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the Proposed Settlement Class

MELISSA LEE,

Plaintiff,

- against -

CARTER-REED COMPANY, L.L.C.,
ET AL.,

Defendants.

SUPERIOR COURT OF THE
STATE OF NEW JERSEY
LAW DIVISION

UNION COUNTY
DOCKET NO: L-3969-04

SETTLEMENT AGREEMENT

NATIONWIDE CLASS ACTION SETTLEMENT AGREEMENT

This Settlement Agreement is by and between representative plaintiff Melissa Lee (sometimes referred to herein as "Representative Plaintiff" or "Class Representative"), on behalf of herself and a class of similarly situated persons, on the one hand, and Carter-Reed Company, L.L.C. a/k/a The Carter Reed Company, Basic Research, L.L.C., DGI Enterprises, Inc., Allagenbo Tech, L.L.C., Body Forum, L.L.C., Body Innovations, L.L.C., Covarix, L.L.C., Covaxil Laboratories, L.L.C., Bydex Management L.L.C., Western Holdings, L.L.C., Dennis W. Gay and Natalie Chevreau, and their respective affiliated companies, agents and representatives (sometimes collectively referred to herein as the "Defendants"), on the other hand. The parties, by this Agreement, seek to resolve their differences and have agreed to the terms of the settlement set forth in this Nationwide Class Action Settlement Agreement.

ARTICLE I- RECTALS

1. WHEREAS, Representative Plaintiff is the named plaintiff in a class action filed on November 10, 2004 against Defendants in the Superior Court of the State of New Jersey, County of Union, bearing Docket No. UNN-L-3969-04 (the "Action");

2. WHEREAS, the Representative Plaintiff alleges that Defendants made false and misleading statements on the label and in advertisements for Relacore regarding the product's ability to provide certain health benefits, and that such statements constitute fraud and violate consumer protections laws;

3. WHEREAS, Defendants filed a motion to dismiss the Complaint in January 2005, which the Honorable John F. Malone, J.S.C., denied in its entirety, in an order dated April 29, 2005;

4. WHEREAS, in May 2005, Defendants filed their Answer and Affirmative Defenses;

5. WHEREAS, class certification discovery ensued, including an exchange of documents and interrogatory responses, and depositions of Ms. Lee and a corporate representative of Carter-Reed Company in Salt Lake City, Utah;

6. WHEREAS, Plaintiff moved for class certification and on April 18, 2009, Judge Dupuis denied Plaintiff's motion;

7. WHEREAS, Plaintiff moved for and obtained leave to appeal the trial court's denial of class certification, and the Appellate Division affirmed on August 14, 2009;

8. WHEREAS, the New Jersey Supreme Court thereafter granted Plaintiff leave to appeal, and on September 30, 2010, the New Jersey Supreme Court reversed the trial court's decision denying class certification and directed the certification of the action to proceed as a class action with named representative, Melissa Lee, representing a class of New Jersey citizens and residents who purchased Relacore from its entry in the market in 2002 to date. *Lee v. Carter-Reed*, 203 N.J. at 527;.

9. WHEREAS, in October 2010, the parties began merits based discovery, including various cross-motions to compel merits based interrogatory responses and document production;

10. WHEREAS, on July 21, 2011, the Court entered an Order Appointing Judge Keefe as Special Discovery Master, and Judge Keefe ruled on the cross-motions to compel and entered two Recommendations regarding merits-based discovery:

11. WHEREAS, on November 16, 2011, Defendants filed a motion for summary judgment before any merits-based or expert depositions were completed and on January 11, 2012, after Plaintiff opposed those motions, Defendants withdrew their motion for summary judgment, except as to the request for dismissal of certain corporate defendants:

12. WHEREAS, on February 10, 2012, the Court entered an Order denying Defendants' motion for judgment on the pleadings, and an Order granting in part and denying in part Defendants' remaining motion for summary judgment. The summary judgment Order dismissed defendants Alphagenbio Tech, LLC, Body Forum, LLC, Body Innovations, LLC, and Covaxil Laboratories, LLC from the case (with Plaintiff's consent) without prejudice:

13. WHEREAS, the parties thereafter engaged in merits-based fact discovery and expert discovery, including the depositions of five corporate representatives of Defendants, Defendants' liability expert and Plaintiffs' liability and damages experts:

14. WHEREAS, in July, 2014, Defendants moved for (i) summary judgment; (ii) to decertify the class; and (iii) to exclude the expert testimony of Plaintiffs' liability and damages experts:

15. WHEREAS, in August, 2014, Plaintiffs opposed Defendants' motions and cross-moved to exclude from the Court's consideration the affidavits of several of Defendants' experts:

16. WHEREAS, on August 28, 2014, the Court heard oral argument on the foregoing motions, and denied them in their entirety;

17. WHEREAS, the trial of this Action is scheduled to commence on November 3, 2014;

18. WHEREAS, the Representative Plaintiff and the Defendants (sometimes collectively referred to herein as the "Parties") have had a full and fair opportunity to evaluate the strengths and weaknesses of their respective positions;

19. WHEREAS, Defendants deny the allegations contained in the Action, deny all allegations of wrongdoing and of liability, and deny any causation of harm or damage to the Representative Plaintiff, the class she seeks to represent, and the Settlement Class;

20. WHEREAS, Defendants nevertheless have concluded that, in light of the costs, risks and disruption of litigation, this Settlement is appropriate on the terms and conditions set forth herein;

21. WHEREAS, the Representative Plaintiff believes that the claims asserted in the Action are meritorious;

22. WHEREAS, the Representative Plaintiff and her attorneys nevertheless have concluded that, in light of the costs, delay and risks of litigation of the matters in dispute, the risk of losing on the merits, the risk of any potential appeals that the Defendants may take, and in the desire to provide relief to the class sooner rather than later, this Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class;

23. WHEREAS, the performance of any act referenced in this Settlement Agreement, or any other circumstance regarding the Parties' agreement to settle, shall not be considered an

admission of liability or as an admission of any allegations made in any claim or litigation, including the Action; and

24. WHEREAS, the Parties hereto agree that this Settlement Agreement shall not be deemed or construed to be an admission or evidence of fraud and/or of any violation of any federal or state statute, rule or regulation, principle of common law or equity, or of any liability or wrongdoing whatsoever by Defendants, or any of them, or of the truth of any of the claims asserted in the Action or elsewhere:

NOW THEREFORE, it is hereby stipulated and agreed that, in consideration of the agreements, promises, and covenants set forth in this Settlement Agreement, and subject to approval of the Court, the Action shall be fully and finally settled and dismissed with prejudice under the following terms and conditions:

ARTICLE II- DEFINITIONS

As used in this Settlement Agreement and the related documents attached hereto as exhibits, the terms contained herein shall have the meanings set forth below. The singular includes the plural and vice versa.

1. "Aggregate Fees, Costs, and Expenses" means the aggregate attorneys' fees, expenses and costs, the costs of notice, the administrative expenses, and the incentive awards.

2. "Action" means the matter captioned Lee vs. Carter-Reed Company, L.L.C., et al., Superior Court of the State of New Jersey, Union County, Docket No. UNN-L-3969-04.

3. "Claim" means a claim for refund submitted by a Settlement Class Member.

4. "Claim Period" means the period to submit Claims, which period will commence on the date Notice is first provided to the Class or on a date to be determined by the Court. The Claims Period will end on a date certain, no later than twenty-one (21) days prior to the date of

the Final Fairness Hearing set by the Court, and shall run for a period of not less than sixty (60) days.

5. "Class Counsel" means Jeffrey I. Carton of Denlea & Carton LLP.

6. "Class-Related Releasing Parties" means all Settlement Class Members.

7. "Class Released Claims" means any and all actions, causes of action, claims,

demands, liabilities, obligations, fees, costs, sanctions, proceedings, and/or rights of any nature and description whatsoever, including, without limitation, claims for fraud, misrepresentation, breach of express or implied warranty, violations of any state or federal statutes, rules or regulations, or principles of common law, whether liquidated or unliquidated, known or unknown, in law or in equity, whether or not concealed or hidden, that were, have been or could have been, now, in the past, or in the future, asserted in the Action through the date the Final Approval Order and Judgment is entered and the time period for all appeals of the Final Approval Order and Judgment have expired, including but not limited to (i) whether the advertising for the Products constitutes fraud; (ii) whether the advertising of the Products violates any applicable laws, rules or regulations, including but not limited to state or federal laws, rules or regulations; (iii) whether the Defendants, or any of them, misrepresented the benefits and characteristics of the Products; (iv) whether the Defendants, or any of them, made false or misleading statements when advertising the Products; (v) whether Defendants, or any of them, engaged in fraudulent, unfair or unlawful business practices in violation of consumer protections laws in any of the 50 States, including New Jersey; and (vi) whether any Defendant breached any express or implied warranty. This release expressly includes any claims that were or could have been asserted in any action against any of the Defendants or upstream suppliers or

manufacturers or downstream retailers relating to the manufacture, marketing, promotion, distribution or retailing of the Products.

8. "Class Representative" means Melissa Lee.

9. "Court" means the Superior Court of the State of New Jersey, Law Division, Union County.

10. "Defendants" means, collectively, Carter-Reed Company, L.L.C. a/k/a The Carter Reed Company, Basic Research, L.L.C., DG Enterprises, Inc., Alfagenbo Tech, L.L.C., Body Forum, L.L.C., Body Innovations, L.L.C., Covarix, L.L.C., Covaxil Laboratories, L.L.C., Bydex Management L.L.C., Western Holdings, L.L.C., Dennis W. Gay and Natalie Chevreau.

11. "Effective Date" means the first date by which all of the following events shall have occurred: (a) the Court has entered the Preliminary Approval Order, (b) the Court has entered the Final Approval Order and Judgment, and (c) the time to appeal the Final Approval Order and Judgment has expired without any such appeal having been filed; or, in the event of an appeal of the Final Approval Order and Judgment, a final resolution in favor of and affirming in all material respects the Final Approval Order and Judgment, of all timely appeals, and the issuance of a mandate by that court; or, in the event of the filing of a petition for certiorari to the United States Supreme Court, the denial of that petition or, in the event of a grant of that petition, a final resolution by the Supreme Court in favor of and affirming in all material respects the Judgment and Final Settlement Order.

12. "Escrow Account" means the Trust Account to be mutually agreed upon by the Parties in which a portion of the funds to be used to fund the settlement will be held in escrow, until after the Effective Date of this Settlement Agreement (with the exception of funds to be used to pay notice and administration expenses incurred prior to the Effective Date, as well as

any other payments as agreed to by the Parties), at which point the monies in the Escrow Account will be distributed to (a) the Settlement Administrator for payment of Settlement Class Member claims and (b) Class Counsel for payment of the incentive awards to the Class Representative and for payment of attorneys' fees, expenses and costs.

13. "Fee and Cost Application" means that written motion or application by which the Class Representative, and/or Class Counsel requests that the Court award attorneys' fees, costs, expenses and incentive awards.

14. "Final Approval Hearing" means the hearing scheduled to take place at least sixty days after the date of entry of the Preliminary Approval Order at which the Court shall: (a) determine whether to grant final approval to this Settlement Agreement and to certify the Settlement Class; (b) consider any timely objections to this Settlement and all responses thereto; and (c) rule on the Fee and Cost Application.

15. "Final Approval Order and Judgment" means the order in which the Court grants final approval of this Settlement Agreement, certifies the Settlement Class, and authorizes the entry of a final judgment and dismissal of the Action with prejudice.

16. "Carter Reed" means, collectively, Carter-Reed Company, L.L.C. a/k/a The Carter Reed Company, Basic Research, L.L.C., DG Enterprises, Inc., Alfagenbo Tech, L.L.C., Body Forum, L.L.C., Body Innovations, L.L.C., Covarix, L.L.C., Covaxil Laboratories, L.L.C., Bydex Management L.L.C., Western Holdings, L.L.C., Dennis W. Gay and Natalie Chevreau,

17. "Carter-Reed-Related Released Parties" means (a) Carter Reed; (b) Carter Reed's counsel; (c) Carter Reed's past, present, and future direct and indirect owners, parents, subsidiaries, and other corporate affiliates; (d) Carter Reed's successors and predecessors and their past, present, and future direct and indirect owners, parents, subsidiaries, and other

corporate affiliates; and (e) for each of the foregoing Persons, each of their past, present, or future officers, directors, shareholders, owners, employees, representatives, agents, principals, partners, members, administrators, legatees, executors, heirs, estates, predecessors, successors, or assigns.

18. "Carter Reed's Counsel" means Manning Curtis Bradshaw & Bednar, LLC.

19. "Products" means Relacore, Relacore Extra, Relacore PM, and the Relacore System.

20. "Notice" shall mean the Notice described in Article IV.

21. "Parties" means the Representative Plaintiff and Defendants.

22. "Person" means any natural person, firm, corporation, unincorporated association, partnership, or other form of legal entity or government body, including its agents and representatives.

23. "Preliminary Approval Order" means the order, substantially in the form of Exhibit A attached hereto, in which the Court grants its preliminary approval to this Settlement Agreement and preliminarily certifies the Settlement Class, authorizes dissemination of Notice to the Settlement Class, and appoints the Settlement Administrator.

24. "Publication Notice" means the long-form and short-form notices, substantially in the form of Exhibits B and C attached hereto. The long-form Publication Notice will be published on the Internet at the settlement website, envisioned to be www.carterreedsettlement.com and the short-form Publication Notice will be published in national print media as set forth in the Preliminary Approval Order, pursuant to New Jersey Court Rule 4:32, et seq.

25. "Request for Exclusion" means a valid request for exclusion from a member of the Settlement Class. To be valid, a request for exclusion must (a) be submitted by the member of the Settlement Class; (b) be submitted to the Settlement Administrator and postmarked by a date

not later than [INSERT DATE]; (c) contain the submitter's name, address and telephone number; and (d) otherwise comply with the instructions set forth in the Notice.

26. "Third Amended Complaint" means the operative complaint in the Action, as amended according to the terms of the Settlement, which shall be filed by Class Counsel no later than seven (7) days after the entry of the Preliminary Approval Order.

27. "Settlement Administrator" means Rust Consulting, Epiq Systems, Inc., or such class action administrator as the parties may jointly agree upon.

28. "Settlement Agreement," "Settlement," or "Agreement" means this Stipulation and Agreement of Settlement, including the attached exhibits.

29. "Settlement Class" means all persons who purchased for personal use, and not for resale, any of the Products in the United States from January 1, 2000 until the date of the Final Approval Order, except for the judge presiding over this matter.

30. "Settlement Class Member" means any Person within the Settlement Class who does not submit a timely and valid Request for Exclusion.

31. "Valid Claim" means a timely claim for reimbursement submitted by a Settlement Class Member that satisfies all the criteria to qualify for reimbursement established by the Parties' Counsel and the Claims Administrator.

ARTICLE III- SETTLEMENT CLASS RELIEF

In consideration of a full, complete, and final settlement of the Action, dismissal of the Action with prejudice, and the Releases in Article VII below, and subject to the Court's approval, the Parties agree to the following relief:

1. Benefits To Nationwide Settlement Class Members

a. Defendants shall pay all Valid Claims submitted by Settlement Class Members. Settlement Class Members who make a Valid Claim will be entitled to reimbursement of fourteen dollars (\$14.00) for each bottle of the Products purchased for personal consumption during the Class Period, up to a maximum of two (2) bottles (i.e., a maximum total of \$28.00) per household. To recover, Settlement Class Members must provide proof of purchase or complete the Claim Form, which is substantially in the form attached hereto as Exhibit D. There is no limit on the number of Valid Claims that may be submitted.

b. Valid Claims will be paid within sixty (60) days of the Effective Date.

c. Settlement Class Members will be able to obtain Claim Forms by calling the toll-free number established for purposes of administering this Agreement, by requesting one by mail at the address established by the Settlement Administrator, or by downloading the form from the Internet website established by the Claims Administrator. The Claim Form shall include instructions for the submission process. Claims Forms will be deemed valid only if they meet the criteria established herein and published in the Notice, provided however, ministerial defects in an otherwise timely Claim Form can be cured by the Settlement Administrator. Settlement Class Members may submit Claim Forms online or by mail to the Settlement Administrator at the address provided.

2. Equitable Relief and Future Conduct by Defendants

The Parties in the Action agree that Defendants shall not, in future advertising of the Products (i) represent, directly or in an implied manner, that (a) Natalie Chevreau, is a medical doctor, or (b) any individual appearing in any of Defendants' future advertisements for the Products are medical doctors when those individuals are not (the addition of the appellation PhD to the name of the individual shall satisfy this requirement), (ii) make any reference to the

medical condition known as "Metabolic Syndrome," or (iii) name directly or by inference Pamela Peeke, M.D., or any of her writings.

3. Escrow Account

No later than ten (10) days prior to Final Approval Hearing, Defendants will deposit with the attorney trust account of Donald Beshada, Esq., a mutually agreed-upon Escrow Amount for the purpose of securing the payments and obligations contemplated by this Settlement Agreement. Upon funding of the Escrow Account, counsel for the parties shall prepare and file a Stipulation of Dismissal with prejudice dismissing the individual Defendants, Dennis Gay and Nathalie Chevreau, from the Action, subject to the provisions of Article V, Para. 4(c).

ARTICLE IV – NOTICE AND REQUESTS FOR EXCLUSION

1. Notice

Direct Notice, by sending the short-form Notice via electronic mail to a valid electronic mail address, or regular mail to the last known address, will be provided to all purchasers of the Products whose names and addresses are presently in the possession of Defendants.

Publication Notice to the Settlement Class shall be provided in the forms approved by the Court in the Preliminary Approval Order, in the following formats:

- a. Written notice published one time only in the following eight (8) general circulation national magazines: The National Enquirer, The Globe, Star, OK, In Touch, Life & Style, US Weekly and Shape during the month of December 2014.
- b. Written notice by Internet ads. An advertisement of the settlement with a corresponding link to the settlement website shall run on various websites, as set forth in the notice plan agreed to by the Parties, for a period of not less than 30 days.

commencing after the entry of the Preliminary Approval Order, but no sooner than November 25, 2014.

c. Written notice by Internet posting. The long-form of the Publication Notice shall be posted on the Internet at a website established by the Settlement Administrator commencing on the first date on which Notice is published under this Settlement Agreement, and shall be maintained through the Effective Date.

The Publication Notice shall be substantially in the same forms as the exemplars attached as Exhibits B and C, hereto. The Publication Notice shall be published promptly after entry of the Preliminary Approval Order on dates to be agreed upon by the Parties and ordered by the Court so as to provide the best practical notice to the Settlement Class. The publication of the Publication Notice shall be done by Defendants and administered by the Settlement Administrator. All costs associated with the Notice shall be paid for by Defendants.

2. Declarations Of Compliance

The Settlement Administrator shall prepare a declaration attesting to compliance with the publication requirements set forth above. Such declaration shall be provided to Class Counsel and Defendants' Counsel and filed with the Court no later than three (3) days prior to the Final Approval Hearing.

3. Best Notice Practicable

The Parties agree, and the Preliminary Approval Order shall state, that compliance with the procedures described in this Article is the best notice practicable under the circumstances and shall constitute due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class, the terms of the Settlement Agreement, and the Final Approval Hearing, and shall satisfy the requirements of the New Jersey Court Rules, the Federal

Rules of Civil Procedure, the New Jersey Constitution, the United States Constitution, and any other applicable law.

4. Report On Requests For Exclusion

Not later than ten days before the Final Approval Hearing, the Settlement Administrator shall prepare and deliver to Class Counsel, who shall file it with the Court, and Defendants' Counsel, a report stating the total number of Persons that have submitted timely and valid Requests for Exclusion from the Settlement Class, and the names and addresses of such Persons. Such Persons will not be entitled to receive any relief under this Settlement Agreement.

5. Inquiries From Settlement Class Members

The Settlement Administrator shall establish procedures for receiving and responding to all inquiries from Settlement Class Members with respect to this Settlement and shall otherwise assist Settlement Class Members in submitting and perfecting Claim Forms. The Settlement Administrator shall provide weekly reports to a designated attorney who is Class Counsel, which reports shall include but not be limited to the names of claimants, the number of valid claims, claims rejected and any other information that will enable Class Counsel to contact and assist Settlement Class members as needed.

ARTICLE V- COURT APPROVAL OF SETTLEMENT

1. Preliminary Approval

As soon as practicable after the execution of this Settlement Agreement, Class Counsel and Defendants' Counsel shall jointly apply for entry of the Preliminary Approval Order in the form of Exhibit A hereto. The Preliminary Approval Order shall include provisions: (a) preliminarily certifying the Settlement Class for settlement purposes only; (b) preliminarily approving this Settlement Agreement and finding this Settlement Agreement sufficiently fair.

reasonable and adequate to allow Notice to be disseminated to the Settlement Class; (c) approving the form, content, and manner of the Notice; (d) setting a schedule for proceedings with respect to final approval of this Settlement Agreement; (e) providing that, pending entry of a Final Approval Order and Judgment, no Settlement Class Member (either directly, in a representative capacity, or in any other capacity) shall commence or continue any action against Defendants asserting any of the Class Released Claims; and (f) staying the Action, other than such proceedings as are related to this Settlement Agreement.

2. Objections To Settlement Agreement

Any Settlement Class Member wishing to object to or to oppose the approval of this Settlement Agreement and/or the Fee and Cost Application shall file a written objection (with a statement of reasons) with the Court and serve it on the Parties at least twenty-one (21) days before the date of the Final Approval Hearing. The objecting Settlement Class Member may also appear and speak at the Final Approval Hearing concerning the Settlement Class Member's objection to the Settlement Agreement, but is not required to do so. Any Settlement Class Member that fails to provide a timely written objection shall be foreclosed from making such objection or opposition. The Class Representatives will file with the Court their brief in support of final settlement approval, in support of final certification of the Settlement Class, and in response to any objections at least seven (7) days before the date of the Final Approval Hearing. Any Settlement Class Member that fails to file a timely written objection shall have no right to file an appeal relating to the approval of this Settlement Agreement.

3. Final Approval Hearing

The Parties shall request that the Court, on the date set forth in the Preliminary Approval Order, or on such other date that the Court may set, conduct a Final Approval Hearing to:

(a) determine whether to grant final approval to this Settlement Agreement and to certify the Settlement Class; (b) consider any timely objections to this Settlement Agreement and the Parties' responses to such objections; (c) rule on the Fee and Cost Application, and (d) rule on any applications for incentive awards. At the Final Approval Hearing, the Parties shall ask the Court to give final approval to this Settlement Agreement. If the Court grants final approval to this Settlement Agreement, then the Parties shall ask the Court to enter a Final Approval Order and Judgment, in a form substantially similar to that attached hereto as Exhibit B, which approves this Settlement Agreement, certifies the Settlement Class, authorizes entry of a final judgment, and dismisses the Action with prejudice.

4. Disapproval, Cancellation, Termination, Or Nullification Of Settlement

a. Each Party shall have the right to terminate this Settlement Agreement if either (i) the Court denies preliminary approval or final approval to this Settlement Agreement, (ii) the Settlement Class is not certified by the Court, or (iii) the Final Approval Order and Judgment does not become Final by reason of a higher court reversing final approval by the Court, and the Court thereafter declining to enter a further order or orders approving settlement on the terms set forth herein. If a Party elects to terminate this Settlement Agreement under this paragraph, that Party must provide written notice to the other Parties' counsel within 21 days of the occurrence of the condition permitting termination. Such written notice shall be provided by hand delivery or mail to the Parties' counsel.

b. Defendants shall have the right to terminate this Settlement Agreement if, prior to the date of the Final Approval Order and Judgment, the total number of Persons that have submitted timely and valid Requests for Exclusion from the Settlement Class constitutes greater than 5% of the estimated size of the Settlement Class. If Defendants elect to terminate this

Settlement Agreement under this paragraph, Defendants must provide written notice to the other Parties' counsel no later than one week (7 days) prior to the date set by the Court for the Final Fairness Hearing, or, if the information on Exclusions is not available by that time, within twenty-four (24 hours) of Defendants obtaining said information from the Settlement Administrator. Such written notice shall be provided by hand delivery or electronic mail to the Parties' counsel.

c. If this Settlement Agreement is terminated pursuant to its terms, then: (i) this Settlement Agreement shall be rendered null and void; (ii) this Settlement Agreement and all negotiations and proceedings relating hereto shall be of no force or effect, and without prejudice to the rights of the Parties; (iii) the Third Amended Complaint will be rescinded by Class Counsel and the Parties shall continue the litigation pursuant to the allegations of the Second Amended Complaint; (iv) any Stipulation of Dismissal of the individual Defendants will be rescinded, and (v) all Parties shall be deemed to have reverted to their respective status in the Actions as of the date and time immediately preceding the execution of this Settlement Agreement and, except as otherwise expressly provided, the Parties shall stand in the same position and shall proceed in all respects as if this Settlement Agreement and any related orders had never been executed, entered into, or filed, except that the Parties shall not seek to recover from one another any costs incurred in connection with this Settlement Agreement.

ARTICLE VI – ADMINISTRATIVE EXPENSES, ATTORNEYS' FEES, COSTS

1. Costs Of Notice

All costs of providing the Notice as provided herein, including the costs of publishing the Notice, shall be paid by Carter-Reed Company, L.L.C.

2. Costs Of Administering Settlement

All costs of administering this Settlement, including all fees of the Settlement Administrator and the costs of generating and mailing any checks to be issued as part of this Settlement, shall be paid for by Defendants. In the event that this Settlement Agreement is terminated pursuant to its terms, Carter-Reed Company, L.L.C., shall bear any costs of administering this Settlement already incurred.

3. Attorneys' Fees And Costs

Class Representatives and/or Class Counsel may make a Fee and Cost Application to be heard at the Final Approval Hearing seeking an award of attorneys' fees, expenses and costs in an amount not to exceed One Million, Nine Hundred Thousand Dollars (\$1,900,000) in attorneys' fees, and Three Hundred Thousand Dollars (\$300,000) in costs, for a total of no greater than Two Million, Two Hundred Thousand Dollars (\$2,200,000). Defendants will not oppose or undermine the application or solicit others to do so. Should the Fee and Cost Application exceed \$2,200,000, Defendants reserve the right to terminate the Settlement Agreement. Attorneys' fees and costs consistent with this paragraph that are approved by the Court shall be paid from the Escrow Account within five (5) days of the Effective Date. The parties agree that the payment of Class Counsel's fees and costs shall not erode or diminish in any way the benefits to the Class Members. Class Counsel shall be solely responsible for distributing any payments made under this provision to any other attorneys who may have participated and/or assisted Class Counsel in the Action, including Meiselman, Denlea, Packman, Carton & Eberz, P.C. and Meiselman, Packman, Nealon, Scialabba & Baker, P.C.

4. Incentive Award

Class Representative, or Class Counsel on her behalf, may make an application to be heard at the Final Approval Hearing for an incentive award to be paid out of the Escrow Account in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000.00). Defendants will not oppose or undermine the application or solicit others to do so. The payment shall be compensation and consideration for the efforts of the Class Representative as the class representative in the Action. The parties agree that the payment of an incentive award to the Class Representative shall not erode or diminish in any way the benefits to the Class Members.

5. Effect On Settlement

The Parties agree that the rulings of the Court regarding the amount of attorneys' fees or costs and any incentive award, and any claim or dispute relating thereto, will be considered by the Court separately from the remaining matters to be considered at the Final Approval Hearing as provided for in this Settlement Agreement and any determinations in that regard will be embodied in a separate order. Any order or proceedings relating to the amount of attorneys' fees or incentive award, including any appeals from or modifications or reversals of any order related thereto, shall not operate to modify, reverse, terminate, or cancel the Settlement Agreement, affect the releases provided for in the Settlement Agreement, or affect whether the Final Approval Order and Judgment becomes Final as defined herein.

ARTICLE VII- RELEASES UPON EFFECTIVE DATE

1. Binding and Exclusive Nature of Settlement Agreement

On the Effective Date, the Parties and each and every Settlement Class Member shall be bound by this Settlement Agreement and shall have recourse exclusively to the benefits, rights,

and remedies provided hereunder. No other actions, demand, suit or other claim may be pursued against the Defendants with respect to the Class Released Claims.

2. Releases

On the Effective Date, the Class-Related Releasing Parties shall be deemed to have, and by operation of this Settlement Agreement shall have, fully, finally and forever released, relinquished and discharged the Carter-Reed-Related Released Parties and Defendants from any and all of the Class Released Claims. Such release is valid whether or not such Class Member executes and delivers a timely claim, and such claims will be dismissed with prejudice. This release expressly includes any unknown claims.

3. Stay And Dismissal With Prejudice Of The Actions

The Parties agree to request that the Court, in connection with Preliminary Approval, issue an immediate stay of the Action and, ultimately, a dismissal with prejudice of the Action, including claims against any and all Defendants.

4. Waiver of Unknown Claims, Including California Civil Code Section 1542 and Similar Laws, Rules or Regulations

On the Effective Date, the Class-Related Releasing Parties shall be deemed to have, and by operation of this Settlement Agreement shall have, with respect to the subject matter of the Class Released Claims, expressly waived the benefits of any statutory provisions or common law rule that provides, in sum or substance, that a general release does not extend to claims which the party does not know or suspect to exist in its favor at the time of executing the release, which if known by it, would have materially affected its settlement with any other party. In particular, but without limitation, the Class-Related Releasing Parties waive the provisions of California

Civil Code § 1542 (or any like or similar statute or common law doctrine), and do so understanding the significance of that waiver. Section 1542 provides:

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

Neither this paragraph nor any other provision of this Settlement Agreement shall be construed to effectuate a general release of claims. The releases provided for in this Settlement Agreement are limited to the Class Released Claims as defined in Article II(7) above.

The Representative Plaintiff and Class Members hereby further represent and warrant that they have been fully advised by counsel of their own choosing regarding the rights and/or benefits afforded by California Civil Code Section 1542, or that they have had the opportunity to be so advised by counsel and have chosen not to do so, and that the foregoing waiver and relinquishment of any and all rights under Civil Code Section 1542 and any other statute or common law principal of similar effect was knowingly and voluntarily made.

5. Assumption of Risk

In entering into this Settlement Agreement, each of the Parties assumes the risk of any mistake of fact or law. If either Party should later discover that any fact which the Party relied upon in entering this Settlement Agreement is not true, or that the Party's understanding of the facts or law was incorrect, the Party shall not be entitled to modify, reform, or set aside this Settlement Agreement, in whole or in part, by reason thereof. The Parties agree that at the time

this Settlement Agreement was executed, there were unsettled issues of law, and the Parties agree to honor this Agreement regardless of developments in the law after execution; specifically, the Class Representative and Class Counsel recognize and agree that, given these uncertainties in the law, the Class Representative and Class Counsel are receiving valuable consideration for the settlement of the Action at this time and per the terms of this Agreement. The Parties will advocate for Court approval of this Settlement Agreement.

ARTICLE VIII– LIMITATIONS ON USE OF SETTLEMENT AGREEMENT

1. No Admission

Neither the acceptance by Defendants of the terms of this Settlement Agreement nor any of the related negotiations or proceedings constitutes an admission with respect to the merits of the claims alleged in the Complaint, the validity of any claims that could have been asserted by any of the Settlement Class Members in the Complaint, or the liability of Defendants in the Action. Defendants specifically deny any liability or wrongdoing of any kind associated with the claims alleged in the Action. Neither the acceptance by the Representative Plaintiff of the terms of this Settlement Agreement, nor any of the related negotiations or proceedings constitutes an admission with respect to the merits of the claims alleged in the Action.

2. Limitations on Use

This Settlement Agreement shall not be used, offered, or received into evidence in the Action for any purpose other than to enforce, to construe, or to finalize the terms of the Settlement Agreement and/or to obtain the preliminary and final approval by the Court of the terms of the Settlement Agreement. Neither this Settlement Agreement nor any of its terms shall be offered or received into evidence in any other action or proceeding.

ARTICLE IX – MISCELLANEOUS PROVISIONS

1. No Assignment

Each Party represents, covenants, and warrants that she or it has not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber any portion of any liability, claim, demand, cause of action, or rights that she or it herein releases.

2. Binding On Successors-In-Interest

This Settlement Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, and any other legally-recognized successor-in-interest.

3. Captions

Titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

4. Class Member Signatures

It is agreed that, because the Settlement Class Members are so numerous, it is impractical to have each Settlement Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the Releases and of the remainder of this Settlement Agreement, and in the absence of a valid and timely Request for Exclusion, such Notice shall have the same force and effect as if each Settlement Class Member executed this Settlement Agreement.

5. Construction

The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms-length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party, or her or its counsel, participated in the drafting of this Settlement Agreement.

6. Counterparts

This Settlement Agreement and any amendments hereto may be executed in one or more counterparts, and either Party may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and both of which counterparts taken together shall constitute but one and the same instrument. A facsimile or pdf signature shall be deemed an original for all purposes.

7. Governing Law

Construction and interpretation of the Settlement Agreement shall be determined in accordance with the laws of the State of New Jersey, without regard to the choice-of-law principles thereof.

8. Integration Clause

This Settlement Agreement, including the Exhibits referred to herein, which form an integral part hereof, contains the entire understanding of the Parties with respect to the subject matter contained herein. There are no promises, representations, warranties, covenants, or undertakings governing the subject matter of this Settlement Agreement other than those expressly set forth in this Settlement Agreement. This Settlement Agreement supersedes all prior agreements and understandings among the Parties with respect to the settlement of the Action. This Settlement Agreement may not be changed, altered or modified, except in a writing

signed by the Parties and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

9. Jurisdiction

The Court shall retain jurisdiction, after entry of the Final Approval Order and Judgment, with respect to enforcement of the terms of this Settlement, and all Parties and Settlement Class Members submit to the exclusive jurisdiction of the Court with respect to the enforcement of this Settlement and any dispute with respect thereto.

10. Presiding Judicial Officer

The Parties agree that The Honorable Kenneth J. Grispin shall preside over the settlement approval process, including without limitation any application for an award of attorneys' fees, costs, expenses and incentive awards. In the event that Judge Grispin is unable to preside, the Parties agree to jointly request that the settlement approval process be presided over by a different judge from the Superior Court of the State of New Jersey, Law Division, Union County.

11. No Collateral Attack

This Settlement Agreement shall not be subject to collateral attack by any Settlement Class Member at any time on or after the Effective Date. Such prohibited collateral attacks shall include, but shall not be limited to, claims that a Settlement Class Member's claim was improperly denied, that the payment to a Settlement Class Member was improperly calculated, and/or that a Settlement Class Member failed to receive timely notice of the Settlement Agreement.

12. Parties' Authority

The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties to the terms and conditions hereof.

13. Receipt Of Advice Of Counsel

The Parties acknowledge, agree, and specifically warrant to each other that they have read this Settlement Agreement, have received legal advice with respect to the advisability of entering into this Settlement, and fully understand its legal effect.

14. Waiver Of Compliance

Any failure of any Party to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

15. Settlement Conditioned on Certain Matters

This entire Settlement Agreement is contingent upon the Parties reaching agreement on the contents of the exhibits and ancillary agreements hereto.

DATED: October 10, 2014

CARTER-REED COMPANY, L.L.C.

By: 

DATED: October 10, 2014

BASIC RESEARCH, L.L.C.

By: 

DATED: October 10, 2014

DG ENTERPRISES, INC.

By: 


DATED: October 10, 2014


ALPHAGEN BIOTECH, L.L.C.

By: 

DATED: October 10, 2014

BODY FORUM, L.L.C.

By: 

DATED: October 10, 2014

BODY INNOVATIONS, L.L.C.

By: 

DATED: October 10, 2014

COVARIX, L.L.C.

By: 

DATED: October 10, 2014

COVAXIL LABORATORIES, L.L.C.

By: 

DATED: October 10, 2014

BYDEX MANAGEMENT L.L.C.

By: 

DATED: October 10, 2014

WESTERN HOLDINGS, LLC

By: 

DATED: October 10, 2014


DENNIS GAY

DATED: October 10, 2014

NATALIE CHEVEREAU

DATED: October 10, 2014

MANNING CURTIS BRADSHAW &
BEDNAR LLC

By: _____
BRENT MANNING

Attorneys for Defendants

DATED: October 10, 2014

DENNIS GAY

DATED: October 10, 2014



NATALIE CHEVEREAU

DATED: October 10, 2014

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BEDNAR LLC

By:

BRENT MANNING

Attorneys for Defendants

DATED: October 10, 2014

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DATED: October 10, 2014

NATALIE CHEVEREAU

DATED: October 10, 2014

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BEDNAR LLC


By: _____

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SAMMI V. ANDERSON
Attorneys for Defendants

DATED: October 10, 2014

By: Melissa Lee
MELISSA LEE

DATED: October 10, 2014

DENLEA & CARTON LLP

By: Jeff Carton
JEFFREY I. CARTON

Attorneys for Plaintiff
and the Proposed Class