

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ROBERT CIARCIELLO Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIOVENTUS INC., KENNETH M.
REALI, MARK L. SINGLETON,
GREGORY O. ANGLUM, and SUSAN M.
STALNECKER,

Defendants.

Case No. 1:23-cv-00032-CCE-JEP

**LEAD PLAINTIFF'S NOTICE OF UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT**

Lead Plaintiff Wayne County Employees' Retirement System ("Lead Plaintiff" or "Plaintiff"), on behalf of itself and all Settlement Class Members, respectfully moves this Court unopposed for an Order, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure: (a) granting preliminary approval of the proposed Settlement; (b) certifying the Settlement Class for settlement purposes; (c) approving the proposed form of Notice; (d) approving the proposed methods of disseminating Notice; (e) setting a date for the Settlement Hearing; and (f) for such other and further relief as this Court deems just and proper.¹

Lead Plaintiff is contemporaneously filing a memorandum of law and the Declaration of George N. Bauer, with accompanying exhibits annexed thereto, in support of this Motion.

A proposed Order Preliminarily Approving the Settlement and Providing for Class Notice is also submitted herewith, and is attached as Exhibit A to the Stipulation.

Dated: July 15, 2024

By: /s/ Joseph A. Fonti

BLEICHMAR FONTI & AULD LLP
Joseph A. Fonti*
George N. Bauer*

¹ Any capitalized terms that are not otherwise defined herein shall have the meanings ascribed to them in the attached Stipulation of Settlement dated July 12, 2024 (the "Stipulation").

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* reflects attorneys appearing pursuant to
LR 83.1(d)

*Counsel for Lead Plaintiff Wayne County
Employees' Retirement System and Lead
Counsel for the Proposed Class*

By: /s/ Gagan Gupta

**TIN FULTON WALKER
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*Local Counsel for Lead Plaintiff
Wayne County Employees'
Retirement System*

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ROBERT CIARCIELLO Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIOVENTUS INC., KENNETH M.
REALI, MARK L. SINGLETON,
GREGORY O. ANGLUM, and SUSAN M.
STALNECKER,

Defendants.

Case No. 1:23-cv-00032-CCE-JEP

**[PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT
AND PROVIDING FOR CLASS NOTICE**

EXHIBIT A

WHEREAS, a class action is pending before the Court entitled *Ciarciello v. Bioventus, Inc., et al.*, Case No. 1:23-cv-00032-CCE-JEP (M.D.N.C.) (the “Litigation”)¹;

WHEREAS, the Parties have made an application, pursuant to Federal Rule of Civil Procedure 23(e), for an order preliminarily approving the settlement of this Litigation, in accordance with a Stipulation of Settlement, dated July 12, 2024 (the “Stipulation”), which, together with the Exhibits annexed thereto, sets forth the terms and conditions for a

¹ Any capitalized terms that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation of Settlement dated July 12, 2024 (the “Stipulation”).

proposed Settlement of the Litigation and for dismissal of the Litigation on the merits and with prejudice upon the terms and conditions set forth therein; and the Court has read and considered the Stipulation and the Exhibits annexed thereto;

WHEREAS, the Parties to the Stipulation have consented to the entry of this order;
and

WHEREAS, all defined terms contained herein shall have the same meanings as set forth in the Stipulation, unless otherwise defined herein;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. **Preliminary Approval of the Settlement.** The Court does hereby preliminarily approve the Stipulation and the Settlement set forth therein, subject to further consideration at the Settlement Hearing described below. Pursuant to Rule 23(e)(1) of the Federal Rules of Civil Procedure, the Parties have shown that the Court will likely be able to approve the proposal under Rule 23(e)(2).

2. The Court preliminarily finds that the proposed Settlement should be approved as it: (i) is the result of informed, extensive arm's-length, and non-collusive negotiations between experienced counsel, including mediation under the direction of an experienced mediator, Jed Melnick of JAMS; (ii) eliminates the risks to the Parties of continued litigation; (iii) falls within a range of reasonableness warranting final approval; (iv) has no obvious deficiencies; (v) treats Settlement Class Members equitably relative to one another under the proposed Plan of Allocation; and (vi) warrants notice of the proposed Settlement to Settlement Class Members and further consideration of the Settlement at the

Settlement Hearing described below. The Court further finds that the confidential agreement establishing the conditions under which Defendants may terminate the Settlement is standard and has no negative impact on the fairness of the Settlement.

3. Pending final determination of whether the Settlement should be approved, Lead Plaintiff, all Settlement Class Members, and anyone who acts or purports to act on their behalf, shall not institute, commence, or prosecute any action which asserts Released Claims against Defendants and their Related Parties (other than continuing proceedings related to the Settlement).

4. **Settlement Hearing.** A hearing (the “Settlement Hearing”) shall be held before this Court on _____, 2024, at __:__.m., at the L. Richardson Preyer Courthouse, 324 W. Market Street, Greensboro, NC 27401-2544.

(a) The purposes of the Settlement Hearing shall be to: (i) determine whether the proposed Settlement of the Litigation on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate to the Settlement Class and should be approved by the Court; (ii) determine whether a Judgment as defined in ¶1.11 of the Stipulation should be entered dismissing the Litigation with prejudice against the Defendants; (iii) determine, for purposes of the Settlement only, whether the Settlement Class should be finally certified, whether Lead Plaintiff should be finally certified as Class Representative for the Settlement Class, and whether Lead Plaintiff’s Counsel should be finally appointed as counsel for the Settlement Class; (iv) determine whether the proposed Plan of Allocation for the Net Settlement Fund is fair and reasonable and should be

approved; (v) consider Lead Plaintiff's Counsel's application for an award of attorneys' fees and expenses (which may include an application for an award to Lead Plaintiff for reimbursement of its reasonable costs and expenses directly related to its representation of the Settlement Class, pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA")); (vi) hear any objections by Settlement Class Members to the Settlement, Plan of Allocation, or Lead Plaintiff's Counsel's or Plaintiff's application(s); and (viii) consider such other matters the Court deems appropriate.

(b) The Court may approve the proposed Settlement with such modifications as the Parties may agree to, if appropriate, and with or without further notice to the Settlement Class of any kind. The Court further reserves the right to enter the Judgment approving the Settlement regardless of whether it has approved the Plan of Allocation or awarded attorneys' fees and/or expenses. The Court may also adjourn the Settlement Hearing, decide to hold the hearing remotely, or modify any of the dates herein without further individual notice to members of the Settlement Class. Any such changes shall be posted on the website of the Claims Administrator.

5. Class Certification for Settlement Purposes.

(a) Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure, the Court preliminarily certifies, for purposes of effectuating this Settlement only, a Settlement Class consisting of all persons and entities who purchased or otherwise acquired Bioventus Class A common stock between February 11, 2021, and November 21, 2022, both inclusive, and were damaged thereby. Excluded from the Settlement Class are

(i) Defendants and any affiliates or subsidiaries thereof; (ii) present and former officers and directors of Bioventus and their immediate family members (as defined in Item 404 of SEC Regulation S-K, 17 C.F.R. § 229.404, Instructions (1)(a)(iii) & (1)(b)(ii)); (iii) Defendants' liability insurance carriers, and any affiliates or subsidiaries thereof; (iv) any entity in which any Defendant had or has had a controlling interest; (v) Bioventus's employee retirement benefit plan(s); and (vi) the legal representatives, heirs, estates, agents, successors, or assigns of any person or entity described in the preceding five categories. Also excluded from the Settlement Class are any Settlement Class Members that validly and timely request exclusion in accordance with the requirements set by the Court in the Notice of Pendency and Proposed Settlement of Class Action.

(b) Pursuant to Rule 23, and for purposes of settlement only, the Court hereby preliminarily certifies Lead Plaintiff as Settlement Class Representative and Bleichmar Fonti & Auld LLP as Settlement Class Counsel.

6. **Settlement Class Findings.** With respect to the Settlement Class, the Court preliminarily finds, for purposes of effectuating this Settlement only, that (i) the Members of the Settlement Class are so numerous that joinder of all Settlement Class Members in the Litigation is impracticable; (ii) there are questions of law and fact common to the Settlement Class which predominate over any individual questions; (iii) the claims of the Lead Plaintiff are typical of the claims of the Settlement Class; (iv) Lead Plaintiff and Lead Plaintiff's Counsel have fairly and adequately represented and protected the interests of all Settlement Class Members; and (v) a class action is superior to other available methods for

the fair and efficient adjudication of the controversy, considering that: the claims of Settlement Class Members in the Litigation are substantially similar and would, if tried, involve substantially identical proofs and may therefore be efficiently litigated and resolved on an aggregate basis as a class action; the amounts of the claims of many of the Settlement Class Members are too small to justify the expense of individual actions; and it does not appear that there is significant interest among Settlement Class Members in individually controlling the litigation of their claims.

7. **Approval of Form and Content of Notice.** The Court approves, as to form and content, the Notice of Pendency and Proposed Settlement of Class Action (the “Notice”), the Long-Form Notice of Pendency and Proposed Settlement of Class Action (“Long-Form Notice”), the Proof of Claim and Release form (the “Proof of Claim”), and the Summary Notice (“Summary Notice”), annexed hereto as Exhibits 1, 2, 3, and 4, respectively, and finds that they: (a) constitute the best notice to Settlement Class Members practicable under the circumstances; (b) are reasonably calculated, under the circumstances, to describe the terms and effect of the Settlement and to apprise Settlement Class Members of their right to object to the proposed Settlement or to exclude themselves from the Settlement Class; (c) are reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive such notice; and (d) satisfy all applicable requirements of the Federal Rules of Civil Procedure (including Rules 23(c)-(e)), the Due Process Clause of the United States Constitution, 15 U.S.C. §78u-4(a)(7), as amended by the PSLRA, the rules of this Court, and all other applicable law and rules. The date and

time of the Settlement Hearing shall be included in the Notice, the Long-Form Notice, and the Summary Notice before they are mailed, posted online, and published, respectively.

8. **Retention of Claims Administrator and Manner of Notice.** Lead Plaintiff's Counsel is hereby authorized to retain A.B. Data Ltd. ("Claims Administrator") to supervise and administer the notice procedure as well as the processing of claims as more fully set forth below:

(a) No later than _____, 2024 (the "Notice Date") [a date that is twenty-one (21) calendar days from the date of this Order], the Claims Administrator shall commence mailing a copy of the Notice, substantially in the form annexed hereto, by First-Class Mail to (i) all Settlement Class Members who can be identified with reasonable effort, and (ii) brokers and nominees on the Claims Administrator's list of brokers and nominees that commonly hold securities for the benefit of investors. Further, on the Notice Date, the Notice, Long-Form Notice, Proof of Claim, and the Stipulation and its Exhibits shall be posted on the website to be established by the Claims Administrator for the purpose of providing information concerning the Settlement to Settlement Class Members and for online claim submission by Settlement Class Members;

(b) No later than _____, 2024 [a date that is fourteen (14) calendar days after the Notice Date], the Claims Administrator shall cause the Summary Notice to be published once in *The Wall Street Journal* and *PR Newswire*; and

(c) On or before _____, 2024 [a date that is seven (7) calendar days prior to the Settlement Hearing], Lead Plaintiff's Counsel shall cause to be

served on Defendants' Counsel and filed with the Court proof, by affidavit or declaration, of such mailing, publishing, and posting.

9. All reasonable expenses incurred in identifying and notifying Settlement Class Members, as well as administering the Settlement Fund, shall be paid as set forth in the Stipulation. In the event the Settlement is not approved by the Court, or otherwise fails to become effective, neither Lead Plaintiff nor Lead Plaintiff's Counsel shall have any obligation to repay any amounts incurred and/or disbursed from the Settlement Fund in connection with administering the Settlement, as provided in the Stipulation.

10. **Participation in the Settlement.** All Members of the Settlement Class shall be bound by all determinations and judgments in the Litigation concerning the Settlement, including, but not limited to, the releases provided for therein, whether favorable or unfavorable to the Settlement Class, regardless of whether such Persons seek or obtain by any means, including, without limitation, by submitting a Proof of Claim or any similar document, any distribution from the Settlement Fund or the Net Settlement Fund. Settlement Class Members who wish to participate in the Settlement shall complete and submit Proofs of Claim in accordance with the instructions contained therein. Unless the Court orders otherwise, all Proofs of Claim must be postmarked or submitted electronically **no later than _____, 2024 [a date that is ninety (90) calendar days after the Notice Date]**. Any Settlement Class Member who does not submit a Proof of Claim within the time provided for (a) shall be bound by all determinations and judgments in the Litigation concerning the Settlement, whether favorable or unfavorable to the Settlement

Class, including, without limitation, the Judgment and the releases provided for therein; (b) shall be barred from commencing, maintaining, or prosecuting any of the Released Claims against any of the Defendants and their Related Parties, as more fully described in the Stipulation; and (c) shall be barred from sharing in the distribution of the proceeds of the Net Settlement Fund, unless otherwise ordered by the Court. Notwithstanding the foregoing, Lead Plaintiff's Counsel shall have the discretion (but not the obligation) to accept late-submitted claims for processing by the Claims Administrator so long as distribution of the Net Settlement Fund is not materially delayed thereby. No Person shall have any claim against Lead Plaintiff, Lead Plaintiff's Counsel, or the Claims Administrator by reason of the decision to exercise such discretion whether to accept late-submitted claims.

11. **Exclusion from the Settlement Class.** Any Person who desires to request exclusion from the Settlement Class shall do so by submitting a written request for exclusion to the Claims Administrator, which must be timestamped (for online submissions) or received by the Claims Administrator **no later than ____, 2024 [a date that is forty-five (45) calendar days after the Notice Date]**. The request for exclusion must: (i) include the person's or entity's name, address, and telephone number; (ii) state that the person or entity wishes to be "excluded from the Settlement Class" in this Litigation; (iii) include proof (such as stockbroker confirmation slips, stockbroker statements, or other documents) adequately evidencing the date(s), price(s), and number of shares of Bioventus Class A common stock purchased and/or sold during the Class Period;

and (iv) be signed by the person or entity requesting exclusion or their authorized representative (accompanied by proof of authorization). No request for exclusion shall be effective unless it is timely and provides the required information. Upon receiving any request(s) for exclusion, the Claims Administrator shall promptly notify Lead Plaintiff's Counsel of such request(s) and provide them copies of such request(s) and the documentation accompanying them by facsimile or electronic mail. All Persons who submit valid and timely requests for exclusion shall have no rights under the Stipulation, shall not share in the distribution of the Net Settlement Fund, and shall not be bound by the Stipulation or the Judgment entered in the Litigation. Lead Plaintiff's Counsel shall cause to be provided to Defendants' Counsel copies of all requests for exclusion promptly upon receipt and as expeditiously as possible and, in any event, not more than five (5) calendar days after receipt by the Claims Administrator.

12. Any Settlement Class Member who or which does not timely and validly request exclusion from the Settlement Class in the manner stated in this Order: (a) shall be deemed to have waived his, her or its right to be excluded from the Settlement Class; (b) shall be forever barred from requesting exclusion from the Settlement Class in this or any other proceeding; (c) shall be bound by the provisions of the Stipulation and Settlement and all proceedings, determinations, orders and judgments in the Litigation, including, but not limited to, the Judgment or Alternate Judgment, if applicable, and the Releases provided for therein, whether favorable or unfavorable to the Settlement Class; and (d) will be barred from commencing, maintaining or prosecuting any of the Released Plaintiff's

Claims against any of the Released Defendants, as more fully described in the Stipulation and Notice.

13. **Appearance and Objections at Settlement Hearing.** Any Member of the Settlement Class may enter an appearance in the Litigation, at his, her, or its own expense, individually or through counsel of his, her, or its own choice. If he, she, or it does not enter an appearance, he, she, or it will be represented by Lead Plaintiff's Counsel.

(a) Any Settlement Class Member who does not timely request exclusion from the Settlement Class may file a written objection to the proposed Settlement and show cause why the proposed Settlement of the Litigation should or should not be approved as fair, reasonable, and adequate, why the Judgment should or should not be entered thereon, why the Plan of Allocation should or should not be approved, or why attorneys' fees and expenses should or should not be awarded to Lead Plaintiff's Counsel or awards granted to Plaintiff; provided, however, that no Settlement Class Member or any other Person shall be heard or entitled to contest such matters, unless that Person has mailed or delivered said objections, papers, and/or briefs to the Clerk of the United States District Court for the Middle District of North Carolina, **on or before _____, 2024 [a date that is twenty-one (21) calendar days prior to the Settlement Hearing]**, and delivered copies of any such papers to Bleichmar Fonti & Auld LLP, Joseph A. Fonti, 300 Park Avenue, Suite 1301, New York, NY 10022, and Latham & Watkins LLP, Colleen C. Smith, 12670 High Bluff Drive, San Diego, CA 92130, with emailed copies to bioventussettlement@bfalaw.com such that they are received on or before the same date.

To object, a Settlement Class Member must state that he, she, or it objects to the Settlement in *Ciarciello v. Bioventus, Inc., et al.*, Case No. 1:23-cv-00032-CCE-JEP (M.D.N.C.), and must (1) include the objector's name, address, and telephone number; (2) provide documentation establishing the objector's membership in the Settlement Class, including documents showing the number of shares of Bioventus Class A common stock purchased, acquired, and sold during the Class Period, as well as the dates and prices of each such purchase, acquisition, and sale; (3) contain a statement of reasons for the objection, including whether it applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class; (4) identify any other class action settlement(s) in which the objector or the objector's attorney has objected; (5) include copies of any papers or other documents upon which the objection is based; and (6) include the objector's signature, even if represented by counsel. Any Settlement Class Member who does not make his, her, or its objection in the manner provided in this Order shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as set forth in the Stipulation, to the Plan of Allocation, or to the award of attorneys' fees and expenses to Lead Plaintiff's Counsel or awards to Lead Plaintiff, unless otherwise ordered by the Court.

(b) Attendance at the Settlement Hearing is not necessary. However, persons wishing to be heard orally in opposition to the approval of the Settlement, the Plan of Allocation, and/or the Fee and Expense Application are required to indicate in their written objection their intention to appear at the hearing. Persons who intend to object to

the Settlement, the Plan of Allocation, and/or the Fee and Expense Application and desire to present evidence at the Settlement Hearing must include in their written objections the identity of any witnesses they may call to testify and copies of any exhibits they intend to introduce into evidence at the Settlement Hearing.

(c) Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.

(d) At or after the Settlement Hearing, the Court shall determine whether the Plan of Allocation proposed by Lead Plaintiff's Counsel, and any application for attorneys' fees or expenses, shall be approved.

14. **Settlement Fund.** The Court approves the establishment of the Escrow Accounts into which the Settlement Amount will be deposited for the benefit of the Settlement Class. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court. No person who is not a Settlement Class Member or Lead Plaintiff's Counsel shall have any right to any portion of, or to any distribution of, the Net Settlement Fund unless otherwise ordered by the Court or otherwise provided in the Stipulation.

15. **Supporting Papers.** All opening papers in support of final approval of the Settlement, the Plan of Allocation, and the application for attorneys' fees and expenses shall be filed and served by Lead Plaintiff's Counsel **on or before** _____, **2024** [a date that is thirty-five (35) calendar days prior to the Settlement Hearing]. Any reply

papers in response to objections shall be filed and served **on or before** _____, **2024** [a date that is seven (7) calendar days prior to the Settlement Hearing].

16. Defendants shall not have any responsibility for, or liability with respect to, the Plan of Allocation or any application for attorneys' fees or expenses submitted by Lead Plaintiff's Counsel, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Settlement.

17. All reasonable expenses incurred in identifying and notifying Settlement Class Members, as well as administering the Settlement Fund, shall be paid as set forth in the Stipulation. In the event the Settlement is not approved by the Court, or otherwise fails to become effective, neither Lead Plaintiff nor Lead Plaintiff's Counsel shall have any obligation to repay any amounts disbursed or incurred pursuant to ¶¶2.12 or 2.13 of the Stipulation.

18. **Use of this Order.** Neither this Order nor the proposed Settlement (including the Stipulation), nor any of the negotiations or proceedings connected with it: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, the truth of any of the allegations in the Litigation of any wrongdoing, fault, or liability of the Released Defendants, or that Lead Plaintiff or any Settlement Class Members have suffered any damages, harm, or loss; (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; or (c) is or may be deemed to be or may be

used as an admission or evidence that any claims asserted by Lead Plaintiff were not valid or that the amount recoverable was not greater than the Settlement Amount, in any civil, criminal or administrative proceeding in any court, administrative agency, proceeding or other forum or tribunal.

19. **Termination of Settlement.** In the event that the Settlement does not become effective in accordance with the terms of the Stipulation, or the Effective Date does not occur, or in the event that the Settlement Fund, or any portion thereof, is returned to the Defendants pursuant to the Stipulation, then this Order shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation. The Parties shall be deemed to have reverted to their respective positions in the Litigation as of July 12, 2024.

20. **Stay of Proceedings.** All proceedings in the Litigation are stayed until further order of this Court, except as may be necessary to implement the Settlement or comply with the terms of the Stipulation. Pending final determination of whether the Settlement should be approved, neither Lead Plaintiff nor any Settlement Class Member, either directly, representatively, or in any other capacity shall commence or prosecute against any Defendants or their Related Parties any action or proceeding in any court or tribunal asserting any of the Released Claims.

21. **Taxes.** Lead Plaintiff's Counsel is authorized and directed to prepare any tax returns and any other tax reporting form for or in respect to the Settlement Fund, to pay from the Settlement Fund any Taxes owed with respect to the Settlement Fund, and to otherwise perform all obligations with respect to Taxes and any reporting or filings in respect thereof without further order of the Court in a manner consistent with the provisions of the Stipulation.

22. **Jurisdiction.** The Court retains exclusive jurisdiction over the Litigation to consider all further matters arising out of or connected with the Settlement.

DATED: _____

BY THE COURT:

Chief Judge Catherine C. Eagles

United States District Court for the Middle
District of North Carolina

EXHIBIT A-1

**IMPORTANT NOTICE FROM THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

NOTICE OF CLASS SETTLEMENT

If you purchased or otherwise acquired Bioventus Class A common stock between February 11, 2021, and November 21, 2022, both inclusive, and were damaged thereby, you may be entitled to receive a payment from a class action settlement.

THE SETTLEMENT MAY AFFECT YOUR LEGAL RIGHTS. YOU MAY BE ELIGIBLE FOR A CASH PAYMENT. PLEASE READ THIS NOTICE CAREFULLY.

This Notice provides only limited information about the Settlement. For more information, please visit www.BioventusSecuritiesLitigation.com (the “Settlement Website”) or call the Claims Administrator at (877) 933-2890.

Important Settlement Notice: *Ciarciello v. Bioventus, Inc., et al.*, Case No. 1:23-cv-00032-CCE-JEP (M.D.N.C.) (the “Action”)

The Parties have reached a proposed Settlement that, if approved, will resolve the Released Claims against the Defendants and their Related Parties on behalf of the Settlement Class.

Defendants and/or their insurance carriers have agreed to pay \$15,250,000 in total to resolve this case. This amount, plus accrued interest, and after deduction of Court-approved attorneys’ fees and expenses (including any awards to Plaintiffs), Notice and Administration Costs, and Taxes, will be allocated, pursuant to the Plan of Allocation in the Long-Form Notice, among Settlement Class Members who submit valid claims.

You may be a Settlement Class Member if you purchased or otherwise acquired Bioventus Class A common stock between February 11, 2021, and November 21, 2022, both inclusive, and were damaged thereby.

TO BE ELIGIBLE FOR PAYMENT, YOU MUST SUBMIT A VALID PROOF OF CLAIM ONLINE OR POSTMARKED BY ___, 2024. THE FORM IS AVAILABLE FROM THE SETTLEMENT WEBSITE, WWW.BIOVENTUSSECURITIESLITIGATION.COM, OR BY MAIL UPON REQUEST THROUGH THE WEBSITE OR BY CALLING THE CLAIMS ADMINISTRATOR AT (877) 933-2890.

Bioventus Securities Litigation
Claims Administrator
c/o A.B. Data, Ltd.
P.O. Box 173114
Milwaukee, WI 53217

<<MAIL ID>>
<<NAME 1>>
<<NAME 2>>
<<ADDRESS LINE 1>>
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<<COUNTRY>>

For more information, please visit www.BioventusSecuritiesLitigation.com (the “Settlement Website”) or Call the Claims Administrator at (877) 933-2890.

The following QR code links to the Settlement Website:



The Settlement Website contains a Long-Form Notice with additional information that you should review.

You must comply with the Long-Form Notice's complete instructions on how to submit a Proof of Claim, exclude yourself, or object. In summary, you have three options:

Option 1: Submit a Proof of Claim (with further options to object to the Settlement and/or appear at the Settlement Hearing). Proof of Claim and Release forms ("Proof of Claim") are available at www.BioventusSecuritiesLitigation.com and must be postmarked (if mailed) or received (if submitted online) on or before _____, 2024.

Option 2: Exclude yourself from the Settlement Class, as detailed in the Long-Form Notice. Exclusions must be received on or before _____, 2024.

Option 3: Do nothing. You will still be bound by the Settlement and will fully release all Released Claims against Defendants and their Related Parties.

You may write to the Court if you do not like this Settlement, the Plan of Allocation and/or the request for attorneys' fees and expenses. You will still be a Member of the Settlement Class. **Objections must be received by the Court and counsel for the Parties on or before _____, 2024. Submitting a written objection and notice of intention to appear by _____, 2024 allows you to speak in Court about the fairness of the Settlement, the Plan of Allocation and/or the request for attorneys' fees and expenses.** If you submit a written objection, you may (but you do not have to) attend the hearing and speak to the Court about your objection. The Court may change this date to a later date and/or time without further written notice to you.

What is this case about? Why is there a settlement? The Litigation alleges that the Defendants made material misstatements and omissions regarding, *inter alia*, Bioventus's accounting for revenues and rebates and its internal controls. Defendants deny any wrongdoing or liability. The Parties disagree on liability and damages. Lead Plaintiff wishes to avoid the risk and delay of further litigation and secure a substantial benefit for the Settlement Class. Defendants wish to avoid the cost and distraction of further litigation.

How much will I recover? The estimated average recovery per affected share of Bioventus Class A common stock is approximately \$0.49 per share, before deduction of Court-approved fees, expenses, and costs. This amount is an average, and your recovery will vary based on (among other things) the number of valid claims and the size and timing of your transactions in Bioventus Class A common stock.

The Court will hold a hearing on __, 2024 at _ to consider whether to approve the Settlement and Lead Counsel Bleichmar Fonti & Auld LLP's request for attorneys' fees not to exceed 33% of the Settlement Amount, expenses not to exceed \$800,000, and an award to Lead Plaintiff of no more than \$15,000 in the aggregate (an average of approximately \$0.18 per affected share of Bioventus Class A common stock). You may, but are not required to, attend, and may also appear through counsel of your choice and at your own expense.

How can I get more information? Visit the Settlement Website at www.BioventusSecuritiesLitigation.com, contact the Claims Administrator at (877) 933-2890, or contact Lead Counsel at (888) 879-9418 or bioventussettlement@bflaw.com.

SPECIAL NOTICE TO NOMINEES

Nominees who purchased or otherwise acquired Bioventus Class A common stock between February 11, 2021, and November 21, 2022, both inclusive, for the beneficial interest of other Persons or entities shall, within seven (7) days after receipt of the Notice, either (1) send the Notice to such beneficial owners of such Bioventus Class A common stock, or (2) send a list of the names and addresses of such beneficial owners to the Claims Administrator, in which event the Claims Administrator shall promptly mail the Notice to such beneficial owners.

If you choose the first option, you must send a statement to the Claims Administrator confirming that the mailing was made and **you must retain your mailing records for use in connection with any further notices that may be provided in the Litigation.**

If you choose the second option, the Claims Administrator will send a copy of the Notice to the beneficial owners. Upon full and timely compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought.

EXHIBIT A-2

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ROBERT CIARCIELLO Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIOVENTUS INC., KENNETH M.
REALI, MARK L. SINGLETON,
GREGORY O. ANGLUM, and SUSAN M.
STALNECKER,

Defendants.

Case No. 1:23-cv-00032-CCE-JEP

**LONG-FORM NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF
CLASS ACTION**

EXHIBIT A-2

IF YOU PURCHASED OR OTHERWISE ACQUIRED BIOVENTUS CLASS A COMMON STOCK BETWEEN FEBRUARY 11, 2021, AND NOVEMBER 21, 2022, BOTH INCLUSIVE, AND WERE DAMAGED THEREBY, YOU MAY BE ENTITLED TO RECEIVE A PAYMENT FROM A CLASS ACTION SETTLEMENT.¹

A federal court authorized this Long-Form Notice. This is not a solicitation from a lawyer.

PLEASE READ THIS NOTICE CAREFULLY. This Long-Form Notice explains important rights you may have and what steps you must take if you wish to participate in the Settlement of this class action, wish to object, or wish to be excluded from the Settlement Class. If you are a Member of the Settlement Class, your legal rights will be affected whether or not you act.

Securities and Time Period: Bioventus Class A common stock purchased or acquired between February 11, 2021, and November 21, 2022 (both inclusive).

Settlement Fund: \$15,250,000.00 in cash. Your recovery will depend in part on the type and amount of your transactions in Bioventus Class A common stock purchased or acquired between February 11, 2021, and November 21, 2022 (both inclusive) and the timing of your purchases, acquisitions, and any sales. If claims are submitted for 100% of the eligible shares of Bioventus Class A common stock, based on Plaintiff's expert's estimate of the number of damaged shares of Bioventus Class A common stock eligible to recover under the Settlement, the estimated average recovery per affected Bioventus Class

¹ Any capitalized terms used in this Long-Form Notice that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation of Settlement dated July 12, 2024 (the "Stipulation"), which is available on the website established for the Settlement at www.BioventusSecuritiesLitigation.com.

A common share is approximately \$0.49 per share of Bioventus Class A common stock, before deduction of Court-approved fees, expenses, and costs. Settlement Class Members should note, however, that these are only estimates. The actual amount per share you could receive will depend on a number of factors, including those explained in the Plan of Allocation contained below. The Parties do not agree on the average amount of damages per Bioventus Class A Common Stock that would be recoverable if Plaintiff was to prevail in the Action. Among other things, Defendants deny that Plaintiff has asserted any valid claims and expressly denied all allegations of fault, liability, wrongdoing, or damages whatsoever.

Settlement Class: The Court has conditionally certified a Settlement Class of all persons and entities who purchased or otherwise acquired Bioventus Class A common stock between February 11, 2021, and November 21, 2022, both inclusive, and were damaged thereby. Excluded from the Settlement Class are (i) Defendants and any affiliates or subsidiaries thereof; (ii) present and former officers and directors of Bioventus and their immediate family members (as defined in Item 404 of SEC Regulation S-K, 17 C.F.R. § 229.404, Instructions (1)(a)(iii) & (1)(b)(ii)); (iii) Defendants' liability insurance carriers, and any affiliates or subsidiaries thereof; (iv) any entity in which any Defendant had or has had a controlling interest; (v) Bioventus's employee retirement benefit plan(s); and (vi) the legal representatives, heirs, estates, agents, successors, or assigns of any person or entity described in the preceding five categories. Also excluded from the Settlement Class are any Settlement Class Members that validly and timely request exclusion in accordance with

the requirements set by the Court in the Notice of Pendency and Proposed Settlement of Class Action.

Reasons for Settlement: The Settlement resolves claims by Lead Plaintiff Wayne County Employees' Retirement System that have been asserted on behalf of the Settlement Class against Defendants Bioventus, Inc., Kenneth M. Reali, Mark L. Singleton, Gregory O. Anglum, and Susan M. Stalnecker. It avoids the costs and risks associated with continued litigation, including the danger of no recovery, and provides a substantial benefit to the Settlement Class now. It also releases Defendants and their Related Parties (as defined below) from liability. Defendants, who deny all allegations of wrongdoing or liability whatsoever, are entering into the Settlement solely to eliminate the uncertainty, burden and expense of further protracted litigation. Accordingly, the Settlement may not be construed as an admission of any wrongdoing by Defendants.

Statement on Potential Outcome If the Case Had Not Settled: The Settlement must be compared to the risk of no recovery after contested motions, trial, and likely appeals. Litigation is a risky proposition and the Settlement Class might not have prevailed. The claims in this case involve numerous complex legal and factual issues that would require extensive and costly expert testimony. The parties disagree on both liability and damages. Among the many key issues about which the two sides do not agree are: (1) whether Defendants made any statements that were materially false or misleading, or made material omissions in violation of a duty to disclose or that are otherwise actionable, under the federal securities laws; (2) whether any such statements or omissions were made with the requisite level of intent or recklessness; (3) whether the alleged misstatements and

omissions influenced the trading prices of Bioventus Class A common stock during the relevant period; and (4) the amount of damages (if any) that could be recovered at trial, including the average amount of damages per share that would be recoverable if Lead Plaintiff prevailed on each claim alleged. Defendants have denied and continue to deny any and all allegations of wrongdoing or fault asserted in the Litigation, deny that they have committed any act or omission giving rise to any liability or violation of law, and deny that Lead Plaintiff and the Settlement Class have suffered any loss attributable to Defendants' actions or omissions.

Attorneys' Fees and Expenses: Lead Plaintiff's Counsel has not received any payment for its work investigating the facts, conducting this Litigation, and negotiating the Settlement on behalf of Lead Plaintiff and the Settlement Class. Lead Plaintiff's Counsel will ask the Court for attorneys' fees not to exceed 33% of the Settlement Amount and expenses in an amount not to exceed \$800,000, plus interest, to be paid from the Settlement Fund. In addition, Lead Plaintiff may request an award not to exceed \$15,000 in the aggregate pursuant to 15 U.S.C. § 78u-4(a)(4) in connection with their representation of the Settlement Class. If the Court approves Lead Plaintiff's Counsel's Fee and Expense Application in full, and if claims are submitted for 100% of the Bioventus Class A common stock estimated to be eligible to recover under the Settlement, the average amount of fees and expenses is estimated to be approximately \$0.18 per share of Bioventus Class A common stock. A copy of the Fee and Expense Application will be posted on www.BioventusSecuritiesLitigation.com after it has been filed with the Court.

Claims Administrator:
 Bioventus Securities Litigation
 c/o A.B. Data, Ltd.
 P.O. Box 173114
 Milwaukee, WI 53217
 Telephone: 877-933-2890
 info@BioventusSecuritiesLitigation.com

Lead Plaintiff’s Counsel:
 Joseph A. Fonti, Esq.
 Bleichmar Fonti & Auld LLP
 300 Park Avenue, Suite 1301
 New York, NY 10022
 Telephone: 212-789-1340
 bioventussettlement@bfalaw.com

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT IF YOU ARE
 A VALID MEMBER OF THE SETTLEMENT CLASS**

SUBMIT A CLAIM	This is the only way to be eligible to receive a payment. If you are a Settlement Class Member, and do not exclude yourself from the Settlement Class, you will be bound by the Settlement as approved by the Court and you will give up any “Released Claims” (as defined below) that you have against the Defendants and their “Related Parties” (as defined below). Proof of Claim and Release forms (“Proof of Claim”) are available at www.BioventusSecuritiesLitigation.com and must be postmarked (if mailed) or received (if submitted online) on or before _____, 2024.
EXCLUDE YOURSELF	If you exclude yourself from the Settlement Class, you will not be eligible to receive any payment from the Settlement Fund. This is the only option that potentially allows you to participate in another lawsuit against the Defendants or their Related Parties relating to the Released Claims being released in this case. Should you elect to exclude yourself from the Settlement Class, you should understand that Defendants and their Related Parties will have the right to assert any and all defenses they may have to any claims that you may seek to assert, including, without limitation, the defense that any such claims are untimely under applicable statutes of limitations and statutes of repose. Exclusions must be received on or before _____, 2024.
OBJECT	You may write to the Court if you do not like this Settlement, the Plan of Allocation and/or the request for attorneys’ fees and expenses. You will still be a Member of the Settlement Class. Objections must be received by the Court and counsel for the Parties on or before _____, 2024.

<p>GO TO A HEARING ON _____, 2024, at _____ .m.</p>	<p>Submitting a written objection and notice of intention to appear by _____, 2024 allows you to speak in Court about the fairness of the Settlement, the Plan of Allocation and/or the request for attorneys’ fees and expenses. If you submit a written objection, you may (but you do not have to) attend the hearing and speak to the Court about your objection.²</p>
<p>DO NOTHING</p>	<p>If you are a Member of the Settlement Class and you do not submit a Proof of Claim by _____, 2024, you will not be eligible to receive any payment from the Net Settlement Fund. You will, however, remain a Member of the Settlement Class, which means that you give up your right to sue about the claims that are resolved by the Settlement and you will still be bound by any judgments or orders entered by the Court in the Litigation.</p>

- These rights and options – *and the deadlines to exercise them* – are explained in this Notice.
- The Court in charge of this case must decide whether to approve the Settlement. Payments to Authorized Claimants (described below) will be made if the Court approves the Settlement, after Proofs of Claim are processed, and, if there are any appeals, after appeals are resolved. Please be patient.

BASIC INFORMATION

1. Why Did I Receive This Long-Form Notice?

The Court authorized that this Long-Form Notice be disseminated because you or someone in your family has been identified as a potential Settlement Class Member who may have purchased or acquired shares of Bioventus Class A common stock during the Class Period. The Court directed that this Long-Form Notice be made available to Settlement Class Members to explain the Litigation, Settlement Class Members’ legal

² The Court may change this date to a later date and/or time without further written notice to you. However, any different date or time will be posted on the Settlement website: www.BioventusSecuritiesLitigation.com.

rights, what benefits are available, who is eligible for them, and how to get them. The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim in the Litigation, and the Court still has to decide whether to approve the Settlement.

Receipt of this Long-Form Notice does not mean that you are a Member of the Settlement Class or that you will be entitled to receive a payment. The Parties do not have access to your individual investment information. If you wish to be eligible for a payment, you are required to timely submit the Proof of Claim available at www.BioventusSecuritiesLitigation.com.

The Court in charge of the case is the United States District Court for the Middle District of North Carolina, and the case is known as *Ciarciello v. Bioventus, Inc., et al.*, Case No. 1:23-cv-00032-CCE-JEP (M.D.N.C.). The institution that sued, Wayne County Employees' Retirement System, is called the Lead Plaintiff. Bioventus and the individuals that the Lead Plaintiff sued, Kenneth M. Reali, Mark L. Singleton, Gregory O. Anglum, and Susan M. Stalnecker, are called the Defendants.

2. What Is This Lawsuit About?

This case alleges violations of §§ 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act") on behalf of a class consisting of all Persons and entities who purchased or otherwise acquired Bioventus Class A common stock between February 11, 2021, and November 21, 2022, both inclusive, and were damaged thereby. Among other things, the Amended Complaint alleges violations of the Exchange Act premised on certain statements and omissions that Lead Plaintiff claims were false or misleading, including

statements concerning Bioventus's accounting for revenues and rebates, Bioventus's internal controls over financial reporting, and the impact on Bioventus's revenues of a shift in how Bioventus priced its key products. Lead Plaintiff contends that these allegedly false and misleading statements and/or omissions artificially inflated Bioventus's stock price and when the alleged truth was eventually disclosed, the price of Bioventus's stock declined, resulting in substantial damages to the Settlement Class. Thus, Lead Plaintiff alleges that Settlement Class Members overpaid for Bioventus common stock during the relevant time period.

Defendants have expressly denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, by Lead Plaintiff and the Settlement Class. Defendants have asserted and continue to assert that, at all times, they acted in good faith and in a manner reasonably believed to be in accordance with all applicable rules, regulations and laws. Defendants maintain that they have meritorious defenses to all claims alleged in the Litigation.

3. What Has Happened So Far in This Case?

The Litigation is currently pending in the United States District Court for the Middle District of North Carolina before Chief Judge Catherine C. Eagles (the "Court"). The initial complaint in this Litigation was filed on January 12, 2023. (ECF No. 1.) On April 12, 2023, the Court appointed Wayne County Employees' Retirement System as Lead Plaintiff and Bleichmar Fonti & Auld LLP as Lead Counsel. (ECF No. 44.)

Lead Plaintiff filed an Amended Complaint on June 12, 2023 (ECF No. 48), and the operative Second Amended Complaint (the “Complaint”) on July 31, 2023 (ECF No. 58). The Complaint alleged violations of Section 11 of the Securities Act of 1933 and Section 10(b) of the Exchange Act of 1934. On August 21, 2023, Defendants moved to dismiss the Amended Complaint. (ECF No. 63.) On November 6, 2023, the Court dismissed Lead Plaintiff’s Section 11 claims, but allowed the Section 10(b) claims to proceed. (ECF No. 75.) Defendants filed their answers on December 11, 2023, which denied all claims alleged in the Complaint and asserted multiple defenses thereto. (ECF No. 81.)

Since then, the parties have vigorously litigated this Litigation. Lead Plaintiff requested documents from Defendants, and numerous third parties, including, but not limited to individual former Bioventus employees, Bioventus’s auditors, insurance companies that contracted with Bioventus, certain Bioventus consultants, and other third parties, resulting in substantial document productions of 70,135 documents. The parties engaged in several discovery disputes and countless meet-and-confer conferences and raised several issues with the Court. The parties also fully briefed Lead Plaintiff’s motion for class certification. Lead Plaintiff also prepared and sat for its deposition in connection with Lead Plaintiff’s motion for class certification.

The Parties engaged in a confidential mediation before mediator Jed Melnick on May 29, 2024. Prior to that confidential mediation, the Parties exchanged mediation statements with exhibits. Despite good faith efforts to resolve the Litigation during the mediation, the Parties were unable to reach agreement on their own. Near the end of the nearly 10-hour conference, Mediator Melnick made a recommendation to facilitate a

settlement in principle on the terms set forth herein, to which the Parties agreed, subject to the approval of the Court.

4. Why Is This a Class Action?

In a class action, a class representative (in this case, the Court-appointed Lead Plaintiff Wayne County Employees' Retirement System) sues on behalf of people who have similar claims. Here, all these people are called the Settlement Class or Settlement Class Members. One court resolves the issues for all class members at the same time, except for those who timely and validly exclude themselves from the class (the process for which is described more fully in Question 14 below). Chief Judge Catherine C. Eagles is presiding over this class action.

5. Why Is There a Settlement?

The Court did not decide in favor of Lead Plaintiff or Defendants. Instead, both sides agreed to a settlement. That way they avoid the cost and uncertainty of further litigation and a trial, and eligible Settlement Class Members who submit valid claims will receive compensation. Particularly in light of the possibility that continued litigation could result in no greater recovery than the Settlement—or no recovery at all—Lead Plaintiff and Lead Plaintiff's Counsel believe the settlement is in the best interest of all Settlement Class Members.

WHO IS IN THE SETTLEMENT

To see if you will receive money from this Settlement, you first have to determine if you are a Settlement Class Member.

6. How Do I Know if I Am Part of the Settlement?

The Settlement Class includes all persons and entities who purchased or otherwise acquired Bioventus Class A common stock between February 11, 2021, and November 21, 2022, both inclusive (the “Class Period”), and were damaged thereby. Certain Persons and entities are excluded from this definition, as described below.

7. What Are the Exceptions to Being Included?

Excluded from the Settlement Class are (i) Defendants and any affiliates or subsidiaries thereof; (ii) present and former officers and directors of Bioventus and their immediate family members (as defined in Item 404 of SEC Regulation S-K, 17 C.F.R. § 229.404, Instructions (1)(a)(iii) & (1)(b)(ii)); (iii) Defendants’ liability insurance carriers, and any affiliates or subsidiaries thereof; (iv) any entity in which any Defendant had or has had a controlling interest; (v) Bioventus’s employee retirement benefit plan(s); and (vi) the legal representatives, heirs, estates, agents, successors, or assigns of any person or entity described in the preceding five categories. Also excluded from the Settlement Class are any Settlement Class Members that validly and timely request exclusion in accordance with the requirements set by the Court in the Notice of Pendency and Proposed Settlement of Class Action.

8. I’m Still Not Sure if I Am Included.

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator at www.BioventusSecuritiesLitigation.com or by phone at 877-933-2890, or you can fill out and return the Proof of Claim described in Question 11, to see if you qualify.

**PLEASE DO NOT CALL THE COURT OR DEFENDANTS WITH QUESTIONS
ABOUT THE SETTLEMENT**

THE SETTLEMENT BENEFITS – WHAT YOU GET

9. What Does the Settlement Provide?

Defendants have agreed to settle the litigation for a total of \$15.25 million in cash. This amount, plus any interest earned thereon, constitutes the Settlement Fund. The balance of this fund after payment of (i) Court-approved attorneys' fees and expenses, (ii) any award to Lead Plaintiff, (iii) the costs of claims administration, including the costs of distributing the Notice and the cost of publishing newspaper notice, and (iv) Taxes and Tax Expenses, is the "Net Settlement Fund." The Net Settlement Fund will be divided among all eligible Settlement Class Members who send in timely and valid Proofs of Claim in accordance with the Plan of Allocation described below.

10. How Much Will My Payment Be?

Your payment (if any) will depend on several things, including the total dollar amount of claims represented by the valid Proofs of Claim that Settlement Class Members submit; the number of shares of Bioventus Class A common stock you purchased or acquired; how much you paid for those shares; when you purchased or acquired them; and if and when you sold your shares of Bioventus Class A common stock and for how much. The Claims Administrator will apply the Plan of Allocation (appended below as Appendix A) to calculate the amount of your Recognized Claim, and your payment (if any) will be a portion of the Net Settlement Fund equal to your Recognized Claim divided by the total of all Authorized Claimants' Recognized Claims.

11. How Will I Obtain a Payment?

To qualify for payment, you must be an eligible Settlement Class Member, send in a timely and valid Proof of Claim, and properly document your claim as requested in the Proof of Claim. A Proof of Claim may be downloaded at www.BioventusSecuritiesLitigation.com and is also available in paper form by contacting the Claims Administrator at www.BioventusSecuritiesLitigation.com, by phone at 877-933-2890, or at *Bioventus Securities Litigation*, c/o A.B. Data, Ltd., P.O. Box 173114, Milwaukee, WI 53217. Read the instructions carefully, fill out the form, include all the documents the form asks for, sign it, and mail it such that it is postmarked no later than _____, 2024, or submit it online by no later than _____, 2024. Proofs of Claim may be completed and submitted online at www.BioventusSecuritiesLitigation.com.

12. When Will I Receive My Payment?

The Court will hold a hearing on _____, 2024, at __:__.m., to decide whether to approve the Settlement. If Chief Judge Eagles approves the Settlement, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time. It also takes time for all the Proofs of Claim to be processed. Please be patient.

13. What Am I Giving Up to Receive a Payment or Stay in the Settlement Class?

Unless you timely and validly exclude yourself, you are a Settlement Class Member, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against the Defendants or any of their Related Parties about the Released Claims. It also means

that all of the Court's orders, including a judgment ("Judgment") dismissing the Litigation with prejudice on the merits, will apply to you and legally bind you and you will release all Released Claims in this case against the Defendants and their Related Parties.

"Released Claims" means any and all claims, rights, causes of action, liabilities, actions, suits, damages, or demands (including Unknown Claims as defined below) of any kind whatsoever, which now exist, heretofore or previously existed, or may hereafter exist, including, but not limited to, any claims arising under federal, state, or common law, that the Lead Plaintiff or any Settlement Class Member has asserted in the Complaint, or could have asserted in either the Litigation or could in the future assert in any United States forum that concern, arise out of, refer to, are based upon, or are related in any manner to the allegations, transactions, facts, matters, occurrences, representations, statements, or omissions alleged, involved, set forth, or referred to in the Litigation. "Released Claims" does not include claims relating to the enforcement of the Settlement. For the avoidance of doubt, the "Released Claims" does not include the derivative claims raised in *Grogan v. Reali, et.al.*, Case No. 1:23-cv-01099-RGA (D. Del. 2023) or *Sanderson v. Reali, et. al.*, Case No. 1:24-cv-00180-UNA (D. Del. 2024).

"Released Defendants" means each and all of the Defendants, their attorneys and each of their applicable Related Parties, including but not limited to, Defendants' respective agents, attorneys, representatives, insurers, reinsurers, and assigns, in their capacities as such.

"Releasing Defendants' Claims" means all claims and causes of action of every nature and description, whether known or unknown (including Unknown Claims as defined

in ¶1.37 of the Stipulation), whether arising under federal, state, or common law, that arise out of or relate in any way to the institution, prosecution or settlement of the Action or the Released Claims against the Released Defendants. Notwithstanding the foregoing, “Releasing Defendants’ Claims” does not include claims relating to the enforcement of the Settlement.

“**Unknown Claims**” means (i) any Released Claims which Lead Plaintiff or Settlement Class Members do not know or suspect to exist in his, her or its favor at the time of the release of the Released Defendants which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Defendants, or might have affected his, her or its decision with respect to the settlement, including, but not limited to, whether or not to object to this settlement or seek exclusion from the Settlement Class, and (ii) any Releasing Defendants’ Claims that any one of the Released Defendants do not know or suspect to exist in his, her or its favor at the time of the release, which, if known by him, her or it, might have affected his, her or its settlement with and release of Lead Plaintiff and Settlement Class Members. With respect to any and all Released Claims and Releasing Defendants’ Claims, the Released Parties stipulate and agree that, upon the Effective Date, Lead Plaintiff and the Released Defendants shall expressly waive, and each of the Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived, the provisions, rights, and benefits of California Civil Code §1542 and any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code §1542, 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, which if known by him or her would have materially affected his or her settlement with the debtor or released party.

Lead Plaintiff, Settlement Class Members, and Released Defendants may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Lead Plaintiff and Released Defendants shall expressly settle and release, and each Settlement Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, disclosed or undisclosed, matured or unmatured, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiff and Released Defendants acknowledge, and the Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the settlement of which this release is a part.

“**Released Parties**” means (i) each and all of the Defendants, their attorneys and each of their applicable Related Parties, and (ii) each and all of Lead Plaintiff, Settlement Class Members, and Lead Plaintiff’s Counsel and their applicable Related Parties.

“Related Parties” means, as applicable, each and all of the following: (a) each and every Defendant, including all defendants previously named in this action; (b) each and every member of the Settlement Class, Lead Plaintiff, and Lead Plaintiff’s Counsel; (c) the respective present and former parents, affiliates, subsidiaries, divisions, directors, officers, employees, general partners and limited partners, and successors in interest of the Persons listed in subparts (a) and (b), including without limitation any Person in which a Person in subpart (a) and (b) has or had a controlling interest, in their respective capacities as such; and (d) the present and former members of the immediate family, heirs, principals, trustees, trusts, executors, administrators, predecessors, successors, assigns, members, agents, subsidiaries, employees, officers, managers, directors, general partners, limited partners, attorneys, representatives, estates, divisions, estate managers, indemnifiers, insurers and reinsurers of each of the Persons (including entities, as defined above) listed in subparts (a), (b), and (c) of this definition, in their respective capacities as such.

“Lead Plaintiff’s Counsel” means any counsel who have appeared in the Litigation on behalf of Lead Plaintiff or the Class, including Lead Counsel Bleichmar Fonti & Auld LLP and Tin Fulton Walker & Owen PLLC.

The Judgment will also provide that upon the Effective Date, without any further action by anyone, Lead Plaintiff and each of the Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, compromised, settled, resolved, waived, discharged, and dismissed on the merits with prejudice all Released Claims (including, without limitation, Unknown Claims) against Defendants and their Related Parties, whether or not such Settlement Class Member

executes and delivers a Proof of Claim or participates in the Settlement Fund. It is an important element of the Defendants' participation in the Settlement, which Plaintiff has acknowledged, that Defendants and their Related Parties obtain the fullest possible legally enforceable release from further liability to any Settlement Class Member relating to the Released Claims, and it is the intention of the Parties that all further liability of the Defendants and each of their Related Parties relating to the Released Claims hereby be eliminated. These releases and waivers were separately bargained for and are essential elements of the Stipulation and the Settlement.

Moreover, upon the Effective Date, Lead Plaintiff and all Settlement Class Members, and anyone claiming through or on behalf of any of them, will be forever barred and enjoined from commencing, instituting, or continuing to prosecute any action or proceeding in any court of law or equity, arbitration tribunal, administrative forum, or other forum of any kind, asserting any of the Released Claims against any of the Defendants and their Related Parties.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to participate in this Settlement, and you want to keep the right to sue or continue to sue the Defendants or any of their Related Parties on your own for the Released Claims in this case, then you must take steps to get out of the Settlement Class. This is called excluding yourself or is sometimes referred to as opting out of the Settlement Class.

If you are requesting exclusion because you want to bring your own lawsuit based on the matters alleged in this Litigation, you may want to consult an attorney

and discuss whether any individual claim that you may wish to pursue would be time-barred by the applicable statutes of limitation or repose.

If you are excluded from the Settlement Class and pursue your own individual action, you may also have to produce information and/or documents upon the Defendants' request (a process known as "discovery"), which could include, but not be limited to, providing testimony under oath.

14. How Do I Get Out of the Settlement Class?

To exclude yourself from the Settlement Class, you must submit a written request for exclusion to the Claims Administrator online at www.BioventusSecuritiesLitigation.com or by mail to the following address:

Bioventus Securities Litigation
EXCLUSIONS
c/o A.B. Data, Ltd.
P.O. Box 173001
Milwaukee, WI 53217

You cannot exclude yourself by telephone or email. Your request for exclusion must state that you want to be excluded from *Ciarciello v. Bioventus, Inc., et al.*, Case No. 1:23-cv-00032-CCE-JEP (M.D.N.C.), and must: (i) include your or an entity's name, address, and telephone number; (ii) state that you or the entity wish to be "excluded from the Settlement Class" in this Litigation; (iii) include proof (such as stockbroker confirmation slips, stockbroker statements, or other documents) adequately evidencing the date(s), price(s), and number(s) of all shares of Bioventus Class A common stock purchased and/or sold during the Class Period; and (iv) be signed by you or the entity requesting exclusion or their authorized representative (accompanied by proof of

authorization). No request for exclusion will be considered valid unless it is timely and provides all of the information described above.

Your exclusion request must be submitted online or received by the Claims Administrator no later than _____, 2024.

Do not submit a request for exclusion as well as an objection and/or Proof of Claim. If you do so, your objection and/or Proof of Claim will be disregarded and you will be excluded from the Settlement Class.

15. If I Do Not Exclude Myself, Can I Sue the Defendants for the Same Thing Later?

No. Unless you timely and validly exclude yourself, you give up any right to sue the Defendants and their Related Parties for the Released Claims in this Settlement. If you have a pending lawsuit against any of these parties, including the Defendants, speak to your lawyer in that case immediately. Remember, the exclusion deadline is _____, 2024.

16. If I Exclude Myself, Can I Receive Money From This Settlement?

No. If you exclude yourself, you are not a Settlement Class Member and cannot submit a Proof of Claim.

THE LAWYERS REPRESENTING YOU

17. Do I Have a Lawyer in This Case?

The Court appointed the law firm of Bleichmar Fonti & Auld LLP to represent you and other Settlement Class Members. These lawyers are called Lead Counsel. You will not be directly charged for these lawyers. They will be paid from the Settlement Fund to

the extent the Court approves their application for fees and expenses. If you want to be represented by your own lawyer, you may hire one at your own expense.

18. How Will the Lawyers Be Paid?

Lead Counsel will ask the Court for attorneys' fees not to exceed 33% of the Settlement Amount, and for expenses in an amount not to exceed \$800,000, plus interest that is incurred on these amounts at the same rate as earned by the Settlement Fund. Such sums as may be approved by the Court will be paid from the Settlement Fund.

The attorneys' fees and expenses requested will be the only payment to Lead Plaintiff's Counsel for its efforts in achieving this Settlement and for its risk in undertaking this representation on a wholly contingent basis. Lead Plaintiff's Counsel has committed a substantial amount of time and significant expenses in litigating this case for the benefit of the Settlement Class. To date, Lead Plaintiff's Counsel has not been paid for its services in conducting this Litigation on behalf of Lead Plaintiff and the Settlement Class, nor for its expenses. The fees requested will compensate counsel for its work in achieving the Settlement Fund for the benefit of the Settlement Class.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

19. How Do I Tell the Court That I Do Not Like the Settlement?

If you are a Settlement Class Member, you can object to the Settlement if you do not like any part of it, including the Plan of Allocation and the request for attorneys' fees or expenses. You can state the reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to

the Settlement or to certain aspects of the Settlement in *Ciarciello v. Bioventus, Inc., et al.*, Case No. 1:23-cv-00032-CCE-JEP (M.D.N.C.), which must (1) include the objector's name, address, and telephone number; (2) provide documentation establishing the objector's membership in the Settlement Class, including documents showing the type and number of shares of Bioventus Class A common stock purchased, acquired, and sold during the Class Period, as well as the dates and prices of each such purchase, acquisition, and sale; (3) contain a statement of reasons for the objection, including whether it applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class; (4) identify any other class action settlement(s) in which the objector or the objector's attorney has objected; (5) include copies of any papers or other documents upon which the objection is based; and (6) include the objector's signature, even if represented by counsel. Unless otherwise ordered by the Court, any Settlement Class Member who does not object in the manner described in this Notice will be deemed to have waived any objection and will be foreclosed from making any objection to the proposed Settlement, the Plan of Allocation, and/or the request for attorneys' fees or expenses.

Any objection ***must*** be mailed or delivered such that it is ***received*** by ***each*** of the following (not simply postmarked) ***no later than*** _____, ***2024***:

Court:

Clerk of the Court
UNITED STATES DISTRICT
COURT
MIDDLE DISTRICT OF NORTH
CAROLINA
L. Richardson Preyer Courthouse
324 W. Market Street
Greensboro, NC 27401

Lead Counsel:

Joseph A. Fonti
BLEICHMAR FONTI & AULD LLP
300 Park Avenue, Suite 1301
New York, NY 10022
Emailed copy to
bioventussettlement@bfalaw.com

Counsel for Defendants:

Colleen C. Smith
LATHAM & WATKINS LLP
12670 High Bluff Drive
San Diego, CA 92130

Unless the Court orders otherwise, any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to any aspect of the proposed Settlement, the proposed Plan of Allocation, or any request for an award of attorneys' fees and expenses. Settlement Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

20. What's the Difference Between Objecting and Excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object *only if* you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S SETTLEMENT HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you do not have to.

21. When and Where Will the Court Decide Whether to Approve the Settlement?

The Court will hold a Settlement Hearing at __:__ *.m.*, on _____, 2024, at the L. Richardson Preyer Courthouse, 324 W. Market Street, Greensboro, North Carolina 27401-2544. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate, consider any objections, and listen to people who have asked to speak at the hearing.³ The Court may move the date or time of the Settlement Hearing to a later date and/or time without further written notice to you. If the date or time of the Settlement Hearing is changed, the new date and/or time will be posted at www.BioventusSecuritiesLitigation.com.

22. Do I Have to Come to the Hearing?

No. Lead Plaintiff's Counsel will answer any questions the Court may have, and Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval. If you send an objection or statement in support of the Settlement,

³ The papers in support of approval of the Settlement, the Plan of Allocation, and Lead Counsel's Fee and Expense Application will be submitted to the Court no later than thirty-five (35) calendar days before the Settlement Hearing, and posted on the Settlement website, www.BioventusSecuritiesLitigation.com.

you are not required to go to Court to discuss it; you may pay your own lawyer to attend, or attend at your own expense, but you are not required to do so.

23. May I Speak at the Hearing?

If you have timely filed an objection, you may ask the Court for permission to speak at the Settlement Hearing. To do so, your written objection must (in addition to the information specified in Question 19 above) state your intention to appear at the hearing, and must include the identity of any witnesses you may call to testify and copies of any exhibits you intend to introduce into evidence at the Settlement Hearing. You cannot speak at the hearing if you exclude yourself from the Settlement Class.

IF YOU DO NOTHING

24. What Happens If I Do Nothing at All?

If you do nothing, you will be a Settlement Class Member. However, you will not receive any money from this Settlement unless you submit a Proof of Claim. Unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants or their Related Parties about the Released Claims.

GETTING MORE INFORMATION

25. How Do I Get More Information?

This Long-Form Notice summarizes the proposed Settlement and does not describe all of the details of the Settlement. More details are in the Stipulation dated July 12, 2024. You can obtain a copy of the Stipulation by going to www.BioventusSecuritiesLitigation.com or by calling or writing the Claims Administrator

at 877-933-2890 or *Bioventus Securities Litigation*, c/o A.B. Data, Ltd., P.O. Box 173114, Milwaukee, WI 53217; by contacting Lead Plaintiff's Counsel at bioventussettlement@bfalaw.com or (888) 879-9418; or by visiting the Clerk's office at the United States District Court for the Middle District of North Carolina, L. Richardson Preyer Courthouse, 324 W. Market Street, Greensboro, North Carolina 27401-25444, during regular business hours.

DO NOT TELEPHONE THE DEFENDANTS OR THE COURT

REGARDING THIS NOTICE

If you have questions about the Settlement, you can contact the Claims Administrator by going to www.BioventusSecuritiesLitigation.com, calling 877-933-2890, or writing to *Bioventus Securities Litigation*, c/o A.B. Data, Ltd., P.O. Box 173114, Milwaukee, WI 53217, or contact Lead Plaintiff's Counsel at bioventussettlement@bfalaw.com or (888) 879-9418.

APPENDIX A – PLAN OF ALLOCATION OF NET SETTLEMENT FUND

PROPOSED PLAN OF ALLOCATION

1. The objective of the Plan of Allocation is to fairly distribute the Net Settlement Fund to Authorized Claimants who suffered economic losses as a result of the violations of the securities laws alleged in this Action. The calculations are not intended to estimate the damages the Class might have recovered after a trial, or the amount Authorized Claimants will be paid under the Settlement. These calculations are only a method to weigh Authorized Claims against one another to make fair *pro rata* allocations of the Net Settlement Fund.

2. To create the Plan of Allocation, Plaintiff's expert estimated the artificial inflation caused by Defendants' allegedly misleading statements and omissions and considered the impact of subsequent public announcements that Plaintiff believes corrected those statements and omissions. The expert also adjusted for price changes caused by regular market or industry forces, on a per share basis.

3. The alleged misstatements and omissions occurred between February 11, 2021, and November 21, 2022. Plaintiff alleges that the truth was then disclosed on: November 8, 2022 (prior to market open), November 16, 2022 (after market close), and November 21, 2022 (after market close), removing the artificial inflation from Bioventus's stock price, causing it to decline on: November 8, 2022, November 17, 2022, and November 22, 2022.

4. Recognized Loss Amounts are based primarily on the difference between the amount of alleged artificial inflation in Bioventus's stock price at the time of purchase and sale; or the difference between the actual purchase price and the sale price. Accordingly, to have a Recognized Loss Amount under this plan, an Authorized Claimant that purchased or acquired Bioventus common stock before any corrective disclosure must have held the shares through at least the start of trading on November 8, 2022. An Authorized Claimant that purchased or acquired Bioventus common stock from November 8, 2022, through November 21, 2022, must have held those shares through at least one of the later corrective disclosure dates (listed above).

CALCULATION OF RECOGNIZED LOSS AMOUNTS

5. Based on the formula stated below, a Recognized Loss Amount will be calculated for each purchase or acquisition of Bioventus common stock that is listed on the Claim Form and for which adequate documentation is provided. Where indicated below, purchase and sale prices shall exclude fees, taxes, and commissions. If a Recognized Loss Amount calculates to a negative number or zero under the formula below, that number will be zero.

6. For each share of Bioventus common stock purchased or otherwise acquired during the Settlement Class Period (*i.e.*, during the period from February 11, 2021 through and including November 21, 2022), and:

(a) Sold before November 8, 2022, the Recognized Loss Amount will be \$0.00.⁴

(b) Sold from November 8, 2022 through and including November 21, 2022, the Recognized Loss Amount will be ***the lesser of***: (i) the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table A *minus* the amount of artificial inflation per share on the date of sale as stated in Table A; or (ii) the purchase/acquisition price (excluding all fees, taxes, and commissions) *minus* the sale price (excluding all fees, taxes, and commissions).

(c) Sold from November 22, 2022 through and including the close of trading on February 17, 2023, the Recognized Loss Amount will be ***the least of***: (i) the

⁴ Any transactions in Bioventus common stock executed outside of regular trading hours for the U.S. financial markets shall be deemed to have occurred during the next regular trading session.

amount of artificial inflation per share on the date of purchase/acquisition as stated in Table A; (ii) the purchase/acquisition price (excluding all fees, taxes, and commissions) *minus* the sale price (excluding all fees, taxes, and commissions); or (iii) the purchase/acquisition price (excluding all fees, taxes, and commissions) *minus* the average closing price between November 22, 2022 and the date of sale as stated in Table B below.

(d) Held as of the close of trading on February 17, 2023, the Recognized Loss Amount will be *the lesser of*: (i) the amount of artificial inflation per share on the date of purchase/acquisition; or (ii) the purchase/acquisition price minus \$2.26.⁵

ADDITIONAL PROVISIONS

7. **Calculation of Claimant’s “Recognized Claim”:** A Claimant’s “Recognized Claim” will be the sum of his, her, or its Recognized Loss Amounts as calculated above with respect to Bioventus common stock.

8. **FIFO Matching:** If a Settlement Class Member made more than one purchase/acquisition or sale of Bioventus common stock during the Settlement Class Period, all purchases/acquisitions and sales will be matched on a First In, First Out (FIFO)

⁵ Pursuant to Section 21D(e)(1) of the Exchange Act, “in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market.” Consistent with the requirements of the Exchange Act, Recognized Loss Amounts are reduced to an appropriate extent by taking into account the closing prices of Bioventus common stock during the “90-day look-back period,” November 22, 2022 through and including February 17, 2023. The mean (average) closing price for Bioventus common stock during this 90-day look-back period was \$2.26.

basis. Settlement Class Period sales will be matched first against any holdings at the beginning of the Settlement Class Period, and then against purchases/acquisitions in chronological order, beginning with the earliest purchase/acquisition made during the Settlement Class Period.

9. **“Purchase/Sale” Dates:** Purchases or acquisitions and sales of Bioventus common stock will be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. The receipt or grant by gift, inheritance, or operation of law of Bioventus common stock during the Settlement Class Period shall not be deemed a purchase, acquisition or sale of Bioventus common stock for the calculation of a Claimant’s Recognized Loss Amount, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition/sale of Bioventus common stock unless (i) the donor or decedent purchased or otherwise acquired or sold Bioventus common stock during the Settlement Class Period; (ii) the instrument of gift or assignment specifically provides that it is intended to transfer such rights; and (iii) no Claim was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such shares of Bioventus common stock.

10. **Short Sales:** The Recognized Loss Amount on short sales and purchases covering short sales is zero. If Claimant has an opening short position in Bioventus common stock, the earliest purchases or acquisitions of Bioventus common stock during the Settlement Class Period will be matched against such opening short position and not be entitled to a recovery until that short position is fully covered. The date of covering a “short sale” is deemed to be the date of purchase or acquisition of the Bioventus

common stock. The date of a “short sale” is deemed to be the date of sale of the Bioventus common stock.

11. **Common Stock Purchased/Sold Through the Exercise of Options:** The purchase or sale date is the exercise date of the option, and the purchase or sale price is the exercise price of the option.

12. **Determination of Distribution Amount:** If the total of Recognized Claims of all Authorized Claimants who are entitled to receive payment out of the Net Settlement Fund is greater than the Net Settlement Fund, each Authorized Claimant shall receive his, her, or its *pro rata* share of the Net Settlement Fund. The *pro rata* share will be the Authorized Claimant’s Recognized Claim divided by the total of Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund.

13. If the Net Settlement Fund exceeds the sum total amount of the Recognized Claims of all Authorized Claimants entitled to receive payment out of the Net Settlement Fund, the excess amount in the Net Settlement Fund will be distributed *pro rata* to all Authorized Claimants entitled to receive payment.

14. If an Authorized Claimant’s Distribution Amount calculates to less than \$10.00, no distribution will be made to that Authorized Claimant.

15. After the initial distribution of the Net Settlement Fund, the Claims Administrator will make reasonable and diligent efforts to have Authorized Claimants cash their distribution checks. To the extent any monies remain in the Net Settlement Fund nine (9) months after the initial distribution, if Lead Counsel, in consultation with the Claims Administrator, determine that it is cost-effective to do so, the Claims Administrator will

conduct a re-distribution of the funds remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, including for such re-distribution, to Authorized Claimants who have cashed their initial distributions and who would receive at least \$10.00 from such re-distribution. Additional re-distributions to Authorized Claimants who have cashed their prior checks and who would receive at least \$10.00 on such additional re-distributions may occur thereafter if Lead Counsel, in consultation with the Claims Administrator, determine that additional re-distributions, after the deduction of any additional fees and expenses incurred in administering the Settlement, including for such re-distributions, would be cost-effective. At such time as it is determined that the re-distribution of funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance will be contributed to non-sectarian, not-for-profit, 501(c)(3) organization(s), to be recommended by Lead Counsel and approved by the Court.

16. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, will be conclusive against all Authorized Claimants. No person shall have any claim against Lead Plaintiff, Plaintiff's Counsel, Lead Plaintiff's damages expert, Lead Plaintiff's consulting experts, the Settling Defendants, Settling Defendants' Counsel, or any of the other Plaintiff's Releasees or Settling Defendants' Releasees, or the Claims Administrator or other agent designated by Lead Counsel arising from distributions made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or further Orders of the Court. Lead Plaintiff, the Settling Defendants, and their respective counsel, and all other Settling Defendants' Released Parties, shall have no responsibility or liability whatsoever for the investment or

distribution of the Settlement Fund or the Net Settlement Fund; the plan of allocation; the determination, administration, calculation, or payment of any Claim or nonperformance of the Claims Administrator; the payment or withholding of Taxes; or any losses incurred in connection therewith.

17. The Plan of Allocation stated herein is the plan that is being proposed to the Court for its approval by Lead Plaintiff after consultation with their damages expert. The Court may approve this plan as proposed or it may modify the Plan of Allocation without further notice to the Class. Any Orders regarding any modification of the Plan of Allocation will be posted on the case website, www.BioventusSecuritiesLitigation.com.

TABLE A
Estimated Artificial Inflation with Respect to Bioventus Common Stock Transactions February 11, 2021 through and including November 21, 2022

Date Range	Artificial Inflation Per Share
February 11, 2021 – November 7, 2022	\$5.20
November 8, 2022 – November 16, 2022	\$1.09
November 17, 2022 – November 21, 2022	\$0.11

TABLE B
90-Day Look-back Table for Bioventus Common Stock
Closing Price and Average Closing Price
November 22, 2022 through February 17, 2023

Date	Closing Price	Average Closing Price Between November 22, 2022 and Date Shown	Date	Closing Price	Average Closing Price Between November 22, 2022 and Date Shown
11/22/2022	\$1.81	\$1.81	1/6/2023	\$2.95	\$2.43
11/23/2022	\$2.19	\$2.00	1/9/2023	\$2.70	\$2.44
11/25/2022	\$2.45	\$2.15	1/10/2023	\$2.63	\$2.45
11/28/2022	\$1.95	\$2.10	1/11/2023	\$2.33	\$2.44
11/29/2022	\$1.88	\$2.06	1/12/2023	\$2.28	\$2.44
11/30/2022	\$1.95	\$2.04	1/13/2023	\$2.41	\$2.44
12/1/2022	\$2.17	\$2.06	1/17/2023	\$2.40	\$2.44
12/2/2022	\$2.13	\$2.07	1/18/2023	\$2.31	\$2.43
12/5/2022	\$2.25	\$2.09	1/19/2023	\$2.22	\$2.43
12/6/2022	\$2.20	\$2.10	1/20/2023	\$2.25	\$2.42
12/7/2022	\$2.22	\$2.11	1/23/2023	\$2.20	\$2.42
12/8/2022	\$2.65	\$2.15	1/24/2023	\$2.06	\$2.41
12/9/2022	\$2.58	\$2.19	1/25/2023	\$2.11	\$2.40
12/12/2022	\$2.54	\$2.21	1/26/2023	\$2.09	\$2.40
12/13/2022	\$2.74	\$2.25	1/27/2023	\$2.11	\$2.39
12/14/2022	\$2.70	\$2.28	1/30/2023	\$2.01	\$2.38
12/15/2022	\$2.61	\$2.30	1/31/2023	\$1.96	\$2.37
12/16/2022	\$2.66	\$2.32	2/1/2023	\$1.99	\$2.36
12/19/2022	\$2.50	\$2.33	2/2/2023	\$2.20	\$2.36
12/20/2022	\$2.43	\$2.33	2/3/2023	\$2.10	\$2.36
12/21/2022	\$2.53	\$2.34	2/6/2023	\$1.96	\$2.35
12/22/2022	\$2.52	\$2.35	2/7/2023	\$1.92	\$2.34
12/23/2022	\$2.54	\$2.36	2/8/2023	\$1.89	\$2.33
12/27/2022	\$2.49	\$2.36	2/9/2023	\$1.72	\$2.32
12/28/2022	\$2.49	\$2.37	2/10/2023	\$1.73	\$2.31
12/29/2022	\$2.61	\$2.38	2/13/2023	\$1.66	\$2.30
12/30/2022	\$2.61	\$2.39	2/14/2023	\$1.75	\$2.29
1/3/2023	\$2.61	\$2.39	2/15/2023	\$1.81	\$2.28
1/4/2023	\$2.71	\$2.40	2/16/2023	\$1.74	\$2.27

Date	Closing Price	Average Closing Price Between November 22, 2022 and Date Shown		Date	Closing Price	Average Closing Price Between November 22, 2022 and Date Shown
1/5/2023	\$2.77	\$2.42		2/17/2023	\$1.70	\$2.26

DATED: _____

BY THE COURT:

Chief Judge Catherine C. Eagles

EXHIBIT A-3

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ROBERT CIARCIELLO Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIOVENTUS INC., KENNETH M.
REALI, MARK L. SINGLETON,
GREGORY O. ANGLUM, and SUSAN M.
STALNECKER,

Defendants.

Case No. 1:23-cv-00032-CCE-JEP

PROOF OF CLAIM AND RELEASE

EXHIBIT A-3

I. GENERAL INSTRUCTIONS

1. To recover as a member of the Settlement Class based on your claims in the class action entitled *Ciarciello v. Bioventus, Inc., et al.*, Case No. 1:23-cv-00032-CCE-JEP (M.D.N.C.) (the “Litigation”), you must complete and sign this Proof of Claim and Release form (the “Proof of Claim”).¹ If you fail to submit a timely and properly addressed (as explained in paragraph 2 below) Proof of Claim, your claim may be rejected and you may not receive any recovery from the Net Settlement Fund created in connection with the proposed Settlement. Submission of this Proof of Claim, however, does not assure that you will share in the proceeds of the Settlement of the Action.

2. THIS PROOF OF CLAIM, ACCOMPANIED BY COPIES OF THE DOCUMENTS REQUESTED HEREIN, **MUST BE SUBMITTED ONLINE AT: WWW.BIOVENTUSSECURITIESLITIGATION.COM NO LATER THAN [date], 2024 OR, IF MAILED, BE POSTMARKED NO LATER THAN [date], 2024, ADDRESSED AS FOLLOWS:**

Bioventus Securities Litigation
Claims Administrator
c/o A.B. Data, Ltd.
P.O. Box 173114
Milwaukee, WI 53217

Do not mail or deliver your Claim Form to the Court, the settling parties, or their counsel.

Submit your Claim Form only to the Claims Administrator at the address set forth above.

¹ The terms of the Settlement are in the Stipulation and Agreement of Settlement, dated July 12, 2024 (the “Stipulation”), which can be viewed at www.BioventusSecuritiesLitigation.com. All capitalized terms not defined in this Claim Form have the same meanings as in the Stipulation.

If you are NOT a Member of the Settlement Class, as defined in the Long-Form Notice of Pendency and Proposed Settlement of Class Action (“Long-Form Notice”), or if you have submitted a request for exclusion, DO NOT submit a Proof of Claim.

3. If you are a member of the Settlement Class and you do not timely request exclusion by _____, 2024, you are bound by and subject to the terms of any judgment entered in the Action, including the releases provided therein, **WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM OR RECEIVE A PAYMENT.**

4. Submission of this Claim Form does not guarantee that you will share in the proceeds of the Settlement. The distribution of the Net Settlement Fund will be governed by the Plan of Allocation set forth in the Settlement Notice, if it is approved by the Court, or by such other plan of allocation approved by the Court.

5. You are eligible to participate in the distribution of the Net Settlement Fund only if you are a member of the Settlement Class and if you complete and return this form as specified below. If you fail to timely submit a properly completed Proof of Claim, your claim may be rejected and may be precluded from receiving any distribution.

6. It is important that you completely read and understand the Long-Form Notice that accompanies this Proof of Claim, including the Plan of Allocation of the Net Settlement Fund set forth in the Long-Form Notice. The Long-Form Notice describes the proposed Settlement, how Settlement Class Members are affected by the Settlement, and the manner in which the Net Settlement Fund will be distributed if the Settlement and Plan of Allocation are approved by the Court. The Long-Form Notice also contains the definitions of many of the capitalized terms used in this Proof of Claim. By signing and submitting this Proof of Claim, you will be certifying that you have read the Long-Form Notice, including the terms of the releases described in it and provided for by the Settlement.

II. CLAIMANT IDENTIFICATION

1. If you purchased or acquired Bioventus Class A common stock and held the certificate(s) in your name, you are the beneficial owner as well as the record holder. If, however, the certificate(s) were registered in the name of a third party, such as a brokerage firm or other nominee, you are the beneficial owner and the third party is the record holder.

2. Use **Part I** of this form entitled “Claimant Identification” to identify each beneficial owner of Bioventus Class A common stock that forms the basis of this claim, as well as the owner of record if different. THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNERS OR THE LEGAL REPRESENTATIVE OF SUCH OWNERS.

3. All joint owners must sign this claim. Executors, administrators, guardians, conservators, legal representatives, and trustees must complete and sign this claim on behalf of persons represented by them and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

4. A claim should be submitted for each separate legal entity (*e.g.*, a Proof of Claim of joint owners should not include separate transactions of just one of the joint owners, and an individual should not combine his or her IRA transactions with transactions made solely in the individual’s name). Conversely, a single Proof of Claim should be submitted on behalf of one legal entity including all transactions made by that entity on one Proof of Claim, no matter how many separate accounts that entity has (*e.g.*, a corporation with multiple brokerage accounts should include all transactions made in all accounts on one Proof of Claim).

III. IDENTIFICATION OF TRANSACTIONS

1. Use **Part II** of this form entitled “Schedule of Transactions in Bioventus Class A Common Stock” to supply all required details of your transaction(s) in Bioventus Class A common stock. If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

2. On the schedules, provide all of the requested information with respect to your holdings, purchases, and sales of Bioventus Class A common stock, including whether the transactions resulted in a profit or a loss. Failure to report all such transactions may result in the rejection of your claim.

3. List each transaction separately and in chronological order, by trade date, beginning with the earliest. You must accurately provide the month, day, and year of each transaction you list.

4. The date of covering a “short sale” is deemed to be the date of purchase of Bioventus Class A common stock publicly traded common stock. The date of a “short sale” is deemed to be the date of sale of Bioventus Class A common stock. A purchase or sale of Bioventus Class A common stock shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date; please provide any “contract” or “trade” dates in your claim.

5. For each transaction, you must provide, together with this Proof of Claim, copies of broker confirmations, stockbroker statements, or other documentation adequately evidencing your transactions in Bioventus Class A common stock. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim. **THE PARTIES DO NOT HAVE INFORMATION ABOUT YOUR TRANSACTIONS.**

6. The above requests are designed to provide the minimum amount of information necessary to process the most simple claims. The Claims Administrator may request additional information as required, and the failure to provide such information may delay processing of your claim or result in its rejection.

7. NOTICE REGARDING ELECTRONIC FILES: Certain Claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. (This is different than the online claim portal on the Settlement website.) All such Claimants MUST submit a signed Proof of Claim whether or not they also submit electronic copies. If you wish to submit your claim electronically, you must visit www.BioventusSecuritiesLitigation.com or contact the Claims Administrator at 877-933-2890 to obtain the required file layout. Any file not in accordance with the required electronic filing format will be subject to rejection. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the Claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

Representative or Custodian Name (if different from Beneficial Owner(s) listed above)

[Grid for name entry]

Address 1 (street name and number)

[Grid for address 1 entry]

Address 2 (apartment, unit, or box number)

[Grid for address 2 entry]

City

State ZIP/Postal Code

[Grid for city, state, and ZIP code entry]

Foreign Country (only if not USA)

Foreign County (only if not USA)

[Grid for foreign country and county entry]

Social Security Number (last four digits only) Taxpayer Identification Number (last four digits)

[Grid for SSN and TIN entry]

Telephone Number (home)

Telephone Number (cell)

[Grid for home and cell phone numbers]

Email address*

[Grid for email address entry]

Account Number (if filing for multiple accounts, file a separate Proof of Claim for each account)

[Grid for account number entry]

* Settlement payments may be sent to you digitally via email. Please provide a current, valid email address and mobile phone number on your Claim Form. If the email address or mobile phone number you include with your submission becomes invalid for any reason, it is your responsibility to provide accurate contact information to the Settlement Administrator to receive a payment. When you receive the email and/or mobile phone text notifying you of your Settlement payment, you will be provided with a number of digital payment options, such as PayPal or a virtual debit card, to immediately receive your Settlement payment. At that time, you will also have the option to request a paper check.

SCHEDULES OF TRANSACTIONS IN BIOVENTUS CLASS A COMMON STOCK

PART II: TRANSACTIONS IN BIOVENTUS CLASS A COMMON STOCK

1. BEGINNING HOLDINGS - State the total number of shares of Bioventus Class A common stock held at the opening of trading on February 11, 2021. If none, write “0” or “Zero.” (Must submit documentation.) _____				
2. PURCHASES – Separately list each purchase or acquisition of Bioventus Class A common stock between February 11, 2021, and February 19, 2023, both inclusive. Use the checkbox to indicate any transactions that were not denominated in U.S. dollars. (Must submit documentation.)				
Date of Purchase (List Chronologically) (MM/DD/YY)	Number of Shares Purchased	Purchase Price Per Share	Total Purchase Price (excluding taxes, commissions, and fees)	Purchased in Non-U.S. Currency?
		\$	\$	<input type="checkbox"/>
		\$	\$	<input type="checkbox"/>
		\$	\$	<input type="checkbox"/>
		\$	\$	<input type="checkbox"/>
3. SALES – Separately list each and every sale of Bioventus Class A common stock between February 11, 2021, and February 19, 2023, both inclusive. Use the checkbox to indicate any transactions that were not denominated in U.S. dollars. (Must submit documentation.)				
Date of Sale (List Chronologically) (MM/DD/YY)	Number of Shares Sold	Sale Price Per Share	Total Sale Price (excluding taxes, commissions and fees)	Purchased in Non-U.S. Currency?
		\$	\$	<input type="checkbox"/>
		\$	\$	<input type="checkbox"/>
		\$	\$	<input type="checkbox"/>
		\$	\$	<input type="checkbox"/>
4. HOLDINGS AT END OF 90-DAY LOOKBACK PERIOD – State the total number of shares of Bioventus Class A common stock held as of the close of trading on February 19, 2023. If none, write “0” or “Zero.” (Must submit documentation.) ____				
5. HOLDINGS AT [notice mailing date] – State the total number of shares of Bioventus Class A common stock held as of the close of trading on [notice mailing date]. If none, write “0” or “Zero.” (Must submit documentation.) ____				

IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS YOU MUST PHOTOCOPY THIS PAGE, ADD THE TRANSACTIONS, AND CHECK THIS BOX	<input style="width: 30px; height: 20px;" type="checkbox"/>
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YOU MUST READ AND SIGN THE RELEASE IN SECTION V. FAILURE TO SIGN THE RELEASE MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF YOUR CLAIM.

IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENT

By signing and submitting this Proof of Claim, the Claimant(s) or the person(s) acting on behalf of the Claimant(s) certify(ies) that: I (We) submit this Proof of Claim under the terms of the Plan of Allocation described in the accompanying Long-Form Notice. I (We) also submit to the jurisdiction of the United States District Court for the Middle District of North Carolina (the “Court”) with respect to my (our) claim as a Settlement Class Member(s) and for purposes of enforcing the releases set forth herein. I (We) further acknowledge that I (we) will be bound by and subject to the terms of any judgment entered in connection with the Settlement in the Action, including the releases set forth therein. I (We) agree to furnish additional information to the Claims Administrator to support this claim, such as additional documentation for transactions in Bioventus Class A common stock, if required to do so. I (We) have not submitted any other claim covering the same transactions in Bioventus Class A common stock that are the subject of this claim and know of no other person having done so on my (our) behalf.

V. RELEASES, WARRANTIES, AND CERTIFICATION

By signing and submitting this Proof of Claim, the Claimant(s) or the person(s) acting on behalf of the Claimant(s) certify(ies) as follows:

1. I (We) hereby warrant and represent that I am (we are) a Settlement Class Member as defined in the Long-Form Notice, that I am (we are) not excluded from the Settlement Class, that I am (we are) not one of the “Released Parties” as defined in the accompanying Long-Form Notice.

2. As a Settlement Class Member, I (we) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally, and forever compromise, settle, release, resolve,

relinquish, waive, and discharge with prejudice the Released Claims as to each and all of the Defendants and their Related Parties (as these terms are defined in the accompanying Long-Form Notice). This release shall be of no force or effect unless and until the Court approves the Settlement and it becomes effective on the Effective Date.

3. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof and have not submitted any other claim covering the same purchases of Bioventus Class A common stock and know of no other person or entity having done so on my (our) behalf..

4. I (We) hereby warrant and represent that I (we) have included information about all of my (our) purchases and sales of Bioventus Class A common stock that occurred during the relevant periods and the number of Bioventus Class A common stock held by me (us), to the extent requested.

5. I (We) certify that I am (we are) NOT subject to backup tax withholding. (If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the prior sentence.)

6. I (We) declare under penalty of perjury under the laws of the United States of America that all of the foregoing information supplied by the undersigned is true and correct.

7. Executed this ____ day of _____, 2024

Signature of Claimant, if any

Type or print name of Claimant

Signature of Joint Claimant, if any

Type or print name of Joint Claimant

Signature of person signing on behalf
of Claimant

Type or print name of person signing
on behalf of Claimant

Capacity of person signing on behalf of Claimant, if other than an individual (e.g.,
Administrator, Executor, Trustee, President, Custodian, Power of Attorney, etc.)

REMINDER CHECKLIST:

1. You must sign this Proof of Claim.
2. Remember to attach supporting documentation, if available.
3. DO NOT HIGHLIGHT THE PROOF OF CLAIM OR YOUR SUPPORTING DOCUMENTATION.
4. Attach only copies of supporting documentation, not originals, as these documents will not be returned to you.
5. Keep a copy of your Proof of Claim for your records.
6. If you move after submitting this Proof of Claim, please promptly notify the Claims Administrator of the change in your address; otherwise, you may not receive additional notices or payment.

EXHIBIT A-4

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ROBERT CIARCIELLO Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIOVENTUS INC., KENNETH M.
REALI, MARK L. SINGLETON,
GREGORY O. ANGLUM, and SUSAN M.
STALNECKER,

Defendants.

Case No. 1:23-cv-00032-CCE-JEP

SUMMARY NOTICE

EXHIBIT A-4

TO: ALL PERSONS OR ENTITIES WHO PURCHASED OR OTHERWISE ACQUIRED BIOVENTUS CLASS A COMMON STOCK BETWEEN FEBRUARY 11, 2021, AND NOVEMBER 21, 2022, BOTH INCLUSIVE, AND WERE DAMAGED THEREBY (the “Settlement Class”)¹.

THIS NOTICE WAS AUTHORIZED BY THE COURT. IT IS NOT A LAWYER SOLICITATION. PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the United States District Court for the Middle District of North Carolina (the “Court”) and Rule 23 of the Federal Rules of Civil Procedure, that a hearing will be held on _____, 2024, at __:__.m., before the Honorable Catherine C. Eagles, at the L. Richardson Preyer Courthouse, 324 W. Market Street Greensboro, NC 27401, for the purpose of determining: (1) whether the proposed settlement of the claims in the above-captioned litigation (the “Litigation”) for the sum of \$15,250,000 in cash (the “Settlement”) should be approved by the Court as fair, reasonable, and adequate; (2) whether a Settlement Class should be certified for purposes of the Settlement; (3) whether, thereafter, this Litigation should be dismissed with prejudice pursuant to the terms and conditions set forth in the Stipulation of Settlement dated July 12, 2024 (the “Stipulation”); (4) whether the proposed Plan of Allocation is fair, reasonable, and adequate and therefore should be approved; and (5) the reasonableness of the application for payment of attorneys’ fees and expenses incurred in connection with this Litigation together with the interest earned thereon (and any payment to the Lead Plaintiff pursuant to the Private Securities Litigation Reform Act of 1995 in connection with his representation of the Settlement Class). The Court may change the date of this hearing, or hold it remotely, without providing another notice. You do NOT need to attend the hearing to receive a distribution from the Net Settlement Fund.

The Litigation has been preliminarily certified as a class action on behalf of a Settlement Class of all Persons or entities that who purchased or otherwise acquired Bioventus Class A common stock between February 11, 2021, and November 21, 2022, both inclusive, and were damaged thereby, except for certain Persons or entities excluded from the Settlement Class, as defined in the full Long-Form Notice of Pendency and Proposed Settlement of Class Action (“Long-Form Notice”), which is available as described below. If the Settlement is approved, it will resolve all claims in the Litigation. Capitalized terms that are not otherwise defined herein shall have the meanings ascribed to them in the Long-Form Notice and/or Stipulation.

¹ Any capitalized terms that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation of Settlement dated July 12, 2024 (the “Stipulation”), which is available on the website established for the Settlement at www.BioventusSecuritiesLitigation.com.

A detailed description of the Litigation, including important information about your rights and options, is in the detailed Long-Form Notice available at www.BioventusSecuritiesLitigation.com or by contacting the Claims Administrator at: *Bioventus Securities Litigation*, Claims Administrator, c/o A.B. Data, Ltd., P.O. Box 173114, Milwaukee, WI 53217, or (877) 933-2890.

If you are a Settlement Class Member, in order to share in the distribution of the Net Settlement Fund, you must submit a Proof of Claim and Release form (“Proof of Claim”) online at www.BioventusSecuritiesLitigation.com or by mail postmarked no later than _____, 2024 [90 calendar days from Notice Date]. Failure to timely submit a Proof of Claim will subject your claim to possible rejection and may preclude you from receiving any payment from the Settlement.

If you desire to be excluded from the Settlement Class, you must submit a request for exclusion electronically submitted or postmarked by _____, 2024 [45 calendar days from Notice Date], in the manner and form explained in the detailed Long-Form Notice referred to above. All Members of the Settlement Class who do not timely and validly request exclusion from the Settlement Class will be bound by any judgment entered in the Litigation pursuant to the terms and conditions of the Stipulation.

Any objection to the Settlement, Lead Counsel’s Fee and Expense Application, and/or the proposed Plan of Allocation must be mailed or delivered to the Clerk of Court and counsel for the Parties at the addresses below such that it is received no later than _____, 2024 [21 calendar days prior to the Settlement Hearing]:

Court:

Clerk of the Court
UNITED STATES DISTRICT
COURT
MIDDLE DISTRICT OF NORTH
CAROLINA
L. Richardson Preyer Courthouse
324 W. Market Street
Greensboro, NC 27401

Lead Counsel:

Joseph A. Fonti
BLEICHMAR FONTI & AULD LLP
300 Park Avenue, Suite 1301
New York, NY 10022
Emailed copy to
bioventussettlement@bfalaw.com

Counsel for Defendants:

Colleen C. Smith
LATHAM & WATKINS LLP
12670 High Bluff Drive
San Diego, CA 92130

PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE REGARDING THIS NOTICE. If you have any questions about the Settlement, you may contact counsel for Plaintiffs at the address listed above, email bioventussettlement@bfalaw.com, call (888) 879-9418, or go to the following website: www.BioventusSecuritiesLitigation.com.

DATED: _____

BY THE COURT:

Chief Judge Catherine C. Eagles

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ROBERT CIARCIELLO Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIOVENTUS INC., KENNETH M.
REALI, MARK L. SINGLETON,
GREGORY O. ANGLUM, and SUSAN M.
STALNECKER,

Defendants.

Case No. 1:23-cv-00032-CCE-JEP

[PROPOSED] FINAL JUDGMENT APPROVING SETTLEMENT

EXHIBIT B

This matter came before the Court for hearing pursuant to the Order Preliminarily Approving Settlement and Providing for Class Notice (“Preliminary Approval Order”) dated _____, on the application of the Parties for approval of the settlement set forth in the Stipulation of Settlement dated July 12, 2024 (the “Stipulation”)¹. Due and adequate notice having been given to the Settlement Class as required in said Preliminary Approval Order, and the Court having considered all papers filed and proceedings had

¹ Any capitalized terms that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation of Settlement dated July 12, 2024 (the “Stipulation”).

herein and otherwise being fully informed in the premises and good cause appearing therefor, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Court has jurisdiction over the subject matter of the Litigation, all matters relating to the Settlement, and personal jurisdiction over all Parties to the Litigation, including all Members of the Settlement Class.

2. All defined terms contained herein shall have the same meanings as set forth in the Stipulation, unless otherwise defined herein.

3. For settlement purposes only, the prerequisites for a class action under Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (i) the Members of the Settlement Class are so numerous that joinder of all Settlement Class Members in the Litigation is impracticable; (ii) there are questions of law and fact common to the Settlement Class which predominate over any individual questions; (iii) the claims of Lead Plaintiff are typical of the claims of the Settlement Class; (iv) Lead Plaintiff and Lead Plaintiff's Counsel have fairly and adequately represented and protected the interests of all Settlement Class Members; and (v) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering: that the claims of Settlement Class Members in the Litigation are substantially similar and would, if tried, involve substantially identical proofs and may therefore be efficiently litigated and resolved on an aggregate basis as a class action; the amounts of the claims of many of the Settlement Class Members are too small to justify the expense of individual actions; and it

does not appear that there is significant interest among Settlement Class Members in individually controlling the litigation of their claims.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby affirms its determination in the Preliminary Approval Order and finally certifies, for settlement purposes only, a Settlement Class defined as: all persons and entities who purchased or otherwise acquired Bioventus Class A common stock between February 11, 2021, and November 21, 2022, both inclusive, and were damaged thereby. Excluded from the Settlement Class are (i) Defendants and any affiliates or subsidiaries thereof; (ii) present and former officers and directors of Bioventus and their immediate family members (as defined in Item 404 of SEC Regulation S-K, 17 C.F.R. § 229.404, Instructions (1)(a)(iii) & (1)(b)(ii)); (iii) Defendants' liability insurance carriers, and any affiliates or subsidiaries thereof; (iv) any entity in which any Defendant had or has had a controlling interest; (v) Bioventus's employee retirement benefit plan(s); and (vi) the legal representatives, heirs, estates, agents, successors, or assigns of any person or entity described in the preceding five categories. Also excluded from the Settlement Class are any Settlement Class Members that validly and timely request exclusion in accordance with the requirements set by the Court in the Notice of Pendency and Proposed Settlement of Class Action.

5. Pursuant to Rule 23, and for purposes of settlement only, the Court hereby affirms its determination in the Preliminary Approval Order and finally certifies Lead Plaintiff as Settlement Class Representative for the Settlement Class, and finally appoints the law firm of Bleichmar Fonti & Auld LLP as Settlement Class Counsel. Settlement

Class Representative and Settlement Class Counsel have fairly and adequately represented the Settlement Class and satisfied the requirements of Federal Rule of Civil Procedure 23.

6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby approves the Settlement set forth in the Stipulation in all respects (including, without limitation: the amount of the Settlement, the Releases provided for therein; and the dismissal with prejudice of the claims asserted against Defendants in this Litigation, as provided for therein) and finds that in light of the benefits to the Settlement Class, the complexity and expense of further litigation, and the costs of continued litigation, the Settlement is, in all respects fair, reasonable, and adequate, having considered and found that: (i) Lead Plaintiff and Lead Plaintiff's Counsel have adequately represented the Settlement Class; (ii) the proposal was negotiated at arm's length; (iii) the relief provided for the Settlement Class is adequate, having taken into account (a) the costs, risks, and delay of trial and appeal; (b) the effectiveness of any proposed method of distributing relief to the Settlement Class, including the method of processing Settlement Class Members' claims; (c) the terms of any proposed award of attorneys' fees, including timing of payment; and (d) any agreement required to be identified under Rule 23(e)(2); and (iv) the proposed Plan of Allocation treats Settlement Class Members equitably relative to each other.

7. Except as to any individual claim of those Persons who have validly and timely requested exclusion from the Settlement Class, the Court hereby dismisses the Litigation and all Released Claims of Lead Plaintiff and the Settlement Class with

prejudice, without costs as to any of the Released Parties, except as and to the extent provided in the Stipulation and herein.

8. All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Order, pursuant to their terms.

9. The terms of the Stipulation and of this Judgment shall be forever binding on Defendants, Lead Plaintiff, and all other Settlement Class Members (regardless of whether or not any individual Settlement Class Member submits a Claim Form or seeks or obtains a distribution from the Net Settlement Fund), as well as their respective successors and assigns.

10. Upon the Effective Date, and as provided in the Stipulation, Lead Plaintiff and all Settlement Class Members and anyone claiming through or on behalf of any of them shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims (including Unknown Claims) against the Released Defendants, whether arising under federal, state, or common law, whether or not such Settlement Class Member executes and delivers the Proof of Claim and Release, whether or not such Settlement Class Member shares in the Settlement Fund, and whether or not such Settlement Class Member objects to the settlement. Claims to enforce the terms of the Stipulation are not released.

11. Upon the Effective Date, and as provided in the Stipulation, each of the Released Defendants shall be deemed to have, and by operation of this Judgment shall

have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiff, each and all of the Settlement Class Members, and Lead Plaintiff's Counsel from all claims and causes of action of every nature and description (including Unknown Claims) whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against Defendants, except for claims relating to the enforcement of the settlement.

12. Upon the Effective Date, Plaintiff and each of the Settlement Class Members who have not validly opted out of the Settlement Class, and anyone claiming through or on behalf of them, are forever barred and enjoined from commencing, instituting, intervening in, prosecuting, or continuing to prosecute any action or proceeding in any court of law or equity, arbitration tribunal, administrative forum, or other forum of any kind, asserting any of the Released Claims against any of the Defendants and their Related Parties, and each of them.

13. Upon the Effective Date, any and all claims for contribution or indemnity, however denominated, based upon or arising out of claims released by the Settlement: (i) by any person or entity against any of the Defendants or (ii) by any of the Defendants against any other person or entity, are permanently barred, extinguished, and discharged to the fullest extent permitted by law (the "Bar Order"), provided however, that nothing in the Bar Order shall release or alter the rights Defendants may have under their applicable insurance policies or any right of indemnification or contribution that Defendants may have

under contract or otherwise. The Bar Order shall be consistent with, and apply to the full extent of, the Private Securities Litigation Reform Act.

14. Notwithstanding any of the foregoing, nothing in this Judgment shall bar any action by any of the Parties to enforce or effectuate the terms of the Stipulation or this Judgment.

15. The dissemination of the Notice of Pendency and Proposed Settlement of Class Action given to the Settlement Class (“Notice”), Long-Form Notice of Pendency and Proposed Settlement of Class Action, and Summary Notice in accordance with the Preliminary Approval Order entered on _____, 2024: (i) complied with the terms of the Stipulation and the Preliminary Approval Order; (ii) constituted the best notice practicable under the circumstances; (iii) are reasonably calculated, under the circumstances, to describe the terms and effect of the Settlement and to apprise Settlement Class Members of their right to object to the proposed Settlement or to exclude themselves from the Settlement Class; (iv) are reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive such notice; and (v) satisfy all applicable requirements of the Federal Rules of Civil Procedure (including Rules 23(c)-(e)), the Due Process Clause of the United States Constitution, 15 U.S.C. §78u-4(a)(7), as amended by the PSLRA, the rules of this Court, and all other applicable law and rules. No Settlement Class Member is relieved from the terms of the Settlement, including the releases provided for therein, based upon the contention or proof that such Settlement Class Member failed to receive actual or adequate notice. A full opportunity has been offered to Settlement Class Members to object

to the proposed Settlement and to participate in the hearing thereon. Thus, it is hereby determined that all Members of the Settlement Class are bound by this Order and Final Judgment, except those persons listed on Exhibit 1 to this Final Judgment.

16. Bioventus has complied with the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, *et seq.* (“CAFA”). Bioventus timely mailed notice of the Settlement pursuant to 28 U.S.C. § 1715(b), including notices to the Attorney General of the United States of America and the Attorneys General of each State. The CAFA notice contains the documents and information required by 28 U.S.C. § 1715(b)(1)-(8). The Court finds that Bioventus has complied in all respects with the notice requirements of CAFA.

17. Any plan of allocation submitted by Lead Plaintiff’s Counsel or any order entered regarding any attorneys’ fee and expense application shall in no way disturb or affect this Judgment and shall be considered separate from this Judgment.

18. Neither the Stipulation nor the settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, the truth of any of the allegations in the Litigation of any wrongdoing, fault, or liability of the Released Defendants, or that Lead Plaintiff or any Settlement Class Members have suffered any damages, harm, or loss; (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; or (c) is or may be deemed to be or may be

used as an admission or evidence that any claims asserted by Lead Plaintiff were not valid or that the amount recoverable was not greater than the Settlement Amount, in any civil, criminal, or administrative proceeding in any court, administrative agency, proceeding or other forum or tribunal.

19. The Released Defendants may file the Stipulation and/or this Judgment in any other action brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

20. Without affecting the finality of this Judgment in any way, this Court shall retain continuing and exclusive jurisdiction over (a) the Parties for purposes of the administration, interpretation, implementation and enforcement of the Settlement; (b) the disposition of the Settlement Fund; (c) determination of Lead Plaintiff's Counsel's fees and expenses that will be paid from the Settlement Fund; (d) any motion to approve the Plan of Allocation; (e) any motion to approve the Class Distribution Order; and (f) the Settlement Class Members for all matters relating to the Litigation.

21. The Court finds that during the course of the Litigation, the Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11 in connection with the institution, prosecution, defense, and settlement of the Litigation.

22. Without further approval from the Court, Lead Plaintiff and Defendants are hereby authorized to agree to and adopt such amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of Settlement Class Members in connection with the Settlement. Without further order of the Court, Plaintiff and Defendants may agree in writing to reasonable extensions of time to carry out any provisions of the Settlement.

23. If the Settlement is terminated as provided in the Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Judgment shall be vacated and rendered null and void, and shall be of no further force and effect, except as otherwise provided by the Stipulation, and this Judgment shall be without prejudice to the rights of Lead Plaintiff, the other Settlement Class Members, and Defendants, all of whom shall revert to their respective positions in the Litigation as of July 12, 2024.

24. The Claims Administrator shall administer the claims administration process, including the calculation of claims submitted by Settlement Class Members and distribution of the Net Settlement Fund to Authorized Claimants pursuant to the Court-approved Plan of Allocation. All Settlement Class Members shall submit a Proof of Claim and Release (“Proof of Claim”) under penalty of perjury by the date set forth in the Notice sent to Settlement Class Members. Lead Plaintiff’s Counsel may, in its discretion, accept for processing any late-submitted Proof of Claim so long as the distribution of the Net Settlement Fund is not materially delayed.

25. There is no just reason for delay in the entry of this Judgment and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

DATED: _____

BY THE COURT:

Chief Judge Catherine C. Eagles

United States District Court for the Middle
District of North Carolina

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ROBERT CIARCIELLO Individually
and on Behalf of All Others Similarly
Situated,

Plaintiff,

v.

BIOVENTUS INC., KENNETH M.
REALI, MARK L. SINGLETON,
GREGORY O. ANGLUM, and SUSAN
M. STALNECKER,

Defendants.

Case No. 1:23-cv-00032-CCE-JEP

STIPULATION OF SETTLEMENT

This Stipulation and Agreement of Settlement (the “Stipulation” or “Settlement Agreement”) is made and entered into by and between Lead Plaintiff Wayne County Employees’ Retirement System (“Lead Plaintiff”), on the one hand, and Defendants Bioventus, Inc., (“Bioventus” or the “Company”) Kenneth M. RealI, Mark L. Singleton, Gregory O. Anglum, and Susan M. Stalnecker (the “Individual Defendants”) (collectively, with Bioventus, “Defendants”), on the other hand, by and through their counsel of record in the above-captioned litigation (the “Litigation”) pending in the United States District Court for the Middle District of North Carolina (the “Court”).

This Stipulation is intended by Plaintiffs, on behalf of themselves and each of the Settlement Class Members (as defined below), and Defendants (each a “Party,” and collectively, the “Parties”) to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined in ¶1.24 hereof), upon and subject to the terms and conditions hereof and subject to the Court’s approval.

I. THE LITIGATION

The Litigation is currently pending in the United States District Court for the Middle District of North Carolina before Judge Catherine Eagles (the “Court”). The initial complaint in this Litigation was filed on January 12, 2023. (ECF No. 1.) On April 12, 2023, the Court appointed Wayne County Employees’ Retirement System as Lead Plaintiff and Bleichmar Fonti & Auld LLP as Lead Counsel. (ECF No. 44.)

Lead Plaintiff filed an Amended Complaint on June 12, 2023 (ECF No. 48), and the operative Second Amended Complaint (the “Complaint”) on July 31, 2023 (ECF No. 58). The Complaint alleged violations of Section 11 of the Securities Act of 1933 and Section 10(b) of the Exchange Act of 1934. On August 21, 2023, Defendants moved to dismiss the Amended Complaint. (ECF No. 63.) On November 6, 2023, the Court dismissed Lead Plaintiff’s Section 11 claims, but allowed the Section 10(b) claims to proceed. (ECF No. 75.) Defendants filed their answer on December 11, 2023, which denied all claims alleged in the Complaint and asserted multiple defenses thereto. (ECF No. 81.)

Since then, the Parties have vigorously litigated this Litigation. Lead Plaintiff requested documents from Defendants, and numerous third parties, including, but not limited to individual former Bioventus employees, Bioventus's auditors, insurance companies that contracted with Bioventus, certain Bioventus consultants, and other third parties, resulting in substantial document productions of over 70,000 documents. The Parties engaged in several discovery disputes, numerous meet-and-confer conferences, and raised several issues with the Court. The parties also fully briefed Lead Plaintiff's motion for class certification. Lead Plaintiff also prepared and sat for its deposition in connection with Lead Plaintiff's motion for class certification.

The Parties engaged in a confidential mediation before mediator Jed Melnick on May 29, 2024. Prior to that confidential mediation, the Parties exchanged mediation statements with exhibits. Despite good faith efforts to resolve the Litigation during the mediation, the Parties were unable to reach agreement on their own. Near the end of the nearly 10-hour conference, Mediator Melnick made a recommendation to facilitate a settlement in principle on the terms set forth herein, to which the Parties agreed, subject to the approval of the Court.

II. LEAD PLAINTIFF'S CLAIMS AND THE BENEFITS OF SETTLEMENT

Lead Plaintiff believes that the claims asserted in the Litigation have merit and that the evidence developed to date supports the claims. However, Lead Plaintiff

and its counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Litigation against Defendants through class certification, summary judgment, trial, and any appeals. Lead Plaintiff and its counsel also have taken into account the uncertain outcome and risk of any litigation, especially in complex actions such as this Litigation, the difficulties and delays inherent in such litigation, and the financial constraints and risks specific to Defendants, all of which could significantly reduce or eliminate entirely any recovery for the Settlement Class in this Litigation. Lead Plaintiff and its counsel believe that the settlement set forth in this Stipulation confers substantial benefits upon the Settlement Class. Based on their evaluation, Lead Plaintiff and its counsel have determined that the settlement set forth in this Stipulation is in the best interests of the Settlement Class.

III. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY

Defendants have expressly denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, by Lead Plaintiff and the Settlement Class. Defendants have asserted and continue to assert that, at all times, they acted in good faith and in a manner reasonably believed to be in accordance with all applicable rules, regulations and laws. Defendants maintain that they have meritorious defenses to all claims alleged in the Litigation.

Defendants, however, have concluded that further litigation could be protracted and expensive. Defendants also have taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as this Litigation. Defendants have, therefore, determined that it is desirable and beneficial to them that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Stipulation. As set forth below, this Stipulation shall in no event be construed or be deemed to be evidence or an admission by Defendants or any of the Released Parties with respect to any claim or allegation, nor of any fault or liability or wrongdoing or damage whatsoever.

IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Lead Plaintiff (for itself and the Settlement Class Members) and Defendants, by and through their respective counsel of record, that, subject to the approval of the Court, the Litigation and the Released Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice, as to all Released Claims against all Released Parties, upon and subject to the terms and conditions of the Stipulation, as follows:

1. Definitions

As used in this Stipulation the following terms have the meanings specified below:

1.1 “Authorized Claimant” means any Settlement Class Member whose claim for recovery has been allowed by the Claims Administrator.

1.2 “Bioventus” means Bioventus, Inc.

1.3 “Claims Administrator” means A.B. Data Ltd.

1.4 “Defendants” means Bioventus, Kenneth M. Reali, Mark L. Singleton, Gregory O. Anglum, and Susan M. Stalnecker.

1.5 “Effective Date,” or the date upon which this settlement becomes “effective,” means the date by which all of the events and conditions specified in ¶7.1 of this Stipulation have been met and have occurred.

1.6 “Escrow Account(s)” means the segregated and separate escrow accounts designated and controlled by Settlement Class Counsel into which the Settlement Amount will be deposited for the benefit of the Settlement Class, which will constitute one or more “qualified settlement fund” (“Qualified Settlement Fund” or “QSF”) within the meaning of Treas. Reg. § 1.468B-1.

1.7 “Escrow Agents” means The Huntington National Bank and Esquire Bank, National Association.

1.8 “Excluded Claims” means (i) any claims asserted in the operative complaint in the action captioned *Grogan v. Reali, et. al.*, Case No. 1:23-cv-01099-RGA (D. Del. 2023) or in the action captioned *Sanderson v. Reali, et. al.*, Case No. 1:24-cv-00180-UNA (D. Del. 2024), as of the Effective Date, and (ii) any claims of

any person or entity who or which submits a request for exclusion that is accepted by the Court.

1.9 “Final” means when the last of the following with respect to the Judgment approving this Stipulation, substantially in the form of Exhibit B attached hereto, shall occur: (a) the expiration of the time to file a motion to alter or amend the Judgment under Federal Rule of Civil Procedure 59 without any such motion having been filed; (b) the time in which to appeal the Judgment has passed without any appeal having been taken; and (c) if a motion to alter or amend is filed or if an appeal is taken, immediately after the determination of that motion or appeal so that it is no longer subject to any further judicial review or appeal whatsoever, whether by reason of affirmance by a court of last resort, lapse of time, voluntary dismissal of the appeal or otherwise in such a manner as to permit the consummation of the settlement substantially in accordance with the terms and conditions of this Stipulation. For purposes of this paragraph only, an “appeal” shall include any petition for a writ of certiorari or other writ that may be filed in connection with approval or disapproval of this settlement, but shall not include any appeal which concerns only the issue of attorneys’ fees and expenses, the Plan of Allocation of the Net Settlement Fund, as hereinafter defined, or the procedures for determining Authorized Claimants’ recognized claims.

1.10 “Individual Defendants” means Kenneth M. Reali, Mark L. Singleton, Gregory O. Anglum, and Susan M. Stalnecker.

1.11 “Judgment” means the Judgment to be rendered by the Court, substantially in the form attached hereto as Exhibit B.

1.12 “Lead Plaintiff” means Wayne County Employees’ Retirement System.

1.13 “Lead Plaintiff’s Counsel” means any counsel who have appeared in the Litigation on behalf of Lead Plaintiff or the Class, including Settlement Class Counsel and Tin Fulton Walker & Owen PLLC.

1.14 “Litigation” means the action captioned *Ciarciello v. Bioventus, Inc., et al.*, Case No. 1:23-cv-00032-CCE-JEP (M.D.N.C.).

1.15 “Long-Form Notice” shall have the meaning set forth in ¶3.1 of this Stipulation.

1.16 “Net Settlement Fund” means the Settlement Fund less any attorneys’ fees and expenses provided for herein or approved by the Court and less Notice and Administration Expenses, Taxes and Tax Expenses, and other Court-approved deductions.

1.17 “Notice” shall have the meaning set forth in ¶3.1 of this Stipulation.

1.18 “Notice and Administration Expenses” means reasonable costs and expenses incurred in connection with providing notice to the Settlement Class. Such amounts shall include, without limitation, the actual costs of printing, mailing and

publishing both the Notice and any Summary Notice, locating Settlement Class Members, soliciting claims, assisting with the submission of claims, processing Proof of Claim and Release forms, administering and distributing the Net Settlement Fund to Authorized Claimants, and paying escrow fees, taxes and costs, if any.

1.19 “Person” means an individual, corporation, limited liability corporation, professional corporation, partnership, limited partnership, limited liability partnership, association, joint stock company, joint venture, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and their spouses, heirs, predecessors, successors, representatives, or assigns.

1.20 “Plan of Allocation” means a plan or formula of allocation of the Net Settlement Fund whereby the Net Settlement Fund shall be distributed to Authorized Claimants. Any Plan of Allocation is not part of the Stipulation and Released Defendants shall not have any responsibility or liability with respect thereto. Any order or proceeding relating to the Plan of Allocation shall not operate to terminate or cancel this Stipulation or affect the finality of the Judgment.

1.21 “Preliminary Approval Order” means the Order Preliminarily Approving Settlement and Providing for Notice as approved by the Court, substantially in the form attached hereto as Exhibit A.

1.22 “Proof of Claim and Release” means a Proof of Claim and Release, which, subject to approval of the Court, shall be substantially in the form attached hereto as Exhibit A-3.

1.23 “Related Parties” means, as applicable, each and all of the following: (a) each and every Defendant, including all defendants previously named in this action; (b) each and every member of the Settlement Class, Lead Plaintiff, and Lead Plaintiff’s Counsel; (c) the respective present and former parents, affiliates, subsidiaries, divisions, directors, officers, employees, general partners and limited partners, and successors in interest of the Persons listed in subparts (a) and (b), including without limitation any Person in which a Person in subpart (a) and (b) has or had a controlling interest, in their respective capacities as such; and (d) the present and former members of the immediate family, heirs, principals, trustees, trusts, executors, administrators, predecessors, successors, assigns, members, agents, subsidiaries, employees, officers, managers, directors, general partners, limited partners, attorneys, representatives, estates, divisions, estate managers, indemnifiers, insurers and reinsurers of each of the Persons (including entities, as defined above) listed in subparts (a), (b), and (c) of this definition, in their respective capacities as such.

1.24 “Released Claims” means any and all claims, rights, causes of action, liabilities, actions, suits, damages, or demands (including Unknown Claims as

defined in ¶1.38 herein) of any kind whatsoever, which now exist, heretofore or previously existed, or may hereafter exist, including, but not limited to, any claims arising under federal, state, or common law, that the Lead Plaintiff or any Settlement Class Member has asserted in the Amended Complaint, or could have asserted in either the Litigation or could in the future assert in any United States forum, whether directly, derivatively, or on behalf of a class, that concern, arise out of, refer to, are based upon, or are related in any manner to the allegations, transactions, facts, matters, occurrences, representations, statements, or omissions alleged, involved, set forth, or referred to in the Litigation. “Released Claims” does not include claims relating to the enforcement of the Settlement. For the avoidance of doubt, the “Released Claims” does not include the derivative claims raised in *Grogan v. Reali, et.al.*, Case No. 1:23-cv-01099-RGA (D. Del. 2023) or *Sanderson v. Reali, et. al.*, Case No. 1:24-cv-00180-UNA (D. Del. 2024).

1.25 “Released Defendants” means each and all of the Defendants, their attorneys and each of their applicable Related Parties, including but not limited to, Defendants’ respective agents, attorneys, representatives, insurers, reinsurers, and assigns, in their capacities as such.

1.26 “Releasing Defendants’ Claims” means all claims and causes of action of every nature and description, whether known or unknown (including Unknown Claims as defined in ¶1.38 herein), whether arising under federal, state, or common

law, that arise out of or relate in any way to the institution, prosecution or settlement of the Action or the Released Claims against the Released Defendants. Notwithstanding the foregoing, “Releasing Defendants’ Claims” does not include claims relating to the enforcement of the Settlement.

1.27 “Released Parties” means each and all of the Released Defendants and the Released Plaintiff Parties.

1.28 “Released Plaintiff Parties” means each and all of Lead Plaintiff, Settlement Class Members, and Lead Plaintiff’s Counsel and their applicable Related Parties.

1.29 “Settlement Class” means all persons and entities who purchased or otherwise acquired Bioventus Class A common stock between February 11, 2021, and November 21, 2022, both inclusive, and were damaged thereby. Excluded from the Settlement Class are (i) Defendants and any affiliates or subsidiaries thereof; (ii) present and former officers and directors of Bioventus and their immediate family members (as defined in Item 404 of SEC Regulation S-K, 17 C.F.R. § 229.404, Instructions (1)(a)(iii) & (1)(b)(ii)); (iii) Defendants’ liability insurance carriers, and any affiliates or subsidiaries thereof; (iv) any entity in which any Defendant had or has had a controlling interest; (v) Bioventus’s employee retirement benefit plan(s); and (vi) the legal representatives, heirs, estates, agents, successors, or assigns of any person or entity described in the preceding five categories. Also excluded from the

Settlement Class are any Settlement Class Members that validly and timely request exclusion in accordance with the requirements set by the Court in the Notice of Pendency and Proposed Settlement of Class Action. For the avoidance of doubt, the “Settlement Class” does not include the individuals who raised derivative claims in *Grogan v. Reali, et.al.*, Case No. 1:23-cv-01099-RGA (D. Del. 2023) or *Sanderson v. Reali, et. al.*, Case No. 1:24-cv-00180-UNA (D. Del. 2024).

1.30 “Settlement Class Counsel” means Bleichmar Fonti & Auld LLP.

1.31 “Settlement Class Member” or “Member of the Settlement Class” means a Person who falls within the definition of the Settlement Class as set forth in ¶1.29 above.

1.32 “Settlement Amount” means Fifteen Million Two Hundred and Fifty Thousand United States dollars (\$15,250,000.00) in cash to be paid to the Escrow Agents by wire transfer or ACH transfer pursuant to ¶2.2 of this Stipulation.

1.33 “Settlement Fund” means the Settlement Amount plus all interest and accretions thereto and which may be reduced by payments or deductions as provided herein or by Court order.

1.34 “Settlement Hearing” means the hearing to be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate and should be approved.wi

1.35 “Settling Parties” means, collectively, Defendants, Lead Plaintiff, and the Settlement Class.

1.36 “Summary Notice” shall have the meaning set forth in ¶3.1 of this Stipulation.

1.37 “Tax” or “Taxes” mean any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority.

1.38 “Unknown Claims” means (i) any Released Claims which Lead Plaintiff or Settlement Class Members do not know or suspect to exist in his, her or its favor at the time of the release of the Released Defendants which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Defendants, or might have affected his, her or its decision with respect to the settlement, including, but not limited to, whether or not to object to this settlement or seek exclusion from the Settlement Class, and (ii) any Releasing Defendants’ Claims that any one of the Released Defendants do not know or suspect to exist in his, her or its favor at the time of the release, which, if known by him, her or it, might have affected his, her or its settlement with and release of Lead Plaintiffs and Settlement Class Members. With respect to any and all Released Claims and Releasing Defendants’ Claims, the Released Parties stipulate and agree that, upon

the Effective Date, Lead Plaintiff and the Released Defendants shall expressly waive, and each of the Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived, the provisions, rights, and benefits of California Civil Code §1542 and any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code §1542, 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, which if known by him or her would have materially affected his or her settlement with the debtor or released party.

Lead Plaintiff, Settlement Class Members, and Released Defendants may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Lead Plaintiff and Released Defendants shall expressly settle and release, and each Settlement Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, disclosed or undisclosed, matured or unmatured, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without

malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiff and Released Defendants acknowledge, and the Settlement Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the settlement of which this release is a part.

2. The Settlement

a. Conditions Precedent

2.1 The settlement is conditioned on the Court granting final approval of the settlement, and approval of the settlement becoming Final. Approval of the settlement becomes Final when the conditions set forth in ¶1.9 are satisfied.

b. The Settlement Amount

2.2 The Settlement Amount shall be paid by Defendants and/or Defendants' insurers, on behalf of Defendants, into the Escrow Accounts controlled by Lead Counsel within 30 days after the later of: (a) the date of entry by the Court of an order preliminarily approving this Settlement; or (b) Defendants' Counsel's receipt from Lead Counsel of the information necessary to effectuate a transfer of funds to the Escrow Account, including wiring instructions that include the bank name and ABA routing number, account name and number, and a signed W-9

reflecting a valid taxpayer identification number for the qualified settlement fund in which the Settlement Amount is to be deposited.

2.3 If the entire Settlement Amount is not timely paid to the Escrow Accounts pursuant to ¶2.2, Lead Plaintiff may terminate the settlement but only if (a) Settlement Class Counsel has notified Defendants' counsel in writing of Settlement Class Counsel's intention to terminate the settlement, and (b) the entire Settlement Amount is not transferred to the Escrow Accounts **within ten (10) business days after Settlement Class Counsel has provided such written notice.** Failure by Settlement Class Counsel to timely furnish adequate payment instructions to Defendants pursuant to ¶2.2 shall not be a basis for termination under this section.

2.4 The Escrow Agents shall deposit the Settlement Amount plus any accrued interest in segregated Escrow Accounts maintained by the Escrow Agents.

2.5 Other than the obligation of Defendants to cause the payment of the Settlement Amount pursuant to ¶2.2, the Released Defendants shall have no obligation to make any payments into the Escrow Accounts or to any Settlement Class Member or Settlement Class Counsel pursuant to this Stipulation.

c. **The Escrow Agents**

2.6 The Escrow Agents, with Settlement Class Counsel's prior written consent, shall invest the Settlement Amount deposited pursuant to ¶2.2 hereof in United States Agency or Treasury Securities or other instruments backed by the Full

Faith & Credit of the United States Government or an Agency thereof, or fully insured by the Federal Deposit Insurance Corporation (“FDIC”) or the United States Government or an Agency thereof, and shall reinvest the proceeds of these instruments as they mature in other such instruments at their then-current market rates. All risks related to the investment of the Settlement Fund in accordance with the investment guidelines set forth in this paragraph shall be borne by the Settlement Fund and the Escrow Agents, provided that they invest the Settlement Fund as set forth herein, they shall have no liability whatsoever with respect to investment decisions made in connection with the Settlement Fund.

2.7 Subject to further order(s) and/or directions as may be made by the Court, or as provided in this Stipulation, the Escrow Agents are authorized to execute such transactions as are consistent with the terms of this Stipulation. The Released Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the actions of the Escrow Agents, or any transaction executed by the Escrow Agents.

2.8 All funds held by the Escrow Agents shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

2.9 The settlement is not a claims-made settlement. Upon the occurrence of the Effective Date, no Defendant, or any other person or entity who or which paid any portion of the Settlement Amount, shall have any right to the return of the Settlement Fund or any portion thereof for any reason whatsoever (including, without limitation, the number of Proof of Claim and Release forms submitted, the collective amount of recognized claims of Authorized Claimants, the percentage of recovery of losses, or the amounts to be paid to Authorized Claimants from the Net Settlement Fund), except as set forth in ¶7.4 below.

2.10 Prior to the Effective Date and without further order of the Court, up to \$150,000 of the Settlement Fund may be used by Settlement Class Counsel, following entry of the Preliminary Approval Order, to pay reasonable Notice and Administration Expenses actually incurred.

2.11 It shall be Settlement Class Counsel's responsibility to disseminate the Notice and Summary Notice to the Settlement Class in accordance with this Stipulation and as ordered by the Court. Settlement Class Members shall have no recourse as to the Released Defendants with respect to any claims they may have that arise from any failure of the notice process.

d. Taxes

2.12 (a) To the fullest extent allowed under applicable law, the Qualified Settlement Fund shall be treated as being at all times a "qualified settlement fund"

within the meaning of Treas. Reg. §1.468B-1 *et seq.* In addition, Settlement Class Counsel shall timely make such elections as necessary or advisable to carry out the provisions of this ¶2.12, including the “relation-back election” (as defined in Treas. Reg. §1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Settlement Class Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(b) For the purpose of §1.468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be Settlement Class Counsel. Settlement Class Counsel shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treas. Reg. §1.468B-2(k)). Such returns (as well as the election described in ¶2.12(a) hereof) shall be consistent with this ¶2.13 and in all events shall reflect that all Taxes (including any estimated Taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in ¶2.12(c) hereof.

(c) All (i) Taxes (including any estimated Taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund,

including any Taxes or tax detriments that may be imposed upon the Released Defendants or their counsel with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes, and (ii) expenses and costs incurred in connection with the operation and implementation of this ¶2.12 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this ¶2.12) (“Tax Expenses”), shall be paid out of the Settlement Fund; in all events the Released Defendants and their counsel shall have no liability or responsibility for the Taxes or the Tax Expenses. Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely caused to be paid by Settlement Class Counsel out of the Settlement Fund without prior order from the Court and Settlement Class Counsel shall be authorized (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. §1.468B-2(l)(2)); neither the Released Defendants nor their counsel are responsible nor shall they have any liability for any Taxes or Tax Expenses. The Parties hereto agree to cooperate with Settlement Class

Counsel, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶2.12.

e. Termination of Settlement

2.13 In the event that the Stipulation is not approved, including if the Court does not grant final approval of the settlement, or the Stipulation is terminated, canceled, or fails to become effective for any reason, including without limitation in the event the Judgment is reversed or vacated following any appeal taken therefrom, the Settlement Fund (including accrued interest), less Notice and Administration Expenses, Taxes, and Tax Expenses paid, incurred, or due and owing in connection with the settlement provided for herein, shall be refunded pursuant to written instructions from counsel for Defendants in accordance with ¶7.4 herein.

3. Preliminary Approval Order and Settlement Hearing

3.1 Promptly, but no later than 14 days after execution of this Stipulation, Settlement Class Counsel shall submit this Stipulation together with its Exhibits to the Court and shall apply for entry of the Preliminary Approval Order, substantially in the form of Exhibit A attached hereto, requesting, *inter alia*, the preliminary approval of the Settlement set forth in the Stipulation, and approval for mailing a settlement notice (“Notice”), substantially in the form of Exhibit A-1 attached hereto, dissemination through a dedicated website of a Long-Form Notice of Pendency and Proposed Settlement of Class Action (“Long-Form Notice”),

substantially in the form of Exhibit A-2 attached hereto, and publication of a summary notice (“Summary Notice”), substantially in the form of Exhibit A-4 attached hereto. The Notice shall include the general terms of the settlement set forth in the Stipulation, the proposed Plan of Allocation, the general terms of the Fee and Expense Application, as defined in ¶6.1 hereof, and the date of the Settlement Hearing.

3.2 Defendants shall be responsible for compliance with any Class Action Fairness Act notice requirements and shall take steps to comply with such notice requirements in as expeditious a manner as possible (including without limitation by serving the notice required under 28 U.S.C. § 1715 **within five days of filing the Stipulation and motion for preliminary approval**) so as to not cause delay in the scheduling of a final settlement approval hearing.

3.3 Settlement Class Counsel shall request that after notice is given, the Court hold the Settlement Hearing and approve the settlement of the Litigation as set forth herein. At or after the Settlement Hearing, Settlement Class Counsel also will request that the Court approve the proposed Plan of Allocation and the Fee and Expense Application.

4. Releases

4.1 Upon the Effective Date, as defined in ¶1.5 hereof, Lead Plaintiff and all Settlement Class Members and anyone claiming through or on behalf of any of

them shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims (including Unknown Claims) against the Released Defendants, whether arising under federal, state, or common law, whether or not such Settlement Class Member executes and delivers the Proof of Claim and Release, whether or not such Settlement Class Member shares in the Settlement Fund, and whether or not such Settlement Class Member objects to the settlement. Lead Plaintiff and each of the Settlement Class Members are deemed to be aware of California Civil Code § 1542 and to expressly waive and relinquish any rights or benefits available to them under this statute and any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code § 1542.

4.2 Claims to enforce the terms of this Stipulation are not released.

4.3 The Proof of Claim and Release to be executed by Settlement Class Members shall release all Released Claims against the Released Defendants and shall be substantially in the form contained in Exhibit A-3 attached hereto.

4.4 Upon the Effective Date, as defined in ¶1.5 hereof, Lead Plaintiff and all Settlement Class Members and anyone claiming through or on behalf of any of them, will be forever barred and enjoined from commencing, instituting, prosecuting or continuing to prosecute any action or other proceeding in any court of law or

equity, arbitration tribunal, or administrative forum asserting any and all Released Claims against any of the Released Defendants (including, without limitation, Unknown Claims).

4.5 Upon the Effective Date, as defined in ¶1.5 hereof, each of the Released Defendants shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiffs, each and all of the Settlement Class Members, and Lead Plaintiffs' Counsel from all claims and causes of action of every nature and description (including Unknown Claims) whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against Defendants, except for claims relating to the enforcement of the settlement. Upon the Effective Date, the Released Defendants will be forever barred and enjoined from commencing, instituting, prosecuting or continuing to prosecute any action or other proceeding in any court of law or equity, arbitration tribunal, or administrative forum asserting the Releasing Defendants' Claims against any of the Released Plaintiff Parties (including, without limitation, Unknown Claims). Released Defendants and their Related Parties are aware of California Civil Code § 1542 and expressly waive and relinquish any rights or benefits available to them under this statute and any law of any state or territory of the United States, or

principle of common law, which is similar, comparable, or equivalent to California Civil Code § 1542.

5. Administration and Calculation of Claims, Final Awards and Supervision and Distribution of the Settlement Fund

5.1 The Claims Administrator, subject to such supervision and direction of the Court as may be necessary or as circumstances may require, shall administer and calculate the claims submitted by Settlement Class Members and shall oversee distribution of the Net Settlement Fund to Authorized Claimants.

5.2 **Within five (5) business days of the execution of the Stipulation,** Defendants shall use best efforts to cause their securities transfer agent to provide to the Claims Administrator a list, in electronic form, of all persons or custodians acting on their behalf (or both persons and custodians, where available) who purchased or otherwise acquired Bioventus Class A common stock between February 11, 2021, and November 21, 2022, both inclusive (the “Transfer List”).

5.3 In accordance with the schedule set forth in the Preliminary Approval Order, the Claims Administrator will distribute the Notice, substantially in the form of Exhibit A-1 attached hereto, to all shareholders of record identified on the Transfer List, all brokers and nominees on the Claims Administrator’s list of brokers and nominees that commonly hold securities for the benefit of investors, and all beneficial owners identified by such brokers and nominees who meet the definition of the Settlement Class to all Persons identified on the Transfer List. The Claims

Administrator shall also (1) cause copies of the Notice, Long-Form Notice, Proof of Claim and Release, Summary Notice, and relevant Court documents to be posted on a website to be developed for the litigation (www.BioventusSecuritiesLitigation.com), and (2) cause a one-time publication of the Summary Notice, substantially in the form of Exhibit A-4 attached hereto, to be made in *The Wall Street Journal* and *PR Newswire*. The cost of providing such notice shall be paid out of the Settlement Fund.

5.4 The Settlement Fund shall be applied as follows:

- (a) to pay all Notice and Administration Expenses;
- (b) to pay the Taxes and Tax Expenses described in ¶2.12 hereof;
- (c) to pay attorneys' fees and expenses of Lead Plaintiff's Counsel

and the award to Lead Plaintiff of costs and expenses pursuant to 15 U.S.C. § 78u-4(a)(4) (the "Fee and Expense Award"), if and to the extent allowed by the Court; and

(d) after the Effective Date, to distribute the Net Settlement Fund to Authorized Claimants as allowed by the Stipulation, the Plan of Allocation, or the Court.

5.5 After the Effective Date, and in accordance with the terms of the Stipulation, the Plan of Allocation, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement

Fund shall be distributed to Authorized Claimants, subject to and in accordance with the following.

5.6 Within ninety (90) calendar days after the date specified by the Court to commence mailing of the Notice (the “Notice Date”), or such other time specified by the Court, each Person claiming to be an Authorized Claimant shall be required to submit to the Claims Administrator a completed Proof of Claim and Release, substantially in the form of Exhibit A-3 attached hereto, signed under penalty of perjury and supported by such documents as are specified in the Proof of Claim and Release.

5.7 Except as otherwise ordered by the Court, all Settlement Class Members who fail to timely submit a valid Proof of Claim and Release within the period specified herein, or such other period as may be ordered by the Court or otherwise allowed, shall be forever barred from receiving any payments pursuant to the Stipulation and the settlement set forth herein, but will in all other respects be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment. Notwithstanding the foregoing, Settlement Class Counsel shall have the discretion (but not an obligation) to accept late-submitted claims for processing by the Claims Administrator so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed thereby. Settlement Class Counsel shall also have the right, but not the obligation, to advise

the Claims Administrator to waive what Settlement Class Counsel deems to be *de minimis* or formal or technical defects in any Proof of Claim and Release submitted.

5.8 Proofs of Claim and Release that do not meet the submission requirements may be rejected. Prior to rejecting a Proof of Claim and Release in whole or in part, the Claims Administrator shall communicate with the claimant in writing to give the claimant the chance to remedy any curable deficiencies in the Proof of Claim and Release submitted. The Claims Administrator, under such supervision of Settlement Class Counsel, as necessary, shall notify, in a timely fashion and in writing, all claimants whose claims the Claims Administrator proposes to reject in whole or in part for curable deficiencies, setting forth the reasons therefor, and shall indicate in such notice that the claimant whose claim is to be rejected has the right to a review by the Court if the claimant so desires and complies with the requirements of ¶5.9 below.

5.9 If any claimant whose timely claim has been rejected in whole or in part for curable deficiency desires to contest such rejection, the claimant must, within twenty (20) calendar days after the date of mailing of the notice required in ¶5.8 above, or a lesser period of time if the claim was untimely, serve upon the Claims Administrator a notice and statement of reasons indicating the claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a claim cannot be otherwise

resolved, Settlement Class Counsel shall thereafter present the claimant's request for review to the Court. Each claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the Person's claim to the Net Settlement Fund. All proceedings with respect to the administration, processing and determination of claims and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of claims, shall be subject to the jurisdiction of the Court, but shall not in any event delay or affect the finality of the Judgment. All Settlement Class Members, claimants, and parties to this settlement expressly waive trial by jury (to the extent any such right may exist) and any right of appeal or review with respect to such determinations.

5.10 The Net Settlement Fund shall be distributed to the Authorized Claimants substantially in accordance with the Plan of Allocation set forth in the Notice and approved by the Court. No distributions will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00 or such other amount as deemed appropriate by the Claims Administrator. If there is any balance remaining in the Net Settlement Fund after a reasonable period of time after the date of the initial distribution of the Net Settlement Fund, Settlement Class Counsel shall, if feasible, reallocate (which reallocation may occur on multiple occasions) such balance among Authorized Claimants who would receive a minimum of \$10.00 or such other amount as deemed appropriate by the Claims

Administrator in an equitable and economic fashion. Thereafter, any *de minimis* balance which still remains in the Net Settlement Fund and is not feasible or economical to reallocate and distribute shall be donated to a 501(c)(3) non-profit organization unaffiliated with the Parties or their counsel, subject to the approval of the Court.

5.11 The Released Defendants shall have no responsibility for, interest in, or liability whatsoever with respect to: (i) any act, omission, or determination by Settlement Class Counsel, the Escrow Agents, or the Claims Administrator, or any of their respective designees or agents, in connection with the administration of the settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the Plan of Allocation; (iv) the determination, administration, or calculation of claims to be paid from the Settlement Fund; or (v) the payment or withholding of Taxes or Tax Expenses, or any expenses or losses incurred in connection therewith. No Person shall have any claim of any kind against the Released Defendants with respect to the matters set forth in ¶¶ 5.1-5.10 hereof; and the Settlement Class Members, Lead Plaintiff, and Settlement Class Counsel release the Released Defendants from any and all liability and claims arising from or with respect to the administration, investment, or distribution of the Settlement Fund.

5.12 Defendants take no position, and shall take no position, with respect to the Plan of Allocation or any other such plan as may be approved by the Court.

Defendants shall have no role in adjudicating any claims submitted by Settlement Class Members for participation in distribution of the Settlement Fund.

5.13 No Person shall have any claim against Lead Plaintiff, Lead Plaintiff's Counsel or the Claims Administrator, or any other Person designated by Settlement Class Counsel, based on determinations or distributions made substantially in accordance with this Stipulation and the settlement contained herein, the Plan of Allocation, or further order(s) of the Court.

5.14 It is understood and agreed by the Settling Parties that any proposed Plan of Allocation of the Net Settlement Fund, including, but not limited to, any adjustments to an Authorized Claimant's claim set forth therein, is not a part of the Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement set forth in the Stipulation, and any order or proceeding relating to the Plan of Allocation shall not operate to terminate or cancel the Stipulation or affect the finality of the Court's Judgment approving the Stipulation and the settlement set forth therein.

5.15 The Claims Administrator, at the direction of Lead Plaintiff's Counsel, may retain or engage a third-party to verify or validate any claims submitted in connection with this Settlement, and the costs and expenses associated with such third-party verification or validation will be paid from the Settlement Fund.

6. Lead Plaintiff's Counsel's Attorneys' Fees and Expenses

6.1 Settlement Class Counsel may submit an application or applications (the "Fee and Expense Application") for distributions from the Settlement Fund for: (a) an award of attorneys' fees; plus (b) expenses or charges incurred in connection with prosecuting the Litigation; plus (c) any interest on such attorneys' fees and expenses at the same rate and for the same periods as earned by the Settlement Fund (until paid) as may be awarded by the Court.

6.2 Any fees and expenses awarded by the Court shall be paid to Settlement Class Counsel from the Settlement Fund, as ordered, immediately after the Court enters an order awarding such fees and expenses, notwithstanding any appeals. Settlement Class Counsel may thereafter allocate the attorneys' fees among Lead Plaintiff's Counsel in a manner in which it in good faith believes reflects the contributions of such counsel to the initiation, prosecution, and resolution of the Litigation.

6.3 In the event that the Effective Date does not occur, or the Judgment or the order making the Fee and Expense Award is reversed or modified, or this Stipulation is canceled or terminated for any other reason, and such reversal, modification, cancellation, or termination becomes Final and not subject to review, and in the event that the Fee and Expense Award has been paid to any extent, then Settlement Class Counsel shall be obligated to make appropriate refund or

repayment of the Fee and Expense Award. Such repayment or refund shall be made no later than (i) thirty (30) days after Lead Counsel's receipt from the Court of notice of any order that reverses or reduces any award of attorneys' fees or litigation expenses, or (ii) fourteen (14) days after receipt of appropriate payment instructions for the return of such funds, whichever is later. Any refunds required pursuant to this ¶6.3 shall be the several obligation of Settlement Class Counsel and Lead Plaintiff's Counsel that received fees or expenses to make appropriate refunds or repayments to the Settlement Fund. Settlement Class Counsel and each Lead Plaintiff's Counsel receiving fees and expenses, as a condition of receiving such fees and expenses, agree that they are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph.

6.4 The procedure for and the allowance or disallowance by the Court of any applications by Settlement Class Counsel and any Lead Plaintiff's Counsel for attorneys' fees and expenses to be paid out of the Settlement Fund are not part of the settlement set forth in the Stipulation, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the settlement set forth in the Stipulation, and shall have no effect on the terms of the Stipulation or on the validity or enforceability of this settlement. The approval of the settlement, and it becoming Final, shall not be contingent on the award of attorneys' fees and expenses, any award to Lead Plaintiff, Settlement Class

Counsel, and/or any Lead Plaintiff's Counsel, nor any appeals from such awards. Any order or proceeding relating to the Fee and Expense Application, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Stipulation, or affect or delay the finality of the Judgment approving the Stipulation and the settlement of the Litigation set forth therein.

6.5 Any fees and/or expenses awarded by the Court shall be paid solely from the Settlement Fund. Released Defendants shall not take any position concerning, have no responsibility for, and no liability whatsoever with respect to, any payment of attorneys' fees and/or expenses (including Taxes) to Settlement Class Counsel or Lead Plaintiff's Counsel. Defendants are not entitled to any award of fees or expenses from the Settlement Fund.

6.6 Released Defendants shall not take any position concerning, have no responsibility for, and no liability whatsoever with respect to, the allocation among Lead Plaintiff's Counsel, and/or any other Person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Litigation.

6.7 Released Defendants shall not take any position concerning, have no responsibility for, and no liability whatsoever with respect to, any attorneys' fees, costs, or expenses (including Taxes) incurred by or on behalf of any Settlement Class Member, whether or not paid from the Escrow Account.

7. Conditions of Settlement, Effect of Disapproval, Cancellation or Termination

7.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all of the following events:

- (a) the Court has entered the Preliminary Approval Order;
- (b) the Settlement Amount has been deposited into the Escrow Accounts;
- (c) the Parties have not exercised their options to terminate the Settlement pursuant to the provisions of this Stipulation;
- (d) the Court has approved the Settlement as described herein, following notice to the Settlement Class and a hearing, as required by Rule 23 of the Federal Rules of Civil Procedure, and entered the Judgment, or a judgment substantially in the form of Exhibit B attached hereto (and, for the avoidance of doubt, any non-substantive departure from Exhibit B shall not be a basis for any party to fail to perform under this Stipulation);
- (e) the Judgment has become Final, as defined in ¶1.9 hereof.

7.2 Upon the Effective Date, any and all remaining interest or right of the Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished.

7.3 If the conditions specified in ¶7.1 hereof are not met and are unlikely to be met, then the Stipulation shall be canceled and terminated subject to ¶7.4 hereof

unless Settlement Class Counsel and counsel for the Defendants mutually agree in writing to proceed with the Stipulation.

7.4 Unless otherwise ordered by the Court, in the event the Stipulation shall terminate, or be canceled, or shall not become effective for any reason, within ten (10) business days after written notification of such event is sent by counsel for any Defendant or Settlement Class Counsel to the Escrow Agents, the Settlement Fund (including accrued interest), less expenses which have either been disbursed pursuant to ¶¶2.12 and 2.13 hereof, or are chargeable to the Settlement Fund pursuant to ¶¶2.12 and 2.13 hereof, less any notice and administration costs actually incurred, paid or payable and less any taxes paid, due or owing, shall be refunded by the Escrow Agents based upon written instruction from Settlement Class Counsel pursuant to written instructions from Defendants' counsel. Such written instructions shall be provided by Defendants' counsel within five (5) business days before any refund is to be made, provided that, in the event Defendants' counsel provides such written instructions fewer than five (5) business days before any refund is required to be made under the first sentence of this paragraph, the deadline to make the refund payment shall be extended to five (5) business days from the date that Defendants' counsel provides such written instructions. Settlement Class Counsel or its designee shall apply for any tax refund owed on the Settlement Amount and pay the proceeds,

after deduction of any fees or expenses incurred in connection with such application(s) for refund, pursuant to written instructions from Defendants' counsel.

7.5 In the event that the Stipulation is not approved by the Court or the settlement set forth in the Stipulation is terminated or fails to become effective in accordance with its terms, the Settling Parties shall be restored to their respective positions in the Litigation as of the date this Stipulation is executed. In such event, the terms and provisions of the Stipulation, with the exception of ¶¶1.1-1.38, 2.10-2.13, 6.3-6.4, 7.1, 7.3-7.6, 8.1, 9.2, 9.7, 9.10, 9.18, and 9.20-9.23 hereof, shall be null and void, have no further force and effect, and shall not be used in this Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*, and shall not be used in this Litigation or in any other proceeding for any purpose. No order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation or the amount of any attorneys' fees, costs, expenses, and interest awarded by the Court shall operate to terminate or cancel this Stipulation or constitute grounds for cancellation or termination of the Stipulation.

7.6 If the Effective Date does not occur, or if the Stipulation is terminated pursuant to its terms, neither Lead Plaintiff nor any of their counsel shall have any obligation to repay any amounts disbursed pursuant to ¶¶2.12 or 2.13. In addition,

any expenses already incurred pursuant to ¶¶2.12 or 2.13 hereof at the time of such termination or cancellation, but which have not been paid, shall be paid from the Settlement Fund upon written instruction by Settlement Class Counsel to the Escrow Agents in accordance with the terms of the Stipulation prior to the balance being refunded in accordance with ¶¶2.13 and 7.4 hereof.

7.7 Defendants, provided they unanimously agree, shall have the unilateral right to terminate the Settlement in the event that the Settlement Class Members who timely and validly request exclusion from the Settlement Class meet the conditions set forth in Defendants' confidential supplemental agreement with Plaintiff (the "Supplemental Agreement"), in accordance with the terms of that agreement. The Supplemental Agreement, which is being executed concurrently herewith, shall not be filed with the Court and its terms shall not be disclosed in any other matter (other than the statements herein and in the Notice, to the extent necessary, or as otherwise provided in the Supplemental Agreement) unless and until the Court otherwise directs or a dispute arises between Plaintiff and Defendants concerning its interpretation or application, in which event Plaintiff and Defendants shall submit the Supplemental agreement to the Court in camera and request that the Court afford it confidential treatment.

8. No Admission of Wrongdoing

8.1 Neither this Stipulation (whether or not consummated), including the exhibits hereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of this Stipulation, nor any proceedings taken pursuant to or in connection with this Stipulation and/or approval of the Settlement (including any arguments proffered in connection therewith):

a. shall be offered against any of the Released Defendant Parties as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Released Defendant Parties with respect to the truth of any fact alleged by Plaintiffs or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Released Defendant Parties or in any way referred to for any other reason as against any of the Released Defendant Parties, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

b. shall be offered against any of the Released Plaintiff Parties, as evidence of, or construed as, or deemed to be evidence of any presumption,

concession or admission by any of the Released Plaintiff Parties that any of their claims are without merit, that any of the Released Defendant Parties had meritorious defenses, or that damages recoverable under the Complaint would not have exceeded the Settlement Amount or with respect to any liability, negligence, fault or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Released Plaintiff Parties, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; or

c. shall be construed against any of the Released Parties as an admission, concession, or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial *provided, however*, that if this Stipulation is approved by the Court, the Parties and the other Released Parties and their respective counsel may refer to it to effectuate the protections from liability granted hereunder or otherwise to enforce the terms of the Settlement.

9. Miscellaneous Provisions

9.1 The Settling Parties (a) acknowledge that it is their intent to consummate this Stipulation; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation

and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation.

9.2 The Settling Parties agree that this Stipulation is intended to inure to the benefit of, and be enforceable by, all Released Parties.

9.3 Solely for purposes of the Settlement and for no other purpose, the Parties stipulate and agree to: (a) certification of the Litigation as a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of the Settlement Class; (b) certification of Plaintiffs as Class Representatives for the Settlement Class; and (c) appointment of Lead Counsel as Class Counsel for the Settlement Class pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

9.4 To the extent permitted by law, the commencement by or against any Defendant of a case or proceeding under Title 11 of the United States Code (including Chapter 15 thereunder) or any foreign equivalent, any foreign or state insolvency or receivership law, or any foreign or state law relating to general assignment for the benefit of creditors, composition, marshaling, or other similar arrangements and procedures, shall not operate to stay, terminate, cancel, suspend, excuse, delay, impede, or otherwise interfere with or impair (i) the rights, if any, of any other Settling Parties to receive the Settlement Fund pursuant to this Stipulation, or (ii) the duties of the Escrow Agents under this Stipulation, including but not

limited to the Escrow Agents' obligation to release the Settlement Fund from escrow consistent with this Stipulation.

9.5 Upon the payment of the Settlement Amount into the Escrow Accounts, (a) this Stipulation shall not be, and shall not be deemed or considered to be, executory, as that term has been interpreted under 11 U.S.C. § 365, and (b) no further obligations of any of the Defendants pursuant to this Stipulation or any further effort or responsibility to defend against any appeal or proceeding seeking judicial review of any order contemplated by this Stipulation shall render the Settlement or all or any portion of this Stipulation executory, as that term has been interpreted under 11 U.S.C. § 365.

9.6 The Settling Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The settlement resolves claims which are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties and their respective counsel (Lead Plaintiff's Counsel and all counsel for Defendants) shall not contest good faith or assert or pursue any action, claim, or rights that any Party or their respective counsel violated Rule 11 of the Federal Rules of Civil Procedure or the Private Securities Litigation Reform Act ("PSLRA") relating to this Litigation, and no Settling Party or its counsel will object to any finding by the Court in the Final Judgment or otherwise that the Settling Parties and their respective

counsel have complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure and the PSLRA in connection with the institution, prosecution, defense, and settlement of the Litigation. The Settling Parties agree that the Settlement Amount and the other terms of the settlement were negotiated in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily, at arms-length, and after consultation with competent legal counsel.

9.7 Neither this Stipulation nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, the truth of any of the allegations in the Litigation of any wrongdoing, fault, or liability of the Released Defendants, or that Lead Plaintiff or any Settlement Class Members have suffered any damages, harm, or loss; (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; or (c) is or may be deemed to be or may be used as an admission or evidence that any claims asserted by Lead Plaintiff were not valid or that the amount recoverable was not greater than the Settlement Amount, in any civil, criminal, or administrative proceeding in any court, administrative agency, proceeding or other forum or tribunal.

9.8 The Released Defendants may file this Stipulation and/or the Judgment from this Litigation in any other action brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

9.9 The Settling Parties jointly request that the Judgment include the broadest bar order permissible by law barring all future claims for contribution or indemnity (or any other claim or claim-over, however denominated on whatsoever theory, for which the injury claimed is that person's or entity's alleged liability to Lead Plaintiffs or Settlement Class Members) among and against Lead Plaintiffs, any and all Settlement Class Members, and the Released Defendants arising out of the Litigation and Released Claims ("Bar Order"), provided, however, that the Bar Order shall not preclude either (i) the Released Defendants from seeking to enforce any rights they may have under any applicable insurance policies or (ii) any right of indemnification or contribution that the Released Defendants may have under contract or otherwise. The Bar Order shall be consistent with, and apply to the full extent of, the Private Securities Litigation Reform Act.

9.10 All agreements made and orders entered during the course of the Litigation relating to the confidentiality of documents and information shall survive this Stipulation.

9.11 All of the Exhibits to the Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

9.12 The Stipulation may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

9.13 No waiver of any term or provision of this Settlement Agreement, or of any breach or default hereof or hereunder, shall be valid or effective unless in writing and signed by or on behalf of all Settling Parties or their respective successors-in-interest. No waiver of any term or provision of this Settlement Agreement, or of any breach or default hereof or hereunder, shall be construed as a waiver of the same or any other term or provision or of any previous or subsequent breach thereof.

9.14 The Stipulation and the Exhibits attached hereto constitute the entire agreement among the parties hereto and no representations, warranties or inducements have been made to any party concerning the Stipulation or its Exhibits other than the representations, warranties, and covenants contained and memorialized in such documents.

9.15 If any Party is required to give notice to another Party under this Stipulation, such notice shall be in writing and shall be deemed to have been duly given upon receipt of hand delivery or email transmission, with confirmation of receipt. Notice shall be provided as follows:

If to Plaintiff or Lead Counsel: Bleichmar Fonti & Auld LLP
Attn: Joseph A. Fonti, Esq.
300 Park Ave, Suite 1301
New York, New York
10022
Telephone: (212) 789-1340
Email: jfonti@bfalaw.com

If to Defendants: Latham & Watkins LLP
Attn: Kristin N. Murphy
650 Town Center Drive, 20th Floor
Costa Mesa, California 92626
Telephone: (714) 540-1235
Email: kristin.murphy@lw.com

9.16 Except as otherwise provided herein, each party shall bear its own costs.

9.17 Settlement Class Counsel, on behalf of the Settlement Class, is expressly authorized by Lead Plaintiff to take all appropriate action required or permitted to be taken by the Settlement Class pursuant to the Stipulation to effectuate its terms and also is expressly authorized to enter into any modifications or amendments to the Stipulation on behalf of the Settlement Class which it deems appropriate.

9.18 Each counsel or other Person executing the Stipulation or any of its Exhibits on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

9.19 Neither the Settlement Class Members nor Defendants shall be bound by this Stipulation if the Court modifies material terms thereof, provided, however,

that it shall not be a basis for Settlement Class Members to terminate the settlement if the Court modifies any proposed Plan of Allocation or criteria for allocation of the Net Settlement Fund amongst Authorized Claimants, or the Plan of Allocation is modified on appeal. Nor shall it be a basis to terminate the settlement if the Court disapproves of or modifies the terms of this Stipulation with respect to attorneys' fees or expenses or the distribution of the Net Settlement Fund. Notwithstanding any such modification of the terms or Plan of Allocation or this Stipulation with respect to attorneys' fees or expenses, Released Defendants shall be entitled to all benefits of the settlement and shall not, under any circumstances, be called upon to contribute additional funds to the Settlement Fund.

9.20 The Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court. Signatures sent by facsimile or PDF via e-mail shall be deemed originals.

9.21 The Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.

9.22 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Stipulation, and all Settling Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in the Stipulation and matters related to the settlement.

9.23 This Stipulation and the Exhibits hereto shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of New York, and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of New York without giving effect to any choice-of-law principles that would result in applying substantive laws other than those of the State of New York.

IN WITNESS WHEREOF, the Parties hereto have caused the Stipulation to be executed, by their duly authorized attorneys, dated July 12, 2024.

By: /s/ Kristin N. Murphy

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* reflects attorneys appearing pursuant to LR 83.1(d)

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By: /s/ Donald H. Tucker, Jr.

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