

# EXHIBIT 1

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

RAJESH M. SHAH, et al.,

Plaintiffs,

v.

ZIMMER BIOMET HOLDINGS, INC., et al.,

Defendants.

Case No.: 3:16-cv-00815-PPS-MGG

Honorable Philip P. Simon

**STIPULATION AND AGREEMENT OF SETTLEMENT**

This Stipulation and Agreement of Settlement, dated as of April 14, 2020 (the “Stipulation”) is entered into between (a) Lead Plaintiffs Rajesh M. Shah and Matt Brierley (“Lead Plaintiffs”), and additional plaintiffs UFCW Local 1500 and Steven Castillo (together with Lead Plaintiffs, “Plaintiffs”), on behalf of themselves and the Settlement Class (defined below); and (b) defendant Zimmer Biomet Holdings, Inc. (“ZBH” or the “Company”), defendants David C. Dvorak, Daniel P. Florin, Robert J. Marshall Jr., Tony W. Collins (collectively the “Officer Defendants”), and defendants Christopher B. Begley, Betsy J. Bernard, Paul M. Bisaro, Gail K. Boudreaux, Michael J. Farrell, Larry Glasscock, Robert A. Hagemann, Arthur J. Higgins, Michael W. Michelson, Cecil B. Pickett, Ph.D., Jeffrey K. Rhodes (together with the Officer Defendants, the “Individual Defendants,” and, together with ZBH and the Officer Defendants, the “Defendants”), and embodies the terms and conditions of the settlement of the above-captioned action (the “Action”).<sup>1</sup> Subject to the approval of the Court and the terms and conditions expressly provided herein, this Stipulation is intended to fully, finally and forever

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<sup>1</sup> All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in ¶ 1 herein.

compromise, settle, release, resolve, and dismiss with prejudice the Action and all claims asserted therein against Defendants.

WHEREAS:

A. On December 2, 2016, this Action was filed in the United States District Court for the Northern District of Indiana. DE 1.

B. By Order dated April 3, 2017, the Court appointed Rajesh M. Shah, Matt Brierley, and Eric Levy as lead plaintiffs in the Action, and approved lead plaintiffs' selection of Glancy Prongay & Murray LLP as Lead Counsel and Katz & Korin, PC as Liaison Counsel<sup>2</sup> for the putative class. DE 23.

C. On June 16, 2017, lead plaintiffs filed and served their Amended Class Action Complaint for Violation of the Federal Securities Laws (DE 27), which was corrected on June 28, 2017 (DE 30, the "CAC"). The CAC asserted claims against: (i) ZBH and the Officer Defendants under Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 promulgated thereunder; (ii) the Officer Defendants under Section 20(a) of the Exchange Act; (iii) the Defendants and J.P. Morgan Securities LLC and Goldman Sachs & Co. LLC (collectively, the "Underwriter Defendants") under Section 11 of the Securities Act of 1933 (the "Securities Act"); (iv) ZBH and the Underwriter Defendants under Section 12(a)(2) of the Securities Act; and (v) the Individual Defendants under Section 15 of the Securities Act.

D. On October 5, 2017, lead plaintiffs and plaintiff UFCW Local 1500 voluntarily dismissed the Underwriter Defendants without prejudice. DE 59. On that same day, the lead plaintiffs and plaintiff UFCW Local 1500 filed and served a Second Amended Class Action Complaint for Violations of the Federal Securities Laws (the "SAC"). DE 60. The SAC asserted

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<sup>2</sup> During the course of this Action, Katz & Korin, PC changed its name to Katz Korin Cunningham, PC.

the same claims as the CAC, excluding the claims asserted against the Underwriter Defendants, and adding claims against the PE Defendants (defined herein at ¶ 1(hh)) under Section 20(A) of the Exchange Act and Section 12(a)(2) of the Securities Act.

E. On December 20, 2017, multiple motions to dismiss were filed by the Defendants and the PE Defendants; included in defendants' motion was also a request to strike portions of the SAC pursuant to Fed. R. Civ. P. 12 (f). DE 94-101. On March 13, 2018, lead plaintiffs and plaintiff UFCW Local 1500 served their papers in opposition and, on May 18, 2018, the various defendants served their reply papers. DE 108-112. On September 26, 2018, the Court entered its Opinion and Order that granted in part, and denied in part, the defendants' motions. Based on the Court's Order, the claims against the PE Defendants were dismissed. DE 119.

F. On October 9, 2018, Defendants filed a Motion to Amend the Court's September 26, 2018 Opinion and Order to Include a Certification under 28 U.S.C. § 1292(b) and Motion to Stay Proceedings Pending Appeal (the "1292 Motion"). DE 120, 121. Lead plaintiffs and plaintiff UFCW Local 1500 opposed the 1292 Motion on October 30, 2018 (DE 126, 127), and on November 13, 2018, the Defendants filed their reply. DE 133. On November 27, 2018, Defendants filed a notice of supplemental authority relevant to their pending 1292 Motion (DE 145), which plaintiffs responded to on the same day. DE 147. On November 28, 2018, plaintiffs requested leave to file a sur-reply to the 1292 Motion, which was granted by the Court and deemed filed on November 29, 2018. DE 148-150. Defendants filed a response to this sur-reply on December 6, 2018. DE 153. On January 17, 2019, plaintiffs requested leave to file a supplemental submission on January 17, 2019. DE 165-170. Defendants filed a response to this request on January 22, 2019. DE 173. On January 28, 2019, the Court heard oral argument on

the 1292 Motion (DE 174), and on February 20, 2019, denied Defendants' 1292 Motion. DE 183.

G. On November 12, 2018, Defendants filed and served an answer to the SAC (DE 131), which was amended on November 14, 2018. DE 134.

H. On March 4, 2019, plaintiffs filed an unopposed motion to add Mr. Castillo as a named plaintiff to the action. DE 186-188. The Court granted this motion on March 14, 2019 and ordered plaintiffs to file a "revised" version of the SAC reflecting the interlineation of Mr. Castillo as a named plaintiff. DE 189. Plaintiffs revised the SAC as ordered on March 21, 2019 (the "Operative Complaint"). DE 192.

I. On April 11, 2019, plaintiffs moved for class certification, together with the declaration of Daniel R. Fischel regarding market efficiency. DE 193-195. On June 7, 2019, plaintiffs filed and served an unopposed motion to relieve Mr. Levy of his duties to serve as a lead plaintiff and to withdraw his application to serve as a class representative, which the Court granted on June 13, 2019. DE 215-218. In May and June 2019, Defendants deposed Messrs. Shah, Brierley and Castillo, as well as a representative of UFCW Local 1500, Plaintiffs' market efficiency expert, and two third-party investment managers. On June 20, 2019, Defendants filed and served their papers in opposition to the motion for class certification, together with an expert report of Vinita Juneja, Ph.D. DE 219-220. On August 6 2019, Plaintiffs deposed Dr. Juneja. On August 20, 2019, Plaintiffs filed and served their reply papers in further support of their motion for class certification, together with a rebuttal declaration of Professor Fischel. DE 225-229.

J. From October 2018 through December 2019, counsel for Plaintiffs and Defendants completed extensive fact discovery. In total, Plaintiffs propounded six (6) sets of

Requests for Production of Documents, and two (2) sets of written Requests for Admissions upon Defendants. Plaintiffs also served twenty-eight (28) third-party subpoenas for production of documents on various third parties, including the former Underwriter Defendants and PE Defendants, securities analysts, and ZBH's quality consultants, in addition to a Freedom of Information Act request to the U.S. Food and Drug Administration. Over the course of the approximately one-year discovery period, Plaintiffs' Counsel reviewed and analyzed more than 1.2 million pages of documents produced by Defendants and third parties. In addition to responding to discovery, Defendants propounded two (2) sets of Requests for Production of Documents and two (2) sets of written Interrogatories, which were responded to by Plaintiffs. At the time the settlement was reached, the Plaintiffs and Defendants (collectively the "Parties") were nearing completion of document discovery and preparing for fact depositions.

K. In the summer of 2019, while Plaintiffs were actively pursuing fact discovery, the Parties agreed to participate in private mediation. The Parties selected the Honorable Daniel Weinstein (Ret.) and Jed D. Melnick to serve as mediators. The Parties exchanged extensive mediation statements and exhibits that addressed, among other things, issues related to liability and damages. The Parties participated in a full-day mediation session in New York on September 17, 2019. The session ended without an agreement to settle, and the Parties continued with discovery.

L. The Parties agreed to engage in another mediation session to re-visit whether a settlement could be reached, with Judge Weinstein and Mr. Melnick again serving as mediators. The Parties exchanged detailed mediation statements and exhibits on the issues of liability and damages in advance of another full-day mediation session, which occurred on December 12, 2019. The mediation session ended with Judge Weinstein and Mr. Melnick presenting a

mediators' recommendation that the Action be settled for fifty million dollars (\$50,000,000). The Parties accepted the mediator's proposal.

M. This Stipulation (together with the exhibits hereto) reflects the final and binding agreement between the Parties.

N. Based upon their investigation, prosecution and mediation of the case, Plaintiffs and Plaintiffs' Counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable and adequate to Plaintiffs and the other members of the Settlement Class, and in their best interests. Based on Plaintiffs' direct oversight of the prosecution of this matter and with the advice of their counsel, each of the Plaintiffs has agreed to settle and release the claims raised in the Action pursuant to the terms and provisions of this Stipulation, after considering, among other things: (1) the substantial financial benefit that Plaintiffs and the other members of the Settlement Class will receive under the proposed Settlement; and (2) the significant risks and costs of continued litigation and trial.

O. This Stipulation constitutes a compromise of matters that are in dispute between the Parties. Defendants are entering into this Stipulation solely to eliminate the uncertainty, burden and expense of further protracted litigation. Defendants have determined that it is desirable and beneficial to them that the Action be settled in the manner and upon the terms and conditions set forth in this Stipulation. Each of the Defendants has denied and continues to deny any wrongdoing. Defendants expressly deny that Plaintiffs have asserted any valid claims as to any of them, and expressly deny any and all allegations of fault, liability, wrongdoing or damages whatsoever. Defendants have asserted and continue to assert that their conduct was at all times proper and in compliance with all applicable provisions of law, and believe that the evidence developed to date supports their position that they acted properly at all times and that

the Action is without merit. In addition, Defendants maintain that they have meritorious defenses to all claims alleged in the Action. This Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any of the Defendants with respect to any claim or allegation of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that the Defendants have, or could have, asserted. Similarly, this Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any Plaintiff of any infirmity in any of the claims asserted in the Action, or an admission or concession that any of the Defendants' defenses to liability had any merit. Each of the Parties recognizes and acknowledges, however, that the Action has been initiated, filed and prosecuted by Plaintiffs in good faith and defended by Defendants in good faith, and that the Action is being voluntarily settled with the advice of counsel.

NOW THEREFORE, it is hereby STIPULATED AND AGREED, by and among Plaintiffs (individually and on behalf of all other members of the Settlement Class) and Defendants, by and through their respective undersigned attorneys and subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, that, in consideration of the benefits flowing to the Parties from the Settlement, all Released Plaintiffs' Claims as against the Defendants' Releasees and all Released Defendants' Claims as against the Plaintiffs' Releasees shall be finally and fully compromised, settled and released, and the Action shall be dismissed with prejudice as to all Defendants' Releasees and Plaintiffs' Releasees upon and subject to the terms and conditions set forth below.

#### **DEFINITIONS**

1. As used in this Stipulation and any exhibits attached hereto and made a part hereof, the following capitalized terms shall have the following meanings:



(a) “Action” means the consolidated securities class action in the matter styled *Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*, Case No. 3:16-cv-00815-PPS-MGG (N.D. Ind.).

(b) “Alternate Judgment” means a form of final judgment that may be entered by the Court herein but in a form other than the form of Judgment provided for in this Stipulation.

(c) “Authorized Claimant” means a Settlement Class Member who submits a Proof of Claim Form to the Claims Administrator that is approved by the Court for payment from the Net Settlement Fund.

(d) “Claim” means a Proof of Claim Form submitted to the Claims Administrator.

(e) “Claim Form” or “Proof of Claim Form” means the form, substantially in the form attached hereto as Exhibit 2 to Exhibit A, that a Claimant or Settlement Class Member must complete and submit should that Claimant or Settlement Class Member seek to share in a distribution of the Net Settlement Fund.

(f) “Claimant” means a person or entity who or which submits a Claim Form to the Claims Administrator seeking to be eligible to share in the proceeds of the Settlement Fund.

(g) “Claims Administrator” means the firm retained by Plaintiffs and Lead Counsel, subject to approval of the Court, to provide all notices approved by the Court to potential Settlement Class Members and to administer the Settlement.

(h) “Class Distribution Order” means an order entered by the Court authorizing and directing that the Net Settlement Fund be distributed, in whole or in part, to Authorized Claimants.

(i) “Court” means the United States District Court for the Northern District of Indiana.

(j) “Defendant(s)” means ZBH, the Officer Defendants, and the Individual Defendants, or any of them, if used in the singular.

(k) “Defendants’ Counsel” means Morgan Lewis & Bockius LLP and Faegre Baker Daniels LLP.

(l) “Defendants’ Releasees” means Defendants, PE Defendants, Underwriter Defendants, each of their respective parents, subsidiaries and affiliates, and each of their respective current and former employees, officers, directors, agents, parents, affiliates, subsidiaries, attorneys, advisors, members, partners, principals, controlling shareholders, accountants, auditors and insurers and reinsurers of each of the foregoing, in their capacities as such; and the successors, predecessors, assigns, assignees, estates, spouses, heirs, executors, trusts, trustees, administrators, and legal or personal representatives of the foregoing, in their capacities as such.

(m) “Effective Date” with respect to the Settlement means the first date by which all of the events and conditions specified in ¶ 32 of this Stipulation have been met and have occurred or have been waived.

(n) “Escrow Account” means an account maintained at Huntington National Bank, wherein the Settlement Amount shall be deposited and held in escrow under the control of Lead Counsel.

(o) “Escrow Agent” means Huntington National Bank.

(p) “Escrow Agreement” means the agreement between Lead Counsel and the Escrow Agent setting forth the terms under which the Escrow Agent shall maintain the Escrow Account.

(q) “Excluded Claims” means (i) any claims asserted in *Green v. Begley et al.*, Case No. 2019-0455-AGB (Del. Ch.); *Detectives Endowment Association Annuity Fund v. Begley et al.*, Case No. 2019-0584-AGB (Del. Ch.); consolidated case caption *In re Zimmer Biomet Holdings, Inc. Derivatives Litigation*, Consol. C.A. No 2019-0455 (Del. Ch.); *Karp v. Begley et al.*, Case No. 1:19-cv-01855-LPS (D. Del); *DiGaudio v. Begley et al.*, Case No. 1:19-cv-01926-LPS (D. Del.); and consolidated case caption *In re Zimmer Biomet Holdings, Inc. Federal Derivative Litigation*, No. 2019-cv-01855 (D. Del.); and (ii) any claims of any person or entity who or which submits a request for exclusion that is accepted by the Court.

(r) “Final,” with respect to the Judgment or, if applicable, the Alternate Judgment, or any other court order, means when the last of the following shall occur: (i) the expiration of the time to file a motion to alter or amend the Judgment under Federal Rule of Civil Procedure 59(e) without any such motion having been filed; (ii) the expiration date of the time provided for filing or noticing any appeal under the Federal Rules of Appellate Procedure, *i.e.*, thirty (30) days after entry of the judgment or order; or (iii) if a motion to alter or amend is filed or if an appeal is taken, (a) the date of final dismissal of all such appeals, or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the judgment or order is finally affirmed on an appeal, the expiration of the time to file a petition for a writ of certiorari or other form of review, or the denial of a writ of certiorari or other form of review, and, if certiorari or other form of review is granted, the date of final affirmance following review pursuant to that

grant. However, any appeal or proceeding seeking subsequent judicial review pertaining solely to an order issued with respect to (i) attorneys' fees, costs or expenses, or (ii) the plan of allocation of Settlement proceeds (as submitted or subsequently modified), shall not in any way delay or preclude a judgment from becoming Final.

(s) "Immediate Family" with respect to the Individual Defendants means children, stepchildren, parents, stepparents, spouses, siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law. As used in this paragraph, "spouse" shall mean a husband, a wife, or a partner in a state-recognized domestic relationship or civil union.

(t) "Individual Defendants" means David C. Dvorak, Daniel P. Florin, Robert J. Marshall Jr., Tony W. Collins, Christopher B. Begley, Betsy J. Bernard, Paul M. Bisaro, Gail K. Boudreaux, Michael J. Farrell, Larry Glasscock, Robert A. Hagemann, Arthur J. Higgins, Michael W. Michelson, Cecil B. Pickett, Ph.D., and Jeffrey K. Rhodes.

(u) "Investment Vehicle" means any investment company or pooled investment fund, including but not limited to, mutual fund families, exchange traded funds, funds of funds and hedge funds, in which any of the Underwriter Defendants or PE Defendants have, has or may have a direct or indirect interest, or as to which its affiliates may act as an investment advisor, but in which any Underwriter Defendant and/or any of the PE Defendants alone or together with its respective affiliates is not a majority owner or does not hold a majority beneficial interest. This definition of Investment Vehicle does not bring into the Settlement Class any of the PE Defendants or Underwriter Defendants themselves.

(v) "Judgment" means the final judgment, substantially in the form attached hereto as Exhibit B, to be entered by the Court approving the Settlement.

(w) “Lead Counsel” means the law firm of Glancy Prongay & Murray LLP.

(x) “Liaison Counsel” means the law firm of Katz Korin Cunningham, PC.

(y) “Lead Plaintiffs” means plaintiffs Rajesh M. Shah and Matt Brierley.

(z) “Litigation Expenses” means costs and expenses incurred in connection with commencing, prosecuting and settling the Action (which may include the costs and expenses of Plaintiffs directly related to their representation of the Settlement Class), for which Lead Counsel intends to apply to the Court for reimbursement from the Settlement Fund.

(aa) “Net Settlement Fund” means the Settlement Fund less: (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any Litigation Expenses awarded by the Court; and (iv) any attorneys’ fees awarded by the Court.

(bb) “Notice” means the Notice of (I) Pendency of Class Action, Certification of Settlement Class, and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, substantially in the form attached hereto as Exhibit 1 to Exhibit A, which is to be mailed to Settlement Class Members.

(cc) “Notice and Administration Costs” means the reasonable costs, fees and expenses that are incurred by the Claims Administrator and/or Lead Counsel in connection with: (i) providing notices to the Settlement Class by mail, publication and other means, locating Settlement Class Members; and (ii) administering the Settlement, including but not limited to the Claims process, assisting with the submission of claims, processing Proof of Claim Forms as well as the costs, fees and expenses incurred in connection with the Escrow Account.

(dd) “Officer” means any officer as that term is defined in Securities and Exchange Act Rule 16a-1(f).

(ee) “Officer Defendants” means David C. Dvorak, Daniel P. Florin, Robert J. Marshall Jr., and Tony W. Collins.

(ff) “Operative Complaint” means the Second Amended Class Action Complaint filed by Plaintiffs in the Action on March 21, 2019.

(gg) “Parties” means Defendants and Plaintiffs, on behalf of themselves and the Settlement Class.

(hh) “PE Defendants” means KKR Biomet LLC, TPG Partners IV, L.P., TPG Partners V, L.P., TPG FOF V-A, L.P., TPG FOF V-B, L.P., TPG LVB Co-Invest LLC, TPG LVB Co-Invest II LLC, GS Capital Partners VI Fund, L.P., GS Capital Partners VI Parallel, L.P., GS Capital Partners VI Offshore Fund, L.P., GS Capital Partners VI GmbH & Co. KG, Goldman Sachs BMET Investors, L.P., Goldman Sachs BMET Investors Offshore Holdings, L.P., PEP Bass Holdings, LLC, Private Equity Partners 2004 Direct Investment Fund L.P., Private Equity Partners 2005 Direct L.P., Private Equity Partners IX Direct L.P., and GS LVB Co-Invest, L.P.

(ii) “Plaintiffs” means Lead Plaintiffs and additional plaintiffs UFCW Local 1500 and Steven Castillo.

(jj) “Plaintiffs’ Counsel” means Lead Counsel, Liaison Counsel, Kirby McInerney LLP, and all other legal counsel who, at the direction and under the supervision of Lead Counsel, performed services on behalf of the Settlement Class in the Action.

(kk) “Plaintiffs’ Releasees” means Plaintiffs, Plaintiffs’ Counsel, all other plaintiffs in the Action, their respective attorneys, and all other Settlement Class Members, and their respective current and former officers, directors, agents, parents, affiliates, subsidiaries, successors, predecessors, assigns, assignees, employees, and attorneys, in their capacities as such.

(ll) “Plan of Allocation” means the proposed plan of allocation of the Net Settlement Fund set forth in the Notice. Any Plan of Allocation is not part of the Stipulation, and neither Defendants nor Defendants’ Releasees shall have any responsibility or liability with respect thereto.

(mm) “Preliminary Approval Order” means the order, substantially in the form attached hereto as Exhibit A, to be entered by the Court preliminarily approving the Settlement and directing that notice of the Settlement be provided to the Settlement Class.

(nn) “PSLRA” means the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, as amended.

(oo) “Released Claims” means all Released Defendants’ Claims and all Released Plaintiffs’ Claims.

(pp) “Released Defendants’ Claims” means all claims and causes of action of every nature and description, whether known claims or 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 asserted in the Action against the Defendants. Released Defendants’ Claims do not include: (i) any claims relating to the enforcement of the Settlement; (ii) any claims against any person or entity who or which submits a request for exclusion from the Settlement Class that is accepted by the Court; (iii) any claims arising out of or relating to the Underwriter Defendants’ rights to indemnification by the Defendants, pursuant to any agreements between the Defendants and the Underwriter Defendants, or any Underwriter Defendants’ rights pursuant to any agreements among any of the Underwriter Defendants to indemnification *inter se*; or (iv) any claims arising out of or relating to the PE Defendants’ rights

to the indemnification by the Defendants, pursuant to any agreements between the Defendants and the PE Defendants.

(qq) “Released Plaintiffs’ Claims” means all claims, rights, duties, controversies, obligations, demands, actions, debts, sums of money, suits, contracts, agreements, promises, damages, losses, judgments, liabilities, allegations, arguments and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, local, common, statutory, administrative or foreign law, or any other rule or regulation, at law or in equity, whether class or individual in nature, whether fixed or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether matured or unmatured, that Plaintiffs or any other member of the Settlement Class: (i) asserted in any complaint filed in this Action including the CAC, the SAC and the Operative Complaint; or (ii) could have asserted in any forum that arise out of or are related to any of the allegations, transactions, facts, matters, events, disclosures, statements, occurrences, representations or omissions involved, set forth, or referred to in any complaint filed in this Action including the CAC, the SAC and the Operative Complaint and that relate to, directly or indirectly, the purchase or sale or other acquisition, disposition, or holding of any ZBH Securities during the Settlement Class Period. Released Plaintiffs’ Claims do not include: (i) any claims relating to the enforcement of the Settlement; (ii) any claims asserted in *Green v. Begley et al.*, Case No. 2019-0455-AGB (Del. Ch.); *Detectives Endowment Association Annuity Fund v. Begley et al.*, Case No. 2019-0584-AGB (Del. Ch.); consolidated case caption *In re Zimmer Biomet Holdings, Inc. Derivatives Litigation*, Consol. C.A. No 2019-0455 (Del. Ch.); *Karp v. Begley et al.*, Case No. 1:19-cv-01855-LPS (D. Del); *DiGaudio v. Begley et al.*, Case No. 1:19-cv-01926-LPS (D. Del.); and consolidated case caption *In re Zimmer Biomet Holdings, Inc. Federal Derivative Litigation*,



No. 2019-cv-01855 (D. Del.); and (iii) any claims of any person or entity who or which submits a request for exclusion that is accepted by the Court.

(rr) “Releasee(s)” means each and any of the Defendants’ Releasees and each and any of the Plaintiffs’ Releasees.

(ss) “Releases” means the releases set forth in ¶¶ 5-6 of this Stipulation.

(tt) “Settlement” means the resolution of the Action between Plaintiffs and Defendants on the terms and conditions set forth in this Stipulation.

(uu) “Settlement Amount” means fifty million dollars (\$50,000,000) in cash to be paid by wire transfer to the Escrow Agent pursuant to Paragraph 8 of this Stipulation.

(vv) “Settlement Class” means all persons or entities who, between June 7, 2016 and November 7, 2016, inclusive, purchased or otherwise acquired ZBH Common Stock and/or ZBH Call Options, and/or wrote ZBH Put Options, and were damaged thereby. Included in the Settlement Class are all persons or entities who purchased or otherwise acquired ZBH common stock pursuant to and/or traceable to ZBH’s public offering on or around June 13, 2016 and/or ZBH’s public offering on or around August 9, 2016 and were damaged thereby. Excluded from the Settlement Class are: (i) Defendants, the PE Defendants, and the Underwriter Defendants; (ii) members of the Immediate Families of each of the Individual Defendants; (iii) the parents, subsidiaries, assigns, successors and predecessors of ZBH, the PE Defendants, and the Underwriter Defendants; (iv) any persons who served as partners, control persons, officers, and/or directors of ZBH, the PE Defendants, and the Underwriter Defendants during the Settlement Class Period and/or at any other relevant time; (v) Defendants’ liability insurance carriers; (vi) any firm, trust, corporation, or other entity in which any Defendant, Underwriter Defendant or PE Defendant has or had a controlling interest; and (vii) the legal representatives,

heirs, successors-in-interest or assigns of any such excluded party; *provided, however*, that any Investment Vehicle shall not be excluded from the Settlement Class. Also excluded from the Settlement Class are any persons and entities who or which exclude themselves by submitting a request for exclusion that is accepted by the Court.

(ww) “Settlement Class Member” means each person and entity who or which is a member of the Settlement Class.

(xx) “Settlement Class Period” means the period between June 7, 2016 and November 7, 2016, inclusive.

(yy) “Settlement Fund” means the Settlement Amount plus any and all interest earned thereon and any accretions thereto.

(zz) “Settlement Hearing” means the hearing set by the Court under Rule 23(e)(2) of the Federal Rules of Civil Procedure to consider final approval of the Settlement.

(aaa) “Summary Notice” means the Summary Notice of (I) Pendency of Class Action, Certification of Settlement Class, and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, substantially in the form attached hereto as Exhibit 3 to Exhibit A, to be published as set forth in the Preliminary Approval Order.

(bbb) “Taxes” means: (i) all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (including any interest or penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority (including, but not limited to, any local, state and federal taxes) on the Settlement Fund (including any income earned by the Settlement Fund); and (ii) the expenses and costs incurred by Lead Counsel in connection

with determining the amount of, and paying, any taxes owed by the Settlement Fund (including, without limitation, expenses of tax attorneys and accountants);

(ccc) “Underwriter Defendants” means J.P. Morgan Securities LLC and Goldman Sachs & Co. LLC.

(ddd) “Unknown Claims” means any Released Plaintiffs’ Claims which any Lead Plaintiff or any other Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of such claims, and any Released Defendants’ Claims which any Defendant, Underwriter Defendant or PE Defendant does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, which, if known by him, her or it, might have affected his, her or its settlement with and release, or might have affected his, her or its decision(s) with respect to this Settlement, including, but not limited to, whether or not to object to this Settlement or to the release of any Released Claims. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date of the Settlement, Plaintiffs, Defendants, Underwriter Defendants and PE Defendants shall expressly waive, and each of the other Settlement Class Members shall be deemed to have waived, and by operation of the Judgment or the Alternate Judgment, if applicable, shall have expressly waived, any and all provisions, rights, and benefits conferred by California Civil Code § 1542 and any law of any state or territory of the United States, or principle of common law or foreign 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 and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**

Plaintiffs, Defendants, Underwriter Defendants and PE Defendants acknowledge that they may hereafter discover facts in addition to or different from those which he, she, it or their counsel

now knows or believes to be true with respect to the subject matter of the Released Claims, but the Plaintiffs, Defendants, Underwriter Defendants and PE 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 or the Alternate Judgment, if applicable, shall have, fully, finally and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, 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. Plaintiffs, Defendants, Underwriter Defendants and PE Defendants acknowledge, and each of the other Settlement Class Members shall be deemed by operation of law to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Plaintiffs’ Claims and Released Defendants’ Claims was separately bargained for and a key element of the Settlement.

(eee) “ZBH” means Zimmer Biomet Holdings, Inc.

(fff) “ZBH Call Options” means call options on ZBH common stock.

(ggg) “ZBH Common Stock” means the common stock of Zimmer Biomet Holdings, Inc. (NYSE ticker ZBH).

(hhh) “ZBH Put Options” means put options on ZBH common stock.

(iii) “ZBH Securities” means ZBH Common Stock, ZBH Call Options, and ZBH Put Options.

**CLASS CERTIFICATION**

2. Solely for purposes of the Settlement and for no other purpose, Defendants stipulate and agree to: (a) certification of the Action 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.

**PRELIMINARY APPROVAL OF SETTLEMENT**

3. Promptly upon execution of this Stipulation, Plaintiffs will move for preliminary approval of the Settlement, certification of the Settlement Class for settlement purposes only, and the scheduling of a hearing for consideration of final approval of the Settlement after notice is given, which motion shall be unopposed by Defendants. Concurrently with the motion for preliminary approval, Plaintiffs shall apply to the Court for, and Defendants shall agree to, entry of the Preliminary Approval Order, substantially in the form attached hereto as Exhibit A, requesting, *inter alia*, the preliminary approval of the Settlement set forth in this Stipulation, and approval of the mailing of the Notice and Summary Notice, substantially in the forms of Exhibits A-1 and A-3 attached hereto. The Notice shall include the general terms of the Settlement set forth in this Stipulation, the proposed Plan of Allocation, the general terms of the attorneys' fees and Litigation Expenses and the date of the Settlement Hearing. At the Settlement Hearing, Lead Counsel also will request that the Court approve the proposed Plan of Allocation.

**RELEASE OF CLAIMS**

4. The obligations incurred pursuant to this Stipulation are in consideration of: (i) the full and final disposition of the Action as against Defendants; and (ii) the Releases provided for herein.

5. Pursuant to the Judgment, or the Alternate Judgment, if applicable, without further action by anyone, upon the Effective Date of the Settlement, Plaintiffs and each of the other Settlement Class Members, on behalf of themselves, and their respective current and former heirs, executors, administrators, predecessors, successors, officers, directors, agents, parents, affiliates, subsidiaries, employees, attorneys, assignees and assigns in their capacities as such, shall be deemed to have, and by operation of law and of the judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Plaintiffs' Claim (including Unknown Claims) against the Defendants and the other Defendants' Releasees, whether or not such Settlement Class Member executes and delivers the Proof of Claim Form and shall forever be 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 or all of the Released Plaintiffs' Claims against any of the Defendants' Releasees. This release shall not apply to any Excluded Claim.

6. Pursuant to the Judgment, or the Alternate Judgment, if applicable, without further action by anyone, upon the Effective Date of the Settlement, the Defendants, Underwriter Defendants and PE Defendants, on behalf of themselves, and their respective current and former heirs, executors, administrators, predecessors, successors, officers, directors, agents, parents, affiliates, subsidiaries, employees, attorneys, assignees and assigns in their capacities as such,

shall be deemed to have, and by operation of law and of the judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Defendants' Claim (including Unknown Claims) against Plaintiffs and the other Plaintiffs' Releasees, and shall forever be 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 or all of the Released Defendants' Claims against any of the Plaintiffs' Releasees. This release shall not apply to any person or entity who or which submits a request for exclusion from the Settlement Class that is accepted by the Court.

7. Notwithstanding §§ 5-6 above, nothing in the Judgment, or the Alternate Judgment, if applicable, shall bar any action by any of the Parties to enforce or effectuate the terms of this Stipulation or the Judgment, or Alternate Judgment, if applicable.

#### **THE SETTLEMENT CONSIDERATION**

8. In consideration of the settlement of the Released Plaintiffs' Claims against Defendants and the other Defendants' Releasees, Defendants shall cause to be paid the Settlement Amount into the Escrow Account no later than fifteen (15) business 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.

9. If the entire Settlement Amount is not timely deposited into the Escrow Account, Lead Counsel may terminate the Settlement, but only if: (i) Lead Counsel has notified Defendants' counsel in writing of Lead Counsel's intention to terminate the Settlement, and (ii) the entire Settlement Amount is not transferred to the Escrow Account within three (3) business days after Lead Counsel has provided such written notice. Other than the obligation of Defendants to cause to be paid the Settlement Amount into the Escrow Account, Defendants' Releasees shall have no obligation to make any other payment into the Settlement Fund pursuant to this Stipulation and shall have no responsibility or liability with respect to the Escrow Account or the monies maintained in the Escrow Account, including, without limitation, any responsibility or liability related to any fees, Taxes, investment decisions, maintenance, supervision or distribution of any portion of the Settlement Amount. The Escrow Agent, through the Settlement Fund, shall indemnify and hold each of the Defendants' Releasees harmless for any fees, Taxes, investment decisions, maintenance, supervision or distribution of the Settlement Amount.

#### **USE OF SETTLEMENT FUND**

10. The Settlement Fund shall be used to pay: (a) any Taxes; (b) any Notice and Administration Costs; (c) any Litigation Expenses awarded by the Court; and (d) any attorneys' fees awarded by the Court. The balance remaining in the Settlement Fund, that is, the Net Settlement Fund, shall be distributed to Authorized Claimants as provided in ¶¶ 19-30 below. The Escrow Agent shall not disburse the Settlement Fund except as provided in this Stipulation, or by an Order of the Court.

11. Except as provided herein or pursuant to orders of the Court, the Net Settlement Fund shall remain in the Escrow Account prior to the Effective Date. All funds held by the



Escrow Agent shall be deemed and considered to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed or returned pursuant to the terms of this Stipulation and/or further order of the Court. The Escrow Agent shall invest the Settlement Amount deposited in the Escrow Account pursuant to ¶ 8 exclusively in instruments or accounts backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Fund or a bank account that is either: (a) fully insured by the Federal Deposit Insurance Corporation; or (b) secured by instruments backed by the full faith and credit of the United States Government. 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 Defendants' Releasees shall have no responsibility for, interest in or liability whatsoever with respect to investment decisions or the actions of the Escrow Agent, or any transaction executed by the Escrow Agent.

12. The Parties agree that the Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1 and that Lead Counsel, as administrator of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing or causing to be filed all informational and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)) for the Settlement Fund. Lead Counsel, or its designated agent, shall also be responsible for causing payment to be made from the Settlement Fund of any Taxes owed with respect to the Settlement Fund. The Defendants' Releasees shall not have any liability or responsibility for any such Taxes. Upon written request, Defendants will provide to Lead Counsel the statement described in Treasury Regulation § 1.468B-3(e). Lead Counsel, as

administrator of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such elections as are necessary or advisable to carry out this paragraph, including, as necessary, making a “relation back election,” as described in Treasury Regulation § 1.468B-1(j), to cause the Qualified Settlement Fund to come into existence at the earliest allowable date, and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Lead 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.

13. All Taxes shall be paid out of the Settlement Fund, and shall be timely paid by the Escrow Agent pursuant to the disbursement instructions to be set forth in the Escrow Agreement, and without further order of the Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with the previous paragraph and in all events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. The Defendants’ Releasees shall have no responsibility or liability for the acts or omissions of Lead Counsel or its agents with respect to the payment of Taxes, as described herein.

14. The Settlement is not a claims-made settlement. Upon the occurrence of the Effective Date, no Defendant, Defendants’ Releasee, 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 Claim 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.

15. Notwithstanding the fact that the Effective Date of the Settlement has not yet occurred, Lead Counsel may pay from the Settlement Fund, without further approval from Defendants or further order of the Court, all reasonable Notice and Administration Costs actually incurred and paid or payable. Such costs and expenses shall include, without limitation, the actual costs of printing and mailing the Notice, publishing the Summary Notice, reimbursements to nominee owners for forwarding the Notice to their beneficial owners, the administrative expenses incurred and fees charged by the Claims Administrator in connection with providing notice, administering the Settlement (including processing the submitted Claims), and the fees, if any, of the Escrow Agent. In the event that the Settlement is terminated pursuant to the terms of this Stipulation, all Notice and Administration Costs paid or incurred, including any related fees, shall not be returned or repaid to Defendants, any of the other Defendants' Releasees, or any other person or entity who or which paid any portion of the Settlement Amount. Plaintiffs, Lead Counsel, Defendants and Defendants' Counsel shall not bear any liability for Notice and Administration Costs.

**ATTORNEYS' FEES AND LITIGATION EXPENSES**

16. Lead Counsel will apply to the Court for a collective award of attorneys' fees to Plaintiffs' Counsel to be paid from (and out of) the Settlement Fund. Lead Counsel also will apply to the Court for reimbursement of Litigation Expenses, which may include a request for reimbursement of Plaintiffs' costs and expenses directly related to their representation of the Settlement Class, to be paid from (and out of) the Settlement Fund. Lead Counsel's application

for an award of attorneys' fees and/or Litigation Expenses is not the subject of any agreement between Defendants and Plaintiffs other than what is set forth in this Stipulation.

17. Any attorneys' fees and Litigation Expenses that are awarded by the Court shall be paid to Lead Counsel from the Settlement Fund, as ordered, immediately after the Court executes the Judgment and an order awarding such attorneys' fees and Litigation Expenses, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to Lead Counsel's obligation to make appropriate refunds or repayments to the Settlement Fund, plus accrued interest at the same net rate as is earned by the Settlement Fund, if the Effective Date does not occur, the Settlement is terminated pursuant to the terms of this Stipulation or if, as a result of any appeal or further proceedings on remand, or successful collateral attack, the award of attorneys' fees and/or Litigation Expenses is reduced or reversed and such order reducing or reversing the award has become Final. Lead Counsel shall make the appropriate refund or repayment in full no later than fifteen (15) business days after: (a) receiving from Defendants' Counsel notice of the termination of the Settlement; or (b) any order reducing or reversing the award of attorneys' fees and/or Litigation Expenses has become Final. An award of attorneys' fees and/or Litigation Expenses is not part of the Settlement set forth in this Stipulation, is not a necessary term of this Stipulation and is not a condition of the Settlement embodied herein. The procedure for and the allowance or disallowance by the Court of any application by Lead Counsel for attorneys' fees and Litigation Expenses or the reimbursement of Plaintiffs' costs and expenses directly related to their representation of the Settlement Class are to be considered separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement set forth in this Stipulation, and any order or proceeding relating to the attorneys' fees

and Litigation Expenses or any appeal from any order relating thereto or reversal or modification thereof shall not operate to terminate or cancel this Stipulation, or affect or delay the finality of the Judgment approving this Stipulation and the Settlement of the Action set forth therein. Neither Plaintiffs nor Lead Counsel may cancel or terminate the Settlement based on this Court's or any appellate court's ruling with respect to attorneys' fees and/or Litigation Expenses.

18. Lead Counsel shall allocate the attorneys' fees awarded amongst Plaintiffs' Counsel in a manner which it, in good faith, believes reflects the contributions of such counsel to the institution, prosecution and settlement of the Action. Defendants' Releasees shall have no responsibility for or liability whatsoever with respect to the allocation or award of attorneys' fees or Litigation Expenses. The attorneys' fees and Litigation Expenses that are awarded to Lead Counsel shall be payable solely from the Escrow Account.

#### **NOTICE AND SETTLEMENT ADMINISTRATION**

19. As part of the Preliminary Approval Order, Plaintiffs shall seek appointment of a Claims Administrator. The Claims Administrator, subject to such supervision and direction of Lead Counsel and the Court as may be necessary or as circumstances may require, shall administer the Settlement, including but not limited to the process of receiving, reviewing and approving or denying Claims, under Lead Counsel's supervision and subject to the jurisdiction of the Court. Other than ZBH's obligation to provide its securities holders' records as provided in ¶ 20 below, none of the Defendants, nor any other Defendants' Releasees shall have any involvement in or any responsibility, authority or liability whatsoever for the selection of the Claims Administrator, the Plan of Allocation, the administration of the Settlement, the Claims process, or disbursement of the Net Settlement Fund, and shall have no liability whatsoever to any person or entity, including, but not limited to, Plaintiffs, any other Settlement Class

Members or Lead Counsel in connection with the foregoing. Defendants' Counsel shall cooperate in the administration of the Settlement to the extent reasonably necessary to effectuate its terms.

20. In accordance with the terms of the Preliminary Approval Order to be entered by the Court, Lead Counsel shall cause the Claims Administrator to mail the Notice and Proof of Claim Form to those members of the Settlement Class as may be identified through reasonable effort. Lead Counsel shall also cause the Claims Administrator to have the Summary Notice published in accordance with the terms of the Preliminary Approval Order to be entered by the Court. It shall solely be Lead 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 to Defendants' Releasees with respect to any claims they may have that arise from any alleged failure of the notice process. For the purposes of identifying and providing notice to the Settlement Class, within ten (10) business days of the date of entry of the Preliminary Approval Order, ZBH shall provide or cause to be provided to the Claims Administrator in electronic format (at no cost to the Settlement Fund, Lead Counsel or the Claims Administrator) its security lists (consisting of names and addresses) of the holders of the ZBH Securities during the Settlement Class Period.

21. The Claims Administrator shall receive Claims and determine first, whether the Claim is a valid and timely Claim, in whole or part, and second, each Authorized Claimant's *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant's Recognized Claim compared to the total Recognized Claims of all Authorized Claimants (as set forth in the Plan of Allocation set forth in the Notice attached hereto as Exhibit 1 to Exhibit A, or in such other plan of allocation as the Court approves).

22. The Plan of Allocation proposed in the Notice is not a necessary term of the Settlement or of this Stipulation, and it is not a condition of the Settlement or of this Stipulation that any particular plan of allocation be approved by the Court. Plaintiffs and Lead Counsel may not cancel or terminate the Settlement (or this Stipulation) based on this Court's or any appellate court's ruling with respect to the Plan of Allocation or any other plan of allocation in this Action. Defendants and the other Defendants' Releasees shall not object in any way to the Plan of Allocation or any other plan of allocation in this Action. No Defendant, nor any other Defendants' Releasees, shall have any involvement with or liability, obligation or responsibility whatsoever for the application of the Court-approved plan of allocation.

23. Any Settlement Class Member who does not submit a valid and timely Claim Form within such period as may be order by the Court, or otherwise allowed, will not be entitled to receive any distribution from the Net Settlement Fund, but will otherwise be bound by all of the terms of this Stipulation and Settlement, including the terms of the Judgment or, the Alternate Judgment, if applicable, to be entered in the Action and the releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action, claim, or other proceeding of any kind against the Defendants' Releasees with respect to the Released Plaintiffs' Claims in the event that the Effective Date occurs with respect to the Settlement.

24. Lead Counsel shall be responsible for supervising the administration of the Settlement and the disbursement of the Net Settlement Fund subject to Court approval. No Defendant, or any other Defendants' Releasees, shall be permitted to review, contest or object to any Claim Form, or any decision of the Claims Administrator or Lead Counsel with respect to accepting or rejecting any Claim for payment by a Settlement Class Member. Lead Counsel

shall have the right, but not the obligation, to waive what it deems to be formal or technical defects in any Claim Forms submitted in the interests of achieving substantial justice.

25. For purposes of determining the extent, if any, to which a Settlement Class Member shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:

(a) Each Settlement Class Member shall be required to submit a Claim Form, substantially in the form attached hereto as Exhibit 2 to Exhibit A, supported by such documents as are designated therein, including proof of the Claimant's loss, or such other documents or proof as the Claims Administrator or Lead Counsel, in their discretion, may deem acceptable;

(b) All Claim Forms must be submitted by the date set by the Court in the Preliminary Approval Order and specified in the Notice. Any Settlement Class Member who fails to submit a Claim Form by such date shall be forever barred from receiving any distribution from the Net Settlement Fund or payment pursuant to this Stipulation (unless by Order of the Court such Settlement Class Member's Claim Form is accepted), but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment or Alternate Judgment, if applicable, and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action, claim or other proceeding of any kind against any Defendants' Releasees with respect to any Released Plaintiffs' Claim. Provided that it is mailed or submitted online by the claim-submission deadline, a Claim Form shall be deemed to be submitted when postmarked, if received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in accordance with the instructions thereon. In all other cases, the Claim Form shall be deemed to have been submitted on the date when actually received by the Claims Administrator;



(c) Each Claim Form shall be submitted to and reviewed by the Claims Administrator who shall determine in accordance with this Stipulation and the plan of allocation the extent, if any, to which each Claim shall be allowed, subject to review by the Court pursuant to subparagraph (e) below as necessary;

(d) Claim Forms that do not meet the submission requirements may be rejected. Prior to rejecting a Claim 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 Claim Form submitted. The Claims Administrator shall notify, in a timely fashion and in writing, all Claimants whose Claim the Claims Administrator proposes to reject in whole or in part, 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 subparagraph (e) below; and

(e) If any Claimant whose Claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) days after the date of mailing of the notice required in subparagraph (d) above, 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, Lead Counsel shall thereafter present the request for review to the Court.

26. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the Claimant's Claim, and the Claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided, however, that such investigation and discovery shall be limited to that Claimant's status as a Settlement Class Member and the

validity and amount of the Claimant's Claim. No discovery shall be allowed on the merits of this Action or of the Settlement in connection with the processing of Claim Forms.

27. Lead Counsel will apply to the Court, on notice to Defendants' Counsel, for a Class Distribution Order: (a) approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the Claims submitted; (b) approving payment of any administration fees and expenses associated with the administration of the Settlement from the Escrow Account; and (c) if the Effective Date has occurred, directing payment of the Net Settlement Fund to Authorized Claimants from the Escrow Account.

28. Payment pursuant to the Class Distribution Order shall be final and conclusive against all Settlement Class Members. All Settlement Class Members whose Claims are not approved by the Court for payment shall be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment or Alternate Judgment, if applicable, to be entered in this Action and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action against any and all Defendants' Releasees with respect to any and all of the Released Plaintiffs' Claims.

29. No person or entity shall have any claim against Plaintiffs, Lead Counsel, the Claims Administrator or any other agent designated by Lead Counsel, or the Defendants' Releasees and/or their respective counsel, arising from distributions made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or any order of the Court. Plaintiffs and Defendants, and their respective counsel, and Plaintiffs' damages expert and all other Releasees shall have no liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund, the plan of allocation, or the determination,

administration, calculation, or payment of any claim or nonperformance of the Claims Administrator, the payment or withholding of Taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

30. 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. All Settlement Class Members 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.

#### **TERMS OF THE JUDGMENT**

31. If the Settlement contemplated by this Stipulation is approved by the Court, Lead Counsel and Defendants' Counsel shall request that the Court enter a Judgment, substantially in the form attached hereto as Exhibit B.

#### **CONDITIONS OF SETTLEMENT AND EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION**

32. The Effective Date of the Settlement shall be deemed to occur on the occurrence or waiver of all of the following events:

(a) the Court has entered the Preliminary Approval Order, substantially in the form set forth in Exhibit A attached hereto, as required by ¶ 3 above;

(b) the Settlement Amount has been deposited into the Escrow Account in accordance with the provisions of ¶ 8 above;

(c) Defendants have not exercised their option to terminate the Settlement pursuant to the provisions of this Stipulation (including the Supplemental Agreement described in ¶ 36 below), and the time to do so has expired;

(d) Plaintiffs have not exercised their option to terminate the Settlement pursuant to the provisions of this Stipulation, and the time to do so has expired; and

(e) the Court has approved the Settlement as described herein, following notice to the Settlement Class and a hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure, and entered the Judgment and the Judgment has become Final, or the Court has entered an Alternate Judgment and none of the Parties seek to terminate the Settlement and the Alternate Judgment has become Final.

33. Upon the occurrence of all of the events referenced in ¶ 32 above, any and all remaining interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished and the Releases herein shall be effective.

34. If (i) Defendants exercise their right to terminate the Settlement as provided in this Stipulation; (ii) Plaintiffs exercise their right to terminate the Settlement as provided in this Stipulation; (iii) the Court disapproves the Settlement; or (iv) the Effective Date as to the Settlement otherwise fails to occur, then:

(a) The Settlement and the relevant portions of this Stipulation shall be canceled and terminated.

(b) Plaintiffs and Defendants shall revert to their respective positions in the Action as of December 12, 2019.

(c) The terms and provisions of this Stipulation, with the exception of this ¶ 34 and ¶¶ 15, 17, 37 and 58, shall have no further force and effect with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose, and any Judgment, or Alternate Judgment, if applicable, or order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*.

(d) Within five (5) business days after joint written notification of termination is sent by Defendants' Counsel and Lead Counsel to the Escrow Agent, the Settlement Fund (including accrued interest thereon and any funds received by Lead Counsel consistent with ¶ 17 above), 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 Agent to Defendants (or such other persons or entities as Defendants may direct). In the event that the funds received by Lead Counsel consistent with ¶ 17 above have not been refunded to the Settlement Fund within the five (5) business days specified in this paragraph, those funds shall be refunded by the Escrow Agent to Defendants (or such other persons or entities as Defendants may direct) immediately upon their deposit into the Escrow Account consistent with ¶ 17 above. Lead Counsel or its designee shall apply for any tax refund owed on the Settlement Amount and pay the proceeds, after deduction of any reasonable fees or expenses incurred in connection with such application(s) for refund, pursuant to written instructions from Defendants' counsel.

35. It is further stipulated and agreed that Plaintiffs, provided they unanimously agree, and ZBH shall each have the right to terminate the Settlement and this Stipulation, by providing written notice of their election to do so ("Termination Notice") to the other Parties to this Stipulation within thirty (30) days of: (a) the Court's final refusal to enter the Preliminary Approval Order in any material respect; (b) the Court's final refusal to approve the Settlement or any material part thereof; (c) the Court's final refusal to enter the Judgment in any material respect as to the Settlement; (d) the date upon which the Judgment is modified or reversed in any material respect by the United States Court of Appeals for the Seventh Circuit or the United States Supreme Court; or (e) the date upon which an Alternate Judgment is modified or reversed in any material respect by the United States Court of Appeals for the Seventh Circuit or the

United States Supreme Court, and the provisions of ¶ 34 above shall apply. However, any decision or proceeding, whether in this Court or any appellate court, with respect to an application for attorneys' fees or reimbursement of Litigation Expenses or with respect to any plan of allocation shall not be considered material to the Settlement, shall not affect the finality of any Judgment or Alternate Judgment, if applicable, and shall not be grounds for termination of the Settlement.

36. In addition to the grounds set forth in ¶ 35 above, ZBH shall have the unilateral right to terminate the Settlement and render it null and void in the event that Settlement Class Members timely and validly requesting exclusion from the Settlement Class meet the conditions set forth in ZBH's confidential supplemental agreement with Plaintiffs (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 manner (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 Plaintiffs and ZBH concerning its interpretation or application, in which event the Parties shall submit the Supplemental Agreement to the Court *in camera* and/or filed under seal and request that the Court afford it confidential treatment.

**NO ADMISSION OF WRONGDOING**

37. 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), nor 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 Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Defendants' Releasees 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 Defendants' Releasees or in any way referred to for any other reason as against any of the Defendants' Releasees, 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 Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession or admission by any of the Plaintiffs' Releasees that any of their claims are without merit, that any of the Defendants' Releasees had meritorious defenses, or that damages recoverable under any complaint filed in this Action, including the CAC, the SAC and the Operative 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 Plaintiffs' Releasees, 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 Releasees 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 Releasees 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.

### **MISCELLANEOUS PROVISIONS**

38. All of the exhibits attached hereto and the Supplemental Agreement are material and integral parts hereof and are hereby incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, in the event that there exists a conflict or inconsistency between the terms of this Stipulation and the terms of any exhibit attached hereto, the terms of the Stipulation shall prevail.

39. In the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf of Defendants to be a preference, voidable transfer, fraudulent transfer or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited into the Settlement Fund by others, then, at the election of Plaintiffs, Plaintiffs and Defendants shall jointly move the Court to vacate and set aside the Releases given and the Judgment or Alternate Judgment, if applicable, entered in favor of Defendants and the other Releasees pursuant to this Stipulation. In the event such motion to vacate is granted, the releases and Judgment, or Alternate Judgment, if applicable, shall be null and void, and the Parties shall be restored to their respective positions in the litigation as provided in ¶ 34 above and any cash amounts in the Settlement Fund (less any Taxes paid, due or owing with respect to the Settlement Fund and less any Notice and Administration Costs actually incurred, paid or payable) shall be returned as provided in ¶ 34.



40. For the avoidance of doubt, each Plaintiffs' Releasee and Defendants' Releasee that is not a party hereto is an intended third-party beneficiary of the relevant Releases in this Stipulation. Each Plaintiffs' Releasee and Defendants' Releasee has standing to enforce the relevant Releases in this Stipulation, and may file this Stipulation and/or the Judgment from this Action in any other action that may be 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 reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

41. For the avoidance of doubt, and notwithstanding any other provisions of this Stipulation that could otherwise be construed or argued to impose such obligations or liabilities, this Stipulation does not impose on the Individual Defendants or the PE Defendants or the Underwriter Defendants (a) any obligation to pay the Settlement Amount, or any part thereof, or (b) any liability to Plaintiffs or any other Settlement Class Members to pay damages for or in connection with any alleged breach of this Stipulation in the event that the Settlement Amount or any part thereof, has not been paid in the time period provided for in ¶ 8 above.

42. The Parties intend this Stipulation and the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by Plaintiffs and any other Settlement Class Members against the Defendants' Releasees with respect to the Released Plaintiffs' Claims. Accordingly, Plaintiffs and their counsel and Defendants and their counsel agree not to assert in any forum that this Action was brought by Plaintiffs or defended by Defendants in bad faith or without a reasonable basis. No Party shall assert any claims of any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the institution, prosecution, defense, or settlement of this Action. The Parties agree that the amounts paid and

the other terms of the Settlement were negotiated at arm's-length and in good faith by the Parties, including through a mediation process supervised and conducted by Judge Weinstein and Mr. Melnick, and reflect the Settlement that was reached voluntarily after extensive negotiations and consultation with experienced legal counsel, who were fully competent to assess the strengths and weaknesses of their respective clients' claims or defenses.

43. While retaining their right to deny that the claims asserted in the Action were meritorious, Defendants and their counsel, in any statement made to any media representative (whether or not for attribution) will not assert that the Action was commenced or prosecuted in bad faith, nor will they deny that the Action was commenced and prosecuted in good faith and is being settled voluntarily after consultation with competent legal counsel. In all events, Plaintiffs and their counsel and Defendants and their counsel shall not make any accusations of wrongful or actionable conduct by either Party concerning the prosecution, defense, and resolution of the Action, and shall not otherwise suggest that the Settlement constitutes an admission of any claim or defense alleged.

44. The terms of the Settlement, as reflected in this Stipulation, may not be modified or amended, nor may any of its provisions be waived except by a writing signed on behalf of both Plaintiffs and Defendants (or their successors-in-interest).

45. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

46. The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and Litigation Expenses to Lead Counsel and enforcing the terms of this Stipulation, including the Plan of Allocation (or

such other plan of allocation as may be approved by the Court) and the distribution of the Net Settlement Fund to Settlement Class Members.

47. The waiver by one Party of any breach of this Stipulation by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

48. This Stipulation and its exhibits and the Supplemental Agreement constitute the entire agreement among Plaintiffs and Defendants concerning the Settlement and this Stipulation and its exhibits. All Parties acknowledge that no other agreements, representations, warranties, or inducements have been made by any Party hereto concerning this Stipulation, its exhibits or the Supplemental Agreement other than those contained and memorialized in such documents.

49. This Stipulation may be executed in one or more counterparts, including by signature transmitted via facsimile, or by a .pdf/.tif image of the signature transmitted via email. Signatures sent by facsimile or pdf'd via e-mail shall be deemed originals. All executed counterparts and each of them shall be deemed to be one and the same instrument.

50. This Stipulation shall be binding upon and inure to the benefit of the successors and assigns of the Parties, including any and all Releasees and any corporation, partnership, or other entity into or with which any Party hereto may merge, consolidate or reorganize.

51. The construction, interpretation, operation, effect and validity of this Stipulation, the Supplemental Agreement and all documents necessary to effectuate it shall be governed by the internal laws of the State of Indiana without regard to conflicts of laws, except to the extent that federal law requires that federal law govern.

52. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Stipulation, and -any action arising under or to enforce this Stipulation or any portion thereof, shall be commenced and maintained only in the Court.

53. This Stipulation shall not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties, it being recognized that it is the result of arm's-length negotiations between the Parties and all Parties have contributed substantially and materially to the preparation of this Stipulation.

54. All counsel and any other person executing this Stipulation and any of the exhibits hereto, or any related Settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

55. Lead Counsel and Defendants' Counsel agree to cooperate fully with one another in seeking Court approval of the Preliminary Approval Order and the Settlement, as embodied in this Stipulation, and to use best efforts to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement. Pending approval of the Court of this Stipulation and its Exhibits, all proceedings in this Action shall be stayed, and all Settlement Class Members shall be barred and enjoined from prosecuting any of Plaintiffs' Released Claims against any of Defendants' Releasees.

56. 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 Plaintiffs or Lead Counsel:

Glancy Prongay & Murray LLP  
Attn: Kara M. Wolke, Esq.  
1925 Century Park East, Suite 2100  
Los Angeles, California 90067  
Telephone: (310) 201-9150  
Email: kwolke@glancylaw.com

If to Defendants:

Morgan Lewis & Bockius LLP  
Attn: Troy S. Brown, Esq.  
1701 Market Street  
Philadelphia, PA 19103  
Telephone: (215) 963-5000  
Email: troy.brown@morganlewis.com

57. Except as otherwise provided herein, each Party shall bear its own costs.

58. Whether or not the Stipulation is approved by the Court and whether or not the Stipulation is consummated, or the Effective Date occurs, the Parties and their counsel shall use their best efforts to keep all negotiations, discussions, acts performed, agreements, drafts, documents signed and proceedings in connection with the Stipulation confidential.

59. All agreements made and orders entered during the course of this Action relating to the confidentiality of information shall survive this Settlement.

60. No opinion or advice concerning the tax consequences of the proposed Settlement to individual Settlement Class Members is being given or will be given by the Parties or their counsel; nor is any representation or warranty in this regard made by virtue of this Stipulation. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.

**NOTICE AS REQUIRED BY CAFA**

61. Defendants shall be responsible for timely service of any notices that might be required pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715 ("CAFA"). Defendants shall provide a copy of such notices as well as proof of service of such notices to Lead Counsel. In accordance with 28 U.S.C. § 1715(d), the Settlement Hearing shall not be held earlier than

ninety (90) days after any such requisite notices are served. Defendants shall bear all cost and expenses associated with providing CAFA notice.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Stipulation to be executed, by their duly authorized attorneys, as of April 14, 2020.

**GLANCY PRONGAY & MURRAY LLP**

By: 

Kara M. Wolke  
Robert V. Prongay  
Jason L. Krajcer  
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***Lead Counsel for Plaintiffs  
and the Settlement Class***

**MORGAN LEWIS & BOCKIUS LLP**



By: \_\_\_\_\_  
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***Counsel for Defendants***

**Exhibit A**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

RAJESH M. SHAH, *et al.*,

Plaintiffs,

v.

ZIMMER BIOMET HOLDINGS, INC., *et al.*,

Defendants.

Case No.: 3:16-cv-00815-PPS-MGG

Honorable Philip P. Simon

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

WHEREAS, a consolidated class action is pending in this Court entitled *Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*, Case No. 3:16-CV-000815 (the “Action”);

WHEREAS, (a) Lead Plaintiffs Rajesh M. Shah and Matt Brierley (“Lead Plaintiffs”), and additional plaintiffs UFCW Local 1500 and Steven Castillo (together with Lead Plaintiffs, “Plaintiffs”), on behalf of themselves and the Settlement Class (defined below), and (b) defendant Zimmer Biomet Holdings, Inc. (“ZBH”), defendants David C. Dvorak, Daniel P. Florin, Robert J. Marshall Jr., Tony W. Collins (collectively the “Officer Defendants”), and defendants Christopher B. Begley, Betsy J. Bernard, Paul M. Bisaro, Gail K. Boudreaux, Michael J. Farrell, Larry Glasscock, Robert A. Hagemann, Arthur J. Higgins, Michael W. Michelson, Cecil B. Pickett, Ph.D., Jeffrey K. Rhodes (collectively, together with the Officer Defendants, the “Individual Defendants,” and, together with ZBH and the Officer Defendants, the “Defendants”; and together with Plaintiffs, the “Parties”) have determined to settle all claims asserted against Defendants in this Action with prejudice on the terms and conditions set forth in

the Stipulation and Agreement of Settlement dated April 14, 2020 (the “Stipulation”) subject to approval of this Court (the “Settlement”);

WHEREAS, Plaintiffs have made an application, pursuant to Rule 23 of the Federal Rules of Civil Procedure, for an order preliminarily approving the Settlement in accordance with the Stipulation, certifying the Settlement Class for purposes of the Settlement only, and allowing notice to Settlement Class Members as more fully described herein;

WHEREAS, the Court has read and considered: (a) Plaintiffs’ motion for preliminary approval of the Settlement, and the papers filed and arguments made in connection therewith; and (b) the Stipulation and the exhibits attached thereto; and

WHEREAS, unless otherwise defined herein, all capitalized words contained herein shall have the same meanings as they have in the Stipulation;

NOW THEREFORE, IT IS HEREBY ORDERED:

1. **Class Certification for Settlement Purposes** – Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure, the Court certifies, solely for purposes of effectuating the proposed Settlement, a Settlement Class consisting of all persons or entities who, between June 7, 2016 and November 7, 2016, inclusive (the “Settlement Class Period”), purchased or otherwise acquired ZBH Common Stock and/or Call Options, and/or wrote ZBH Put Options, and were damaged thereby. Included in the Settlement Class are all persons or entities who purchased or otherwise acquired ZBH common stock pursuant to and/or traceable to ZBH’s public offering on or around June 13, 2016 and/or ZBH’s public offering on or around August 9, 2016 and were damaged thereby. Excluded from the Settlement Class are: (i) Defendants, the PE Defendants, and the Underwriter Defendants; (ii) members of the Immediate Families of each of the Individual Defendants; (iii) the parents, subsidiaries, assigns, successors and predecessors



of ZBH, the PE Defendants, and the Underwriter Defendants; (iv) any persons who served as partners, control persons, officers, and/or directors of ZBH, the PE Defendants, and the Underwriter Defendants during the Settlement Class Period and/or at any other relevant time; (v) Defendants' liability insurance carriers; (vi) any firm, trust, corporation, or other entity in which any Defendant, Underwriter Defendant or PE Defendant has or had a controlling interest; and (vii) the legal representatives, heirs, successors-in-interest or assigns of any such excluded party; *provided, however*, that any Investment Vehicle shall not be excluded from the Settlement Class. Also excluded from the Settlement Class are any persons or entities who or which exclude themselves by submitting a request for exclusion that is accepted by the Court.

2. **Class Findings** – Solely for purposes of the proposed Settlement of this Action, the Court finds that each element required for certification of the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure has been met: (a) the members of the Settlement Class are so numerous that their joinder in the Action would be impracticable; (b) there are questions of law and fact common to the Settlement Class which predominate over any individual questions; (c) the claims of Plaintiffs in the Action are typical of the claims of the Settlement Class; (d) Plaintiffs and Lead Counsel have and will fairly and adequately represent and protect the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the Action.

3. The Court hereby finds and concludes that pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, Lead Plaintiffs Rajesh M. Shah and Matt Brierley and additional plaintiffs UFCW Local 1500 and Steven Castillo are adequate class representatives and certifies them as Class Representatives for the Settlement

Class. The Court also appoints Lead Counsel as Class Counsel for the Settlement Class, pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

4. **Preliminary Approval of the Settlement** – The Court hereby preliminarily approves the Settlement, as embodied in the Stipulation, as being fair, reasonable and adequate to the Settlement Class, subject to further consideration at the Settlement Hearing to be conducted as described below.

5. **Settlement Hearing** – The Court will hold a settlement hearing (the “Settlement Hearing”) on \_\_\_\_\_, 2020 at \_\_:\_\_ .m. in Courtroom 4 of the United States Courthouse, 5400 Federal Plaza, Hammond, IN 46320, for the following purposes: (a) to determine whether the proposed Settlement 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; (b) to determine whether a Judgment substantially in the form attached as Exhibit B to the Stipulation should be entered dismissing the Action with prejudice against Defendants; (c) to determine whether the proposed Plan of Allocation for the proceeds of the Settlement is fair and reasonable and should be approved; (d) to determine whether the motion by Lead Counsel for an award of attorneys’ fees and reimbursement of Litigation Expenses should be approved; and (e) to consider any other matters that may properly be brought before the Court in connection with the Settlement. Notice of the Settlement and the Settlement Hearing shall be given to Settlement Class Members as set forth in paragraph 7 of this Order.

6. The Court may adjourn the Settlement Hearing without further notice to the Settlement Class, and may approve the proposed Settlement with such modifications as the Parties may agree to, if appropriate, without further notice to the Settlement Class.

7. **Retention of Claims Administrator and Manner of Giving Notice** – Lead Counsel is hereby authorized to retain JND Legal Administration (the “Claims Administrator”) to supervise and administer the notice procedure in connection with the proposed Settlement as well as the processing of Claims as more fully set forth below. Notice of the Settlement and the Settlement Hearing shall be given by Lead Counsel as follows:

(a) within ten (10) business days of the date of entry of this Order, ZBH shall provide or cause to be provided to the Claims Administrator in electronic format (at no cost to the Settlement Fund, Lead Counsel or the Claims Administrator) its security lists (consisting of names and addresses) of the holders of the ZBH Securities during the Settlement Class Period;

(b) not later than twenty (20) business days after the date of entry of this Order (the “Notice Date”), the Claims Administrator shall cause a copy of the Notice and the Claim Form, substantially in the forms attached hereto as Exhibits 1 and 2, respectively (the “Notice Packet”), to be mailed by first-class mail to potential Settlement Class Members at the addresses set forth in the records provided by ZBH or in the records which ZBH caused to be provided, or who otherwise may be identified through further reasonable effort;

(c) contemporaneously with the mailing of the Notice Packet, the Claims Administrator shall cause copies of the Notice and the Claim Form to be posted on a website to be developed for the Settlement, from which copies of the Notice and Claim Form can be downloaded;

(d) not later than ten (10) business days after the Notice Date, the Claims Administrator shall cause the Summary Notice, substantially in the form attached hereto as Exhibit 3, to be published once in *Investor’s Business Daily* and to be transmitted once over the *PR Newswire*; and

(e) not later than seven (7) calendar days prior to the Settlement Hearing, Lead Counsel shall serve on Defendants' Counsel and file with the Court proof, by affidavit or declaration, of such mailing and publication.

8. **Approval of Form and Content of Notice** – The Court (a) approves, as to form and content, the Notice, the Claim Form, and the Summary Notice, attached hereto as Exhibits 1, 2, and 3, respectively, and (b) finds that the mailing and distribution of the Notice and Claim Form and the publication of the Summary Notice in the manner and form set forth in paragraph 7 of this Order (i) is the best notice practicable under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, of the effect of the proposed Settlement (including the Releases to be provided thereunder), of Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses, of their right to object to the Settlement, the Plan of Allocation and/or Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses, of their right to exclude themselves from the Settlement Class, and of their right to appear at the Settlement Hearing; (iii) constitutes due, adequate and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995, 15 U.S.C. §§ 77z-1(a)(7), 78u-4(a)(7), and all other applicable law and rules. The date and time of the Settlement Hearing shall be included in the Notice and Summary Notice before they are mailed and published, respectively.

9. **Nominee Procedures** – Brokers and other nominees who purchased or otherwise acquired ZBH Securities during the Settlement Class Period for the benefit of another person or

entity shall: (a) within seven (7) calendar days of receipt of the Notice, request from the Claims Administrator sufficient copies of the Notice Packet to forward to all such beneficial owners and within seven (7) calendar days of receipt of those Notice Packets forward them to all such beneficial owners; or (b) within seven (7) calendar days of receipt of the Notice, send a list of the names and addresses of all such beneficial owners to the Claims Administrator in which event the Claims Administrator shall promptly mail the Notice Packet to such beneficial owners. Upon full compliance with this Order, such nominees may seek reimbursement of their reasonable expenses actually incurred in complying with this Order, up to a maximum of \$0.50 per Notice Packet if the Notice Packet is mailed by the broker or nominee; or \$0.05 per Notice Packet transmitted by email by the broker or nominee; or \$0.10 per name, mailing address, and email address (to the extent available), by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Such properly documented expenses incurred by nominees in compliance with the terms of this Order shall be paid from the Settlement Fund, with any disputes as to the reasonableness or documentation of expenses incurred subject to review by the Court.

10. **Participation in the Settlement** – Settlement Class Members who wish to participate in the Settlement and to be eligible to receive a distribution from the Net Settlement Fund must complete and submit a Claim Form in accordance with the instructions contained therein. Unless the Court orders otherwise, all Claim Forms must be postmarked no later than one hundred twenty (120) calendar days after the Notice Date. Notwithstanding the foregoing, Lead Counsel may, at its discretion, accept for processing late Claims provided such acceptance does not delay the distribution of the Net Settlement Fund to the Settlement Class. By

submitting a Claim, a person or entity shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its Claim and the subject matter of the Settlement.

11. Each Claim Form submitted must satisfy the following conditions: (a) it must be properly completed, signed and submitted in a timely manner in accordance with the provisions of the preceding paragraph; (b) it must be accompanied by adequate supporting documentation for the transactions and holdings reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional and holding information found in a broker confirmation slip or account statement, or such other documentation as is deemed adequate by Lead Counsel or the Claims Administrator; (c) if the person executing the Claim Form is acting in a representative capacity, a certification of his, her or its current authority to act on behalf of the Settlement Class Member must be included in the Claim Form to the satisfaction of Lead Counsel or the Claims Administrator; and (d) the Claim Form must be complete and contain no material deletions or modifications of any of the printed matter contained therein and must be signed under penalty of perjury.

12. Any Settlement Class Member that does not timely and validly submit a Claim Form or whose Claim is not otherwise approved by the Court: (a) shall be deemed to have waived his, her or its right to share in the Net Settlement Fund; (b) shall be forever barred from participating in any distributions therefrom; (c) shall be bound by the provisions of the Stipulation and the Settlement and all proceedings, determinations, orders and judgments in the Action relating thereto, including, without limitation, 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, instituting, prosecuting or continuing to prosecute any of the Released Plaintiffs' Claims against each and all of the Defendants'

Releasees, as more fully described in the Stipulation and Notice. Notwithstanding the foregoing, late Claim Forms may be accepted for processing as set forth in paragraph 10 above.

13. **Exclusion From the Settlement Class** – Any member of the Settlement Class who wishes to exclude himself, herself or itself from the Settlement Class must request exclusion in writing within the time and in the manner set forth in the Notice, which shall provide that: (a) any such request for exclusion from the Settlement Class must be mailed or delivered such that it is received no later than twenty-one (21) calendar days prior to the Settlement Hearing, to: *Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*, EXCLUSIONS, c/o JND Legal Administration, P.O. Box 91367, Seattle, WA 98111, and (b) each request for exclusion must (i) state the name, address, and telephone number of the person or entity requesting exclusion, and in the case of entities, the name and telephone number of the appropriate contact person; (ii) state that such person or entity “requests exclusion from the Settlement Class in *Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*, Case No. 3:16-CV-00815”; (iii) state the number of shares of ZBH Common Stock, ZBH Call Options, and/or ZBH Put Options that the person or entity requesting exclusion purchased/acquired and/or sold during the Settlement Class Period, as well as the dates and prices of each such purchase/acquisition and sale; and (iv) be signed by the person or entity requesting exclusion or an authorized representative. A request for exclusion shall not be effective unless it provides all the required information and is received within the time stated above, or is otherwise accepted by the Court.

14. Any person or entity who or which timely and validly requests exclusion in compliance with the terms stated in this Order and is excluded from the Settlement Class shall not be a Settlement Class Member, shall not be bound by the terms of the Settlement or any

orders or judgments in the Action and shall not receive any payment out of the Net Settlement Fund.

15. 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 Action, 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, instituting, prosecuting or continuing to prosecute any of the Released Plaintiffs' Claims against any of the Defendants' Releasees, as more fully described in the Stipulation and Notice.

16. **Appearance and Objections at Settlement Hearing** – Any Settlement Class Member who does not request exclusion from the Settlement Class may enter an appearance in the Action, at his, her or its own expense, individually or through counsel of his, her or its own choice, by filing with the Clerk of Court and delivering a notice of appearance to both Lead Counsel and Defendants' Counsel, at the addresses set forth in paragraph 17 below, such that it is received no later than twenty-one (21) calendar days prior to the Settlement Hearing, or as the Court may otherwise direct. Any Settlement Class Member who does not enter an appearance will be represented by Lead Counsel.

17. Any Settlement Class Member who does not request exclusion from the Settlement Class may file a written objection to the proposed Settlement, the proposed Plan of Allocation, and/or Lead Counsel's motion for an award of attorneys' fees and reimbursement of



Litigation Expenses and appear and show cause, if he, she or it has any cause, why the proposed Settlement, the proposed Plan of Allocation and/or Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses should not be approved; *provided, however*, that no Settlement Class Member shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement, the proposed Plan of Allocation and/or the motion for attorneys' fees and reimbursement of Litigation Expenses unless that person or entity has filed a written objection with the Court and served copies of such objection on Lead Counsel and Defendants' Counsel at the addresses set forth below such that they are received no later than twenty-one (21) calendar days prior to the Settlement Hearing.

**Lead Counsel**

Glancy Prongay & Murray LLP  
Kara M. Wolke, Esq.  
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Los Angeles, California 90067  
Email: kwolke@glancylaw.com

**Defendants' Counsel**

Morgan Lewis & Bockius LLP  
Troy S. Brown, Esq.  
1701 Market Street  
Philadelphia, PA  
Email: troy.brown@morganlewis.com

18. Any objections, filings and other submissions by the objecting Settlement Class Member: (a) must state the name, address, and telephone number of the person or entity objecting and must be signed by the objector; (b) must clearly identify the case name and number (*Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*, Case No. 3:16-CV-00815); (c) must contain a statement of the Settlement Class Member's objection or objections, and the specific reasons for each objection, including any legal and evidentiary support the Settlement Class Member wishes to bring to the Court's attention; and (d) must include documents sufficient to prove membership in the Settlement Class, including the number of shares of ZBH Common Stock, ZBH Call Options, and/or ZBH Put Options that the objecting Settlement Class Member purchased/acquired and/or sold during the Settlement Class Period, as well as the dates and

prices of each such purchase/acquisition and sale. By submitting an objection, a person or entity shall be deemed to have submitted to the jurisdiction of the Court and may be subject to discovery with respect to his, her or its objection. Objectors who enter an appearance and desire to present evidence at the Settlement Hearing in support of their objection must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and any exhibits they intend to introduce into evidence at the hearing.

19. Any Settlement Class Member who or which does not make his, her or its objection in the manner provided herein shall be deemed to have waived his, her or its right to object to any aspect of the proposed Settlement, the proposed Plan of Allocation, and Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses and shall be forever barred and foreclosed from objecting to the fairness, reasonableness or adequacy of the Settlement, the Plan of Allocation or the requested attorneys' fees and Litigation Expenses, or from otherwise being heard concerning the Settlement, the Plan of Allocation or the requested attorneys' fees and Litigation Expenses in this or any other proceeding.

20. **Stay and Temporary Injunction** – Until otherwise ordered by the Court, the Court stays all proceedings in the Action other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation. Pending final determination of whether the Settlement should be approved, the Court bars and enjoins Plaintiffs, and all other members of the Settlement Class, from commencing, instituting, prosecuting or continuing to prosecute any and all of the Released Plaintiffs' Claims against each and all of the Defendants' Releases.

21. **Settlement Administration Fees and Expenses** – All reasonable costs incurred in identifying Settlement Class Members and notifying them of the Settlement as well as in

administering the Settlement shall be paid as set forth in the Stipulation without further order of the Court.

22. **Settlement Fund** – The contents of the Settlement Fund held by Huntington National Bank (which the Court approves as 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 they shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

23. **Taxes** – Lead 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.

24. **Termination of Settlement** – If the Settlement is terminated as provided in the Stipulation, the Settlement is not approved, or the Effective Date of the Settlement otherwise fails to occur, this Order shall be vacated, rendered null and void and be of no further force and effect, except as otherwise provided by the Stipulation, and this Order shall be without prejudice to the rights of Plaintiffs, the other Settlement Class Members and Defendants, and the Parties shall revert to their respective positions in the Action as of December 12, 2019, as provided in the Stipulation.

25. **Use of this Order** – Neither this Order, term sheet, the Stipulation (whether or not consummated), including the exhibits thereto 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 the Stipulation, nor any proceedings taken pursuant to or in connection with the

Stipulation and/or approval of the Settlement (including any arguments proffered in connection therewith): (a) shall be offered against any of the Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Defendants' Releasees 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 Defendants' Releasees or in any way referred to for any other reason as against any of the Defendants' Releasees, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; (b) shall be offered against any of the Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession or admission by any of the Plaintiffs' Releasees that any of their claims are without merit, that any of the Defendants' Releasees 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 Plaintiffs' Releasees, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; or (c) shall be construed against any of the Releasees as an admission, concession, or presumption that the consideration to be given under the Settlement represents the amount which could be or would have been recovered after trial; *provided, however*, that if the Stipulation is approved by the Court, the Parties and the Releasees and their respective counsel may refer to it to effectuate the protections from liability granted thereunder or otherwise to enforce the terms of the Settlement.

26. **Supporting Papers** – Lead Counsel shall file and serve the opening papers in support of the proposed Settlement, the Plan of Allocation, and Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of Litigation Expenses no later than thirty-five (35) calendar days prior to the Settlement Hearing; and reply papers, if any, shall be filed and served no later than seven (7) calendar days prior to the Settlement Hearing.

27. The Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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The Honorable Philip P. Simon  
United States District Judge

Exhibit A-1

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

RAJESH M. SHAH, *et al.*,

Plaintiffs,

v.

ZIMMER BIOMET HOLDINGS, INC., *et al.*,

Defendants.

Case No.: 3:16-cv-00815-PPS-MGG

Honorable Philip P. Simon

**NOTICE OF (I) PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT;  
(II) SETTLEMENT FAIRNESS HEARING; AND (III) MOTION FOR AN AWARD OF  
ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

***A Federal Court authorized this Notice. This is not a solicitation from a lawyer.***

**NOTICE OF PENDENCY OF CLASS ACTION:** Please be advised that your rights may be affected by the above-captioned securities class action (the “Action”)<sup>1</sup> pending in the United States District Court for the Northern District of Indiana (the “Court”), if, during the period between June 7, 2016 and November 7, 2016, inclusive (the “Settlement Class Period”), you purchased or otherwise acquired Zimmer Biomet Holdings, Inc. common stock (“ZBH Common Stock”) and/or call options on ZBH Common Stock (“ZBH Call Options”), and/or wrote put options on ZBH Common Stock (“ZBH Put Options”), and were damaged thereby.<sup>2</sup>

**NOTICE OF SETTLEMENT:** Please also be advised that the Court-appointed Lead Plaintiffs, Rajesh M. Shah and Matt Brierly (“Lead Plaintiffs”), and additional plaintiffs UFCW Local 1500 and Steven Castillo (together with Lead Plaintiffs, “Plaintiffs”), on behalf of themselves and the Settlement Class (as defined in ¶ 27 below), have reached a proposed settlement of the Action for \$50,000,000 in cash that, if approved, will resolve all claims, whether known or unknown, in the Action (the “Settlement”).

<sup>1</sup> All capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated April 14, 2020 (the “Stipulation”), which is available at [www.ZimmerBiometSecuritiesLitigation.com](http://www.ZimmerBiometSecuritiesLitigation.com). Zimmer Biomet Holdings, Inc. is referred to herein as “Zimmer Biomet,” “ZBH” and the “Company.”

<sup>2</sup> ZBH Common Stock, Call Options and Put Options are collectively referred to herein as “ZBH Securities.”

**PLEASE READ THIS NOTICE CAREFULLY. This Notice explains important rights you may have, including the possible receipt of cash from the Settlement. If you are a member of the Settlement Class, your legal rights will be affected whether or not you act.**

**If you have any questions about this Notice, the proposed Settlement, or your eligibility to participate in the Settlement, please DO NOT contact ZBH, any other Defendants in the Action, or their counsel. All questions should be directed to Lead Counsel or the Claims Administrator (see ¶ 95 below).**

1. **Description of the Action and the Settlement Class:** This Notice relates to a proposed Settlement of claims in a pending securities class action brought by investors alleging, among other things, that defendant ZBH, defendants David C. Dvorak, Daniel P. Florin, Robert J. Marshall Jr., Tony W. Collins (collectively the “Officer Defendants”), and defendants Christopher B. Begley, Betsy J. Bernard, Paul M. Bisaro, Gail K. Boudreaux, Michael J. Farrell, Larry Glasscock, Robert A. Hagemann, Arthur J. Higgins, Michael W. Michelson, Cecil B. Pickett, Ph.D., Jeffrey K. Rhodes (together with the Officer Defendants, “the Individual Defendants,” and, together with ZBH and the Officer Defendants, the “Defendants”) violated the federal securities laws by making false and misleading statements and failing to disclose material facts regarding ZBH during the Settlement Class Period. A more detailed description of the Action is set forth in paragraphs 11-26 below. The proposed Settlement, if approved by the Court, will settle claims of the Settlement Class, as defined in paragraph 27 below.

2. **Statement of the Settlement Class’s Recovery:** Subject to Court approval, Plaintiffs, on behalf of themselves and the Settlement Class, have agreed to settle the Action in exchange for a settlement payment of \$50,000,000 in cash (the “Settlement Amount”) to be deposited into an escrow account. The Net Settlement Fund (*i.e.*, the Settlement Amount plus any and all interest earned thereon (the “Settlement Fund”) less (a) any Taxes, (b) any Notice and Administration Costs, (c) any Litigation Expenses<sup>3</sup> awarded by the Court, and (d) any attorneys’ fees awarded by the Court) will be distributed among members of the Settlement Class in accordance with a plan of allocation that is approved by the Court. The proposed plan of allocation (the “Plan of Allocation”) is set forth on pages 15-25 below.

3. **Estimate of Average Amount of Recovery Per Share:** Plaintiffs’ damages expert estimates that the conduct at issue in the Action affected approximately 31.9 million shares of ZBH Common Stock<sup>4</sup> purchased during the Settlement Class Period. If all eligible Settlement Class Members elect to participate in the Settlement, the estimated average recovery would be approximately \$1.57 per affected share of ZBH Common Stock (before the deduction of any Court-approved fees, expenses and costs as described herein). Settlement Class Members should note, however, that the foregoing average recovery per share is only an estimate. Some Settlement Class Members may recover more or less than this estimated amount depending on,

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<sup>3</sup> “Litigation Expenses” means costs and expenses incurred in connection with commencing, prosecuting and settling the Action (which may include the costs and expenses of Plaintiffs directly related to their representation of the Settlement Class), for which Lead Counsel intends to apply to the Court for reimbursement from the Settlement Fund.

<sup>4</sup> An affected share might have been traded more than once during the Settlement Class Period, and this average recovery would be the total for all purchasers of that share.

among other factors, when and at what prices they purchased/acquired or sold their ZBH Common Stock, and the total number of valid Proof of Claim and Release Forms (“Claim Forms”) submitted. Distributions to Settlement Class Members will be made based on the Plan of Allocation set forth herein (*see* pages 15-25 below) or such other plan of allocation as may be ordered by the Court.

4. **Average Amount of Damages Per Share or Option:** The Parties do not agree on the average amount of damages per share or option that would be recoverable if Plaintiffs were to prevail in the Action. Among other things, Defendants do not agree with the assertion that they violated the federal securities laws or that any damages were suffered by any members of the Settlement Class as a result of their conduct.

5. **Attorneys’ Fees and Expenses Sought:** Plaintiffs’ Counsel, which have been prosecuting the Action on a wholly contingent basis since its inception in 2016, have not received any payment of attorneys’ fees for their representation of the Settlement Class and have advanced the funds to pay expenses necessarily incurred to prosecute this Action. Court-appointed Lead Counsel, Glancy Prongay & Murray LLP, will apply to the Court for an award of attorneys’ fees for all Plaintiffs’ Counsel in an amount not to exceed 33 ⅓% of the Settlement Fund. In addition, Lead Counsel will apply for reimbursement of Litigation Expenses paid or incurred in connection with the institution, prosecution and resolution of the claims against the Defendants, in an amount not to exceed \$1,900,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by Plaintiffs directly related to their representation of the Settlement Class. Any fees and expenses awarded by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses. If the maximum amounts are requested and the Court approves Lead Counsel’s fee and expense application, the estimated average amount of fees and expenses, assuming claims are filed for all affected shares will be approximately \$0.58 per affected share of ZBH Common Stock.

6. **Identification of Attorneys’ Representatives:** Plaintiffs and the Settlement Class are represented by Kara M. Wolke, Esq. of Glancy Prongay & Murray LLP, 1925 Century Park East, Suite 2100, Los Angeles, CA 90067, (888) 773-9224, settlements@glancyllp.com.

7. **Reasons for the Settlement:** Plaintiffs’ principal reason for entering into the Settlement is the substantial immediate cash benefit for the Settlement Class without the risk or the delays inherent in further litigation. Moreover, the substantial cash benefit provided under the Settlement must be considered against the significant risk that a smaller recovery – or indeed no recovery at all – might be achieved after contested motions, a trial of the Action and the likely appeals that would follow a trial. This process could be expected to last several years. 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.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:</b>	
<b>SUBMIT A CLAIM FORM POSTMARKED NO LATER THAN _____, 2020.</b>	This is the only way to be eligible to receive a payment from the Settlement Fund. If you are a Settlement Class Member and you remain in the Settlement Class, you will be bound by the Settlement as approved by the Court and you will give up



	any Released Plaintiffs’ Claims (defined in ¶ 36 below) that you have against Defendants and the other Defendants’ Releasees (defined in ¶ 37 below), so it is in your interest to submit a Claim Form.
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS RECEIVED NO LATER THAN _____, 2020.</b>	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 allows you ever to be part of any other lawsuit against any of the Defendants or the other Defendants’ Releasees concerning the Released Plaintiffs’ Claims.
<b>OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION SO THAT IT IS RECEIVED NO LATER THAN _____, 2020.</b>	If you do not like the proposed Settlement, the proposed Plan of Allocation, or the request for attorneys’ fees and reimbursement of Litigation Expenses, you may write to the Court and explain why you do not like them. You cannot object to the Settlement, the Plan of Allocation or the fee and expense request unless you are a Settlement Class Member and do not exclude yourself from the Settlement Class.
<b>GO TO A HEARING ON _____, 2020 AT ____:____.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN _____, 2020.</b>	Filing a written objection and notice of intention to appear by _____, 2020 allows you to speak in Court, at the discretion of the Court, about the fairness of the proposed Settlement, the Plan of Allocation, and/or the request for attorneys’ fees and reimbursement of Litigation Expenses. If you submit a written objection, you may (but you do not have to) attend the hearing and, at the discretion of the Court, speak to the Court about your objection.
<b>DO NOTHING.</b>	If you are a member of the Settlement Class and you do not submit a valid Claim Form, you will not be eligible to receive any payment from the 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 be bound by any judgments or orders entered by the Court in the Action.

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**WHY DID I GET THIS NOTICE?**

8. The Court directed that this Notice be mailed to you because you or someone in your family or an investment account for which you serve as a custodian may have purchased or acquired ZBH Common Stock or Call Options or written or sold ZBH Put Options during the Settlement Class Period. The Court has directed us to send you this Notice because, as a potential Settlement Class Member, you have a right to know about your options before the Court rules on the proposed Settlement. Additionally, you have the right to understand how this class action lawsuit may generally affect your legal rights. If the Court approves the Settlement and the Plan of Allocation (or some other plan of allocation), the claims administrator selected by Plaintiffs and approved by the Court will make payments pursuant to the Settlement after any objections and appeals are resolved.

9. The purpose of this Notice is to inform you of the existence of this case, that it is a class action, how you might be affected, and how to exclude yourself from the Settlement Class if you wish to do so. It is also being sent to inform you of the terms of the proposed Settlement, and of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, the proposed Plan of Allocation and the motion by Lead Counsel for an award of attorneys' fees and reimbursement of Litigation Expenses (the "Settlement Hearing"). See paragraph 84 below for details about the Settlement Hearing, including the date and location of the hearing.

10. The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim in the Action, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement and a plan of allocation, then payments to Authorized Claimants will be made after any appeals are resolved and after the completion of all claims processing. Please be patient, as this process can take some time to complete.

**WHAT IS THIS CASE ABOUT?**

11. ZBH designs, manufactures and markets orthopedic reconstructive products; sports medicine, biologics, extremities and trauma products; spine, bone healing, craniomaxillofacial and thoracic products; dental implants; and related surgical products. ZBH was the product of a \$13.4 billion merger between cross-town medical device competitors Legacy Zimmer and

Legacy Biomet. The Action arises out of alleged material misrepresentations and omissions concerning the success of the merger and ZBH’s expected financial performance made during the June 7, 2016 through November 7, 2016, inclusive, Settlement Class Period.

12. On December 2, 2016, this Action was filed in the United States District Court for the Northern District of Indiana.

13. On April 3, 2017, the Court appointed Rajesh M. Shah, Matt Brierley, and Eric Levy as lead plaintiffs in the Action pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”). The Court also approved lead plaintiffs’ selection of Glancy Prongay & Murray LLP as Lead Counsel and Katz & Korin, PC as Liaison Counsel<sup>5</sup> for the putative class.

14. On June 16, 2017, lead plaintiffs filed and served their Amended Class Action Complaint for Violation of the Federal Securities Laws, which was corrected on June 28, 2017 (the “CAC”). The CAC asserted claims against: (i) ZBH and the Officer Defendants under Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5 promulgated thereunder; (ii) the Officer Defendants under Section 20(a) of the Exchange Act; (iii) the Defendants and J.P. Morgan Securities LLC and Goldman, Sachs & Co. LLC (collectively, the “Underwriter Defendants”) under Section 11 of the Securities Act of 1933 (the “Securities Act”); (iv) ZBH and the Underwriter Defendants under Section 12(a)(2) of the Securities Act; and (v) the Individual Defendants under Section 15 of the Securities Act.

15. On October 5, 2017, lead plaintiffs and plaintiff UFCW Local 1500 voluntarily dismissed the Underwriter Defendants without prejudice. On that same day, the lead plaintiffs and plaintiff UFCW Local 1500 filed and served a Second Amended Class Action Complaint for Violations of the Federal Securities Laws (the “SAC”). The SAC asserted the same claims as the CAC, excluding the claims asserted against the Underwriter Defendants, and adding claims against KKR Biomet LLC, TPG Partners IV, L.P., TPG Partners V, L.P., TPG FOF V-A, L.P., TPG FOF V-B, L.P., TPG LVB Co-Invest LLC, TPG LVB Co-Invest II LLC, GS Capital Partners VI Fund, L.P., GS Capital Partners VI Parallel, L.P., GS Capital Partners VI Offshore Fund, L.P., GS Capital Partners VI GmbH & Co. KG, Goldman Sachs BMET Investors, L.P., Goldman Sachs BMET Investors Offshore Holdings, L.P., PEP Bass Holdings, LLC, Private Equity Partners 2004 Direct Investment Fund L.P., Private Equity Partners 2005 Direct L.P., Private Equity Partners IX Direct L.P., and GS LVB Co-Invest, L.P. (the “PE Defendants”) under Section 20(A) of the Exchange Act and Section 12(a)(2) of the Securities Act.

16. On December 20, 2017, multiple motions to dismiss were filed by the Defendants and the PE Defendants; included in defendants’ motion was also a request to strike portions of the SAC pursuant to Fed. R. Civ. P. 12 (f). On March 13, 2018, lead plaintiffs and plaintiff UFCW Local 1500 served their papers in opposition and, on May 18, 2018, the various defendants served their reply papers. On September 26, 2018, the Court entered its Opinion and Order that granted in part, and denied in part, the defendants’ motions. Based on the Court’s Order, the claims against the PE Defendants were dismissed.

17. On October 9, 2018, Defendants filed a Motion to Amend the Court’s September 26, 2018 Opinion and Order to Include a Certification under 28 U.S.C. § 1292(b) and Motion to Stay Proceedings Pending Appeal (the “1292 Motion”). Lead plaintiffs and plaintiff UFCW Local

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<sup>5</sup> During the course of this Action, Katz & Korin, PC changed its name to Katz Korin Cunningham, PC.

1500 opposed the 1292 Motion on October 30, 2018, and on November 13, 2018, the Defendants filed their reply. On November 27, 2018, Defendants filed a notice of supplemental authority relevant to their pending 1292 Motion, which plaintiffs responded to on the same day. On November 28, 2018, plaintiffs requested leave to file a sur-reply to the 1292 Motion, which was granted by the Court and deemed filed on November 29, 2018. Defendants filed a response to this sur-reply on December 6, 2018. On January 17, 2019, plaintiffs requested leave to file a supplemental submission on January 17, 2019. Defendants filed a response to this request on January 22, 2019. On January 28, 2019, the Court heard oral argument on the 1292 Motion, and on February 20, 2019, denied Defendants' 1292 Motion.

18. On November 12, 2018, Defendants filed and served an answer to the SAC, which was amended on November 14, 2018.

19. On March 4, 2019, plaintiffs filed an unopposed motion to add Mr. Castillo as a named plaintiff to the action. The Court granted this motion on March 14, 2019 and ordered Plaintiffs to file a "revised" version of the Second Amended Complaint reflecting the interlineation of Mr. Castillo as a named plaintiff. Plaintiffs revised the Second Amended Complaint as ordered on March 21, 2019 (the "Operative Complaint").

20. On April 11, 2019, plaintiffs moved for class certification, together with the declaration of Daniel R. Fischel regarding market efficiency. On June 7, 2019, plaintiffs filed and served an unopposed motion to relieve Mr. Levy of his duties to serve as a lead plaintiff and to withdraw his application to serve as a class representative, which the Court granted on June 13, 2019. In May and June 2019, Defendants deposed each of the Plaintiffs, Plaintiffs' market efficiency expert, as well as two third-party investment managers. On June 20, 2019, Defendants filed and served their papers in opposition to the motion for class certification, together with an expert report of Vinita Juneja, Ph.D. On August 6, 2019, Plaintiffs deposed Dr. Juneja. On August 20, 2019, Plaintiffs filed and served their reply papers in further support of their motion for class certification, together with a rebuttal declaration of Professor Fischel.

21. From October 2018 through December 2019, counsel for Plaintiffs and Defendants completed extensive fact discovery. Plaintiffs' Counsel reviewed and analyzed more than 1.2 million pages of documents produced by Defendants and third parties. At the time the settlement was reached, the Parties were nearing the completion of document discovery and preparing for fact depositions.

22. In the summer of 2019, while Plaintiffs were actively pursuing fact discovery, the Parties agreed to participate in private mediation. The Parties selected the Honorable Daniel Weinstein (Ret.) and Jed D. Melnick, Esq. to serve as mediators. The Parties exchanged extensive mediation statements and exhibits that addressed, among other things, issues related to liability and damages. The Parties participated in a full-day mediation session in New York on September 17, 2019. The session ended without an agreement to settle and the Parties continued with discovery.

23. The Parties agreed to engage in another mediation session to re-visit whether a settlement could be reached, with Judge Weinstein and Mr. Melnick again serving as mediators. The Parties exchanged detailed mediation statements and exhibits on the issues of liability and damages in advance of another full-day mediation session, which occurred on December 12, 2019. The mediation session ended with Judge Weinstein and Mr. Melnick presenting a

mediators' recommendation that the Action be settled for \$50,000,000. The Parties accepted the mediator's proposal.

24. Based on the investigation and mediation of the case and Plaintiffs' direct oversight of the prosecution of this matter and with the advice of their counsel, each of the Plaintiffs has agreed to settle and release the claims raised in the Action pursuant to the terms and provisions of the Stipulation, after considering, among other things, (a) the substantial financial benefit that Plaintiffs and the other members of the Settlement Class will receive under the proposed Settlement; and (b) the significant risks and costs of continued litigation and trial.

25. Defendants are entering into the Stipulation solely to eliminate the uncertainty, burden and expense of further protracted litigation. Defendants have determined that it is desirable and beneficial to them that the Action be settled in the manner and upon the terms and conditions set forth in the Stipulation. Each of the Defendants has denied and continues to deny any wrongdoing, expressly deny that Plaintiffs have asserted any valid claims as to any of them, and expressly deny any and all allegations of fault, liability, wrongdoing or damages whatsoever. Defendants have asserted and continue to assert that their conduct was at all times proper and in compliance with all applicable provisions of law, and believe that the evidence developed to date supports their position that they acted properly at all times and that the Action is without merit. In addition, Defendants maintain that they have meritorious defenses to all claims alleged in the Action. Similarly, the Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any Plaintiff of any infirmity in any of the claims asserted in the Action, or an admission or concession that any of the Defendants' defenses to liability had any merit. The Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any of the Defendants, or any other of the Defendants' Releasees (defined in ¶ 37 below), with respect to any claim or allegation of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that the Defendants have, or could have, asserted.

26. On \_\_\_\_\_, 2020, the Court preliminarily approved the Settlement, authorized this Notice to be disseminated to potential Settlement Class Members, and scheduled the Settlement Hearing to consider whether to grant final approval to the Settlement.

**HOW DO I KNOW IF I AM AFFECTED BY THE SETTLEMENT?  
WHO IS INCLUDED IN THE SETTLEMENT CLASS?**

27. If you are a member of the Settlement Class, you are subject to the Settlement, unless you timely request to be excluded. The Settlement Class consists of:

all persons or entities who, between June 7, 2016 and November 7, 2016, inclusive, purchased or otherwise acquired ZBH Common Stock and/or Call Options, and/or wrote ZBH Put Options, and were damaged thereby.

Included in the Settlement Class are all persons or entities who purchased or otherwise acquired ZBH common stock pursuant to and/or traceable to ZBH's public offering on or around June 13, 2016 and/or ZBH's public offering on or around August 9, 2016 and were damaged thereby.

Excluded from the Settlement Class are: (i) Defendants, the PE Defendants, and the Underwriter Defendants; (ii) members of the Immediate Families of each of the Individual Defendants; (iii) the parents, subsidiaries, assigns, successors and predecessors of ZBH, the PE Defendants, and

the Underwriter Defendants; (iv) any persons who served as partners, control persons, officers, and/or directors of ZBH, the PE Defendants, and the Underwriter Defendants during the Settlement Class Period and/or at any other relevant time; (v) Defendants’ liability insurance carriers; (vi) any firm, trust, corporation, or other entity in which any Defendant, Underwriter Defendant or PE Defendant has or had a controlling interest; and (vii) the legal representatives, heirs, successors-in-interest or assigns of any such excluded party; *provided, however*, that any Investment Vehicle shall not be excluded from the Settlement Class. Also excluded from the Settlement Class are any persons or entities who or which exclude themselves by submitting a request for exclusion in accordance with the requirements set forth in this Notice. *See* “What If I Do Not Want To Be A Member Of The Settlement Class? How Do I Exclude Myself,” on page [ ] below.

**PLEASE NOTE: RECEIPT OF THIS NOTICE DOES NOT MEAN THAT YOU ARE A SETTLEMENT CLASS MEMBER OR THAT YOU WILL BE ENTITLED TO RECEIVE PROCEEDS FROM THE SETTLEMENT. IF YOU ARE A SETTLEMENT CLASS MEMBER AND YOU WISH TO BE ELIGIBLE TO PARTICIPATE IN THE DISTRIBUTION OF PROCEEDS FROM THE SETTLEMENT, YOU ARE REQUIRED TO SUBMIT THE CLAIM FORM THAT IS BEING DISTRIBUTED WITH THIS NOTICE AND THE REQUIRED SUPPORTING DOCUMENTATION AS SET FORTH THEREIN POSTMARKED OR SUBMITTED ONLINE NO LATER THAN \_\_\_\_\_, 2020.**

**WHAT ARE PLAINTIFFS’ REASONS FOR THE SETTLEMENT?**

28. Plaintiffs and Lead Counsel believe that the claims asserted against Defendants have merit. They recognize, however, the expense and length of continued proceedings necessary to pursue their claims against the remaining Defendants through trial and appeals, as well as the very substantial risks they would face in establishing liability and damages. Plaintiffs and Lead Counsel recognized that Defendants had numerous avenues of attack that could preclude a recovery as to the various alleged misrepresentations and omissions. For example, they would assert that none of the alleged misstatements were materially false and misleading and that they did not make any materially misleading omissions, let alone with the requisite state of mind to support the securities fraud claims alleged. Additionally, Plaintiffs’ motion for class certification was fully briefed and pending at the time the Settlement was reached. The Court’s decision on whether to certify a class could have greatly impacted Plaintiffs’ and the Settlement Class’s potential recovery. Plaintiffs also face challenges with respect to establishing loss causation and class-wide damages. Plaintiffs recognize that Defendants have substantial arguments that the declines in the price of ZBH Common Stock during the Settlement Class Period were not caused by revelations concerning the alleged misconduct. Had any of these arguments been accepted in whole or part, they could have eliminated or, at a minimum, dramatically limited any potential recovery. Further, Plaintiffs would have had to prevail at several stages – motion for summary judgment and trial – and if they prevailed at those stages, they would also have to prevail at the appeals that were likely to follow. Thus, there were very significant risks attendant to the continued prosecution of the Action.

29. In light of these risks, the amount of the Settlement and the immediacy of recovery to the Settlement Class and based on their investigation, prosecution and mediation of the case, Plaintiffs and Lead Counsel believe that the proposed Settlement is fair, reasonable and

adequate, and in the best interests of the Settlement Class. Plaintiffs and Lead Counsel believe that the Settlement provides a substantial benefit to the Settlement Class, namely \$50,000,000 in cash (less the various deductions described in this Notice), as compared to the risk that the claims in the Action would produce a smaller, or no recovery after summary judgment, trial and appeals, possibly years in the future.

30. Defendants have denied the claims asserted against them in the Action and deny having engaged in any wrongdoing or violation of law of any kind whatsoever. Defendants have agreed to the Settlement solely to eliminate the uncertainty, burden and expense of further protracted litigation. Accordingly, the Settlement may not be offered against any of the Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Defendants' Releasees 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 Defendants' Releasees or in any way referred to for any other reason as against any of the Defendants' Releasees, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation. In addition, the Settlement may not be construed against any of the Releasees 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.

**WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?**

31. If there were no Settlement and Plaintiffs failed to establish any essential legal or factual element of their claims against Defendants, neither Plaintiffs nor the other members of the Settlement Class would recover anything from Defendants. Also, if Defendants were successful in proving any of their defenses, either at summary judgment, at trial or on appeal, the Settlement Class could recover substantially less than the amount provided in the Settlement, or nothing at all.

**HOW ARE SETTLEMENT CLASS MEMBERS AFFECTED BY THE ACTION AND THE SETTLEMENT?**

32. As a Settlement Class Member, you are represented by Plaintiffs and Lead Counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file a notice of appearance on your behalf and must serve copies of his or her appearance on the attorneys listed in the section entitled, "When And Where Will The Court Decide Whether To Approve The Settlement?," below.

33. If you are a Settlement Class Member and do not wish to remain a Settlement Class Member, you may exclude yourself from the Settlement Class by following the instructions in the section entitled, "What If I Do Not Want To Be A Member Of The Settlement Class? How Do I Exclude Myself?," below.

34. If you are a Settlement Class Member and you wish to object to the Settlement, the Plan of Allocation, or Lead Counsel’s application for attorneys’ fees and reimbursement of Litigation Expenses, and if you do not exclude yourself from the Settlement Class, you may present your objections by following the instructions in the section entitled, “When And Where Will The Court Decide Whether To Approve The Settlement?,” below.

35. If you are a Settlement Class Member and you do not exclude yourself from the Settlement Class, you will be bound by any orders issued by the Court, whether or not you submit a Claim Form. If the Settlement is approved, the Court will enter a judgment (the “Judgment”). The Judgment will dismiss with prejudice the claims against Defendants and the other Defendants’ Releasees, and will provide that, upon the Effective Date of the Settlement, Plaintiffs and each of the other Settlement Class Members, on behalf of themselves, and their respective current and former heirs, executors, administrators, predecessors, successors, officers, directors, agents, parents, affiliates, subsidiaries, employees, attorneys, assignees and assigns in their capacities as such, will be deemed to have, and by operation of law and of the judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Plaintiffs’ Claim (as defined in ¶ 36 below) (including Unknown Claims) against the Defendants and the other Defendants’ Releasees (as defined in ¶ 37 below) whether or not such Settlement Class Member executes and delivers the Proof of Claim Form, and shall forever be 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 or all of the Released Plaintiffs’ Claims against any of the Defendants’ Releasees. This Release shall not apply to any of the Excluded Claims (as that term is defined in ¶ 36 below).

36. “Released Plaintiffs’ Claims” means all claims, rights, duties, controversies, obligations, demands, actions, debts, sums of money, suits, contracts, agreements, promises, damages, losses, judgments, liabilities, allegations, arguments and causes of action of every nature and description, whether known claims or Unknown Claims, whether arising under federal, state, local, common, statutory, administrative or foreign law or any other rule or regulation, at law or in equity, whether class or individual in nature, whether fixed or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether matured or unmatured, that Plaintiffs or any other member of the Settlement Class (i) asserted in any complaint filed in this Action including the CAC, the SAC and the Operative Complaint; or (ii) could have asserted in any forum that arise out of or are related to any of the allegations, transactions, facts, matters, events, disclosures, statements, occurrences, representations or omissions involved, set forth, or referred to in any complaint filed in this Action including the CAC, the SAC and the Operative Complaint and that relate to, directly or indirectly, the purchase or sale or other acquisition, disposition, or holding of any ZBH Securities during the Settlement Class Period. Released Plaintiffs’ Claims do not include (i) any claims relating to the enforcement of the Settlement, (ii) any claims asserted in *Green v. Begley et al.*, Case No. 2019-0455-AGB (Del. Ch.); *Detectives Endowment Association Annuity Fund v. Begley et al.*, Case No. 2019-0584-AGB (Del. Ch.); consolidated case caption *In re Zimmer Biomet Holdings, Inc. Derivatives Litigation*, Consol. C.A. No 2019-0455 (Del. Ch.); *Karp v. Begley et al.*, Case No. 1:19-cv-01855-LPS (D. Del.); *DiGaudio v. Begley et al.*, Case No. 1:19-cv-01926-LPS (D. Del.); and consolidated case caption *In re Zimmer Biomet Holdings, Inc. Federal Derivative Litigation*, No. 2019-cv-01855 (D. Del.);



and (iii) any claims of any person or entity who or which submits a request for exclusion that is accepted by the Court (collectively, “Excluded Claims”).

37. “Defendants’ Releasees” means Defendants, PE Defendants, Underwriter Defendants, each of their respective parents, subsidiaries and affiliates, and each of their respective current and former employees, officers, directors, agents, parents, affiliates, subsidiaries, attorneys, advisors, members, partners, principals, controlling shareholders, accountants, auditors and insurers and reinsurers of each of the foregoing, in their capacities as such; and the successors, predecessors, assigns, assignees, estates, spouses, heirs, executors, trusts, trustees, administrators, and legal or personal representatives of the foregoing, in their capacities as such.

38. “Unknown Claims” means any Released Plaintiffs’ Claims which any Lead Plaintiff or any other Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of such claims, and any Released Defendants’ Claims which any Defendant, Underwriter Defendant or PE Defendant does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, which, if known by him, her or it, might have affected his, her or its settlement and release, or might have affected his, her or its decision(s) with respect to this Settlement, including, but not limited to, whether or not to object to this Settlement or to the release of any Released Claims. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date of the Settlement, Plaintiffs, Defendants, Underwriter Defendants and PE Defendants shall expressly waive, and each of the other Settlement Class Members shall be deemed to have waived, and by operation of the Judgment or the Alternate Judgment, if applicable, shall have expressly waived, any and all provisions, rights, and benefits conferred by California Civil Code § 1542 and any law of any state or territory of the United States, or principle of common law or foreign 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 and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Plaintiffs, Defendants, Underwriter Defendants and PE Defendants acknowledge that they may hereafter discover facts in addition to or different from those which he, she, it or their counsel now knows or believes to be true with respect to the subject matter of the Released Claims, but the Plaintiffs, Defendants, Underwriter Defendants and PE 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, 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. Plaintiffs, Defendants, Underwriter Defendants and PE Defendants acknowledge, and each of the other Settlement Class Members shall be deemed by operation of law to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Plaintiffs’ Claims and Released Defendants’ Claims was separately bargained for and a key element of the Settlement.

39. The Judgment will also provide that, upon the Effective Date of the Settlement, Defendants, Underwriter Defendants and PE Defendants, on behalf of themselves, and their respective current and former heirs, executors, administrators, predecessors, successors, officers, directors, agents, parents, affiliates, subsidiaries, employees, attorneys, assignees and assigns in their capacities as such, will be deemed to have, and by operation of law and of the judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Defendants' Claim (as defined in ¶ 40 below) (including Unknown Claims) against Plaintiffs and the other Plaintiffs' Releasees (as defined in ¶ 41 below), and shall forever be 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 or all of the Released Defendants' Claims against any of the Plaintiffs' Releasees.

40. "Released Defendants' Claims" means all claims and causes of action of every nature and description, whether known claims or 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 asserted in the Action against the Defendants. Released Defendants' Claims do not include: (i) any claims relating to the enforcement of the Settlement; (ii) any claims against any person or entity who or which submits a request for exclusion from the Settlement Class that is accepted by the Court; (iii) any claims arising out of or relating to the Underwriter Defendants' rights to indemnification by the Defendants, pursuant to any agreements between the Defendants and the Underwriter Defendants, or any Underwriter Defendants' rights pursuant to any agreements among any of the Underwriter Defendants to indemnification *inter se*; or (iv) any claims arising out of or relating to the PE Defendants' rights to the indemnification by the Defendants, pursuant to any agreements between the Defendants and the PE Defendants.

41. "Plaintiffs' Releasees" means Plaintiffs, Plaintiffs' Counsel, all other plaintiffs in the Action, their respective attorneys, and any other Settlement Class Member, and their respective current and former officers, directors, agents, parents, affiliates, subsidiaries, successors, predecessors, assigns, assignees, employees, and attorneys, in their capacities as such.

**HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?**

42. To be eligible for a payment from the proceeds of the Settlement, you must be a member of the Settlement Class and you must timely complete and return the Claim Form with adequate supporting documentation **postmarked or submitted online no later than \_\_\_\_\_, 2020**. A Claim Form is included with this Notice, or you may obtain one from the website maintained by the Claims Administrator for the Settlement, [www.ZimmerBiometSecuritiesLitigation.com](http://www.ZimmerBiometSecuritiesLitigation.com), or you may request that a Claim Form be mailed to you by calling the Claims Administrator toll free at 1-888-670-1171. Please retain all records of your ownership of and transactions in ZBH Securities, as they may be needed to document your Claim. If you request exclusion from the Settlement Class or do not submit a timely and valid Claim Form, you will not be eligible to share in the Net Settlement Fund.

**HOW MUCH WILL MY PAYMENT BE?**

43. At this time, it is not possible to make any determination as to how much any individual Settlement Class Member may receive from the Settlement.

44. Pursuant to the Settlement, Defendants have agreed to cause to be paid fifty million dollars (\$50,000,000) in cash. The Settlement Amount will be deposited into an Escrow Account. The Settlement Amount plus any interest earned thereon is referred to as the "Settlement Fund." If the Settlement is approved by the Court and the Effective Date occurs, the "Net Settlement Fund" (that is, the Settlement Fund less (a) all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (including any interest or penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority (including, but not limited to, any local, state and federal taxes) on the Settlement Fund (including any income earned by the Settlement Fund) and the reasonable costs incurred in connection with determining the amount of and paying taxes owed by the Settlement Fund (including reasonable expenses of tax attorneys and accountants); (b) the reasonable costs and expenses incurred in connection with providing notice to Settlement Class Members and administering the Settlement on behalf of Settlement Class Members; and (c) any attorneys' fees and Litigation Expenses awarded by the Court) will be distributed to Settlement Class Members who submit valid Claim Forms, in accordance with the proposed Plan of Allocation or such other plan of allocation as the Court may approve.

45. The Net Settlement Fund will not be distributed unless and until the Court has approved the Settlement and a plan of allocation, and the time for any petition for rehearing, appeal or review, whether by certiorari or otherwise, has expired.

46. Neither Defendants nor any other person or entity that paid any portion of the Settlement Amount on their behalf are entitled to get back any portion of the Settlement Fund once the Court's order or judgment approving the Settlement becomes Final. Defendants' Releasees shall not have any liability, obligation or responsibility for the administration of the Settlement (including but not limited to investment and maintenance of monies deposited into the Escrow Account), determination or payment of any Taxes, the payment of attorneys' fees or Litigation Expenses, or providing notice to Settlement Class Members), the disbursement of the Net Settlement Fund or the plan of allocation.

47. Approval of the Settlement is independent from approval of a plan of allocation. Any determination with respect to a plan of allocation will not affect the Settlement, if approved.

48. Unless the Court otherwise orders, any Settlement Class Member who fails to submit a Claim Form postmarked or submitted online on or before \_\_\_\_\_, 2020 shall be fully and forever barred from receiving payments pursuant to the Settlement, but will in all other respects remain a Settlement Class Member and be subject to the provisions of the Stipulation, including the terms of any Judgment entered and the releases given. This means that each Settlement Class Member releases the Released Plaintiffs' Claims (as defined in ¶ 36 above) against the Defendants' Releasees (as defined in ¶ 37 above) and will forever be 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 or all of the Released Plaintiffs' Claims against any of the Defendants' Releasees whether or not such Settlement Class Member submits a Claim Form.

49. Participants in and beneficiaries of a plan covered by ERISA (“ERISA Plan”) should NOT include any information relating to their transactions in ZBH Securities held through the ERISA Plan in any Claim Form that they may submit in this Action. They should include ONLY those shares or options that they purchased or acquired outside of the ERISA Plan. Claims based on any ERISA Plan’s transactions in ZBH Securities during the Settlement Class Period may be made by the plan’s trustees. To the extent any of the Defendants or any of the other persons or entities excluded from the Settlement Class are participants in the ERISA Plan, such persons or entities shall not receive, either directly or indirectly, any portion of the recovery that may be obtained from the Settlement by the ERISA Plan.

50. The Court has reserved jurisdiction to allow, disallow, or adjust on equitable grounds the Claim of any Settlement Class Member.

51. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its Claim Form.

52. Only Settlement Class Members will be eligible to share in the distribution of the Net Settlement Fund. Persons and entities that are excluded from the Settlement Class by definition or that exclude themselves from the Settlement Class pursuant to request will not be eligible to receive a distribution from the Net Settlement Fund and should not submit Claim Forms. The only securities that are included in the Settlement are the ZBH Securities.

#### **PROPOSED PLAN OF ALLOCATION**

53. The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund among Authorized Claimants based on their respective alleged economic losses as a result of the alleged misstatements and omissions, as opposed to losses caused by market- or industry-wide factors, or company-specific factors unrelated to the alleged fraud. The Claims Administrator shall determine each Authorized Claimant’s share of the Net Settlement Fund based upon the recognized loss formulas described below (“Recognized Loss”).

54. A Recognized Loss will be calculated for each share of ZBH Common Stock and Call Option purchased or otherwise acquired during the Settlement Class Period, and each ZBH Put Option sold during the Settlement Class Period. The calculation of Recognized Loss will depend upon several factors, including when the ZBH Securities were purchased or otherwise acquired during the Settlement Class Period, and in what amounts, and whether those securities were sold, and if sold, when they were sold, and for what amounts. The Recognized Loss is not intended to estimate the amount a Settlement Class Member might have been able to recover after a trial, nor to estimate the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Loss is the basis upon which the Net Settlement Fund will be proportionately allocated to the Authorized Claimants. The Claims Administrator will use its best efforts to administer and distribute the Net Settlement Fund to the extent that it is equitably and economically feasible.

55. The Plan of Allocation was created with the assistance of a consulting damages expert and reflects the assumption that the price of ZBH Common Stock was artificially inflated throughout the Settlement Class Period. The estimated alleged artificial inflation in the price of ZBH Common Stock during the Settlement Class Period is reflected in Table 1 below. The computation of the estimated alleged artificial inflation in the price of ZBH Common Stock during the Settlement Class Period is based on certain misrepresentations alleged by Plaintiffs

and the price change in the stock, net of market- and industry-wide factors, in reaction to the public announcements that allegedly corrected the misrepresentations alleged by Plaintiffs.

56. The U.S. federal securities laws allow investors to seek to recover losses caused by disclosures which corrected the defendants’ previous misleading statements or omissions. Thus, in order to have recoverable damages, the corrective disclosure of the allegedly misrepresented information must be the cause of the decline in the price or value of the ZBH Securities. In this Action, Plaintiffs allege that Defendants made false statements and omitted material facts during the Settlement Class Period, which had the purported effect of artificially inflating the prices of ZBH Securities. Plaintiffs further allege that corrective disclosures removed artificial inflation from the price of ZBH Securities on October 31, 2016 and November 8, 2016 (the “Corrective Disclosure Dates”). Thus, in order for a Settlement Class Member to have a Recognized Loss under the Plan of Allocation, with respect to ZBH Common Stock and Call Options, the stock or call options must have been purchased or acquired during the Settlement Class Period and held through at least one of these disclosure dates; and, with respect to ZBH Put Options, those options must have been sold (written) during the Settlement Class Period and not closed prior to at least one of these disclosure dates.

<b>Table 1</b>		
<b>Artificial Inflation in ZBH Common Stock</b>		
<b>From</b>	<b>To</b>	<b>Per-Share Price Inflation</b>
June 7, 2016	October 30, 2016	\$20.19
October 31, 2016	November 7, 2016	\$3.10
November 8, 2016	Thereafter	\$0.00

57. ZBH Common Stock purchased pursuant and/or traceable to the Company’s June 2016 Offering<sup>6</sup> or the Company’s August 2016 Offering<sup>7</sup> are the only securities eligible for a claim under Section 11 of the Securities Act (“Section 11”). The Recognized Loss for Common Stock with a claim under both Section 10(b) of the Exchange Act (“Section 10(b)”) and Section 11 shall be the maximum of: (i) the Recognized Loss amount calculated under Section 10(b) as described below in “Calculation of Recognized Loss Per Share Under Section 10(b)”; or (ii) the Recognized Loss amount calculated under Section 11 as described below in “Calculation of Recognized Loss Per Share Under Section 11” for the respective offering. Section 11 provides for an affirmative defense of negative causation which prevents recovery for losses that Defendants prove are not attributable to misrepresentations and/or omissions alleged by Plaintiffs in the offering’s registration statement. Given Plaintiffs’ Counsel’s assessment of the relative risks of the Section 11 and Section 10(b) claims in this lawsuit, the Recognized Loss calculation under Section 11 assumes that the Company-specific declines in the price of ZBH

<sup>6</sup> In June 2016, certain selling stockholders offered 11,116,533 shares of ZBH Common Stock at a public offering price of \$115.85 (the “June 2016 Offering”). The offering was completed on June 16, 2016. (See Zimmer Biomet, SEC Form 8-K, filed June 16, 2016.)

<sup>7</sup> In August 2016, certain selling stockholders offered 7,440,675 shares of ZBH Common Stock at a public offering price of \$129.75 (the “August 2016 Offering”). The offering was completed on August 12, 2016. (See Zimmer Biomet, SEC Form 8-K, filed August 12, 2016.)

Common Stock on the Corrective Disclosure Dates alleged by Plaintiffs are the only compensable losses.

58. The “90-day look back” provision of the Private Securities Litigation Reform Act of 1995 (“PSLRA”) is incorporated into the calculation of the Recognized Loss for ZBH Common Stock under Section 10(b). The limitations on the calculation of the Recognized Loss imposed by the PSLRA are applied such that losses on ZBH Common Stock purchased during the Settlement Class Period and held as of the close of the 90-day period subsequent to the Settlement Class Period (the “90-Day Lookback Period”) cannot exceed the difference between the purchase price paid for such stock and its average price during the 90-Day Lookback Period. The Recognized Loss on ZBH Common Stock purchased during the Settlement Class Period and sold during the 90-Day Lookback Period cannot exceed the difference between the purchase price paid for such stock and its rolling average price during the portion of the 90-Day Lookback Period elapsed as of the date of sale.

59. In the calculations below, all purchase and sale prices shall exclude any fees, taxes and commissions. If a Recognized Loss amount is calculated to be a negative number, that Recognized Loss shall be set to zero. Any transactions in ZBH Securities executed outside of regular trading hours for the U.S. financial markets shall be deemed to have occurred during the next regular trading session.

60. With respect to shares of ZBH Common Stock and ZBH Call and Put Options, a Recognized Loss will be calculated as set forth below for each purchase or acquisition of ZBH Common Stock and Call Option contracts, and for each writing of ZBH Put Option contracts during the Settlement Class Period, that is listed in the Claim and Release Form and for which adequate documentation is provided.

### **CALCULATION OF RECOGNIZED LOSS AMOUNTS**

#### **Calculation of Recognized Loss Per Share Under Section 10(b)**

For each share of ZBH Common Stock purchased or otherwise acquired during the Settlement Class Period (*i.e.*, June 7, 2016 through November 7, 2016, inclusive), the Recognized Loss per share under Section 10(b) shall be calculated as follows:

- I. For each share of ZBH Common Stock purchased during the period June 7, 2016 through October 30, 2016, inclusive,
  - a. that was sold prior to October 31, 2016, the Recognized Loss per share is \$0.
  - b. that was sold during the period October 31, 2016 through November 7, 2016, inclusive, the Recognized Loss per share is \$17.09.
  - c. that was sold during the period November 8, 2016 through February 3, 2017, inclusive (*i.e.*, the 90-Day Lookback Period), the Recognized Loss per share is *the lesser of*:
    - i. \$20.19; or
    - ii. the purchase price *minus* the “90-Day Lookback Value” on the date of sale as provided in Table 2 below.

- d. that was sold or held after February 3, 2017, the Recognized Loss per share is *the lesser of*:
    - i. \$20.19; or
    - ii. the purchase price *minus* the average closing price for ZBH Common Stock during the 90-Day Lookback Period, which is \$106.52.
- II. For each share of ZBH Common Stock purchased during the period October 31, 2016 through November 7, 2016, inclusive,
- a. that was sold prior to November 8, 2016, the Recognized Loss per share is \$0.
  - b. that was sold during the period November 8, 2016 through February 3, 2017, inclusive (*i.e.*, the 90-Day Lookback Period), the Recognized Loss per share is *the lesser of*:
    - i. \$3.10; or
    - ii. the purchase price *minus* the “90-Day Lookback Value” on the date of sale as provided in Table 2 below.
  - c. that was sold or held after February 3, 2017, the Recognized Loss per share is *the lesser of*:
    - i. \$3.10; or
    - ii. the purchase price *minus* the average closing price for ZBH Common Stock during the 90-Day Lookback Period, which is \$106.52.
- III. For each share of ZBH Common Stock purchased on or after November 8, 2016, the Recognized Loss per share is \$0.

<b>Table 2</b>					
<b>Sale / Disposition Date</b>	<b>90-Day Lookback Value</b>	<b>Sale / Disposition Date</b>	<b>90-Day Lookback Value</b>	<b>Sale / Disposition Date</b>	<b>90-Day Lookback Value</b>
11/8/2016	\$101.83	12/7/2016	\$101.33	1/6/2017	\$102.48
11/9/2016	\$101.73	12/8/2016	\$101.47	1/9/2017	\$102.59
11/10/2016	\$101.38	12/9/2016	\$101.63	1/10/2017	\$102.85
11/11/2016	\$100.54	12/12/2016	\$101.81	1/11/2017	\$103.12
11/14/2016	\$100.03	12/13/2016	\$102.00	1/12/2017	\$103.37
11/15/2016	\$100.27	12/14/2016	\$102.11	1/13/2017	\$103.63
11/16/2016	\$100.35	12/15/2016	\$102.13	1/17/2017	\$103.88
11/17/2016	\$100.41	12/16/2016	\$102.18	1/18/2017	\$104.12
11/18/2016	\$100.44	12/19/2016	\$102.21	1/19/2017	\$104.33
11/21/2016	\$100.60	12/20/2016	\$102.19	1/20/2017	\$104.52
11/22/2016	\$100.62	12/21/2016	\$102.18	1/23/2017	\$104.71

11/23/2016	\$100.65	12/22/2016	\$102.16	1/24/2017	\$104.90
11/25/2016	\$100.78	12/23/2016	\$102.16	1/25/2017	\$105.11
11/28/2016	\$100.87	12/27/2016	\$102.19	1/26/2017	\$105.30
11/29/2016	\$101.04	12/28/2016	\$102.22	1/27/2017	\$105.51
11/30/2016	\$101.09	12/29/2016	\$102.25	1/30/2017	\$105.68
12/1/2016	\$101.01	12/30/2016	\$102.28	1/31/2017	\$105.91
12/2/2016	\$100.97	1/3/2017	\$102.31	2/1/2017	\$106.12
12/5/2016	\$100.99	1/4/2017	\$102.36	2/2/2017	\$106.32
12/6/2016	\$101.17	1/5/2017	\$102.42	2/3/2017	\$106.52

**Calculation of Recognized Loss Per Share Under Section 11—June 2016 Offering**

For each share of ZBH Common Stock purchased pursuant and/or traceable to the Company’s June 2016 Offering, the Recognized Loss per share under Section 11 shall be calculated as follows:

- I. For each share that was sold prior to October 31, 2016, the Recognized Loss per share is \$0.
- II. For each share that was sold during the period October 31, 2016 through November 7, 2016, inclusive, the Recognized Loss per share is *the lesser of*:
  - a. \$17.09; or
  - b. \$115.85 (*i.e.*, the offering price) *minus* the sale price.
- III. For each share that was sold during the period November 8, 2016 through June 15, 2017,<sup>8</sup> inclusive, the Recognized Loss per share is *the lesser of*:
  - a. \$20.19; or
  - b. \$115.85 (*i.e.*, the offering price) *minus* the sale price.
- IV. For each share that was sold or held after June 15, 2017, the Recognized Loss per share is \$0.

**Calculation of Recognized Loss Per Share Under Section 11—August 2016 Offering**

For each share of ZBH Common Stock purchased pursuant and/or traceable to the Company’s August 2016 Offering, the Recognized Loss per share under Section 11 shall be calculated as follows:

- I. For each share that was sold prior to October 31, 2016, the Recognized Loss per share is \$0.
- II. For each share that was sold during the period October 31, 2016 through November 7, 2016, inclusive, the Recognized Loss per share is *the lesser of*:

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<sup>8</sup> June 16, 2017 is the date of the first complaint filed in this action that states a claim under Section 11 for the June 2016 Offering and the August 2016 Offering. The closing price for ZBH Common Stock that day was \$125.92.



- a. \$17.09; or
  - b. \$129.75 (*i.e.*, the offering price) *minus* the sale price.
- III. For each share that was sold during the period November 8, 2016 through June 15, 2017, inclusive, the Recognized Loss per share is *the lesser of*:
- a. \$20.19; or
  - b. \$129.75 (*i.e.*, the offering price) *minus* the sale price.
- IV. For each share that was sold or held after June 15, 2017, the Recognized Loss per share is \$3.83.<sup>9</sup>

#### **ZBH Call Option Recognized Loss Calculations<sup>10</sup>**

For each ZBH Call Option purchased or otherwise acquired during the Settlement Class Period, the Recognized Loss per Call Option shall be calculated as follows:

- I. For each Call Option not held at the opening of trading on at least one of the Corrective Disclosure Dates as defined above, the Recognized Loss per Call Option is \$0.00.
- II. For each Call Option held at the opening of trading on one or more of the Corrective Disclosure Dates as defined above,
  - a. that was subsequently sold during the Settlement Class Period, the Recognized Loss per Call Option is the purchase price *minus* the sale price.
  - b. that was subsequently exercised during the Settlement Class Period, the Recognized Loss per Call Option is the purchase price *minus* the intrinsic value of the option on the date of exercise, where the intrinsic value shall be *the greater of*: (i) \$0.00 or (ii) the closing price of ZBH Common Stock on the date of exercise *minus* the strike price of the option.
  - c. that expired unexercised during the Settlement Class Period, the Recognized Loss per Call Option is equal to the purchase price.
  - d. that was still held as of the opening of trading November 8, 2016, the Recognized Loss per Call Option is the purchase price *minus* the intrinsic value of the option as of the close of trading on November 8, 2016, where the intrinsic value shall be *the greater of*: (i) \$0.00 or (ii) \$101.83<sup>11</sup> *minus* the strike price of the option.

No Recognized Loss shall be calculated based upon purchase or acquisition of any ZBH Call Option that had been previously sold or written.

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<sup>9</sup> \$3.83 is the difference between the offering price and the closing price of ZBH Common Stock on June 16, 2017 (*i.e.*, \$129.75 minus \$125.92).

<sup>10</sup> Exchange-traded options are traded in units called “contracts,” which entitle the holder to buy (in the case of a call) or sell (in the case of a put) 100 shares of the underlying security, which in this case is ZBH Common Stock.

<sup>11</sup> \$101.83 is the closing price of ZBH Common Stock on November 8, 2016.

### **ZBH Put Option Recognized Loss Calculations**

For each ZBH Put Option sold during the Settlement Class Period, the Recognized Loss per Put Option shall be calculated as follows:

- I. For each Put Option not open (*i.e.*, not outstanding) at the opening of trading on at least one of the Corrective Disclosure Dates as defined above, the Recognized Loss per Put Option is \$0.00.
- II. For each Put Option open (*i.e.*, outstanding) at the opening of trading on one or more of the Corrective Disclosure Dates as defined above,
  - a. that was subsequently purchased during the Settlement Class Period, the Recognized Loss per Put Option is the purchase price *minus* the sale price.
  - b. that was subsequently exercised (*i.e.*, assigned) during the Settlement Class Period, the Recognized Loss per Put Option is the intrinsic value of the Put Option on the date of exercise *minus* the sale price, where the intrinsic value shall be *the greater of*: (i) \$0.00 or (ii) the strike price of the option *minus* the closing price of ZBH Common Stock on the date of exercise.
  - c. that expired unexercised during the Settlement Class Period, the Recognized Loss per Put Option \$0.00.
  - d. that was still open (*i.e.*, outstanding) as of the opening of trading November 8, 2016, the Recognized Loss per Put Option is the intrinsic value of the option as of the close of trading on November 8, 2016 *minus* the sale price, where the intrinsic value shall be *the greater of*: (i) \$0.00 or (ii) the strike price of the option *minus* \$101.83.

No Recognized Loss shall be calculated based upon the sale or writing of any ZBH Put Option that had been previously purchased or acquired.

61. **Maximum Recovery for Options:** The Settlement proceeds available for ZBH Call Options purchased during the Settlement Class Period and ZBH Put Options sold (written) during the Settlement Class Period shall be limited to a total amount equal to 0.5% of the Net Settlement Fund.<sup>12</sup> Thus, if the cumulative Recognized Loss amounts for Call and Put Option claims exceeds 0.5% of all Recognized Losses, then the Recognized Loss for Call and Put Option claims will be reduced proportionately until they collectively equal 0.5% of all Recognized Losses. In the unlikely event that the Net Settlement Fund, allocated as such, is sufficient to pay 100% of the Common Stock claims, any excess amount will be used to pay the balance on the remaining Call and Put Option claims. Likewise, if the Net Settlement Fund, allocated as such, is sufficient to pay 100% of the Call Option and Put Option claims, any excess amount will be used to pay the balance on the remaining Common Stock claims.

### **ADDITIONAL PROVISIONS**

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<sup>12</sup> ZBH Call and Put Option trading accounted for less than 0.5% of total dollar trading volume for ZBH Securities during the Settlement Class Period. As such, claims for ZBH Call and Put Option transactions are allotted 0.5% of the Settlement pursuant to the Plan of Allocation.

62. **Calculation of Claimant’s “Recognized Claim”:** A Claimant’s “Recognized Claim” under the Plan of Allocation will be the sum of his, her or its Recognized Loss amounts as calculated above with respect to all ZBH Securities.

63. **FIFO Matching:** If a Settlement Class Member made more than one purchase/acquisition or sale of any ZBH Security during the Settlement Class Period, all purchases/acquisitions and sales of the like security shall be matched on a First In, First Out (“FIFO”) basis. With respect to ZBH Common Stock and Call Options, 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. For ZBH Put Options, Settlement Class Period purchases will be matched first to close out positions open at the beginning of the Settlement Class Period, and then against ZBH Put Options sold (written) during the Settlement Class Period in chronological order.

64. **“Purchase/Sale” Dates:** Purchases or acquisitions and sales of ZBH Securities shall 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 ZBH Securities during the Settlement Class Period shall not be deemed a purchase, acquisition or sale of these ZBH Securities for the calculation of a Claimant’s Recognized Loss, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition of such ZBH Securities unless (i) the donor or decedent purchased or otherwise acquired such ZBH Securities 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 Form was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such ZBH Securities.

65. **Short Sales:** With respect to ZBH Common Stock, the date of covering a “short sale” is deemed to be the date of purchase or acquisition of the stock. The date of a “short sale” is deemed to be the date of sale of the ZBH Common Stock. In accordance with the Plan of Allocation, however, the Recognized Loss on “short sales” is zero.

66. In the event that a Claimant has an opening short position in ZBH Common Stock, the earliest purchases or acquisitions of ZBH Common Stock during the Settlement Class Period shall be matched against such opening short position, and not be entitled to a recovery, until that short position is fully covered.

67. If a Settlement Class Member has “written” ZBH Call Options, thereby having a short position in the Call Options, the date of covering such a written position is deemed to be the date of purchase or acquisition of the Call Option. The date on which the ZBH Call Option was written is deemed to be the date of sale of the Call Option. In accordance with the Plan of Allocation, however, the Recognized Loss on “written” ZBH Call Options is zero. In the event that a Claimant has an opening written position in ZBH Call Options, the earliest purchases or acquisitions of like Call Options during the Settlement Class Period shall be matched against such opening written position, and not be entitled to a recovery, until that written position is fully covered.

68. If a Settlement Class Member has purchased or acquired ZBH Put Options, thereby having a long position in the Put Options, the date of purchase/acquisition is deemed to be the date of purchase/acquisition of the Put Option. The date on which the ZBH Put Option was sold, exercised, or expired is deemed to be the date of sale of the Put Option. In accordance with the

Plan of Allocation, however, the Recognized Loss on purchased/acquired Put Options is zero. In the event that a Claimant has an opening long position in ZBH Put Options, the earliest sales or dispositions of like Put Options during the Settlement Class Period shall be matched against such opening position, and not be entitled to a recovery, until that long position is fully covered.

**69. Common Stock Purchased/Sold Through the Exercise of Options:** With respect to ZBH Common Stock purchased or sold through the exercise of an option, the purchase/sale date of the stock is the exercise date of the option and the purchase/sale price of the stock is the closing price of ZBH Common Stock on the exercise date. Any Recognized Loss arising from purchases of ZBH Common Stock acquired during the Settlement Class Period through the exercise of an option on ZBH Common Stock shall be computed as provided for other purchases of ZBH Common Stock in the Plan of Allocation.

**70. Market Gains and Losses:** With respect to all ZBH Common Stock and Call Options purchased or acquired or ZBH Put Options sold during the Settlement Class Period, the Claims Administrator will determine if the Claimant had a Market Gain or a Market Loss with respect to his, her or its overall transactions during the Settlement Class Period in those shares and options. For purposes of making this calculation, with respect to ZBH Common Stock and Call Options, the Claims Administrator shall determine the difference between (i) the Claimant's Total Purchase Amount<sup>13</sup> and (ii) the sum of the Claimant's Sales Proceeds<sup>14</sup> and the Claimant's Holding Value.<sup>15</sup> For ZBH Common Stock and Call Options, if the Claimant's Total Purchase Amount *minus* the sum of the Claimant's Sales Proceeds and the Holding Value is a positive number, that number will be the Claimant's Market Loss; if the number is a negative number or zero, that number will be the Claimant's Market Gain. With respect to ZBH Put Options, the Claims Administrator shall determine the difference between (i) the sum of the Claimant's Total Purchase Amount<sup>16</sup> and the Claimant's Holding Value;<sup>17</sup> and (ii) the Claimant's Sale Proceeds.<sup>18</sup>

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<sup>13</sup> For ZBH Common Stock and Call Options, the "Total Purchase Amount" is the total amount the Claimant paid (excluding all fees, taxes and commissions) for all such ZBH securities purchased or acquired during the Settlement Class Period.

<sup>14</sup> For ZBH Common Stock and Call Options, the Claims Administrator shall match any sales of such ZBH securities during the Settlement Class Period first against the Claimant's opening position in the like ZBH securities (the proceeds of those sales will not be considered for purposes of calculating market gains or losses). The total amount received for sales of the remaining like ZBH securities sold during the Settlement Class Period is the "Sales Proceeds."

<sup>15</sup> The Claims Administrator shall ascribe a "Holding Value" of \$101.83 to each share of ZBH Common Stock purchased or acquired during the Settlement Class Period that was still held as of the close of trading on November 7, 2016. For each ZBH Call Option purchased or acquired during the Settlement Class Period that was still held as of the close of trading on November 7, 2016, the Claims Administrator shall ascribe a "Holding Value" for that option which shall be *the greater of*: (i) \$0.00 or (ii) \$101.83 minus the strike price of the option.

<sup>16</sup> For ZBH Put Options, the Claims Administrator shall match any purchases during the Settlement Class Period to close out positions in ZBH Put Options first against the Claimant's opening position in ZBH Put Options (the total amount paid with respect to those purchases will not be considered for purposes of calculating market gains or losses). The total amount paid for

For ZBH Put Options, if the sum of the Claimant's Total Purchase Amount and the Claimant's Holding Value *minus* the Claimant's Sales Proceeds is a positive number, that number will be the Claimant's Market Loss; if the number is a negative number or zero, that number will be the Claimant's Market Gain.

71. If a Claimant had a Market Gain with respect to his, her, or its overall transactions in ZBH Securities during the Settlement Class Period, the value of the Claimant's Recognized Claim will be zero, and the Claimant will in any event be bound by the Settlement. If a Claimant suffered an overall Market Loss with respect to his, her, or its overall transactions in ZBH Securities during the Settlement Class Period but that Market Loss was less than the Claimant's Recognized Claim calculated above, then the Claimant's Recognized Claim will be limited to the amount of the Market Loss.

72. **Determination of Distribution Amount:** If the sum 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 shall 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.

73. 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 shall be distributed *pro rata* to all Authorized Claimants entitled to receive payment.

74. The Net Settlement Fund will be allocated among all Authorized Claimants whose prorated payment is \$10.00 or greater. If the prorated payment to any Authorized Claimant calculates to less than \$10.00, it will not be included in the calculation (*i.e.*, the Recognized Claim will be deemed to be zero) and no distribution will be made to that Authorized Claimant. Any prorated amounts of less than \$10.00 will be included in the pool distributed to those whose prorated payments are \$10.00 or greater.

75. 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

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the remaining purchases during the Settlement Class Period to close out positions in Put Options is the "Total Purchase Amount."

<sup>17</sup> For each ZBH Put Option sold (written) during the Settlement Class Period that was still outstanding as of the close of trading on November 7, 2016, the Claims Administrator shall ascribe a "Holding Value" for that option which shall be *the greater of*: (i) \$0.00 or (ii) the strike price of the option *minus* \$101.83.

<sup>18</sup> For ZBH Put Options, the total amount received for put options sold (written) during the Settlement Class Period is the "Sales Proceeds."

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 shall be contributed to non-sectarian, not-for-profit organization(s), to be recommended by Lead Counsel and approved by the Court.

76. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall have any claim against Plaintiffs, Lead Counsel, Plaintiffs' damages expert, Defendants, Defendants' Counsel, or any of the other Plaintiffs' Releasees or 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. Plaintiffs, Defendants and their respective counsel, and all other Defendants' Releasees, 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 Form or nonperformance of the Claims Administrator; the payment or withholding of Taxes; or any losses incurred in connection therewith.

77. The Plan of Allocation set forth herein is the plan that is being proposed to the Court for its approval by Plaintiffs 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 Settlement Class. Any Orders regarding any modification of the Plan of Allocation will be posted on the settlement website, [www.ZimmerBiometSecuritiesLitigation.com](http://www.ZimmerBiometSecuritiesLitigation.com).

**WHAT PAYMENT ARE THE ATTORNEYS FOR THE SETTLEMENT CLASS SEEKING?  
HOW WILL THE LAWYERS BE PAID?**

78. Plaintiffs' Counsel have not received any payment for their services in pursuing claims against the Defendants on behalf of the Settlement Class, nor have Plaintiffs' Counsel been reimbursed for their out-of-pocket expenses. Before final approval of the Settlement, Lead Counsel will apply to the Court for an award of attorneys' fees for all Plaintiffs' Counsel in an amount not to exceed 33 1/3% of the Settlement Fund. At the same time, Lead Counsel also intends to apply for reimbursement of Litigation Expenses in an amount not to exceed \$1,900,000, which may include an application for reimbursement of the reasonable costs and expenses incurred by Plaintiffs directly related to their representation of the Settlement Class. The Court will determine the amount of any award of attorneys' fees or reimbursement of Litigation Expenses. Such sums as may be approved by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses.

**WHAT IF I DO NOT WANT TO BE A MEMBER OF THE SETTLEMENT CLASS?  
HOW DO I EXCLUDE MYSELF?**

79. Each Settlement Class Member will be bound by all determinations and judgments in this lawsuit, whether favorable or unfavorable, unless such person or entity mails or delivers a written Request for Exclusion from the Settlement Class, addressed to *Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*, EXCLUSIONS, c/o JND Legal Administration, P.O. Box 91367, Seattle, WA 98111. The exclusion request must be **received** no later than \_\_\_\_\_, 2020. You will not be able to exclude yourself from the Settlement Class after that date. Each Request for Exclusion must (a) state the name, address and telephone number of the person or entity requesting exclusion, and in the case of entities the name and telephone number of the appropriate contact person; (b) state that such person or entity “requests exclusion from the Settlement Class in *Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*, Case No. 3:16-CV-00815”; (c) identify and state the number of shares of ZBH Common Stock, Call Options, and/or ZBH Put Options that the person or entity requesting exclusion purchased/acquired and/or sold during the Settlement Class Period (*i.e.*, between June 7, 2016 and November 7, 2016, inclusive), as well as the dates and prices of each such purchase/acquisition and sale; and (d) be signed by the person or entity requesting exclusion or an authorized representative. A Request for Exclusion shall not be valid and effective unless it provides all the information called for in this paragraph and is received within the time stated above, or is otherwise accepted by the Court.

80. If you do not want to be part of the Settlement Class, you must follow these instructions for exclusion even if you have pending, or later file, another lawsuit, arbitration, or other proceeding relating to any Released Plaintiffs’ Claim against any of the Defendants’ Releasees.

81. If you ask to be excluded from the Settlement Class, you will not be eligible to receive any payment out of the Net Settlement Fund.

82. Defendants have the right to terminate the Settlement if valid requests for exclusion are received from persons and entities entitled to be members of the Settlement Class in an amount that exceeds an amount agreed to by Lead Plaintiffs and Defendants.

**WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE  
SETTLEMENT? DO I HAVE TO COME TO THE HEARING?  
MAY I SPEAK AT THE HEARING IF I DON’T LIKE THE SETTLEMENT?**

**83. Settlement Class Members do not need to attend the Settlement Hearing. The Court will consider any submission made in accordance with the provisions below even if a Settlement Class Member does not attend the hearing. You can participate in the Settlement without attending the Settlement Hearing.**

84. The Settlement Hearing will be held on \_\_\_\_\_, 2020 at \_\_:\_\_ .m., before the Honorable Philip P. Simon at the United States District Court for the Northern District of Indiana, United States Courthouse, Courtroom 4, 5400 Federal Plaza, Hammond, IN 46320. The Court reserves the right to approve the Settlement, the Plan of Allocation, Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of Litigation Expenses and/or any other matter related to the Settlement at or after the Settlement Hearing without further notice to the members of the Settlement Class.

85. Any Settlement Class Member who or which does not request exclusion may object to the Settlement, the proposed Plan of Allocation or Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of Litigation Expenses. Objections must be in writing. You must file any written objection, together with copies of all other papers and briefs supporting the objection, with the Clerk’s Office at the United States District Court for the Northern District of Indiana at the address set forth below on or before \_\_\_\_\_, 2020. You must also serve the papers on Lead Counsel and on Defendants’ Counsel at the addresses set forth below so that the papers are *received on or before* \_\_\_\_\_, 2020.

<u>Clerk’s Office</u>	<u>Lead Counsel</u>	<u>Defendants’ Counsel</u>
United States District Court Northern District of Indiana Clerk of the Court United States Courthouse 5400 Federal Plaza Suite 4400 Hammond, IN 46320	<b>Glancy Prongay &amp; Murray LLP</b> Kara M. Wolke, Esq. 1925 Century Park East, Suite 2100 Los Angeles, CA 90067 Email: kwolke@glancylaw.com	<b>Morgan Lewis &amp; Bockius LLP</b> Troy S. Brown, Esq. 1701 Market Street Philadelphia, PA 19103 Email: troy.brown@morganlewis.com

86. Any objection:

- (a) must state the name, address and telephone number of the person or entity objecting and must be signed by the objector;
- (b) must clearly identify the case name and number (*Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*, Case No. 3:16-CV-00815);
- (c) must contain a statement of the Settlement Class Member’s objection or objections, and the specific reasons for each objection, including any legal and evidentiary support the Settlement Class Member wishes to bring to the Court’s attention; and
- (d) must include documents sufficient to prove the objector’s membership in the Settlement Class, including the number of shares of ZBH Common Stock, Call Options, and/or Put Options that the objecting Settlement Class Member purchased, acquired and sold during the Settlement Class Period (*i.e.*, between June 7, 2016 and November 7, 2016, inclusive), as well as the dates and prices of each such purchase/acquisition and sale.

87. You may not object to the Settlement, the Plan of Allocation or Lead Counsel’s motion for attorneys’ fees and reimbursement of Litigation Expenses if you exclude yourself from the Settlement Class or if you are not a member of the Settlement Class.

88. If you object to the Settlement or the request for attorneys’ fees and/or reimbursement of Litigation Expenses, you subject yourself to the jurisdiction of the District Court in this matter and consent to being deposed in your district of residence and producing in advance of a deposition any responsive documents to a discovery request prior to the Settlement Hearing.



89. You may file a written objection without having to appear at the Settlement Hearing. You may not, however, appear at the Settlement Hearing to present your objection unless you first file and serve a written objection in accordance with the procedures described above, unless the Court orders otherwise.

90. If you wish to be heard orally at the hearing in opposition to the approval of the Settlement, the Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses, and if you timely file and serve a written objection as described above, you must also file a notice of appearance with the Clerk's Office and serve it on Lead Counsel and Defendants' Counsel at the addresses set forth above so that it is **received on or before** \_\_\_\_\_, 2020. Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing. Such persons may be heard orally at the discretion of the Court.

91. You are not required to hire an attorney to represent you in making written objections or in appearing at the Settlement Hearing. However, if you decide to hire an attorney, it will be at your own expense, and that attorney must file a notice of appearance with the Court and serve it on Lead Counsel and Defendants' Counsel at the addresses set forth in ¶ 85 above so that the notice is **received on or before** \_\_\_\_\_, 2020.

92. The Settlement Hearing may be adjourned by the Court without further written notice to the Settlement Class. If you intend to attend the Settlement Hearing, you should confirm the date and time with Lead Counsel.

**93. 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 the proposed Settlement, the proposed Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. Settlement Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.**

**WHAT IF I BOUGHT SHARES ON SOMEONE ELSE'S BEHALF?**

94. If you purchased or otherwise acquired any of the ZBH Securities between June 7, 2016 and November 7, 2016, inclusive, for the beneficial interest of persons or organizations other than yourself, you must either (a) within seven (7) calendar days of receipt of this Notice, request from the Claims Administrator sufficient copies of the Notice and Claim Form (the "Notice Packet") to forward to all such beneficial owners and within seven (7) calendar days of receipt of those Notice Packets forward them to all such beneficial owners; or (b) within seven (7) calendar days of receipt of this Notice, provide a list of the names and addresses of all such beneficial owners to *Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*, c/o JND Legal Administration, P.O. Box 91367, Seattle, WA 98111. If you choose the second option, the Claims Administrator will send a copy of the Notice and the Claim Form to the beneficial owners. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred, up to a maximum of \$0.50 per Notice Packet mailed; \$0.05 per Notice Packet transmitted by email; or \$0.10 per name, mailing address, and email address (to the extent available) provided to the Claims Administrator, by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Copies of

this Notice and the Claim Form may also be obtained from the website maintained by the Claims Administrator, [www.ZimmerBiometSecuritiesLitigation.com](http://www.ZimmerBiometSecuritiesLitigation.com), or by calling the Claims Administrator toll-free at 1-888-670-1171.

**CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?**

95. This Notice contains only a summary of the terms of the proposed Settlement. For more detailed information about the matters involved in this Action, you are referred to the papers on file in the Action, including the Stipulation, which may be inspected during regular office hours at the Office of the Clerk, United States District Court for the Northern District of Indiana, United States Courthouse, 5400 Federal Plaza, Hammond, IN 46320. Please visit the Court's website at <https://www.innd.uscourts.gov/> or call the Clerk's Office at (260) 423-3000 to determine whether the Court is open due to the exigent circumstances created by COVID-19 and Related Coronavirus. Additionally, copies of the Stipulation and any related orders entered by the Court will be posted on the website maintained by the Claims Administrator, [www.ZimmerBiometSecuritiesLitigation.com](http://www.ZimmerBiometSecuritiesLitigation.com).

All inquiries concerning this Notice and the Claim Form should be directed to:

*Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*  
and/or  
c/o JND Legal Administration  
P.O. Box 91367  
Seattle, WA 98111  
888-670-1171  
www.

Kara M. Wolke, Esq.  
GLANCY PRONGAY & MURRAY  
LLP  
1925 Century Park East, Suite 2100  
Los Angeles, CA 90067  
(888) 773-9224  
[settlements@glancylaw.com](mailto:settlements@glancylaw.com)

[ZimmerBiometSecuritiesLitigation.com](http://ZimmerBiometSecuritiesLitigation.com)

**DO NOT CALL OR WRITE THE COURT, THE OFFICE OF THE CLERK OF THE COURT, DEFENDANTS OR THEIR COUNSEL REGARDING THIS NOTICE.**

Dated: \_\_\_\_\_, 2020

By Order of the Court  
United States District Court  
Northern District of Indiana

Exhibit A-2

*Shah, et al. v. Zimmer Biomet Holdings, Inc., et al.*  
c/o JND Legal Administration  
P.O. Box 91367  
Seattle, WA 98111  
Toll Free Number: (888) 670-1171  
Settlement Website: [www.ZimmerBiometSecuritiesLitigation.com](http://www.ZimmerBiometSecuritiesLitigation.com)  
Email: [info@ZimmerBiometSecuritiesLitigation.com](mailto:info@ZimmerBiometSecuritiesLitigation.com)

**PROOF OF CLAIM AND RELEASE FORM**

To be eligible to receive a share of the Net Settlement Fund in connection with the Settlement of this Action, you must be a Class Member and complete and sign this Proof of Claim and Release Form (“Claim Form”) and mail it by first-class mail to the above address, **postmarked no later than \_\_\_\_\_.**

Failure to submit your Claim Form by the date specified will subject your claim to rejection and may preclude you from being eligible to recover any money in connection with the Settlement.

**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.**

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**PART I – CLAIMANT INFORMATION**

(Please read General Instructions below before completing this page.)

The Claims Administrator will use this information for all communications regarding this Claim Form. If this information changes, you MUST notify the Claims Administrator in writing at the address above.

Beneficial Owner’s Name

Co-Beneficial Owner’s Name

Entity Name (if Beneficial Owner is not an individual)

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

Address1 (street name and number)

Address2 (apartment, unit or box number)

City

State

Zip Code

<input type="text"/>	<input type="text"/>	<input type="text"/>
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Foreign Country (only if not USA)

Last four digits of Social Security Number or Taxpayer Identification Number

Telephone Number (home)

Telephone Number (work)

<input type="text"/>	<input type="text"/>
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Email address (E-mail address is not required, but if you provide it you authorize the Claims Administrator to use it in providing you with information relevant to this claim.):

Account Number (account(s) through which the securities were traded)<sup>1</sup>:

Claimant Account Type (check appropriate box):

- Individual (includes joint owner accounts)
- Corporation
- IRA/401K
- Pension Plan
- Estate
- Other \_\_\_\_\_ (please specify)
- Trust

<sup>1</sup> If the account number is unknown, you may leave blank. If the same legal entity traded through more than one account you may write “multiple.” Please see paragraph 12 of the General Instructions for more information on when to file separate Claim Forms for multiple accounts, *i.e.*, when you are filing on behalf of distinct legal entities.

## **PART II – GENERAL INSTRUCTIONS**

1. It is important that you completely read and understand the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Settlement Notice") that accompanies this Claim Form, including the Plan of Allocation of the Net Settlement Fund set forth in the Settlement Notice. The Settlement 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 Settlement Notice also contains the definitions of many of the defined terms (which are indicated by initial capital letters) used in this Claim Form. By signing and submitting this Claim Form, you will be certifying that you have read and that you understand the Settlement Notice, including the terms of the releases described therein and provided for herein.

2. This Claim Form is directed to all persons or entities who between June 7, 2016, and November 7, 2016, inclusive (the "Settlement Class Period"), purchased or otherwise acquired (1) Zimmer Biomet common stock ("ZBH Common Stock"), or (2) call options on ZBH Common Stock ("ZBH Call Options"), and/or (3) sold or wrote put options on ZBH Common Stock ("ZBH Put Options") (together, the "Settlement Class"). Included in the Settlement Class are all persons or entities who purchased or otherwise acquired ZBH common stock pursuant to and/or traceable to ZBH's public offering on or around June 13, 2016 and/or ZBH's public offering on or around August 9, 2016 and were damaged thereby. ZBH Common Stock, Call Options, and Put Options are referred to collectively as "ZBH Securities." All persons and entities that are members of the Settlement Class are referred to as "Settlement Class Members."

3. Excluded from the Settlement Class are: (i) Defendants, the PE Defendants, and the Underwriter Defendants; (ii) members of the Immediate Families of each of the Individual Defendants; (iii) the parents, subsidiaries, assigns, successors and predecessors of ZBH, the PE Defendants, and the Underwriter Defendants; (iv) any persons who served as partners, control persons, officers, and/or directors of ZBH, the PE Defendants, and the Underwriter Defendants during the Settlement Class Period and/or at any other relevant time; (v) Defendants' liability insurance carriers; (vi) any firm, trust, corporation, or other entity in which any Defendant, Underwriter Defendant or PE Defendant has or had a controlling interest; and (vii) the legal representatives, heirs, successors-in-interest or assigns of any such excluded party; *provided, however,* that any Investment Vehicle shall not be excluded from the Settlement Class. Also excluded from the Class are any persons and entities who or that submit a request for exclusion that is accepted by the Court.

4. If you are not a Settlement Class Member do not submit a Claim Form. **YOU MAY NOT, DIRECTLY OR INDIRECTLY, PARTICIPATE IN THE SETTLEMENT IF YOU ARE NOT A SETTLEMENT CLASS MEMBER. THUS, IF YOU ARE EXCLUDED FROM THE CLASS (AS SET FORTH IN PARAGRAPH 3 ABOVE), ANY CLAIM FORM THAT YOU SUBMIT, OR THAT MAY BE SUBMITTED ON YOUR BEHALF, WILL NOT BE ACCEPTED.**

5. If you are a Settlement Class Member, you will be bound by the terms of any judgments or orders entered in the Action **WHETHER OR NOT YOU SUBMIT A CLAIM**

FORM, unless you submit a request for exclusion from the Class. Thus, if you are a Class Member, the Judgment will release, and you will be 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 each and every Released Plaintiffs' Claims (including Unknown Claims) against the Defendants' Releasees.

6. 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 submit a timely, properly addressed, and completed Claim Form with the required documentation, your claim may be rejected and you may be precluded from receiving any distribution from the Net Settlement Fund.

7. 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.

8. Use the Schedules of Transactions in Parts III–V of this Claim Form to supply all required details of your transaction(s) (including free transfers) in and holdings of the applicable ZBH Securities. On the Schedules of Transactions, please provide all of the requested information with respect to your holdings, purchases, acquisitions and sales of the applicable ZBH Securities, whether such transactions resulted in a profit or a loss. Failure to report all transaction and holding information during the requested time periods may result in the rejection of your claim.

9. Please note: Only ZBH Common Stock and ZBH Call Options purchased/acquired, and ZBH Put Options sold or written during the Settlement Class Period (*i.e.*, from June 7, 2016, through November 7, 2016, inclusive) are eligible under the Settlement. However, because the PSLRA provides for a “90-day look-back period” (described in the Plan of Allocation set forth in the Settlement Notice), and because of certain provisions under Section 11 of the Securities Act of 1933, you must provide documentation related to your purchases and sales of ZBH Common Stock during the period from November 8, 2016, through and including June 15, 2017 (the day before the first complaint in the Action was filed) in order for the Claims Administrator to calculate your Recognized Loss under the Plan of Allocation and process your claim.

10. You are required to submit genuine and sufficient documentation for all of your transactions and holdings of the applicable ZBH Securities set forth in the Schedules of Transactions in Parts III–V of this Claim Form. Documentation may consist of copies of brokerage confirmation slips or monthly brokerage account statements, or an authorized statement from your broker containing the transactional and holding information found in a broker confirmation slip or account statement. The Parties and the Claims Administrator do not independently have information about your investments in ZBH Securities. **IF SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN COPIES OR EQUIVALENT CONTEMPORANEOUS DOCUMENTS FROM YOUR BROKER. FAILURE TO SUPPLY THIS DOCUMENTATION MAY RESULT IN THE REJECTION OF YOUR CLAIM. DO NOT SEND ORIGINAL DOCUMENTS. Please keep a copy of all documents that you send to the Claims Administrator. Also, please do not highlight any portion of the Claim Form or any supporting documents.**

11. ZBH Call Options and ZBH Put Options are identified by strike price, expiration date and Option Class Symbols.

12. Separate Claim Forms should be submitted for each separate legal entity (*e.g.*, a claim from joint owners should not include separate transactions through an account that is in the name of just one of the joint owners, and an individual should not combine his or her IRA transactions with transactions made through an account in the individual's name). Conversely, a single Claim Form should be submitted on behalf of one legal entity including all transactions made by that entity on one Claim Form, 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 Claim Form).

13. All joint beneficial owners must sign this Claim Form. If you purchased or otherwise acquired ZBH Common Stock or ZBH Call Options, or sold or wrote ZBH Put Options, during the Settlement Class Period and held the securities in your name, you are the beneficial owner as well as the record owner and you must sign this Claim Form to participate in the Settlement. If, however, you purchased or otherwise acquired ZBH Common Stock or ZBH Call Options, or sold or wrote ZBH Put Options, during the Settlement Class Period and the securities were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial owner of these securities, but the third party is the record owner. The beneficial owner, not the record owner, must sign this Claim Form.

14. Agents, executors, administrators, guardians, and trustees must complete and sign the Claim Form on behalf of persons represented by them, and they must:

- (a) expressly state the capacity in which they are acting;
- (b) identify the name, account number, Social Security Number (or taxpayer identification number), address and telephone number of the beneficial owner of (or other person or entity on whose behalf they are acting with respect to) the ZBH Securities; and
- (c) furnish herewith evidence of their authority to bind to the Claim Form the person or entity on whose behalf they are acting. (Authority to complete and sign a Claim Form cannot be established by stockbrokers demonstrating only that they have discretionary authority to trade stock in another person's accounts.)

15. By submitting a signed Claim Form, you will be swearing that you:

- (a) own(ed) the ZBH Securities you have listed in the Claim Form; or
- (b) are expressly authorized to act on behalf of the owner thereof.

16. By submitting a signed Claim Form, you will be swearing to the truth of the statements contained therein and the genuineness of the documents attached thereto, subject to penalties of perjury under the laws of the United States of America. The making of false statements, or the submission of forged or fraudulent documentation, will result in the rejection of your claim and may subject you to civil liability or criminal prosecution.

17. If the Court approves the Settlement, payments to eligible Authorized Claimants pursuant to the Plan of Allocation (or such other plan of allocation as the Court approves) will be made after the completion of all claims processing. This could take substantial time. Please be

patient.

18. PLEASE NOTE: As set forth in the Plan of Allocation, each Authorized Claimant shall receive his, her or its pro rata share of the Net Settlement Fund. If the prorated payment to any Authorized Claimant, however, calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

19. If you have questions concerning the Claim Form, or need additional copies of the Claim Form or the Settlement Notice, you may contact the Claims Administrator, JND Legal Administration at P.O. Box 91367, Seattle, WA 98111 by email at [info@ZimmerBiometSecuritiesLitigation.com](mailto:info@ZimmerBiometSecuritiesLitigation.com), or by toll-free phone at (888) 670-1171, or you may download the documents from the Settlement website, [www.ZimmerBiometSecuritiesLitigation.com](http://www.ZimmerBiometSecuritiesLitigation.com).

20. 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. To obtain the mandatory electronic filing requirements and file layout, you may visit the Settlement website at [www.ZimmerBiometSecuritiesLitigation.com](http://www.ZimmerBiometSecuritiesLitigation.com) or you may email the Claims Administrator's electronic filing department at [info@ZimmerBiometSecurities.com](mailto:info@ZimmerBiometSecurities.com). 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 an email to that effect after processing your file with your claim numbers and respective account information. Do not assume that your file has been received or processed until you receive this email. If you do not receive such an email within 10 days of your submission, you should contact the electronic filing department at [info@ZimmerBiometSecuritiesLitigation.com](mailto:info@ZimmerBiometSecuritiesLitigation.com) to inquire about your file and confirm it was received and acceptable.

**IMPORTANT: PLEASE NOTE**

**YOUR CLAIM IS NOT DEEMED FILED UNTIL YOU RECEIVE AN ACKNOWLEDGEMENT POSTCARD. THE CLAIMS ADMINISTRATOR WILL ACKNOWLEDGE RECEIPT OF YOUR CLAIM FORM BY MAIL WITHIN 60 DAYS. IF YOU DO NOT RECEIVE AN ACKNOWLEDGEMENT POSTCARD WITHIN 60 DAYS, PLEASE CALL THE CLAIMS ADMINISTRATOR TOLL FREE AT (888) 670-1171.**



**PART III – SCHEDULE OF TRANSACTIONS IN ZBH COMMON STOCK**

Complete this Part III if and only if you purchased/acquired ZBH Common Stock during the period from June 7, 2016, through November 7, 2016, inclusive. Please include proper documentation with your Claim Form as described in detail in Part II – General Instructions, Paragraph 10, above. Do not include information in this section regarding securities other than ZBH Common Stock.

**1. BEGINNING HOLDINGS** – State the total number of shares of ZBH Common Stock held as of the opening of trading on June 7, 2016. (Must be documented.) If none, write “zero” or “0.”  
\_\_\_\_\_

**2. PURCHASES/ACQUISITIONS DURING THE SETTLEMENT CLASS PERIOD** – Separately list each and every purchase/acquisition (including free receipts) of ZBH Common Stock from after the opening of trading on June 7, 2016, through and including the close of trading on November 7, 2016. (Must be documented.)

Date of Purchase/ Acquisition (List Chronologically) (Month/Day/Year)	Number of Shares Purchased/ Acquired	Purchase/ Acquisition Price Per Share	Total Purchase/ Acquisition Price (excluding taxes, commissions, and fees)	Part of June 2016 Offering (\$115.85)	Part of August 2016 Offering (\$129.75)
/ /		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>
/ /		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>
/ /		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>
/ /		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>

**3. PURCHASES/ACQUISITIONS DURING THE 90-DAY LOOK-BACK PERIOD THROUGH JUNE 15, 2017** – State the total number of shares of ZBH Common Stock purchased/acquired (including free receipts) from after the opening of trading on November 8, 2016, through and including the close of trading on June 15, 2017. If none, write “zero” or “0.”<sup>2</sup> \_\_\_\_\_

<b>4. SALES DURING THE SETTLEMENT CLASS PERIOD THROUGH JUNE 15, 2017</b> – Separately list each and every sale/disposition (including free deliveries) of ZBH Common Stock from after the opening of trading on June 7, 2016, through and including the close of trading on June 15, 2017. (Must be documented.)	<b>IF NONE, CHECK HERE</b> <input type="radio"/>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------

<sup>2</sup> **Please note:** Information requested with respect to your purchases/acquisitions of ZBH Common Stock from after the opening of trading on November 8, 2016, through and including June 15, 2017, is needed in order to balance your claim; purchases/acquisitions during this period, however, are not eligible under the Settlement and will not be used for purposes of calculating your Recognized Loss pursuant to the Plan of Allocation.

Date of Sale (List Chronologically) (Month/Day/Year)	Number of Shares Sold	Sale Price Per Share	Total Sale Price (excluding taxes, commissions, and fees)
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$

**5. ENDING HOLDINGS** – State the total number of shares of ZBH Common Stock held as of the close of trading on June 15, 2017. (Must be documented.) If none, write “zero” or “0.” \_\_\_\_\_

**IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS YOU MUST  
PHOTOCOPY THIS PAGE AND CHECK THIS BOX   
IF YOU DO NOT CHECK THIS BOX THESE ADDITIONAL PAGES WILL NOT BE REVIEWED**

**PART IV– SCHEDULE OF TRANSACTIONS IN ZBH CALL OPTIONS**

Complete this Part IV if and only if you purchased/acquired ZBH Call Options during the period from June 7, 2016, through November 7, 2016, inclusive. Please include proper documentation with your Claim Form as described in detail in Part II – General Instructions, Paragraph 10, above. Do not include information in this section regarding securities other than ZBH Call Options.

<b>1. BEGINNING HOLDINGS</b> – Separately list all positions in ZBH Call Option contracts in which you had an open interest as of the opening of trading on June 7, 2016. (Must be documented.)			<b>IF NONE, CHECK HERE</b> ○
Strike Price of Call Option Contract	Expiration Date of Call Option Contract (Month/Day/Year)	Option Class Symbol	Number of Call Option Contracts in Which You Had an Open Interest
\$	/ /		
\$	/ /		
\$	/ /		
\$	/ /		

**2. PURCHASES/ACQUISITIONS DURING THE SETTLEMENT CLASS PERIOD** – Separately list each and every purchase/acquisition (including free receipts) of ZBH Call Option contracts from after the opening of trading on June 7, 2016, through and including the close of trading on November 7, 2016. (Must be documented.)

Date of Purchase/	Strike	Expiration	Option	Number of	Purchase/	Total Purchase/	Insert an	Exercise
-------------------	--------	------------	--------	-----------	-----------	-----------------	-----------	----------

Acquisition (List Chronologically) (Month/Day/Year)	Price of Call Option Contract	Date of Call Option Contract (Month/Day/ Year)	Class Symbol	Call Option Contracts Purchased/ Acquired	Acquisition Price Per Call Option Contract	Acquisition Price (excluding taxes, commissions, and fees)	“E” if Exercised Insert an “A” if Assigned  Insert an “X” if Expired	Date (Month/ Day/ Year)
/ /	\$	/ /			\$	\$		/
/ /	\$	/ /			\$	\$		/
/ /	\$	/ /			\$	\$		/
/ /	\$	/ /			\$	\$		/

**3. SALES DURING THE SETTLEMENT CLASS PERIOD** – Separately list each and every sale/disposition (including free deliveries) of ZBH Call Options from after the opening of trading on June 7, 2016, through and including the close of trading on November 7, 2016. (Must be documented.)

**IF NONE,  
CHECK HERE**  
○

Date of Sale (List Chronologically) (Month/Day/Year)	Strike Price of Call Option Contract	Expiration Date of Call Option Contract (Month/Day/Year)	Option Class Symbol	Number of Call Option Contracts Sold	Sale Price Per Call Option Contract	Total Sale Price (excluding taxes, commissions, and fees)
/ /	\$	/ /			\$	\$
/ /	\$	/ /			\$	\$
/ /	\$	/ /			\$	\$
/ /	\$	/ /			\$	\$

**4. ENDING HOLDINGS** – Separately list all positions in ZBH Call Option contracts in which you had an open interest as of the close of trading on November 7, 2016. (Must be documented.)

**IF NONE, CHECK  
HERE**  
○

Strike Price of Call Option Contract	Expiration Date of Call Option Contract (Month/Day/Year)	Option Class Symbol	Number of Call Option Contracts in Which You Had an Open Interest
\$	/ /		
\$	/ /		
\$	/ /		
\$	/ /		

**IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS/HOLDINGS YOU MUST  
PHOTOCOPY THIS PAGE AND CHECK THIS BOX   
IF YOU DO NOT CHECK THIS BOX THESE ADDITIONAL PAGES WILL NOT BE REVIEWED**

**PART V – SCHEDULE OF TRANSACTIONS IN ZBH PUT OPTIONS**

Complete this Part V if and only if you sold (wrote) ZBH Put Options during the period from June 7, 2016, through November 7, 2016, inclusive. Please include proper documentation with your Claim Form as described in detail in Part II – General Instructions, Paragraph 10, above. Do not include information in this section regarding securities other than ZBH Put Options.

<b>1. BEGINNING HOLDINGS</b> – Separately list all positions in ZBH Put Option contracts in which you had an open interest as of the opening of trading on June 7, 2016. (Must be documented.)			<b>IF NONE, CHECK HERE</b> ○
Strike Price of Put Option Contract	Expiration Date of Put Option Contract (Month/Day/Year)	Option Class Symbol	Number of Put Option Contracts in Which You Had an Open Interest
\$	/ /		
\$	/ /		
\$	/ /		
\$	/ /		

<b>2. SALES (WRITING) DURING THE SETTLEMENT CLASS PERIOD</b> – Separately list each and every sale (writing) (including free deliveries) of ZBH Put Option contracts from after the opening of trading on June 7, 2016, through and including the close of trading on November 8, 2016. (Must be documented.)								
Date of Sale (Writing) (List Chronologically) (Month/Day/Year )	Strike Price of Put Option Contract	Expiration Date of Put Option Contract (Month/Day/Year)	Option Class Symbol	Number of Put Option Contracts Sold (Written)	Sale Price Per Put Option Contract	Total Sale Price (excluding taxes, commissions, and fees)	Insert an “A” if Assigned Insert an “E” if Exercised Insert an “X” if Expired	Exercise Date (Month/Day/Year)
/ /	\$	/ /				\$		/ /
/ /	\$	/ /				\$		/ /
/ /	\$	/ /				\$		/ /
/ /	\$	/ /				\$		/ /

<b>3. PURCHASES/ACQUISITIONS DURING THE SETTLEMENT CLASS</b>	<b>IF NONE, CHECK</b>
--------------------------------------------------------------	-----------------------

<b>PERIOD</b> – Separately list each and every purchase/acquisition (including free receipts) of ZBH Put Option contracts from after the opening of trading on June 7, 2016, through and including the close of trading on November 7, 2016. (Must be documented.)						<b>HERE</b> ○
Date of Purchase/ Acquisition (List Chronologically)  (Month/Day/Year )	Strike Price of Put Option Contract	Expiration Date of Put Option Contract (Month/Day/ Year)	Option Class Symbol	Number of Put Option Contracts Purchased/ Acquired	Purchase/ Acquisition Price Per Put Option Contract	Total Purchase/ Acquisition Price (excluding taxes, commissions, and fees)
/ /	\$	/ /				\$
/ /	\$	/ /				\$
/ /	\$	/ /				\$
/ /	\$	/ /				\$
<b>4. ENDING HOLDINGS</b> – Separately list all positions in ZBH Put Option contracts in which you had an open interest as of the close of trading on November 7, 2016. (Must be documented.)						<b>IF NONE, CHECK HERE</b> ○
Strike Price of Put Option Contract	Expiration Date of Put Option Contract (Month/Day/Year)	Option Class Symbol	Number of Put Option Contracts in Which You Had an Open Interest			
\$	/ /					
\$	/ /					
\$	/ /					
\$	/ /					

**IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS/HOLDINGS YOU MUST  
PHOTOCOPY THIS PAGE AND CHECK THIS BOX   
IF YOU DO NOT CHECK THIS BOX THESE ADDITIONAL PAGES WILL NOT BE REVIEWED**

**PART VI – RELEASE OF CLAIMS AND SIGNATURE**

**YOU MUST ALSO READ THE RELEASE AND CERTIFICATION BELOW AND SIGN**

**ON PAGE 13 OF THIS CLAIM FORM.**

I (we) hereby acknowledge that as of the Effective Date of the Settlement, pursuant to the terms set forth in the Stipulation, I (we), on behalf of myself (ourselves) and my (our) heirs, executors, administrators, predecessors, successors, officers, directors, agents, parents, affiliates, subsidiaries, employees, attorneys, assignees and assigns, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived, discharged and dismissed each and every Released Plaintiffs' Claim (as defined in the Stipulation and in the Settlement Notice) against the Defendants' Releasees (as defined in the Stipulation and in the Settlement Notice) and shall forever be 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 or all of the Released Plaintiffs' Claims against any of the Defendants' Releasees.

**CERTIFICATION**

By signing and submitting this Claim Form, the Claimant(s) or the person(s) who represent(s) the Claimant(s) certifies (certify), as follows:

1. that I (we) have read and understand the contents of the Settlement Notice and this Claim Form, including the releases provided for in the Settlement and the terms of the Plan of Allocation;

2. that the Claimant(s) is a (are) Settlement Class Member(s), as defined in the Settlement Notice and in paragraph 2 on page 3 of this Claim Form, and is (are) not excluded from the Class by definition or pursuant to request as set forth in the Settlement Notice and in paragraph 3 on page \_\_ of this Claim Form;

3. that I (we) own(ed) the ZBH Common Stock and ZBH Call Options and had an interest in the ZBH Put Options identified in the Claim Form and have not assigned the claim against the Defendants' Releasees to another, or that, in signing and submitting this Claim Form, I (we) have the authority to act on behalf of the owner(s) thereof;

4. that the Claimant(s) has (have) not submitted any other claim covering the same purchases/acquisitions of ZBH Common Stock or ZBH Call Options, or sales of ZBH Put Options, and knows (know) of no other person having done so on the Claimant's (Claimants') behalf;

5. that the Claimant(s) submit(s) to the jurisdiction of the Court with respect to Claimant's (Claimants') claim and for purposes of enforcing the releases set forth herein;

6. that I (we) agree to furnish such additional information with respect to this Claim Form as Lead Counsel, the Claims Administrator or the Court may require;

7. that the Claimant(s) waive(s) the right to trial by jury, to the extent it exists, and agree(s) to the Court's summary disposition of the determination of the validity or amount of

the claim made by this Claim Form;

8. that I (we) acknowledge that the Claimant(s) will be bound by and subject to the terms of any judgment(s) that may be entered in the Action; and

9. that the Claimant(s) is (are) NOT subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code because (a) the Claimant(s) is (are) exempt from backup withholding or (b) the Claimant(s) has (have) not been notified by the IRS that he/she/it is subject to backup withholding as a result of a failure to report all interest or dividends or (c) the IRS has notified the Claimant(s) that he/she/it is no longer subject to backup withholding. **If the IRS has notified the Claimant(s) that he, she or it is subject to backup withholding, please strike out the language in the preceding sentence indicating that the claim is not subject to backup withholding in the certification above.**

UNDER THE PENALTIES OF PERJURY, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THIS CLAIM FORM IS TRUE, CORRECT, AND COMPLETE, AND THAT THE DOCUMENTS SUBMITTED HEREWITH ARE TRUE AND CORRECT COPIES OF WHAT THEY PURPORT TO BE.

---

Signature of Claimant

Date

---

Print your name here

---

Signature of joint Claimant, if any

Date

---

Print your name here

*If the Claimant is other than an individual, or is not the person completing this form, the following also must be provided:*

---

Signature of person signing on behalf of Claimant

Date

---

Print your name here

---

CAPACITY OF PERSON SIGNING ON BEHALF OF CLAIMANT, IF OTHER THAN AN INDIVIDUAL, *E.G.*, EXECUTOR, PRESIDENT, TRUSTEE, CUSTODIAN, *ETC.* (MUST PROVIDE EVIDENCE OF AUTHORITY TO ACT ON BEHALF OF CLAIMANT – SEE PARAGRAPH 14 ON PAGE 5 OF THIS CLAIM FORM.)

**REMINDER CHECKLIST:**

1. Please sign the above release and certification. If this Claim Form is being made on behalf of joint Claimants, then both must sign.
2. Remember to attach only **copies** of acceptable supporting documentation as these documents will not be returned to you.
3. Please do not highlight any portion of the Claim Form or any supporting documents.
4. Do not send original security certificates or documentation. These items cannot be returned to you by the Claims Administrator.
5. Keep copies of the completed Claim Form and documentation for your own records.
6. The Claims Administrator will acknowledge receipt of your Claim Form by mail, within 60 days. Your claim is not deemed filed until you receive an acknowledgement postcard. **If you do not receive an acknowledgement postcard within 60 days, please call the Claims Administrator toll free at (888) 670-1171.**
7. If your address changes in the future, or if this Claim Form was sent to an old or incorrect address, please send the Claims Administrator written notification of your new address. If you change your name, please inform the Claims Administrator.
8. If you have any questions or concerns regarding your claim, please contact the Claims Administrator at the address below, by email at [info@ZimmerBiometSecuritiesLitigation.com](mailto:info@ZimmerBiometSecuritiesLitigation.com), or toll-free at (888) 670-1171 or visit [www.ZimmerBiometSecuritiesLitigation.com](http://www.ZimmerBiometSecuritiesLitigation.com). Please DO NOT call ZBH or any of the other Defendants or their counsel with questions regarding your claim.

THIS CLAIM FORM MUST BE MAILED TO THE CLAIMS ADMINISTRATOR BY FIRST-CLASS MAIL, **POSTMARKED NO LATER THAN \_\_\_\_\_, 2020**, ADDRESSED AS FOLLOWS:

*Shah, et al. v. Zimmer Biomet Holdings, Inc., et al.*  
c/o JND Legal Administration  
P.O. Box 91367  
Seattle, WA 98111

A Claim Form received by the Claims Administrator shall be deemed to have been submitted when posted, if a postmark date on or before \_\_\_\_\_, 2020 is indicated on the envelope and it is mailed First Class, and addressed in accordance with the above instructions. In all other cases, a Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator.

You should be aware that it will take a significant amount of time to fully process all of the Claim Forms. Please be patient and notify the Claims Administrator of any change of address.



Exhibit A-3

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

RAJESH M. SHAH, *et al.*,

Plaintiffs,

v.

ZIMMER BIOMET HOLDINGS, INC., *et al.*,

Defendants.

Case No.: 3:16-cv-00815-PPS-MGG

Honorable Philip P. Simon

**SUMMARY NOTICE OF (I) PENDENCY OF CLASS ACTION,  
CERTIFICATION OF SETTLEMENT CLASS, AND  
PROPOSED SETTLEMENT; (II) SETTLEMENT FAIRNESS HEARING;  
AND (III) MOTION FOR AN AWARD OF ATTORNEYS' FEES  
AND REIMBURSEMENT OF LITIGATION EXPENSES**

**TO: All persons or entities who, between June 7, 2016 and November 7, 2016, inclusive, purchased or otherwise acquired Zimmer Biomet Holdings, Inc. ("ZBH") Common Stock and/or Call Options, and/or wrote ZBH Put Options, and were damaged thereby (the "Settlement Class"):**

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

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Northern District of Indiana, that the above-captioned litigation (the "Action") has been certified as a class action on behalf of the Settlement Class, except for certain persons and entities who are excluded from the Settlement Class by definition as set forth in the full printed Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Notice").

YOU ARE ALSO NOTIFIED that Plaintiffs in the Action have reached a proposed settlement of the Action for \$50,000,000 in cash (the "Settlement"), that, if approved, will resolve all claims, both known and unknown, in the Action.

A hearing will be held on \_\_\_\_\_, 2020 at \_\_:\_\_ .m., before the Honorable Philip P. Simon at the United States District Court for the Northern District of Indiana, United States Courthouse, Courtroom 4, 5400 Federal Plaza, Hammond, IN 46320, to determine (i) whether the proposed Settlement should be approved as fair, reasonable, and adequate; (ii) whether the Action should be dismissed with prejudice against Defendants, and the Releases specified and described in the Stipulation and Agreement of Settlement dated April 14, 2020 (and in the Notice) should be granted; (iii) whether the proposed Plan of Allocation should be approved as fair and reasonable; and (iv) whether Lead Counsel's application for an award of attorneys' fees and reimbursement of expenses should be approved.

**If you are a member of the Settlement Class, your rights will be affected by the pending Action and the Settlement, and you may be entitled to share in the Settlement Fund.** If you have not yet received the Notice and Claim Form, you may obtain copies of these documents by contacting the Claims Administrator at *Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*, c/o JND Legal Administration, P.O. Box 91367, Seattle, WA 98111, 1-888-670-1171. Copies of the Notice and Claim Form can also be downloaded from the website maintained by the Claims Administrator, [www.ZimmerBiometSecuritiesLitigation.com](http://www.ZimmerBiometSecuritiesLitigation.com).

If you are a member of the Settlement Class, in order to be eligible to receive a payment under the proposed Settlement, you must submit a Claim Form *postmarked or submitted online* no later than \_\_\_\_\_, 2020. If you are a Settlement Class Member and do not submit a proper Claim Form, you will not be eligible to share in the distribution of the net proceeds of the Settlement but you will nevertheless be bound by any judgments or orders entered by the Court in the Action.

If you are a member of the Settlement Class and wish to exclude yourself from the Settlement Class, you must submit a request for exclusion such that it is *received* no later than \_\_\_\_\_, 2020, in accordance with the instructions set forth in the Notice. If you properly exclude yourself from the Settlement Class, you will not be bound by any judgments or orders entered by the Court in the Action and you will not be eligible to share in the proceeds of the Settlement.

Any objections to the proposed Settlement, the proposed Plan of Allocation, or Lead Counsel's motion for attorneys' fees and reimbursement of expenses, must be filed with the Court and delivered to Lead Counsel and Defendants' Counsel such that they are *received* no later than \_\_\_\_\_, 2020, in accordance with the instructions set forth in the Notice.

**Please do not contact the Court, the Clerk's office, ZBH, or its counsel regarding this notice. All questions about this notice, the proposed Settlement, or your eligibility to participate in the Settlement should be directed to Lead Counsel or the Claims Administrator.**

Requests for the Notice and Claim Form should be made to:

*Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*  
c/o JND Legal Administration  
P.O. Box 91367  
Seattle, WA 98111  
888-670-1171

[www.ZimmerBiometSecuritiesLitigation.com](http://www.ZimmerBiometSecuritiesLitigation.com)

Inquiries, other than requests for the Notice and Claim Form, should be made to Lead Counsel:

GLANCY PRONGAY & MURRAY LLP

Kara M. Wolke, Esq.

1925 Century Park East, Suite 2100

Los Angeles, CA 90067

(888) 773-9224

[settlements@glancylaw.com](mailto:settlements@glancylaw.com)

By Order of the Court

**Exhibit B**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

RAJESH M. SHAH, *et al.*,

Plaintiffs,

v.

ZIMMER BIOMET HOLDINGS, INC., *et al.*,

Defendants.

Case No.: 3:16-cv-00815-PPS-MGG

Honorable Philip P. Simon

**JUDGMENT APPROVING CLASS ACTION SETTLEMENT**

WHEREAS, a consolidated class action is pending in this Court entitled *Shah et al. v. Zimmer Biomet Holdings, Inc. et al.*, Case No. 3:16-CV-000815 (the “Action”);

WHEREAS, (a) Lead Plaintiffs Rajesh M. Shah and Matt Brierley (“Lead Plaintiffs”), and additional plaintiffs UFCW Local 1500 and Steven Castillo (together with Lead Plaintiffs, “Plaintiffs”), on behalf of themselves and the Settlement Class (defined below), and (b) defendant Zimmer Biomet Holdings, Inc. (“ZBH” or the “Company”), defendants David C. Dvorak, Daniel P. Florin, Robert J. Marshall Jr., Tony W. Collins (collectively the “Officer Defendants”), and defendants Christopher B. Begley, Betsy J. Bernard, Paul M. Bisaro, Gail K. Boudreaux, Michael J. Farrell, Larry Glasscock, Robert A. Hagemann, Arthur J. Higgins, Michael W. Michelson, Cecil B. Pickett, Ph.D., Jeffrey K. Rhodes (together with the Officer Defendants, the “Individual Defendants,” and, together with ZBH and the Officer Defendants, the “Defendants”; and together with Plaintiffs, the “Parties”) have entered into a Stipulation and Agreement of Settlement dated April 14, 2020 (the “Stipulation”), that provides for a complete

dismissal with prejudice of the claims asserted against Defendants in the Action on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the “Settlement”);

WHEREAS, unless otherwise defined in this Judgment, the capitalized terms herein shall have the same meaning as they have in the Stipulation;

WHEREAS, by Order dated \_\_\_\_\_, 2020 (the “Preliminary Approval Order”), this Court: (a) preliminarily approved the Settlement; (b) certified the Settlement Class solely for purposes of effectuating the Settlement; (c) ordered that notice of the proposed Settlement be provided to potential Settlement Class Members; (d) provided Settlement Class Members with the opportunity either to exclude themselves from the Settlement Class or to object to the proposed Settlement; and (e) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice has been given to the Settlement Class;

WHEREAS, the Court conducted a hearing on \_\_\_\_\_, 2020 (the “Settlement Hearing”) to consider, among other things, (a) whether the terms and conditions of the Settlement are fair, reasonable and adequate to the Settlement Class, and should therefore be approved; and (b) whether a judgment should be entered dismissing the Action with prejudice as against the Defendants; and

WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed and proceedings held herein in connection with the Settlement, all oral and written comments received regarding the Settlement, and the record in the Action, and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Jurisdiction** – The Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over all of the Parties

and each of the Settlement Class Members.

2. **Incorporation of Settlement Documents** – This Judgment incorporates and makes a part hereof: (a) the Stipulation filed with the Court on April 14, 2020; and (b) the Notice and the Summary Notice, both of which were filed with the Court on April 14, 2020.

3. **Class Certification for Settlement Purposes** – The Court hereby affirms its determinations in the Preliminary Approval Order certifying, for the purposes of the Settlement only, the Action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the Settlement Class consisting all persons or entities who, between June 7, 2016 and November 7, 2016, inclusive, purchased or otherwise acquired ZBH Common Stock and/or Call Options, and/or wrote ZBH Put Options, and were damaged thereby. Included in the Settlement Class are all persons or entities who purchased or otherwise acquired ZBH common stock pursuant to and/or traceable to ZBH's public offering on or around June 13, 2016 and/or ZBH's public offering on or around August 9, 2016 and were damaged thereby. Excluded from the Settlement Class are: (i) Defendants, the PE Defendants, and the Underwriter Defendants; (ii) members of the Immediate Families of each of the Individual Defendants; (iii) the parents, subsidiaries, assigns, successors and predecessors of ZBH, the PE Defendants, and the Underwriter Defendants; (iv) any persons who served as partners, control persons, officers, and/or directors of ZBH, the PE Defendants, and the Underwriter Defendants during the Settlement Class Period and/or at any other relevant time; (v) Defendants' liability insurance carriers; (vi) any firm, trust, corporation, or other entity in which any Defendant, Underwriter Defendant or PE Defendant has or had a controlling interest; and (vii) the legal representatives, heirs, successors-in-interest or assigns of any such excluded party; *provided, however,* that any Investment Vehicle shall not be excluded from the Settlement Class. [Also

excluded from the Settlement Class are the persons and entities listed on Exhibit 1 hereto who or which are excluded from the Settlement Class pursuant to request.]

4. **Adequacy of Representation** – Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, the Court hereby affirms its determinations in the Preliminary Approval Order certifying Plaintiffs as Class Representatives for the Settlement Class and appointing Lead Counsel as Class Counsel for the Settlement Class. Plaintiffs and Lead Counsel have fairly and adequately represented the Settlement Class both in terms of litigating the Action and for purposes of entering into and implementing the Settlement and have satisfied the requirements of Federal Rules of Civil Procedure 23(a)(4) and 23(g), respectively.

5. **Notice** – The Court finds that the dissemination of the Notice and the publication of the Summary Notice: (a) were implemented in accordance with the Preliminary Approval Order; (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of (i) the pendency of the Action; (ii) the effect of the proposed Settlement (including the Releases to be provided thereunder); (iii) Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of Litigation Expenses; (iv) their right to object to any aspect of the Settlement, the Plan of Allocation and/or Lead Counsel’s motion for attorneys’ fees and reimbursement of Litigation Expenses; (v) their right to exclude themselves from the Settlement Class; and (vi) their right to appear at the Settlement Hearing; (d) constituted due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of

1995, 15 U.S.C. §§ 77z-1(a)(7), 78u-4(a)(7), and all other applicable law and rules. The Court finds that a full opportunity has been afforded to Class Members to object to the Settlement and/or to participate in the Settlement Hearing. Furthermore, the Court hereby affirms that due and sufficient notice has been given to the appropriate State and Federal officials pursuant to the Class Action Fairness Act, 28 U.S.C § 1715.

6. **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and in accordance with, Rule 23 of the Federal Rules of Civil Procedure, this Court hereby fully and finally 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 the Action), and finds that the Settlement is, in all respects, fair, reasonable and adequate to the Settlement Class. The Parties are directed to implement, perform and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation.

7. The Action and all of the claims asserted against Defendants in the Action by Plaintiffs and the other Settlement Class Members are hereby dismissed with prejudice. The Parties shall bear their own costs and expenses, except as otherwise expressly provided in the Stipulation.

8. **Binding Effect** – The terms of the Stipulation and of this Judgment shall be forever binding on Defendants, Plaintiffs 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. [The persons and entities listed on Exhibit 1 hereto are excluded from the Settlement Class pursuant to request and are not bound by the terms of the Stipulation or this Judgment.]



9. **Releases** – The Releases set forth in paragraphs 5 and 6 of the Stipulation, together with the definitions contained in paragraph 1 of the Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

(a) Without further action by anyone, and subject to paragraph 10 below, upon the Effective Date of the Settlement, Plaintiffs and each of the other Settlement Class Members, on behalf of themselves, and their respective current and former heirs, executors, administrators, predecessors, successors, officers, directors, agents, parents, affiliates, subsidiaries, employees, attorneys, assignees and assigns in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Plaintiffs' Claim (including Unknown Claims) against the Defendants and the other Defendants' Releasees, whether or not such Settlement Class Member executes and delivers the Proof of Claim Form and shall forever be 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 or all of the Released Plaintiffs' Claims against any of the Defendants' Releasees. This Release shall not apply to any of the Excluded Claims (as that term is defined in paragraph 1(q) of the Stipulation).

(b) Without further action by anyone, and subject to paragraph 10 below, upon the Effective Date of the Settlement, the Defendants, Underwriter Defendants and PE Defendants, on behalf of themselves, and their respective current and former heirs, executors, administrators, predecessors, successors, officers, directors, agents, parents, affiliates, subsidiaries, employees, attorneys, assignees and assigns in their capacities as such, shall be

deemed to have, and by operation of law and of this Judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Defendants' Claim (including Unknown Claims) against Plaintiffs and the other Plaintiffs' Releasees, and shall forever be 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 or all of the Released Defendants' Claims against any of the Plaintiffs' Releasees. [This Release shall not apply to any person or entity listed on Exhibit 1 hereto.]

10. Notwithstanding paragraphs 9(a) – (b) above, 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.

11. **Rule 11 Findings** – The Court finds and concludes that the Parties and their respective counsel have complied in all respects with the requirements of Rule 11 of the Federal Rules of Civil Procedure in connection with the institution, prosecution, defense, and settlement of the Action.

12. **No Admissions** – Neither this Judgment, term sheet, the Stipulation (whether or not consummated), including the exhibits thereto 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 the Stipulation, nor any proceedings taken pursuant to or in connection with the Stipulation and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered against any of the Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any

of the Defendants' Releasees 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 Defendants' Releasees or in any way referred to for any other reason as against any of the Defendants' Releasees, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation;

(b) shall be offered against any of the Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession or admission by any of the Plaintiffs' Releasees that any of their claims are without merit, that any of the Defendants' Releasees 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 Plaintiffs' Releasees, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; or

(c) shall be construed against any of the Releasees as an admission, concession, or presumption that the consideration to be given under the Settlement represents the amount which could be or would have been recovered after trial;

provided, however, that the Parties and the Releasees and their respective counsel may refer to this Judgment and the Stipulation to effectuate the protections from liability granted hereunder and thereunder or otherwise to enforce the terms of the Settlement.

13. **Retention of Jurisdiction** – Without affecting the finality of this Judgment in any way, this Court retains 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) any motion for an award of attorneys' fees and/or Litigation Expenses by Lead Counsel in the Action 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 Action.

14. Separate orders shall be entered regarding approval of a plan of allocation and the motion of Lead Counsel for an award of attorneys' fees and reimbursement of Litigation Expenses. Such orders shall in no way affect or delay the finality of this Judgment and shall not affect or delay the Effective Date of the Settlement.

15. **Modification of the Agreement of Settlement** – Without further approval from the Court, Plaintiffs 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, Plaintiffs and Defendants may agree to reasonable extensions of time to carry out any provisions of the Settlement.

16. **Termination of Settlement** – 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, rendered null and void and 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 Plaintiffs, the other Settlement Class Members and Defendants, and the Parties shall revert to their respective positions in the Action as of December 12, 2019, as provided in the Stipulation.

17. **Entry of Final Judgment** – There is no just reason to delay the entry of this Judgment as a final judgment in this Action. Accordingly, the Clerk of the Court is expressly directed to immediately enter this final judgment in this Action.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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The Honorable Philip P. Simon  
United States District Judge

**Exhibit 1**

**[List of Persons and Entities Excluded from the Settlement Class Pursuant to Request]**