

## 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”) of the Department of Health and Human Services (“HHS”) (collectively, the “United States”), Western Kentucky Heart & Lung Associates PSC (“WKH&L”) and Dr. Mohammed Kazimuddin (collectively, “Defendants”), and Jasjit Walia, M.D. and Preet Randhawa, M.D. (“Relators”) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

### RECITALS

A. WKH&L of Bowling Green, Kentucky is a corporation that provides, among other things, cardiology services to beneficiaries of federal health care programs. WKH&L is owned and controlled by Drs. Mohammed Kazimuddin and Dr. Nisarfathima Kazimuddin. Dr. Mohammed Kazimuddin was also a practicing cardiologist at WKH&L.

B. On August 27, 2021, Relators filed a qui tam action in the United States District Court for the Western District of Kentucky captioned *United States ex rel. Walia and Randhawa v. Western Kentucky Heart & Lung Associates, PSC, et al.*, Case No. 1:21-CV-126-GNS, pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”). On August 2, 2024, the United States partially intervened in the Civil Action for purposes of settlement.

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

D. The United States contends that it has certain civil claims against Defendants arising from the overbilling of radiopharmaceuticals used in cardiac stress tests. Specifically, in

Medicare Part A and B MAC Jurisdiction 15 (J15), which covers Kentucky, healthcare providers are required to bill Medicare for diagnostic radiopharmaceuticals, including sestamibi and tetrofosmin, based on their acquisition cost. 42 U.S.C. § 1395kk-1(a)(1), (a)(4)(A); Pub. L. 108–173, title III, § 303(h), Dec. 8, 2003, 117 Stat. 2253. During the period between August 1, 2015, and August 31, 2022, Defendants submitted or caused to be submitted claims to Medicare that sought reimbursement for radiopharmaceuticals above Defendants’ actual acquisition cost, thus resulting in excess payments by Medicare. That conduct is referred to below as the “Covered Conduct.”

E. This Settlement Agreement is neither an admission of liability by Defendants nor a concession by the United States that its claims are not well founded.

F. Relators claim entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement and to Relators’ 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 Settlement Agreement, the Parties agree and covenant as follows:

#### TERMS AND CONDITIONS

1. Defendants, jointly and severally, shall pay to the United States SIX MILLION SEVEN-HUNDRED FIFTY THOUSAND DOLLARS (\$6,750,000.00), plus applicable interest as stated herein, (Settlement Amount) of which THREE MILLION THREE-HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$3,375,000.00) is restitution. Payment of the Settlement Amount shall be made as follows:

- a. Within 3 days of the Effective Date of this Agreement, Defendants will make a payment to the United States in the amount of FOUR MILLION FIVE-HUNDRED THOUSAND DOLLARS (\$4,500,000.00).

b. Over a period of 5 years, Defendants agree, jointly and severally, to pay the remaining TWO MILLION TWO-HUNDRED FIFTY THOUSAND DOLLARS (\$2,250,000.00), plus simple interest accruing at the rate of 8.5% per annum from September 4, 2024, which shall be paid in equal installments pursuant to the payment schedule attached at Exhibit A (the "Payments Over Time").

c. Interest shall accrue on the unpaid Settlement Amount at a rate of 8.5% per annum.

d. The Payments Over Time shall be secured pursuant to a Promissory Note and Guaranty Agreement in the form of Exhibits B and C, that Defendants shall execute and also cause to be executed by Dr. Mohammed Kazimuddin's wife and co-owner of WKH&L, Nisarfathima Kazimuddin, M.D.

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

f. Defendants shall pay the Settlement Amount by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the United States Department of Justice.

2. Conditioned upon the United States receiving the Settlement Amount, the United States agrees that it shall pay to Relators by electronic funds transfer 17.5 percent of each such payment received under the Settlement Agreement (Relators' Share) as soon as feasible after receipt of the payment.

3. Within seven days after the Effective Date of this Agreement, Defendants shall pay to Relators NINETY THOUSAND DOLLARS (\$90,000.00) by electronic funds transfer pursuant to wiring instructions to be provided by Relators' counsel as full and complete payment of Relators' attorneys' fees, costs, and expenses pursuant to 31 U.S.C. § 3730(d).

4. Subject to the exceptions in Paragraph 6 (concerning reserved claims) below, and subject to Paragraph 9 (concerning disclosure of assets), Paragraph 17 (concerning default), and Paragraph 18 (concerning bankruptcy) below, and upon the United States' receipt of the Settlement Amount, plus interest due under Paragraph 1, the United States releases Defendants 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 6 below, and subject to Paragraph 9 (concerning disclosure of assets), Paragraph 17 (concerning default), and Paragraph 18 (concerning bankruptcy) below, and upon the United States' receipt of the Settlement Amount, plus interest due under Paragraph 1, and upon Relators' receipt of the payment of attorneys' fees, costs, and expenses under Paragraph 3, Relators, for themselves and for their heirs, successors, attorneys, agents, and assigns, release Defendants from any civil monetary claim the Relators have on behalf of the United States for the Covered Conduct and any other similar conduct that could have been alleged in the Civil Action under the False Claims Act, 31 U.S.C. §§ 3729-3733.

6. Notwithstanding the release given in Paragraph 4 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;



- c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, including mandatory or permissive exclusion from Federal health care programs;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability of individuals, other than those named in this Agreement;
- 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.

7. Relators and their heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Relators' receipt of the Relators' Share, Relators and their heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

8. Conditioned on Relators' receipt of the payments described in Paragraphs 2 and 3 above, Relators, for themselves, and for their heirs, successors, attorneys, agents, and assigns, release Defendants, and their officers, agents, and employees, from any liability to Relators

arising from the filing of the Civil Action, or under 31 U.S.C. § 3730(d) for expenses or attorneys' fees and costs.

9. Defendants have provided sworn financial disclosures and supporting documents (together "Financial Disclosures") to the United States and the United States has relied on the accuracy and completeness of those Financial Disclosures in reaching this Agreement. Defendants warrant that the Financial Disclosures are complete, accurate, and current as of the Effective Date of this Agreement. If the United States learns of asset(s) in which Defendants 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 Defendants' obligations under this Agreement) that were not disclosed in the Financial Disclosures, or if the United States learns of any false statement or misrepresentation by Defendants 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 \$500,000 or more, the United States may at its option: (a) rescind this Agreement and reinstate its suit or file suit based on the Covered Conduct or (b) immediately collect the net value of Defendants' previously undisclosed assets up to the full Settlement Amount. Defendants 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, Defendants 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 Defendants 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.

10. Defendants waive and shall not assert any defenses they 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.

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

12. Defendants fully and finally release the Relators, their attorneys, and their respective heirs, successors, assigns and agents, for all time and to the fullest extent allowed by law, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Defendants have asserted, could have asserted, or may assert in the future against the Relators, related to the Covered Conduct and the Relators' investigation and prosecution of the Civil Action.

13. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare contractor (e.g., Medicare Administrative Contractor, fiscal intermediary, carrier) or any state payer, related to the Covered Conduct; and Defendants agree not to resubmit to any Medicare 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.

14. Defendants 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 Defendants, their 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(s) of the matters covered by this Agreement;
- (3) Defendants' investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement; and
- (5) the payment Defendants make to the United States pursuant to this Agreement and any payments that Defendants may make to Relators, 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 Defendants, and Defendants 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 Defendants or any of their subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Defendants 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 Defendants or any of their 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. Defendants agree that the United States, at a minimum, shall be entitled to recoup from Defendants any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by Defendants or any of their subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Defendants or any of their subsidiaries or affiliates' cost reports, cost statements, or information reports.

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

15. 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 16 (waiver for beneficiaries paragraph), below.

16. Defendants 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.

17. The Settlement Amount represents the amount the United States is willing to accept in compromise of its civil claims arising from the Covered Conduct due solely to Defendants' financial condition as reflected in the Financial Disclosures referenced in Paragraph 9.

a. In the event that Defendants fail to pay the Settlement Amount as provided in the payment schedule set forth in Paragraph 1 above, Defendants shall be in Default of Defendants' payment obligations ("Default"). The United States will provide a written Notice of Default, and Defendants shall have an opportunity to cure such Default within fifteen (15) 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 Settlement Agreement up to the date of payment. Notice of Default will be delivered to Defendants, or to such other representative as Defendants shall designate in advance in writing. If Defendants fail to cure the Default within fifteen (15) 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, Defendants 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 Defendants for the claims that would otherwise be covered by the releases provided in Paragraph 3 above, with any recovery reduced by the amount of any payments previously made by Defendants 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 Defendants 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, Defendants 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, Defendants 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 Defendants 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 this Agreement. Defendants 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 Defendants from participating in all Federal health care programs until Defendants pays the Settlement Amount, with interest, as set forth above (Exclusion for Default). OIG-HHS will provide written notice of any such exclusion to Defendants. Defendants 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, Defendants wish to apply for reinstatement, it must submit a written request for reinstatement to OIG-HHS in accordance with the provisions of 42 C.F.R. §§ 1001.3001-.3005. Defendants will not be reinstated unless and until OIG-HHS approves such request for reinstatement. The option for Exclusion for Default is in addition to, and not in lieu of, the options identified in this Agreement or otherwise available.

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

a. Defendants have reviewed their financial situation and warrant that they are solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I) and shall remain solvent following payment to the United States of the 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 Defendants, 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 Defendants were 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 any of Defendants' payments or obligations under this Agreement are avoided for any reason (including but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code) or if, before the Settlement Amount is paid in full, Defendants or a third party commence a case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors seeking any order for relief of Defendants' debts, or to adjudicate Defendants as bankrupt or insolvent; or seeking appointment of a receiver, trustee, custodian, or other similar official for Defendants or for all or any substantial part of Defendants' assets:

- (i) the United States may rescind the releases in this Agreement and bring any civil and/or administrative claim, action, or proceeding against Defendants for the claims that would otherwise be covered by the releases provided in Paragraph 4 above;
- (ii) the United States has an undisputed, noncontingent, and liquidated allowed claim against Defendants in the amount of \$15,378,501, less any payments received pursuant to Paragraph 1 of this Agreement, provided, however, that such payments are not otherwise avoided and recovered from the United States by Defendants, a receiver, trustee, custodian, or other similar official for Defendants;

- (iii) if any payments are avoided and recovered by a receiver, trustee, creditor, custodian, or similar official, the United States shall not be responsible for the return of any amounts already paid by the United States to the Relators; and
- (iv) if, notwithstanding subparagraph (iii), any amounts already paid by the United States to the Relators 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, Relators shall, within thirty days of written notice from the United States to the undersigned Relators' counsel, return to the United States all amounts recovered from the United States.

f. Defendants agree that any civil and/or administrative claim, action, or proceeding brought by the United States under Paragraph 17.e is not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) because it would be an exercise of the United States' police and regulatory power. Defendants shall not argue or otherwise contend that the United States' claim, action, or proceeding is subject to an automatic stay and, to the extent necessary, consents to relief from the automatic stay for cause under 11 U.S.C. § 362(d)(1). Defendants 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 within 120 days of written notification to Defendants 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.

19. Upon receipt of the payment described in Paragraph 1, above, the Parties shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal of the Civil Action

pursuant to Rule 41(a)(1). The Joint Stipulation of Dismissal shall provide that the claims are being dismissed against the Defendants, WKH&L and Dr. Mohammed Kazimuddin, subject to the terms of the Agreement, with prejudice as to the United States as to the Covered Conduct released in this Agreement, without prejudice to the United States as to any other claims, and with prejudice as to all claims as to the Relators.

20. Within five (5) days from the Effective Date of this Agreement, Relators will file a Notice of Voluntary Dismissal of the Civil Action as to defendants Dr. Mohammad Abdul-Waheed, Dr. Muhammad Akbar, Dr. Jacqueline Dawson, and Dr. Aniruddha Singh (the “WKH&L Employee Physicians”) pursuant to Rule 41(a)(1)(A)(i). The dismissal of the WKH&L Employee Physicians shall be with prejudice as to the Relators but without prejudice as to the United States.

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

22. This Agreement is governed by the laws of the United States. The exclusive venue for any dispute relating to this Agreement is the United States District Court for the Western District of Kentucky. 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.

23. 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 from pursuing any remedy or relief available to it under this Agreement shall not constitute a waiver of rights under this Agreement.

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

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

26. This Agreement is binding on Defendants' successors, transferees, heirs, and assigns.

27. This Agreement is binding on Relators' successors, transferees, heirs, and assigns.

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

29. 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**

MICHAEL A. BENNETT  
United States Attorney, WDKY

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

BY:

**Matt Weyand**

Digitally signed by Matt Weyand  
Date: 2024.10.25 08:13:01 -04'00'

\_\_\_\_\_  
Matt Weyand  
Benjamin S. Schechter  
Assistant United States Attorneys  
United States Attorney's Office for the Western District of  
Kentucky

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

BY:

**JAMES NEALON**

Digitally signed by JAMES NEALON  
Date: 2024.10.25 08:52:10 -04'00'

\_\_\_\_\_  
James Nealon  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice

DATED: 10/24/24

BY:

**SUSAN GILLIN**

Digitally signed by SUSAN GILLIN  
Date: 2024.10.24 16:43:34 -04'00'

\_\_\_\_\_  
Susan E. Gillin  
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

**DEFENDANTS**

**WESTERN KENTUCKY HEART & LUNG ASSOCIATES PSC**

DATED: 10/4/24 BY: \_\_\_\_\_

Mohammed Kazimuddin, M.D., co-owner of Western  
Kentucky Heart & Lung Associates PSC

DATED: 10/4/24 BY: \_\_\_\_\_

Nisarfathima Kazimuddin, M.D., co-owner of Western  
Kentucky Heart & Lung Associates PSC

**MOHAMMED KAZIMUDDIN, M.D.**

DATED: 10/4/24 BY: \_\_\_\_\_

Mohammed Kazimuddin, M.D., in his individual capacity


DATED: 10/4/24 BY: \_\_\_\_\_

Michael S. Vitale  
*Counsel for Defendants*

**RELATORS**


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

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

  
Jasjit Walia, M.D. Relator

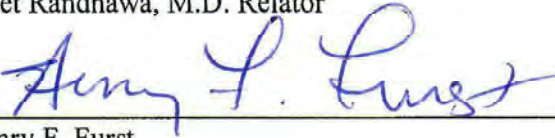
DATED: 10/7/2024

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

  
Preet Randhawa, M.D. Relator


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

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

  
Henry F. Furst  
Co-Counsel for Relators

DATED: 10/7/24

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

  
Daniel R. Miller  
Jonathan Z. DeSantis  
Co-Counsel for Relators

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

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

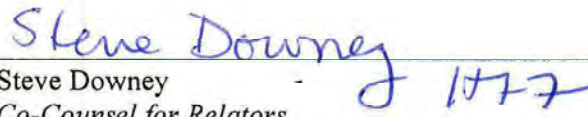
  
Steve Downey  
Co-Counsel for Relators

EXHIBIT A

SCHEDULE FOR PAYMENTS OVER TIME

Payment #	Payment Due Date
1	12/4/2024
2	3/6/2025
3	6/6/2025
4	9/6/2025
5	12/7/2025
6	3/9/2026
7	6/9/2026
8	9/9/2026
9	12/10/2026
10	3/12/2027
11	6/12/2027
12	9/12/2027
13	12/13/2027
14	3/14/2028
15	6/14/2028
16	9/14/2028
17	12/15/2028
18	3/17/2029
19	6/17/2029
20	9/17/2029



## EXHIBIT B

### PROMISSORY NOTE

1. For value received, and pursuant to a Settlement Agreement dated Oct. 25, 2024 attached hereto (Settlement Agreement), Western Kentucky Heart & Lung Associates PSC (“WKH&L”), Mohammed Kazimuddin, M.D., and Nisarfathima Kazimuddin, M.D. (referred to herein as “Makers”), jointly and severally, for themselves and their successors and assigns, promise to pay to the United States of America (“Holder”), or its assignee, the full principal sum of TWO MILLION TWO-HUNDRED FIFTY THOUSAND DOLLARS (\$2,250,000.00), together with interest accruing at the rate of 8.5% per annum (“Outstanding Balance”), as set forth below:

Payment Over Time Amount	2,250,000.00
Term (Quarters)	20
Rate	8.500%
Quarterly Payment	139,268.07
Total Interest to be Paid	535,361.47

Payment #	Payment Due Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
1	12/4/2024	2,250,000.00	139,268.07	91,455.57	47,812.50	2,158,544.43
2	3/6/2025	2,158,544.43	139,268.07	93,399.00	45,869.07	2,065,145.42
3	6/6/2025	2,065,145.42	139,268.07	95,383.73	43,884.34	1,969,761.69
4	9/6/2025	1,969,761.69	139,268.07	97,410.64	41,857.44	1,872,351.05
5	12/7/2025	1,872,351.05	139,268.07	99,480.61	39,787.46	1,772,870.44
6	3/9/2026	1,772,870.44	139,268.07	101,594.58	37,673.50	1,671,275.86
7	6/9/2026	1,671,275.86	139,268.07	103,753.46	35,514.61	1,567,522.40
8	9/9/2026	1,567,522.40	139,268.07	105,958.22	33,309.85	1,461,564.18
9	12/10/2026	1,461,564.18	139,268.07	108,209.83	31,058.24	1,353,354.34
10	3/12/2027	1,353,354.34	139,268.07	110,509.29	28,758.78	1,242,845.05
11	6/12/2027	1,242,845.05	139,268.07	112,857.62	26,410.46	1,129,987.43
12	9/12/2027	1,129,987.43	139,268.07	115,255.84	24,012.23	1,014,731.59
13	12/13/2027	1,014,731.59	139,268.07	117,705.03	21,563.05	897,026.57
14	3/14/2028	897,026.57	139,268.07	120,206.26	19,061.81	776,820.31
15	6/14/2028	776,820.31	139,268.07	122,760.64	16,507.43	654,059.67
16	9/14/2028	654,059.67	139,268.07	125,369.31	13,898.77	528,690.36
17	12/15/2028	528,690.36	139,268.07	128,033.40	11,234.67	400,656.96
18	3/17/2029	400,656.96	139,268.07	130,754.11	8,513.96	269,902.84
19	6/17/2029	269,902.84	139,268.07	133,532.64	5,735.44	136,370.21
20	9/17/2029	136,370.21	139,268.07	136,370.21	2,897.87	

2. Payment will be made by wire transfer pursuant to instructions provided by the United States Attorney’s Office for the Western District of Kentucky.

3. This Note may be prepaid, in whole or in part, without penalty or premium. Any prepayment of less than all of the Note’s balance will first be applied to any accrued interest then due and then to the next scheduled principal payment(s). In the event of a prepayment, interest will be calculated on a daily basis, rather than on a quarterly basis.

4. Pursuant to the Settlement Agreement, Nisarfathima Kazimuddin, M.D., will execute a Guaranty Agreement, in the form attached hereto, Guarantying \$2,250,000.00, together with interest accruing at the rate of 8.5% per annum.

5. Makers are in default of this Note on the date of occurrence of any of the following events ("Events of Default").

- a. Nisarfathima Kazimuddin, M.D. fails to execute and deliver to the United States the Guaranty Agreement in the form attached hereto.
- b. If default occurs as set forth in Paragraph 17 of the Settlement Agreement.
- c. If prior to making the full payment of the amount due under this Note, any case, proceeding, or other action is instituted;
  - i. under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors, seeking to have any order for relief of debtors, or seeking to adjudicate Mohammed Kazimuddin, WKH&L, or Nisarfathima Kazimuddin as bankrupt or insolvent; or
  - ii. seeking appointment of a receiver, trustee, custodian or other similar official for Mohammed Kazimuddin, WKH&L, or Nisarfathima Kazimuddin, or for all or any substantial part of Mohammed Kazimuddin's, WKH&L's, or Nisarfathima Kazimuddin's assets.

6. Upon the occurrence of an Event of Default, without further notice or presentment and demand by the United States:

- a. The portion of the Outstanding Balance secured by the Guaranty Agreement shall become immediately due and payable ("Default Amount"). Interest shall accrue on the Default Amount from the date of the Event of Default at 12 per cent per annum, compounded daily.
- b. The United States may take any and all actions provided under law and equity, or provided by the Settlement Agreement, to collect the Default Amount pursuant to this Note and/or pursuant to the Guaranty Agreement.
- c. The United States retains any and all other rights and remedies it has or may have under law and equity, and may exercise those rights and remedies.
- d. No failure or delay on the part of the United States to exercise any right or remedy shall operate as a waiver of the United States' rights. No partial or single exercise by the United States of any right or remedy shall operate as a waiver of the United States' rights.
- e. Makers will pay the United States all reasonable costs of collection, including reasonable attorneys' fees and expenses.

7. Waiver by the Holder of any default by Makers, their successors or assigns, will not constitute a waiver of a subsequent default. Failure by the Holder to exercise any right, power, or privilege which it may have by reason of default will not preclude the exercise of such right, power, or privilege so long as such default remains uncured or if a subsequent default occurs.

8. This Note shall be governed and construed according to the laws of the United States of America.

9. Makers acknowledge that they are entering into this Note freely, voluntarily and with no degree of compulsion whatsoever.

IN WITNESS THEREOF, Makers intending to be legally bound hereby and so bind themselves, their successors and assigns, has caused this Note to be executed duly attested this , day of September, 2024.

WESTERN KENTUCKY HEART & LUNG ASSOCIATES PSC  
DATED: 10/4/2024 BY: [Signature]  
Mohammed Kazimuddin, M.D., co-owner of Western  
Kentucky Heart & Lung Associates PSC

DATED: 10/4/24 BY: [Signature]  
Nisarfathima Kazimuddin, M.D., co-owner of Western  
Kentucky Heart & Lung Associates PSC

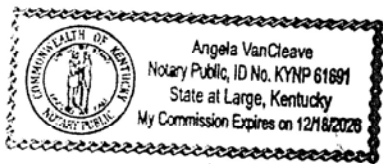
MOHAMMED KAZIMUDDIN, M.D.  
DATED: 10/4/2024 BY: [Signature]  
Mohammed Kazimuddin, M.D., in his individual capacity

NISARFATHIMA KAZIMUDDIN, M.D.  
DATED: 10/4/24 BY: [Signature]  
Nisarfathima Kazimuddin, M.D., in her individual capacity

The foregoing Promissory Note was subscribed, sworn, and acknowledged to before me by Western Kentucky Heart & Lung Associates PSC, Mohammed Kazimuddin, M.D., and Nisarfathima Kazimuddin, M.D., and their counsel, Michael S. Vitale, on this 4th day of ~~September~~, 2024.

October

My Commission Expires 12-18-26.



Angela VanCleave  
NOTARY PUBLIC, State at Large, Kentucky

Acknowledged By:

DATED: 10/4/24

BY:

Michael S. Vitale  
*Counsel for Mohammed Kazimuddin; Western Kentucky  
Heart & Lung Associates PSC; and Nisarfathima  
Kazimuddin*

## EXHIBIT C

### GUARANTY AGREEMENT

This Guaranty Agreement is entered into as of October 25, 2024 by and among Nisarfathima Kazimuddin, M.D. ("Guarantor") and the United States of America ("United States") (collectively the "Parties").

WHEREAS Guarantor is the wife of Dr. Mohammed Kazimuddin and is also the co-owner of Western Kentucky Heart & Lung Associates PSC (WKH&L), a Kentucky corporation;

WHEREAS the United States has conducted an investigation of WKH&L and Dr. Mohammad Kazimuddin regarding possible violations of the False Claims Act;

WHEREAS, on August 27, 2021, a qui tam action in the United States District Court for the Western District of Kentucky captioned *United States ex rel. Walia v. [SEALED]*, Case No. [SEALED], pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the "Civil Action").

WHEREAS, the parties to the Civil Action wish to settle, compromise, and resolve all issues and disputes between them in the Civil Action through the execution of a Settlement Agreement, dated July XX, 2024 and Exhibits thereto, including this Guaranty Agreement;

WHEREAS, Guarantor is the wife of Dr. Mohammed Kazimuddin and is also the co-owner of WKH&L, both of which will be released by the terms of the Settlement Agreement;

IT IS HEREBY AGREED that, in exchange for adequate consideration, the Parties shall undertake the following obligations:

#### TERMS AND CONDITIONS

1. Statement of Guaranty. The Guarantor unconditionally, absolutely, and irrevocably guarantees the prompt payment of the Payments Over Time (as defined in the Settlement Agreement), in the amount of TWO MILLION TWO-HUNDRED FIFTY THOUSAND DOLLARS (\$2,250,000.00), owed by Mohammed Kazimuddin and WKH&L as set forth in the Settlement Agreement.

2. Nature of Guaranty. The Guaranty set forth in Paragraph 1 of this Agreement constitutes a guaranty of payment of the Payments Over Time, \$2,250,000.00 plus interest at a rate of 8.5% per annum, by Mohammed Kazimuddin and WKH&L as set forth in the Settlement Agreement, and shall not be affected by any event, occurrence or circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor or surety (other than full and complete payment of the Settlement Amount). In the event that any payment by Mohammed Kazimuddin and WKH&L pursuant to the Settlement Agreement is rescinded or must otherwise be returned by virtue of any action by any bankruptcy court, the Guarantor shall remain liable hereunder with respect to the Payments Over Time, \$2,250,000.00 plus interest at a rate of 8.5% per annum, as if payment had not been made. The Guarantor agrees that the United States may resort to Guarantor for payment of any of the Payments Over Time, \$2,250,000.00 plus interest at

a rate of 8.5% per annum, without regard to whether the United States shall have proceeded against any other person or entity primarily or secondarily obligated with respect to any of the Settlement Amount.

3. Acceleration. Guarantor agrees that, within ten days of receipt of written notice from the United States that Mohammed Kazimuddin and WKH&L have failed to make any payment required by the Settlement Agreement, Guarantor will be obligated to pay in full the amount then due under the Settlement Agreement for the Payments Over Time, \$2,250,000.00 plus interest at a rate of 8.5% per annum. Guarantor understands that the failure to adhere fully to the terms of this paragraph would be a material breach of this Guaranty Agreement.

4. No Waiver; Cumulative Rights. No failure on the part of the United States to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the United States of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Each and every right, remedy and power hereby granted to the United States or allowed by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by the United States from time to time.

5. Effective Date. This Guaranty Agreement shall become effective on the date the Settlement Agreement is executed.

6. Subrogation. Guarantor shall not exercise any subrogation rights it may acquire against Mohammed Kazimuddin and WKH&L as a result of this Guaranty Agreement until all of the Settlement Amount to the United States has been paid in full.

7. Waiver of Notice. Guarantor waives notice of the acceptance of this Guaranty, presentment, demand, notice of dishonor, protest, and all other notices whatsoever.

8. Duration. This Guaranty shall continue in full force and effect until all of the Settlement Amount (as defined in the Settlement Agreement), including interest, has been paid in full.

9. Entire Agreement. Each Party hereto represents and warrants that this Agreement constitutes a valid and binding agreement enforceable against each Party in accordance with its terms. This Agreement embodies the entire guaranty agreement between the Parties. There are no promises, terms, conditions, or obligations other than those contained in this Agreement. This Agreement supersedes all previous communications, representations or agreements either verbal or written between Guarantor and the United States.

10. Severability. Should any one or more provisions of this Agreement be determined to be illegal, unenforceable, void or voidable, all other provisions shall remain in effect.

11. Assignment. No Party hereto may assign its rights, interest or obligations hereunder to any other person or entity without prior written consent of the other Party. The provisions of this Agreement shall be binding on the Parties hereto and their successors and assigns. This Agreement is to continue in full force and effect notwithstanding a change in the composition, ownership or corporate structure of the Guarantor.

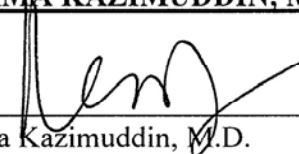
12. Security Interest. Guarantor hereby grants to the United States of America a continuing first priority security interest in any and all of Guarantor's real and personal property and tangible and intangible assets and properties, to include but not be limited to all cash, income, securities, accounts, receivables, and contract rights (the "Secured Collateral"); provided, however, the security interest shall be deemed released as to a particular cash distribution if there is not then an outstanding Event of Default relative to the Settlement Agreement. In such event, the United States will provide written evidence of the release upon request. Guarantor hereby authorizes the Lender to file UCC financing statements, UCC financing statement amendments and UCC financing statement continuation statements with respect to the Secured Collateral.

13. Miscellaneous. This Agreement shall not be amended except in a writing signed by all Parties. Each signatory hereto represents and warrants that he or she is authorized to execute and deliver this Agreement on behalf of the Party for whom he or she is purporting to act. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

14. Governing Law; Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with federal common law. The Parties consent to the jurisdiction of the United States District Court for the Western District of Kentucky in any action to enforce any term of this Agreement.

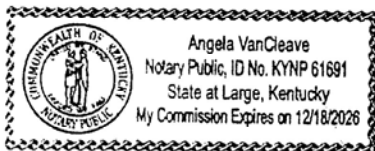
**NISARFATHIMA KAZIMUDDIN, M.D.**

DATED: 10/4/24 BY:

  
\_\_\_\_\_  
Nisarfathima Kazimuddin, M.D.

The foregoing guaranty was subscribed, sworn, and acknowledged to before me by Nisarfathima Kazimuddin, M.D. and her counsel, Michael S. Vitale, on this 4th day of ~~September~~ October, 2024.

My Commission Expires 12-18-26.




  
\_\_\_\_\_  
NOTARY PUBLIC, State at Large, Kentucky

Acknowledged By:

DATED: 10/4/24

BY:

  
\_\_\_\_\_  
Michael S. Vitale  
Counsel for Mohammed Kazimuddin; Western Kentucky  
Heart & Lung Associates PSC; and Nisarfathima  
Kazimuddin

**THE UNITED STATES OF AMERICA**

MICHAEL A. BENNETT  
United States Attorney, WDKY

DATED: \_\_\_\_\_ BY: **Matt Weyand** Digitally signed by Matt Weyand  
Date: 2024.10.25 08:38:29 -04'00'  
\_\_\_\_\_  
Matt Weyand  
Benjamin S. Schechter  
Assistant United States Attorneys  
United States Attorney's Office for the Western District of  
Kentucky

DATED: \_\_\_\_\_ BY: **JAMES NEALON** Digitally signed by JAMES NEALON  
Date: 2024.10.25 08:50:49 -04'00'  
\_\_\_\_\_  
Trial Attorney  
James Nealon  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice