 1.b. below by electronic funds transfer pursuant to written instructions to be

provided by the United States Attorney for the Eastern District of California. The United States will allocate 41.2% and 2.6% of the Settlement Amount to Medi-Cal and Oregon Medicaid and remit to California and Oregon their proportionate shares of the Settlement Amount in accordance with Exhibit A attached hereto.

a. Within ten (10) business days of the Effective Date of this Agreement, Dr. Lagattuta and Lags Medical will make a payment to the United States in the amount of two million, one hundred twenty thousand, eight hundred twenty-nine dollars and ninety-six cents (\$2,120,829.96) (“Down Payment”).

b. Over a period of two (2) years after the Effective Date of this Agreement, Dr. Lagattuta and Lags Medical will pay the remaining five million, fifty thousand dollars (\$5,050,000.00), plus interest, pursuant to the payment schedule attached at Exhibit B (“Payments Over Time”).

c. The Down Payment and the Payments Over Time shall be secured, in part, by a Security Agreement, in the form of Exhibit C, that Dr. Lagattuta and Lags Medical agree to execute contemporaneously with this Settlement Agreement.

d. Dr. Lagattuta and Lags Medical hereby agree that the United States shall retain forevermore \$4,096,284.47 dollars held by the Suspension, which will be applied to the Settlement Amount. Dr. Lagattuta and Lags Medical expressly relinquish any and all rights of any kind that they may have or ever claim to have with respect to those funds, including, but not limited to: any and all claims or rights to have an overpayment determined under 42 C.F.R. § 405.372(c), any and all rights to payment of those funds, and any and all rights to appeal, whether formally or informally and whether administratively or judicially, the right of the United States and/or CMS to retain those funds, and any other rights Dr. Lagattuta and/or Lags Medical may have to challenge the Suspension in any respect.



e. Notwithstanding any other provision of this Agreement, the United States' retention of the Suspension amount in Paragraph 1.d. may not be used to satisfy or be deemed to satisfy the Defendants' obligations to make the payments in Paragraphs 1.a. or 1.b. above.

f. The Settlement Amount may be prepaid, in whole or in part, without penalty or premium.

g. All payments by Dr. Lagattuta and Lags Medical to the United States under Paragraphs 1.a., 1.b., and 1.d. above are restitution to the United States, California, and Oregon.

2. The United States agrees that it shall pay to Relator eighteen and one-half percent (18.5%) of the amount held in Suspension, and conditioned upon the United States receiving payments made towards satisfying the Settlement Amount, the United States and California agree that they shall pay to Relator eighteen and one-half percent (18.5%) of each of their respective shares of each payment received under the Agreement within a reasonable time after receipt of each payment ("Relator's Share"). All Relator's Share payments shall be paid directly to Jonathan Kroner Law Office Trust Account. Relator's counsel, Jonathan Kroner, will be solely responsible for ensuring that the Relator's Share payments received are distributed to Relator and any third parties in the manner mutually agreed upon by and among Relator and Relator's counsel. Relator agrees that the United States and California are not responsible for division or distribution of the Relator's share of the Settlement Amount beyond the distribution to Relator's counsel and as described herein.

3. Dr. Lagattuta and Lags Medical shall make payments to Relator for reasonable expenses, attorneys' fees, and costs in accordance with 31 U.S.C. § 3730(d)(1) and (2), in the amount of One Hundred Twenty Thousand Dollars (\$120,000.00) by wire transfer as directed by Relator's Counsel. The payment will be paid concurrent with the Down Payment made to the

United States under this Agreement. Relator asserts that this amount incorporates a negotiated discount off the actual fees, costs, and expenses of One Hundred Eighty Thousand Dollars (\$180,000.00), which reported discount is contingent on timely payment. Failure to pay after notice and opportunity to cure in ten (10) days will increase the requisite payment to the full One Hundred Eighty Thousand (\$180,000.00).

4. Subject to the exceptions in Paragraph 8 (concerning reserved claims); Paragraph 13 (concerning disclosure of assets); Paragraph 23 (concerning default); and Paragraph 24 (concerning bankruptcy) below; and upon the United States' receipt of the Settlement Amount, plus interest under Paragraph 1, the United States releases Dr. Lagattuta and Lags Medical from any civil or administrative 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.

5. Subject to the exceptions in Paragraph 8 (concerning reserved claims); Paragraph 13 (concerning disclosure of assets); Paragraph 23 (concerning default); and Paragraph 24 (concerning bankruptcy) below; and upon the United States' receipt of the Settlement Amount, plus interest under Paragraph 1, California releases Dr. Lagattuta and Lags Medical from any civil monetary claim California has for the Covered Conduct under the CFCA, Cal. Gov't Code §§ 12651(a)(1)-(3) and 12528(d), or the common law theories of payment by mistake, unjust enrichment, and fraud.

6. Subject to the exceptions in Paragraph 8 (concerning reserved claims); Paragraph 13 (concerning disclosure of assets); Paragraph 23 (concerning default); and Paragraph 24 (concerning bankruptcy) below; and upon the United States' receipt of the Settlement Amount, plus interest under Paragraph 1, Oregon releases Dr. Lagattuta and Lags Medical from any civil

monetary claim Oregon has for the Covered Conduct under Oregon's False Claims Act, Oregon Revised Statutes §180.755, or the common law theories of payment by mistake, unjust enrichment, and fraud.

7. a. Subject to the exceptions in Paragraph 8 below (concerning reserved claims); Paragraph 13 (concerning disclosure of assets); Paragraph 23 (concerning default); and Paragraph 24 (concerning bankruptcy) below; and upon the United States' receipt of the Settlement Amount, plus interest due under Paragraph 1, and upon full payment of the Paragraph 3 expenses, attorneys' fees, and costs, Relator and Relator's counsel for themselves, their executors, successors, heirs, spouses, children, beneficiaries, administrators, personal representatives, agents, assigns, representatives, next-of-kin, any subrogee or other derivative claimants, hereby release and discharge Dr. Lagattuta and Lags Medical and any other affiliated entity and their respective past, present and future heirs, executors, beneficiaries, administrators, personal representatives, attorneys, spouses, successors, employees, assigns, officers, directors, managers, shareholders, owners, partners, trustees, members, agents, servants, representatives, subsidiaries, parents, affiliates (whether direct or indirect), insurers, reinsurers, predecessors and successors (the "Lags Parties") as the case may be of and from any and all claims, demands, rights and causes of action of whatever kind and nature, of any kind or description, in law or in equity, whether or not well-founded in law or in fact, whether compensatory, punitive or otherwise, of every kind and description including, but not limited to, attorneys' fees, expenses and costs, whether known or unknown, which Relator and Relator's counsel now have or may have had or might have against the Lags Parties up to and including the date of this Agreement, and including any civil monetary claim the Relator has on behalf of the United States or California for the Covered Conduct under the FCA or CFCA.

b. Relator and Relator's counsel and the Lags Parties expressly waive all rights they may have by virtue of Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

c. Relator agrees never to commence, encourage, prosecute, or cause to be prosecuted against the Lags Parties, or to advise any entity or person in bringing or prosecuting, any complaint, suit, or proceeding against the Lags Parties, any claim, demand, cause of action, damage or liability that is the subject matter of this Agreement; provided, however, that neither Relator nor the Lags Parties are precluded from bringing or prosecuting any complaint, suit or proceeding to enforce the terms of this Agreement.

d. Relator represents and warrants that, subject to the interests of the United States, the State of California, and Relator's attorneys in this matter, Relator fully owns his interest in all claims asserted in the Civil Action described herein, and that, other than the United States and the State of California, no other person or equity has, or has had, any interest in the claims, demands, obligations or causes of action referred to in the Civil Action; that Relator has not sold, assigned, transferred, hypothecated, conveyed or otherwise disposed of any such claim, demands, obligations or causes of action; and that Relator has the right and authority to execute this Agreement and receive the sum(s) specified in it subject to the consent of the United States to dismissal of any claims asserted pursuant to 31 U.S.C. §3729, *et seq.*

8. Notwithstanding the releases given in Paragraphs 4 through 7 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States, California, and Oregon are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code); the California Revenue and Taxation Code; or the Oregon Revenue and Taxation 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 or state health care programs;
- d. Any liability to the United States, California, or Oregon (or their agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability of individuals except Dr. Lagattuta;
- g. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- h. Any liability for failure to deliver goods or services due; and
- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

9. Relator and his 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) and Cal. Gov't Code § 12652(e)(2)(B). Conditioned upon Relator's receipt of Relator's Share, Relator and his heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States and California; and their respective agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730 or

Cal. Gov't Code §12652, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

10. Upon full payment of the Paragraph 3 expenses, attorneys' fees, and costs, Relator, for himself, and for his heirs, successors, attorneys, agents, and assigns, releases Dr. Lagattuta and Lags Medical, 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.

11. Voluntary Exclusion:

a. In compromise and settlement of the rights of OIG-HHS to exclude Dr. Lagattuta pursuant to 42 U.S.C. § 1320a-7(b)(7), based upon the Covered Conduct, Dr. Lagattuta agrees to be excluded under this statutory provision from Medicare, Medicaid, and all other Federal health care programs, as defined in 42 U.S.C. § 1320a-7b(f), for a period of five (5) years. The exclusion shall be effective upon the Effective Date of this Agreement.

b. Such exclusion shall have national effect. Federal health care programs shall not pay anyone for items or services, including administrative and management services, furnished, ordered, or prescribed by Dr. Lagattuta in any capacity while Dr. Lagattuta is excluded. This payment prohibition applies to Dr. Lagattuta and all other individuals and entities (including, for example, anyone who employs or contracts with Dr. Lagattuta, and any hospital or other provider where Dr. Lagattuta provides services). The exclusion applies regardless of who submits the claim or other request for payment. Violation of the conditions of the exclusion may result in criminal prosecution, the imposition of civil monetary penalties and assessments, and an additional period of exclusion. Dr. Lagattuta further agrees to hold the Federal health care programs, and all federal beneficiaries and/or sponsors, harmless from any financial responsibility for items or services furnished, ordered, or prescribed to such beneficiaries or

sponsors after the effective date of the exclusion. Dr. Lagattuta shall not prematurely discharge any patient following Dr. Lagattuta's exclusion from the Federal health care programs. Dr. Lagattuta waives any further notice of the exclusion and agrees not to contest such exclusion either administratively or in any state or federal court.

c. Reinstatement to program participation is not automatic. If Dr. Lagattuta wishes to be reinstated, Dr. Lagattuta must submit a written request for reinstatement to the OIG in accordance with the provisions of 42 C.F.R. §§ 1001.3001-.3005. Such request may be made to the OIG no earlier than 90 days prior to the expiration of the five (5)-year period of exclusion. Reinstatement becomes effective upon application by Dr. Lagattuta, approval of the application by the OIG, and notice of reinstatement by the OIG. Obtaining another license, moving to another state, or obtaining a provider number from a Medicare contractor, a state agency, or a Federal health care program does not reinstate Dr. Lagattuta's eligibility to participate in these programs.

12. Nothing in Paragraph 11 shall limit California or Oregon from imposing their own exclusion period, nor shall California or Oregon be required to ever reinstate Dr. Lagattuta to their respective Medicaid programs.

13. Dr. Lagattuta and Lags Medical have provided sworn financial disclosures and supporting documents (together "Financial Disclosures") to the United States and the United States, California, and Oregon have relied on the accuracy and completeness of those Financial Disclosures in reaching this Agreement. Dr. Lagattuta and Lags Medical warrant that the Financial Disclosures were complete, accurate, and current as of the date they were submitted (the "Disclosure Date").<sup>2</sup> If the United States learns of asset(s) in which Dr. Lagattuta or Lags

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<sup>2</sup> Since the Disclosure Date, Dr. Lagattuta and Lags Medical have provided additional documents and information concerning properties, accounts, and assets, including information relating to the acquisition and sale of a remotely operated underwater vehicle ("ROV"). This information is included in the term "Financial Disclosures." Dr.

Medical had an interest of any kind as of the Effective Date of this Agreement (including, but not limited to, promises by insurers or other third parties to satisfy Dr. Lagattuta's or Lags Medical's obligations under this Agreement) that were not disclosed in the Financial Disclosures, or if the United States learns of any material false statement or misrepresentation by Dr. Lagattuta or Lags Medical 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 \$1,000,000 or more, the United States may at its option: (a) rescind this Agreement and file suit based on the Covered Conduct or (b) collect the full Settlement Amount in accordance with the Agreement plus one hundred percent (100%) of the net value of Dr. Lagattuta's and Lags Medical's previously undisclosed assets. Dr. Lagattuta and Lags Medical agree not to contest any collection action undertaken by the United States pursuant to this provision and agree that they will immediately pay the United States the greater of (i) a ten-percent (10%) surcharge of the amount collected in the collection action, 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, pursuant to this paragraph, rescinds this Agreement, Dr. Lagattuta and Lags Medical waive and agree 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 Dr. Lagattuta and Lags Medical that this Agreement has been rescinded, and (b) relate to the Covered Conduct, except to the extent these defenses were available on the Effective Date of this Agreement.

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Lagattuta and Lags Medical represent and warrant that, since the Disclosure Date to the Effective Date, neither Dr. Lagattuta nor Lags Medical have acquired an asset worth more than \$10,000 and that the combined balances of the bank accounts disclosed in the Financial Disclosures are less than what was disclosed on the Disclosure Date, except for the proceeds from the sale of the ROV, which are accounted for in the Payments Over Time.



14. Dr. Lagattuta and Lags Medical waive and shall not assert any defenses Dr. Lagattuta or Lags Medical 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.

15. Dr. Lagattuta and Lags Medical fully and finally release the United States, California, and Oregon and their agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Dr. Lagattuta or Lags Medical have asserted, could have asserted, or may assert in the future against the United States, California, or Oregon, or their agencies, officers, agents, employees, and servants, related to the Covered Conduct or the United States', California's, or Oregon's investigation or prosecution thereof.

16. Dr. Lagattuta and Lags Medical hereby expressly waive all rights they may have by virtue of Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

17. a. Dr. Lagattuta and Lags Medical, for themselves, their executors, successors, heirs, spouses, children, beneficiaries, administrators, personal representatives, agents, assigns, representatives, next-of-kin, any subrogee or other derivative claimants, hereby release and discharge Relator and Relator's counsel and any other affiliated entity and their respective past, present and future heirs, executors, beneficiaries, administrators, personal representatives, attorneys, spouses, successors, employees, assigns, officers, directors, managers,

shareholders, owners, partners, trustees, members, agents, servants, representatives, subsidiaries, parents, affiliates (whether direct or indirect), insurers, reinsurers, predecessors and successors (the “Relator Parties”) as the case may be of and from any and all claims, demands, rights and causes of action of whatever kind and nature, of any kind or description, in law or in equity, whether or not well-founded in law or in fact, whether compensatory, punitive or otherwise, of every kind and description including, but not limited to, attorneys’ fees, expenses and costs, whether known or unknown, which the Lags Parties now have or may have had or might have against Relator and Relator’s counsel up to and including the date of this Agreement.

b. Dr. Lagattuta and Lags Medical agree never to commence, encourage, prosecute, or cause to be prosecuted against the Relator or his counsel, or to advise any entity or person in bringing or prosecuting, any complaint, suit, or proceeding against Relator or his counsel, any claim, demand, cause of action, damage or liability that is the subject matter of this Agreement; provided, however, that neither Relator nor the Lags Parties are precluded from bringing or prosecuting any complaint, suit or proceeding to enforce the terms of this Agreement.

18. 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 or Medicaid contractor (e.g., Medicare Administrative Contractor, fiscal intermediary, carrier, managed care plan, or any state payer), related to the Covered Conduct; and Dr. Lagattuta and Lags Medical agree not to resubmit to any Medicare or Medicaid contractor or any state payer any previously denied claims related to the Covered Conduct, agree not to appeal any such denials of claims, and agree to withdraw any such pending appeals.

19. Dr. Lagattuta and Lags Medical agree 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. §§ 1395-1395lll and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Dr. Lagattuta or Lags Medical, 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 investigation of the matters covered by this Agreement;
- (3) Dr. Lagattuta's and Lags Medical's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement; and
- (5) the payments Dr. Lagattuta and Lags Medical make to the United States pursuant to this Agreement and any payments that Dr. Lagattuta and Lags Medical may make to Relator, including costs and attorneys' fees;

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 Dr. Lagattuta and Lags Medical, and Dr. Lagattuta and Lags Medical 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 Dr. Lagattuta or Lags Medical or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Dr. Lagattuta and Lags Medical further agree that within 90 days of the Effective Date of this Agreement they 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 Dr. Lagattuta or Lags Medical 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. Dr. Lagattuta and Lags Medical agree that the United States, California, or Oregon, at a minimum, shall be entitled to recoup from Dr. Lagattuta and Lags Medical any overpayment plus applicable interest and penalties because 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, California, and Oregon reserve their rights to disagree with any calculations submitted by Dr. Lagattuta or Lags Medical or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Dr. Lagattuta or Lags Medical 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, California, or Oregon to audit, examine, or re-examine Dr. Lagattuta's and Lags

Medical's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

20. Dr. Lagattuta and Lags Medical agree to cooperate fully and truthfully with the United States', California's, and/or Oregon's investigation of individuals and entities not released in this Agreement. Upon reasonable notice, Dr. Lagattuta and Lags Medical shall encourage, and agree not to impair, the cooperation of Lags Medical's directors, officers, and employees, and shall encourage, and agree not to impair, the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. Dr. Lagattuta and Lags Medical further agree to furnish to the United States Attorney's Office, the State of California, and Oregon, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in its possession, custody, or control, if any, concerning any investigation of the Covered Conduct that it has undertaken, or that has been performed by another on its behalf.

21. 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 22 (waiver for beneficiaries paragraph), below.

22. Dr. Lagattuta and Lags Medical agree that they waive 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.

23. The Settlement Amount represents the amount the United States, California, and Oregon are willing to accept in compromise of their civil claims arising from the Covered Conduct due solely to Dr. Lagattuta's and Lags Medical's financial condition as reflected in the Financial Disclosures referenced in Paragraph 13.

a. If Dr. Lagattuta and Lags Medical fail to pay the Settlement Amount as provided in the payment schedule set forth in Paragraph 1 above, Dr. Lagattuta and Lags Medical shall be in Default of Dr. Lagattuta's and Lags Medical's payment obligations ("Default"). The United States will provide a written Notice of Default, and Dr. Lagattuta and Lags Medical 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 the Agreement up to the date of payment. Notice of Default will be delivered to Dr. Lagattuta and Lags Medical, or to such other representative as Dr. Lagattuta or Lags Medical shall designate in advance in writing. If Dr. Lagattuta and Lags Medical fail 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, Dr. Lagattuta and Lags Medical agree 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 Dr. Lagattuta or Lags Medical for the claims that would otherwise be covered by the releases provided in Paragraph 4 above with any recovery reduced by the amount of any payments previously made by Dr. Lagattuta and Lags Medical 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 Dr. Lagattuta and Lags Medical 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, Dr. Lagattuta and Lags Medical agree 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, Dr. Lagattuta and Lags Medical waive and agree 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 Dr. Lagattuta or Lags Medical 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 the Effective Date of the Agreement. Dr. Lagattuta and Lags Medical agree 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 Uncured Default, OIG-HHS may exclude or extend the exclusion of Dr. Lagattuta and/or Lags Medical from participating in all Federal health care programs until Dr. Lagattuta and Lags Medical pay the Settlement Amount, with interest, as set forth above (Exclusion for Default). OIG-HHS will provide written notice of any such exclusion to Dr. Lagattuta and/or Lags Medical. Dr. Lagattuta and Lags Medical waive any further notice of the exclusion under 42 U.S.C. § 1320a-7(b)(7) and agree 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, Dr. Lagattuta or Lags Medical wish to apply for reinstatement, they must submit a written request for reinstatement to OIG-HHS in accordance with the provisions of 42 C.F.R. §§ 1001.3001-.3005. Dr. Lagattuta and Lags Medical 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.

24. In exchange for valuable consideration provided in this Agreement, Dr. Lagattuta, Lags Medical, and Relator acknowledge the following:

a. Dr. Lagattuta has reviewed his financial situation and warrants that he is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I). Dr. Lagattuta intends to remain solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I) following payment to the United States of the Settlement Amount. Dr. Lagattuta and Lags Medical have not filed, nor do they intend to file, for relief under the Bankruptcy Code following payment to the United States of the Settlement Amount.

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 Dr. Lagattuta and Lags Medical, 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 Dr. Lagattuta or Lags Medical was or became indebted to 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 Dr. Lagattuta's or Lags Medical's 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, Dr. Lagattuta, Lags Medical 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 Dr. Lagattuta's or Lags Medical's debts, or to adjudicate Dr. Lagattuta or Lags Medical as bankrupt or insolvent; or seeking appointment of a receiver, trustee, custodian, or other similar official for Dr. Lagattuta or Lags Medical or for all or any substantial part of Dr. Lagattuta's or Lags Medical's assets:

(i) the United States, California, and/or Oregon may rescind the releases in this Agreement and bring any civil and/or administrative claim, action, or proceeding against Dr. Lagattuta and Lags Medical for the claims that would otherwise be covered by the releases provided in Paragraphs 4 to 6 above;

(ii) the United States, California, and Oregon have a non-contingent and liquidated allowed claim against Dr. Lagattuta and Lags Medical in the amount of \$90,298,479.00, 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, California, or Oregon by Dr. Lagattuta or Lags Medical, a receiver, trustee, custodian, or other similar official for Dr. Lagattuta or Lags Medical;

(iii) if any payments are avoided and recovered by a receiver, trustee, creditor, custodian, or similar official, the United States, California, and Oregon 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 or California to the Relator pursuant to Paragraph 2 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 or California to the undersigned Relator's counsel, return to the United States or California all amounts recovered from them.

f. Dr. Lagattuta and Lags Medical agree that any civil and/or administrative claim, action, or proceeding brought by the United States, California, or Oregon under Paragraph 24.e is not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) and Oregon Revised Statutes 37.220 because it would be an exercise of the United States', California's, or Oregon's police and regulatory power. Dr. Lagattuta and Lags Medical shall not argue or otherwise contend that the United States', California's, or Oregon's 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) and ORS 37.220(3). Dr. Lagattuta and Lags Medical waive 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, California, or Oregon within 120 days of written notification to Dr. Lagattuta and Lags Medical that the releases have been rescinded pursuant to this paragraph, except to the extent such defenses were available on the Effective Date of this Agreement.

25. Upon receipt of the Down Payment described in Paragraph 1.a. above, the Parties to the Civil Action shall promptly sign and file a Joint Stipulation of Dismissal of the Civil Action pursuant to Rule 41(a)(1).

26. Except as provided in Paragraph 3, above, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

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

28. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Eastern District of California, Sacramento Division. 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.

29. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties. Forbearance by the United States, California, or Oregon from pursuing any remedy or relief available to them under this Agreement shall not constitute a waiver of rights under this Agreement.

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

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

32. This Agreement is binding on Dr. Lagattuta's and Lags Medical's successors, transferees, heirs, and assigns.

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


34. All Parties consent to the United States', California's, and Oregon's disclosure of this Agreement, and information about this Agreement, to the public.

35. This Agreement is effective on the date of 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.

**THE UNITED STATES OF AMERICA**

PHILLIP A. TALBERT  
United States Attorney

DATED: 7/7/23

BY:   
COLLEEN M. KENNEDY  
Assistant United States Attorney  
Eastern District of California

DATED: 7/5/23

BY: Lisa M. Re /seg  
LISA M. RE  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

**THE STATE OF CALIFORNIA**

ROB BONTA  
Attorney General for the State of California

DATED:

BY: \_\_\_\_\_  
JENNIFER S. GREGORY  
Deputy Attorney General  
California Department of Justice  
Office of the Attorney General  
Division of Medi-Cal Fraud and Elder Abuse

**THE STATE OF OREGON**

ELLEN F. ROSENBLUM  
Attorney General for the State of Oregon

BY: \_\_\_\_\_  
SHEEN WU  
Director  
State of Oregon Medicaid Fraud Control Unit

**THE UNITED STATES OF AMERICA**

PHILLIP A. TALBERT  
United States Attorney

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

COLLEEN M. KENNEDY  
Assistant United States Attorney  
Eastern District of California

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

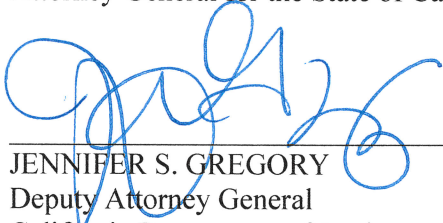
LISA M. RE  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

**THE STATE OF CALIFORNIA**

ROB BONTA  
Attorney General for the State of California

DATED: 6/29/23

BY: \_\_\_\_\_

  
JENNIFER S. GREGORY  
Deputy Attorney General  
California Department of Justice  
Office of the Attorney General  
Division of Medi-Cal Fraud and Elder Abuse

**THE STATE OF OREGON**

ELLEN F. ROSENBLUM  
Attorney General for the State of Oregon

BY: \_\_\_\_\_

SHEEN WU  
Director  
State of Oregon Medicaid Fraud Control Unit

**THE UNITED STATES OF AMERICA**

PHILLIP A. TALBERT  
United States Attorney

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
COLLEEN M. KENNEDY  
Assistant United States Attorney  
Eastern District of California

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
LISA M. RE  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

**THE STATE OF CALIFORNIA**


ROB BONTA  
Attorney General for the State of California

DATED:


BY: \_\_\_\_\_  
JENNIFER S. GREGORY  
Deputy Attorney General  
California Department of Justice  
Office of the Attorney General  
Division of Medi-Cal Fraud and Elder Abuse

**THE STATE OF OREGON**

ELLEN F. ROSENBLUM  
Attorney General for the State of Oregon

BY:  \_\_\_\_\_  
SHEEN WU  
Director  
State of Oregon Medicaid Fraud Control Unit

**FRANCIS P. LAGATTUTA, M.D. - DEFENDANT**


DATED: 6/29/2023 BY:   
FRANCIS P. LAGATTUTA, M.D.

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
RICHARD GREENBERG  
Greensfelder, Hemker & Gale, P.C.  
Counsel for Francis P. Lagattuta, M.D.

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
MALCOLM SEGAL  
Segal & Associates, P.C.  
Counsel for Francis P. Lagattuta, M.D.

**LAGS MEDICAL - DEFENDANT**

DATED: 6/9/2023 BY:   
FRANCIS P. LAGATTUTA, M.D.

DATED: 7/6/23 BY:   
JAN PAUL MILLER  
Maria Zschoche  
Counsel for Lags Medical

**STEVEN CAPEDER - RELATOR**

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
STEVEN CAPEDER

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
JONATHAN KRONER  
Jonathan Kroner Law Office  
Counsel for Steven Capeder

S  
DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
PHILLIP BENSON  
Warren Benson Law  
Counsel for Steven Capeder



**FRANCIS P. LAGATTUTA, M.D. - DEFENDANT**

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
FRANCIS P. LAGATTUTA, M.D.

DATED: 6/29/2023 BY: Richard Greenberg by Malcolm Segal  
RICHARD GREENBERG  
Greensfelder, Hemker & Gale, P.C.  
Counsel for Francis P. Lagattuta, M.D.

DATED: 6/29/2023 BY: Malcolm Segal  
MALCOLM SEGAL  
Segal & Associates, P.C.  
Counsel for Francis P. Lagattuta, M.D.

**LAGS MEDICAL - DEFENDANT**

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
FRANCIS P. LAGATTUTA, M.D.

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
JAN PAUL MILLER  
Maria Zschoche  
Counsel for Lags Medical

**STEVEN CAPEDER - RELATOR**

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
STEVEN CAPEDER

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
JONATHAN KRONER  
Jonathan Kroner Law Office  
Counsel for Steven Capeder

S  
DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
PHILLIP BENSON  
Warren Benson Law  
Counsel for Steven Capeder

**FRANCIS P. LAGATTUTA, M.D. - DEFENDANT**

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
FRANCIS P. LAGATTUTA, M.D.

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
RICHARD GREENBERG  
Greensfelder, Hemker & Gale, P.C.  
Counsel for Francis P. Lagattuta, M.D.

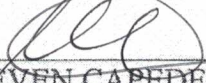
DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
MALCOLM SEGAL  
Segal & Associates, P.C.  
Counsel for Francis P. Lagattuta, M.D.

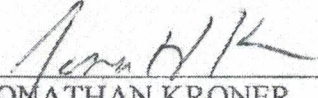
**LAGS MEDICAL - DEFENDANT**

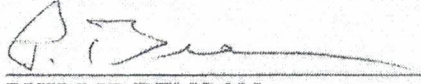
DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
FRANCIS P. LAGATTUTA, M.D.

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
JAN PAUL MILLER  
Maria Zschoche  
Counsel for Lags Medical

**STEVEN CAPEDE - RELATOR**

DATED: 6/29/23 BY:   
STEVEN CAPEDE

DATED: 6/29/23 BY:   
JONATHAN KRONER  
Jonathan Kroner Law Office  
Counsel for Steven Capeder

S  
DATED: 6/28/23 BY:   
PHILLIP BENSON  
Warren Benson Law  
Counsel for Steven Capeder

**Exhibit A**

<b>Payment #</b>	<b>Payment Amount</b>	<b>Federal Medicare</b>	<b>Federal Share of Medicaid (California)</b>	<b>California Net Share*</b>	<b>Federal Share of Medicaid (Oregon)</b>	<b>Oregon Net Share</b>	<b>Relator Share**</b>
Susp. Acct.	\$4,096,284.47	\$3,338,471.84	\$0.00	\$0.00	\$0.00	\$0.00	\$757,812.63
1	\$2,120,829.96	\$545,756.75	\$464,836.39	\$647,676.19	\$45,362.97	\$30,483.58	\$386,714.08
2	\$100,000.00	\$25,733.19	\$21,917.66	\$30,538.81	\$2,138.92	\$1,437.33	\$18,234.09
3	\$1,775,000.00	\$456,763.74	\$389,038.54	\$542,063.83	\$37,965.93	\$25,512.83	\$323,655.13
4	\$2,040,484.38	\$525,081.27	\$447,226.51	\$623,139.60	\$43,644.45	\$29,328.75	\$372,063.80
5	\$1,249,500.00	\$321,535.92	\$273,861.22	\$381,582.41	\$26,725.89	\$17,959.59	\$227,834.97
	<b>\$11,382,098.81</b>	<b>\$5,213,342.71</b>	<b>\$1,596,880.32</b>	<b>\$2,225,000.84</b>	<b>\$155,838.16</b>	<b>\$104,722.08</b>	<b>\$2,086,314.70</b>

\* California Net Share payments to California reflects California Medicaid less both the federal share of California Medicaid and relator's share of California's recovery.

\*\* 18.5% of Medicare, Federal Medicaid, California's share of Medicaid

**EXHIBIT B  
PAYMENTS OVER TIME**

<b>Payment #</b>	<b>Date</b>	<b>Payment</b>	<b>Interest*</b>	<b>Principal</b>	<b>Balance</b>
Beginning Balance					\$7,170,829.96
1	ED+10**	\$2,120,829.96	\$0.00	\$2,120,829.96	\$5,050,000.00
2	9/1/2023	\$100,000.00	\$0.00	\$100,000.00	\$4,950,000.00
3	12/1/2023	\$1,775,000.00	\$0.00	\$1,775,000.00	\$3,175,000.00
4	5/1/2024	\$2,040,484.38	\$65,484.38	\$1,975,000.00	\$1,200,000.00
5	5/1/2025	\$1,249,500.00	\$49,500.00	\$1,200,000.00	\$0.00
<b>Total</b>		<b>\$7,285,814.34</b>	<b>\$114,984.38</b>	<b>\$7,170,829.96</b>	

\*Interest: 4.125%

\*\*First payment to be made within ten business days of the Effective Date of the Settlement Agreement, as set forth in paragraph 1.a of the Agreement.

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

SEGAL & ASSOCIATES, PC  
400 Capitol Mall, Suite 2550  
Sacramento, CA 95814  
Attention: Malcolm Segal  
Tel. (916) 441-0886  
Email: msegal@segal-pc.com

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*(space above this line for recorder's use only)*

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**SECURITY AGREEMENT**

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Dated: June 30, 2023  
Address: 2424 Our Hill Lane  
Paso Robles, California  
93446

THIS INSTRUMENT IS TO BE INDEXED AS A SECURITY AGREEMENT.

## EXHIBIT C

### SECURITY AGREEMENT

THIS SECURITY AGREEMENT (“Agreement”) is made as of the 30th day of June 2023 by and between Francis P. Lagattuta, M.D. (“Lagattuta” or “Debtor”) and the United States of America, acting through the United States Attorney’s Office for the Eastern District of California (the “United States”), the State of California, acting through the California Attorney General’s Office (“California”), and the State of Oregon, acting through the Oregon Department of Justice, Medicaid Fraud Control Unit (“Oregon”) (each individually a “Secured Party” and collectively “Secured Parties”).

### WITNESSETH

WHEREAS, Debtor is a Party to a Settlement Agreement (“Settlement Agreement”) in the lawsuit styled *United States and California ex rel. Steven Capeder v. Francis P. Lagattuta, M.D., Lagz Corporation, Spine & Pain Treatment Medical Center of Santa Barbara, Inc., and LAGS Spine & SportsCare Medical Centers, Inc.*, Case No. 2:18-cv-2928 KJM KJN (E.D. Cal.), executed contemporaneously herewith in favor of the Secured Parties, the terms of which are incorporated herein by reference, pursuant to which Debtor agreed to grant a senior security interest in certain assets of Debtor to the United States, California, and Oregon pursuant to the terms hereof.

WHEREAS, to provide for the granting of the security interests as required under the Settlement Agreement, the parties have entered into this Security Agreement.

NOW THEREFORE, in consideration of the foregoing premises, and intending to be legally bound hereby, Debtor and the Secured Parties agree as follows:

1. Definitions. For purposes of this Agreement:

(a) The term “Cash Settlement Amount” shall mean \$7,285,814.34, payable as set forth in Paragraphs 1.a. and 1.b. and Exhibit B of the Settlement Agreement.

(b) The term “Liabilities” shall include all monetary indebtedness, obligations, or liabilities of any kind arising in any way of Debtor to Secured Parties, now existing or hereafter created, under the Settlement Agreement, including but not limited to the Cash Settlement Amount.

(c) The term “Collateral” shall mean the entire plot of land located at 2424 Our Hill Lane, Paso Robles, California 93446, and all residential structures thereon as legally described in Addendum 1 annexed to this Security Agreement.

2. Grant of Security Interest. As security for the payment of the Liabilities, Debtor hereby grants to the United States, California, and Oregon a lien, mortgage, or security interest in the Collateral, as collateral security for the prompt and complete payment of the Cash Settlement Amount. With respect to the Collateral Debtor shall, within 20 days of the execution of the Settlement Agreement, record at its own expense this Security Agreement with the appropriate governmental authority in the applicable jurisdiction to indicate the security interest of the Secured Parties thereon. Said security interest shall be second in time only to the security interest on the Collateral held by lenders or other lien holders existing prior to the execution of this Agreement. Debtor certifies and warrants that Debtor has provided the Secured Parties with copies of all the liens, mortgages, security interests or other legal claims to the Collateral.

3. Exercise of Security Interest. Upon the failure of Debtor to meet any of his payment obligations in connection with the Liabilities or under this Agreement, the Secured Parties, together, or individually, may take whatever steps are warranted, upon three (3) business days written notice to Debtor and Debtor's failure to cure within seven (7) business days, to use Collateral to satisfy Debtor's outstanding obligations under the Settlement Agreement.

4. Grant of Power of Attorney. Debtor hereby constitutes and appoints Phillip A. Talbert, United States Attorney, United States Attorney's Office for the Eastern District of California, and his subordinates, and his successors in office and their subordinates, as attorney, to the extent permitted by law, to collect, cash, withdraw or to sell, assign, and transfer the Collateral. Debtor hereby constitutes and appoint Rob Bonta, Attorney General of the State of California, and his subordinates, and his successors in office and their subordinates, as attorney, to the extent permitted by law, to collect, cash, withdraw or to sell, assign, and transfer the Collateral. Debtor hereby constitutes and appoints Ellen Rosenblum, Attorney General of the State of Oregon, and her subordinates, and her successors in office and their subordinates, as attorney, to the extent permitted by law, to collect, cash, withdraw or to sell, assign, and transfer the Collateral. Debtor further agrees that the authority granted herein is irrevocable until suchtime as Debtor has met all his obligations hereunder and his obligations in connection with the Liabilities. The United States, California, and Oregon have agreed to allocate 31.6%, 64.4%, and 4.1%, respectively, of any proceeds that may be obtained from the Collateral.

5. Insurance. Debtor shall maintain insurance on the Collateral with reputable and financially sound insurance companies in coverage and amounts as will be sufficient to fully protect the Secured Parties' interest in the Collateral. As additional security for the payment of all Liabilities, Debtor hereby assigns to Secured Parties any proceeds of any and all insurance on any of the Collateral and authorize Secured Parties to collect any such proceeds and to execute in Debtor's name all proofs of loss, drafts, checks and any other documents necessary to accomplish such collection, provided, that such collected proceeds shall be applied to reduce the Liabilities. Debtor agrees to furnish the Secured Parties with certificates of such insurance policies upon the request of the Secured Parties and to cause the

Secured Parties to be named as the loss payees thereof.

6. Debtor to Remain Liable. Anything herein to the contrary notwithstanding, (a) Debtor shall remain liable under any contracts and agreements included in the Collateral to perform all of their duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by the Secured Parties of any of the rights hereunder shall not release Debtor from any duty or obligation under any contracts and agreements included in the Collateral, and (c) Secured Parties shall not have any obligation or liability under any contracts and agreements included in the Collateral by reason of this Agreement, nor shall Secured Parties be obligated to perform any of the obligations or duties of Debtor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

7. Representations and Warranties. Debtor represents and warrants that:

(a) Debtor has good title to the Collateral, free and clear of any liens, mortgages, pledges, security interests, and encumbrances, excepting the security interest granted hereby and the security interests previously disclosed to the United States in financial disclosure documents.

(b) this Agreement creates a valid and enforceable second or third lien on and a security interest in the Collateral securing the payment of the Liabilities, and upon the filing of the necessary financing statements, such security interest shall be a perfected security interest.

8. Covenants.

(a) Debtor shall promptly notify Secured Parties of any event or occurrence which may impact the Secured Parties' security interests.

(b) Unless the Secured Parties send written instructions to Debtor to the contrary, Debtor shall defend Secured Parties' right, title, and security interest in and to the Collateral against the claims and demands of all persons whomsoever, and the Collateral shall remain free of all liens, security interests and other encumbrances except for those encumbrances in favor of Secured Parties or as specifically referenced herein.

(c) Without the prior written consent of the United States, California, and Oregon, Debtor shall not (i) transfer, sell, or assign the Collateral; (ii) allow or permit any other security interest, option, lien, or any other encumbrance to attach thereto except as specifically referenced herein; (iii) file, authorize, or permit to be filed, in any jurisdiction any financing statement relating to the Collateral unless the Secured Parties are named as secured parties; (iv) permit the Collateral to be levied upon under any legal process; (v) permit anything to be done that may impair the value of the Collateral or the security intended to be afforded hereby; or (vi) permit the Collateral to become an accession to other



property.

9. Events of Default.

(a) The occurrence of any one or more of the following shall be an Event of Default ("Event(s) of Default") under this Agreement:

(1) Breach. A failure to comply by Debtor with any term, provision, obligation, covenant, representation, or warranty arising under: (i) this Agreement or (ii) Liabilities under the Settlement Agreement by the dates required under the Settlement Agreement; or

(2) Voluntary and Involuntary Bankruptcy. Debtor commences, or Debtor's creditor commences on Debtor's behalf, any bankruptcy, reorganization, debt arrangement, or other case or proceeding under the United States Bankruptcy Code or under any similar foreign, federal, state, or local statute, or any dissolution or liquidation proceeding, makes a general assignment for the benefit of creditors, or seeks appointment of a receiver, trustee, or other similar official, or takes any action for the purpose of effecting any of the foregoing. This Section 9(a)(2) shall apply only if Secured Parties so elect.

(b) Upon an Event of Default, Secured Parties shall have with respect to the Collateral all the rights and remedies of a secured party under the Uniform Commercial Code, the Federal Debt Collection Procedure Act, or any other applicable law and all rights provided herein or in the Settlement Agreement, all of which rights and remedies shall, to the full extent permitted by law, be cumulative. The Secured Parties may sell, assign or transfer the Collateral or any part thereof, free from any equity of redemption and without appraisal or valuation, notice and right to redeem being waived and to apply all the proceeds of such sale or collection to satisfaction of the Liabilities.

10. Duties of Secured Parties. The powers conferred on Secured Parties hereunder are solely to protect their interests in the Collateral and shall not impose any duty upon them to exercise any such powers. Except for the safe custody of any Collateral in their possession and the accounting for monies received by them hereunder, the Secured Parties shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve any right of or against other parties pertaining to any Collateral.

11. Recourse. The obligation of Debtor to pay the Liabilities shall be a full recourse obligation of Debtor. If liquidation of the Collateral is inadequate to satisfy the Liabilities, the Secured Parties shall have the right to pursue such other rights of recovery against Debtor which may be available under applicable law.

12. Further Assurances. Debtor agrees that at any time and from time to time upon written request of the Secured Parties, Debtor shall execute and deliver such further documents and do such further acts and things as the Secured Parties may reasonably request

in order to effect the purposes of this Agreement.

13. Notices. Notices and communications under the Settlement Agreement and this Agreement shall be in writing and shall be given by: (i) hand-delivery or (ii) overnight courier, to the following addresses:

If to Debtor:

Richard Greenberg, Esq.  
Greensfelder, Hemker & Gale, P.C.  
10 S. Broadway, Suite 2000  
St. Louis, MO 63102

If to the United States:

Colleen Kennedy, Esq.  
Assistant U.S. Attorney  
U.S. Attorney's Office for the Eastern District of California  
501 I St., Suite 10-100  
Sacramento, CA 95814

If to California:

Jennifer Gregory, Esq.  
Deputy Attorney General  
Division of Medi-Cal Fraud and Elder  
Abuse, Civil Section  
2329 Gateway Oaks Drive, Suite 200  
Sacramento, CA 95833

If to Oregon:

John Tseng, Esq.  
Sr. Assistant Attorney General  
For the State of Oregon  
Oregon DOJ - Medicaid Fraud Control Unit  
100 SW Market Street  
Portland, OR 97201

Notice by overnight courier shall be deemed to have been given and received on the date scheduled for delivery. Notice by hand delivery shall be deemed to have been given and received upon delivery. A party may change its address by giving written notice to the other party as specified herein.

Debtor hereby appoints Richard Greenberg, Esq. as his agent for service of process or, if Debtor shall designate another agent, Debtor shall send notification in writing to the Secured Parties.

14. Integration. This Agreement and the Settlement Agreement and all its exhibits constitute the sole agreement of the parties with respect to the subject matter hereof and thereof and supersede all oral negotiations and prior writings with respect to the subject matter hereof and thereof.

15. Severability. The illegality or unenforceability of any provision of this Agreement or any instrument or agreement required hereunder shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement or any instrument or agreement required hereunder. In lieu of any illegal or unenforceable provision in this Agreement, there shall be added automatically as a part of this Agreement a legal and enforceable provision as similar in terms to such illegal or unenforceable provision as may be possible, so long as such legal and enforceable provision is acceptable to Debtor and the Secured Parties.

16. Consent to Jurisdiction and Service of Process. Debtor hereby consents that any action or proceeding against Debtor may be commenced and maintained in the United States District Court for the Eastern District of California by service of process. Debtor further agrees that such District Court shall have jurisdiction with respect to the subject matter hereof and the person of Debtor and the Collateral.

17. Headings. The headings of sections and paragraphs have been included herein for convenience only and shall not be considered in interpreting this Agreement.

18. Modifications. No provision hereof shall be modified except by a writing signed by the Secured Parties and Debtor expressly referring to the provision hereof so modified.

19. Successors and Assigns. This Agreement shall be binding upon the assigns and successors of Debtors and shall inure to the benefit of the assigns or successors of Secured Parties.

20. No Waiver. No delay, failure to enforce, or single or partial exercise on the part of the Secured Parties in connection with any of their rights hereunder shall constitute an estoppel or waiver thereof or preclude other or further exercise or enforcement thereof and no waiver of any default hereunder shall be a waiver of any subsequent default. No waiver shall be valid unless in writing, signed by the Secured Parties, and then only to the extent therein set forth. A waiver by the Secured Parties of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Secured Parties would otherwise have on any future occasion.


21. Choice of Law. This Agreement shall be governed as to its validity, interpretation and effect in accordance with the laws of the State of California, without reference to choice-of-laws or conflict-of-laws provisions except as required by mandatory provisions of law and except if the validity or perfection of the security interest hereunder, or remedies hereunder, in respect to the Collateral are governed by the laws of a jurisdiction other than California.

22. Representations by Signers. The undersigned individuals signing this Agreement on behalf of Debtor, the United States, California, and Oregon represent and warrant that they are authorized to execute this Agreement.

THE UNITED STATES OF AMERICA

PHILLIP A. TALBERT  
United States Attorney

DATED: 6/29/23

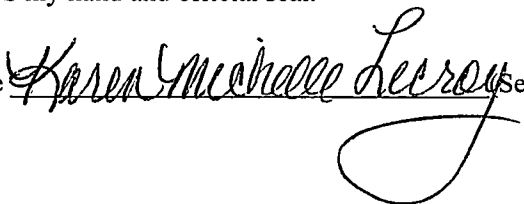
BY:   
COLLEEN KENNEDY  
Assistant United States Attorney  
Eastern District of California

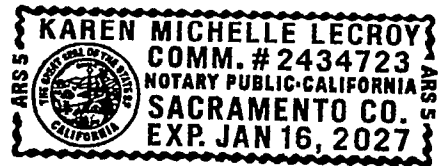
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF Sacramento

On June 29, 2023 before me, Karen Michelle Lecroy (a notary public), personally appeared Colleen Kennedy, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

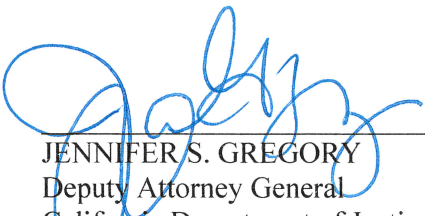
Signature  (Seal)



**THE STATE OF CALIFORNIA**

ROB BONTA  
Attorney General for the State of California

DATED: 6/29/23

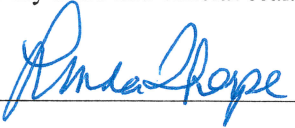
BY:   
\_\_\_\_\_  
JENNIFER S. GREGORY  
Deputy Attorney General  
California Department of Justice  
Office of the Attorney General  
Division of Medi-Cal Fraud and Elder Abuse

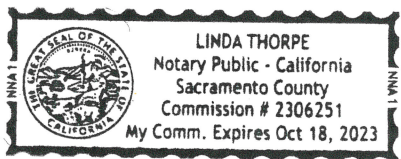
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF Sacramento

On June 29, 2023 before me, Linda Thorpe (a notary public), personally appeared Jennifer S. Gregory, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

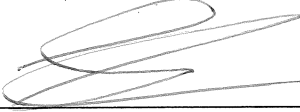
Signature  (Seal)



**THE STATE OF OREGON**

ELLEN F. ROSENBLUM  
Attorney General for the State of Oregon

BY: \_\_\_\_\_

  
SHEEN WU  
Director  
State of Oregon Medicaid Fraud Control Unit


A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

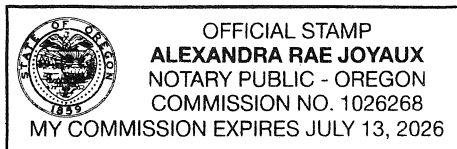
STATE OF OREGON

COUNTY OF Multnomah

On June 24<sup>th</sup>, 2023, before me, Alexandra Joyaux (a notary public), personally appeared Sheen Wu, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



**FRANCIS P. LAGATTUTA, M.D.**

DATED: 6/29/2023

BY:

*Francis P. Lagattuta*  
FRANCIS P. LAGATTUTA, M.D.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

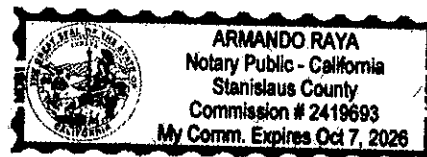
STATE OF CALIFORNIA

COUNTY OF California

On 6/29/23, 2023, before me, Armando Raya, Notary Public (a notary public), personally appeared Francis P. Lagattuta, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

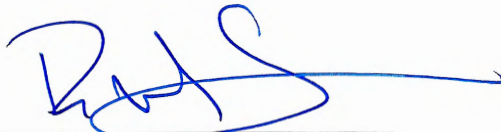
WITNESS my hand and official seal.

Signature *Armando Raya* (Seal)





DATED: 7/3/23

BY: 

RICHARD GREENBERG  
Greensfelder, Hemker & Gale, P.C.  
Counsel for Francis P. Lagattuta, M.D.

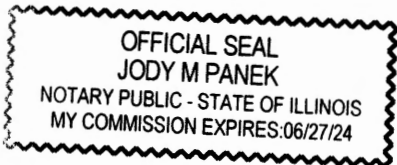
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF ~~MISSOURI~~ ILLINOIS  
COUNTY OF COOK

On July 3, 2023, before me, Jody M. Panek (a notary public), personally appeared Richard Greenberg, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



**ADDENDUM 1**

LEGAL DESCRIPTION OF LAND

PARCEL A:

PARCEL 2 OF PARCEL MAP CO-83-022, IN THE UNINCORPORATED AREA, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO MAP FILED FOR RECORD JULY 21, 1986 IN BOOK 39, PAGE 66 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL B:

A NON-EXCLUSIVE EASEMENT, 30 FEET IN WIDTH, FOR INGRESS AND EGRESS, PUBLIC UTILITIES AND INCIDENTAL PURPOSES, AS SAID EASEMENT IS SHOWN UPON PARCEL MAP CO-83-022, RECORDED JULY 21, 1986 IN BOOK 39, PAGE 66 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL C:

A NON-EXCLUSIVE PRIVATE UTILITY EASEMENT FOR WELL SITE PURPOSES AS WELL AS INGRESS AND EGRESS PER THAT CERTAIN EASEMENT GRANT DEED RECORDED SEPTEMBER 8, 2017, AS DOCUMENT NO. 2017040524 AND RE-RECORDED SEPTEMBER 20, 2017, AS DOCUMENT NO. 2017042175, OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AND MORE FULLY DESCRIBED AS FOLLOWS:

A PORTION OF PARCEL 4 OF PARCEL MAP CO-83-022, IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO MAP FILED FOR RECORD JULY 21, 1986 IN BOOK 39, PAGE 66 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID. COUNTY, BEING THE "PRIVATE UTILITY EASEMENT" AS SHOWN WITHIN PARCEL 4 OF SAID PARCEL MAP, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE LINE COMMON TO PARCELS 3 AND 4 OF SAID PARCEL MAP, AT THE NORTHWESTERLY END OF THE COURSE SHOWN AS CURVE NUMBER 6 PER THE "CURVE DATA" TABLE SHOWN ON SAID MAP, HAVING A RADIUS OF 50.0 FEET AND AN ARC LENGTH OF 92.72 FEET, SAID POINT ALSO BEING ON THE CENTERLINE OF THE 30 FOOT WIDE "PRIVATE ACCESS EASEMENT AND P.U.E." AS SHOWN ON SAID MAP; THENCE LEAVING SAID LINE COMMON TO PARCELS 3 AND 4, NORTH 00°00'00" EAST 100.00 FEET; NORTH 00°00'00" EAST 103.43 FEET; THENCE SOUTH 00°00'00" WEST 115.71 FEET; THENCE NORTH 90°00'00" WEST 25.0 FEET TO THE CENTERLINE OF SAID 30 FOOT WIDE "PRIVATE ACCESS EASEMENT AND P.U.E." AND SAID LINE COMMON TO PARCELS 3 AND 4 OF SAID PARCEL MAP, AS SHOWN ON SAID MAP; THENCE ALONG SAID CURVE NUMBER 6, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 50.0 FEET AND A CENTRAL ANGLE (OR DELTA) OF 106°14'42", AN ARC LENGTH OF 92.72 FEET, TO THE TRUE POINT OF BEGINNING.

PARCEL D:

A NON-EXCLUSIVE EASEMENT FOR UTILITIES, INGRESS, EGRESS, AND PRIVATE RESIDENTIAL USE ON, OVER AND ALONG THAT CERTAIN PROPERTY DESCRIBED IN THAT CERTAIN EASEMENT GRANT DEED RECORDED SEPTEMBER 8, 2017, AS DOCUMENT NO. 2017040525 AND RE-RECORDED SEPTEMBER 20, 2017, AS DOCUMENT NO. 2017042176, OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. SAID EASEMENT IS MORE FULLY DESCRIBED AS FOLLOWS:

A PORTION OF PARCEL 1 OF PARCEL MAP CO-83-022, IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO MAP FILED JULY 21, 1986 IN BOOK 39, PAGE 66 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT COMMON TO PARCELS 1, 2, AND 4 OF SAID PARCEL MAP, AT THE SOUTHEASTERLY END OF THE COURSE SHOWN AS SOUTH 07°37'52" EAST 124.88 FEET BETWEEN SAID PARCELS 1 AND 2 ON SAID PARCEL MAP; THENCE ALONG THE LINE BETWEEN SAID

PARCELS 1 AND 2, NORTH 07°37'52" WEST 124.88 FEET, MORE OR LESS, TO SAID NORTHWESTERLY TERMINUS OF SAID COURSE, SAID TERMINUS BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID LINE BETWEEN PARCELS 1 AND 2, NORTH 12°50'45" WEST 29.67 FEET; THENCE NORTH 29°08'47" WEST 93.23 FEET; THENCE NORTH 41°04'52" EAST 91.65 FEET; THENCE NORTH 64°13'19" EAST 36.51 FEET, MORE OR LESS, TO SAID LINE BETWEEN PARCELS 1 AND 2 OF SAID PARCEL MAP, AS SHOWN ON SAID MAP;

THENCE ALONG SAID LINE BETWEEN SAID PARCELS 1 AND 2, SOUTH 00°00'00" WEST 121.98 FEET, MORE OR LESS, TO THE NORTHEASTERLY TERMINUS OF "CURVE NUMBER 14" PER THE "CURVE DATA" TABLE SHOWN ON SAID MAP, SAID CURVE HAVING A RADIUS OF 70.0 FEET AND AN ARC LENGTH OF 90.16 FEET; THENCE ALONG SAID CURVE NUMBER 14, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 70.0 FEET AND A CENTRAL ANGLE (OR DELTA) OF 70°47'40", AN ARC LENGTH OF 90.16 FEET, TO SAID NORTHWESTERLY TERMINUS OF THE COURSE SHOWN AS SOUTH 07°37'52" EAST 124.88 FEET ON SAID PARCEL MAP, SAID NORTHWESTERLY TERMINUS BEING THE TRUE POINT OF BEGINNING.