

EXHIBIT E

INDIVIDUAL SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is entered into on _____, _____, by _____ (Social Security No. _____) (Date of Birth _____) for himself and his dependents, heirs, executors, successors, administrators, and assigns (collectively, "Claimant"). In this Agreement, Zimmer, Inc., including all of its predecessors and successors in interest, parent companies (including Zimmer Biomet Holdings, Inc., and Zimmer Holdings, Inc.), subsidiaries, affiliates, divisions, nominees, and related entities in which they have an interest, as well as their insurers and all of their past, present, and future officers, directors, stockholders, attorneys, agents, representatives, employees, partners, assigns, distributors, and sales representatives shall be referred to as "Zimmer."

RECITALS

A. Claimant's claims arise from a Durom Acetabular Component and other prostheses comprised of several components, including but not limited to the **[ENTER ALL COMPONENT NAMES, LOT & CATALOG NOS.]** ("Subject Products"), and implanted or revised during surgeries that occurred on or about _____ ("Surgeries") **[ENTER ALL PRIMARY AND REVISION SURGERIES, specifically defining Implant Surgery and Revision Surgery];**

B. Claimant desires to release, discharge, and finally settle and compromise all claims, and all other past, present, and future claims asserted or that could be asserted by or on behalf of Claimant in connection with the Subject Products or the Surgeries, including but not limited to any claim for personal injuries, death, damage to Claimant's property, emotional distress, or loss of services or consortium, asserted or that could be asserted by or on behalf of

Claimant in connection with the Subject Products, the Implant Surgery, or the Revision Surgery, including but not limited to the surgeon and the practice group or entity with which the surgeon is affiliated, all operating room personnel, and the hospital where the Implant Surgery occurred (collectively, "Providers").

TERMS AND CONDITIONS

1. **Release and Discharge.** In consideration of the sum of _____ Dollars (\$_____) ("Settlement Amount"), Claimant releases and discharges Zimmer, and any other entity directly or indirectly involved in the design, manufacture, assembly, distribution, or sale of the Subject Products from all past, present, and future claims and/or actions of any nature, whether based in tort, contract, warranty, or any other theory, and whether for compensatory or other damages, which Claimant may now have or which may later accrue to Claimant against Zimmer, including but not limited to claims for personal injuries, death, damage to Claimant's property, emotional distress, or loss of services or consortium. In further consideration of the Settlement Amount paid by Zimmer, Claimant releases and discharges Providers from all past, present, and future claims and/or actions of any nature, whether based in tort, contract, warranty, or any other theory, and whether for compensatory or other damages, which Claimant may now have or which may later accrue to Claimant relating to the Implant Surgery or the Subject Products. Claimant acknowledges that the nature and extent of his injuries and damages may not be fully known, and that, as a result, further damages may be sustained by Claimant and are released by this Agreement.

2. **Payment.** Zimmer shall pay the Settlement Amount to Claimant within 21 days after the conditions of Paragraph 3, below, are fulfilled, and Claimant provides Zimmer's counsel all of the following items:

- (a) Executed copy of this Agreement with Claimant's original signature on the Agreement and notarized where indicated;
- (b) Claimant's Social Security number and birth date, which should be included where indicated on page one of this Agreement;
- (c) A fully-executed W-9 form from Claimant's counsel in the form attached as Attachment 1;
- (d) An Affidavit of Medicare Beneficiary Status, fully executed by Claimant, including all attachments thereto, in the form attached as Attachment 2;
- (e) All Subject Products still in the possession, custody, or control of Claimant or his counsel or expert witnesses; and
- (f) Signature of Claimant's counsel where indicated.

Zimmer shall not be responsible for any tax liability incurred by Claimant as a result of his receipt of the Settlement Amount or of any other terms of this Agreement.

3. Agreement Voidable. This Agreement is part of a Settlement Program as set out in the Settlement Agreement Between Zimmer, Inc., And Claimant's Liaison Counsel ("Settlement Program Agreement"). Consistent with the terms of the Settlement Program Agreement, Zimmer's obligations under this Agreement are conditioned on the fulfillment of one of the following conditions.

- (a) Claimant has accepted Zimmer's offered award without mediation under the Settlement Program Agreement, and 90% of registered Eligible Claimants completed categorization and accepted Zimmer's offered settlement award without mediation; or,
- (b) Claimant has requested mediation under the Settlement Program Agreement, 90% of registered Eligible Claimants completed categorization and accepted

Zimmer's offered settlement award without mediation, and 67% of Eligible Claimants accept a settlement award offer made at mediation by September 29, 2017.

If the applicable condition is not fulfilled, Zimmer may, at its sole discretion, void this Agreement. Also, if Claimant's counsel has failed to register all Eligible Claimants Claimant's counsel represents or if less than 90% of the Eligible Claimants represented by Claimant's counsel complete the categorization process and accept Zimmer's offer without mediation, Zimmer may, at its sole discretion, void or otherwise terminate this Agreement. Claimant has no right or authority to void or otherwise terminate this Agreement once executed.

4. Disclaimer of Liability. Claimant agrees that: (a) Claimant accepts the terms of this Agreement and accepts the payment of the Settlement Amount as full and complete compromise of matters involving disputed issues relating to the alleged conduct, acts, or omissions of Zimmer and the Providers; (b) neither payment of the Settlement Amount by Zimmer nor the negotiations for this Agreement (including any and all statements or communications by Zimmer or their attorneys or representatives) shall be an admission of liability or culpability by Zimmer and the Providers; and (c) no past or present wrongdoing on the part of Zimmer and the Providers shall be implied by such payment or negotiations.

5. Indemnification. This Agreement shall be interpreted and effectuated so as to provide Zimmer and the Providers with the maximum protection allowed by law from and against any and all claims that relate in any way to the Subject Products or the Surgeries, including but not limited to contribution, indemnification, and/or subrogation claims. Claimant agrees to assume responsibility for the payment of any liens, reimbursement claims, or subrogation interests imposed against him, past, present, and future, known or unknown, by any person, firm, hospital, corporation, governmental entity or agent, and/or government program

including without limitation Medicare, as a result of, or growing out of, any of the Subject Products, the Surgeries, or Claimant's alleged injuries and medical care, including but not limited to workers compensation liens, claims for any hospital expenses, medical expenses, physician expenses or other health care provider expenses, all to the extent required by current federal and/or state law. Claimant and Claimant's counsel agree to provide Zimmer's counsel written notice that such liens and claims, including any Medicare claims, have been paid or to require a designated lien resolution administrator to provide such notice. Claimant agrees to indemnify and hold Zimmer and Providers harmless against all future claims, liability, or damages, and attorneys' fees and costs incurred by Zimmer and the Providers that relate in any way to the Subject Products, the Surgeries, or Claimant's alleged injuries and medical care.

6. **Agreement To Be As Broad As Possible.** Claimant intends for this Agreement to be interpreted and effectuated so as to provide Zimmer and the Providers with the broadest protection possible.

7. **Claimant's Desire To End Litigation.** This Agreement is made in furtherance of the express desire of Claimant: (a) to forever and finally end every aspect of the disputes, controversies, and litigation arising out of the Subject Products and the Surgeries; (b) to forever and finally end all claims of every kind and nature relating to the Subject Products and Surgeries that exist under the law and/or equity at this time; and (c) to foreclose any right or alleged right that might arise in the future by which Claimant may or could have asserted against Zimmer or the Providers relating to the Subject Products or the Surgeries.

8. **Waiver Of Rights Under State Law.** Claimant waives any right Claimant may have against Zimmer and the Providers under the laws of any state, including but

not limited to any law purporting to restrict or in any way limit the waiver of claims that the parties may not know or suspect exist in his favor at the time of executing this Agreement.

[FOR CA CASES, ADD: Claimant expressly waives the provisions of Section 1542 of the Civil Code of the State of California, which provides as follows: A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.]

9. **Attorneys' Fees.** Claimant shall bear his own attorneys' fees and costs incurred in connection with this claim and/or this Agreement.

10. **Terms To Be Confidential.** Claimant and his attorneys acknowledge that the terms of this Agreement, if disclosed, could result in irreparable damage to Zimmer. Claimant and his attorneys agree that the terms and conditions of this Agreement, including the history, background, and negotiations relating to the terms and conditions of this Agreement, shall remain confidential. Claimant and his attorneys agree not to divulge, disclose, or discuss any term or condition of this Agreement, including but not limited to the Settlement Amount, at any time to any person other than those specifically described in sub-paragraphs (a) and (b) below **[IN CA CASES SETTLED AT MEDIATION, (a) through (c) below]**. By way of example only, and not by limitation, individuals or entities to whom Claimant or his attorneys may not reveal any information regarding this Agreement would include: Claimant's family members, friends, or acquaintances; other attorneys or attorney associations; members or organizations of the bar; any journal or service accumulating litigation or settlement results; and any media representative. Claimant and his attorneys further agree that they will respond in the future to any inquiry relating to the Subject Products, Surgeries, or this Agreement, including but

not limited to the existence of this settlement, its amount, meaning, interpretation or comparative value, or negotiations leading to the settlement, with only the statement that the matter was settled prior to trial, and that they have no further comment. Claimant and his attorneys shall be allowed to disclose information concerning the fact, amount, or terms of this settlement only in the following circumstances:

(a) If specifically compelled to do so pursuant to judicial process; provided, however, that prior to any disclosure pursuant to judicial process, the person requested to make disclosure shall provide Zimmer and its counsel with written notice of the compelled disclosure and a copy of the subpoena or other request for disclosure at least ten business days in advance of making any disclosure. If it is not possible to provide ten days' notice, then the person requested to make disclosure shall provide notice to Zimmer and its counsel as soon as practicable.

(b) To accountants, tax preparers, or paid financial advisors as necessary for them to provide tax, accounting, or legal advice to Claimant.

(c) **[IN CA CASES SETTLED AT MEDIATION, ADD: To a court of law, under California Evidence Code section 1123, only as necessary and solely for the purpose of enforcement of the Agreement. In no way shall this limited exception be construed as a waiver of the confidentiality and inadmissibility protections of California Evidence Code section 1119 or the provisions of paragraph twelve of this Agreement.]**

11. Remedies For Breach Of Provisions Of Paragraph 10. Claimant agrees that the damages that would result from any breach of the confidentiality provisions of paragraph ten would be extremely difficult or impossible to ascertain. Accordingly, to the extent that Claimant, his representatives, or his attorneys should breach any of the confidentiality provisions

of paragraph ten, Zimmer may recover liquidated damages from the breaching party in the amount of Ten Thousand Dollars (\$10,000) for each breach. Claimant agrees that this liquidated damage provision is reasonable and not intended to be a penalty, and that the amount to be paid is not greatly disproportionate to the loss likely to be sustained by Zimmer as a result of a breach. Claimant agrees that in the event he or his attorneys breach paragraph ten, Zimmer may pursue its remedies in any court of general jurisdiction in Indiana. Nothing herein shall be deemed to deprive a non-breaching party from pursuing any additional legal or equitable remedies it may have for any breach of any of the confidentiality provisions of paragraph ten.

12. Access to Information. Claimant expressly permits any of Zimmer Biomet's insurers to have restricted confidential access to records reasonably relevant to the factors used to determine eligibility under the Settlement Program Agreement and the Award amount. The records referenced in this section may have been provided by Claimant's Counsel informally, obtained through discovery, or collected by Zimmer Biomet.

13. Warranty of No Other Claims. Claimant and his attorneys warrant and represent that they are not aware of any persons other than Claimant who have had, now have, or may acquire against Zimmer any action, cause of action, claim, demand, damage, or controversy whatsoever arising out of or relating in any manner whatsoever to the Subject Products or the Surgeries.

14. Entire Agreement. This Agreement and the Settlement Program Agreement, as incorporated by reference herein, contain the entire agreement between Claimant and Zimmer, and all prior or contemporaneous oral or written understandings of Claimant and Zimmer are superseded. Should any conflict between this Agreement and the Settlement

Program Agreement exist, this Agreement shall control. This Agreement can be modified only by a written instrument signed by Claimant and Zimmer.

15. Severability. If any provision(s) of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, the provision(s) shall be fully severable. In lieu of any severed provision, there shall be added a provision as similar as possible to the severed provision(s), provided that the new provision is mutually agreed upon by the parties and is legal, valid, and enforceable under applicable laws.

16. Interpretation and Jurisdiction. This Agreement shall be construed and interpreted in accordance with the laws of the State of Indiana, exclusive of its choice of law provisions. With respect to any action or claim for the alleged breach of, or which in any way relates to, this Agreement, Claimant agrees to submit to the exclusive jurisdiction (personal and subject matter) and venue of the United States District Court for the District of New Jersey, or the Allen County, Indiana, Superior Court in Fort Wayne, Indiana. If any action or claim for the alleged breach of, or which in any way relates to, this Agreement is brought, the prevailing party shall be entitled to an award of his, her, or its costs and attorneys' fees.

17. Reliance on Advice of Counsel. In entering into this Agreement, Claimant represents that he has relied upon the legal advice of his attorneys, _____, who are the attorneys of his choice, that the terms of this Agreement have been completely read and explained to him by his attorneys, and that those terms are fully understood and voluntarily accepted by him.

Dated: _____

By: _____
[ENTER CLAIMANT NAME]

STATE OF _____)
) SS:
COUNTY OF _____)

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, _____, and acknowledged the execution of this Final Settlement and Release Agreement.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal on _____, 2016.

My commission expires:

Notary Public
A resident of _____ County

By: _____
CLAIMANT ATTORNEY
ADDRESS
PHONE
FAX

ATTORNEY FOR CLAIMANT,
[ENTER CLAIMANT'S NAMES]

ATTACHMENT 1

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
7 List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number										
				-				-		
or										
Employer identification number										
				-						

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note. ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

Limited Liability Company (LLC). If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note. You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ¹ The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor ⁴
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

***Note.** Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

ATTACHMENT 2

AFFIDAVIT OF MEDICARE BENEFICIARY STATUS

In connection with 42 U.S.C. 1395y(b)

STATE OF _____)
) SS:
COUNTY OF _____)

I, _____, being duly sworn, depose and affirm:

1. I am a party to a claim against Zimmer, Inc. and am executing this Affidavit in connection with that certain Final Settlement and Release Agreement dated _____, 20____.
2. I am / am not (*circle applicable language*) presently enrolled in Medicare.
3. I have / have never (*circle applicable language*) been enrolled in the past in Medicare.
4. I have completed, signed and returned to Zimmer, Inc., or its counsel, the Centers for Medicare & Medicaid Services Medicare Beneficiary Status Form attached hereto.
5. All information provided by me on each applicable form attached hereto is true and correct as of the date hereof.

I affirm, under penalties for perjury, that the foregoing representations are true.

Name of Claimant

EXHIBIT 1

MEDICARE, MEDICAID & SCHIP EXTENSION ACT OF 2007

***** *Important. Please read carefully.* *****

Pursuant to Section 111 of the Medicare, Medicaid & SCHIP Extension Act of 2007 ("MMSEA") (42 U.S.C. 1395y(b)(7) and (8)), Zimmer, Inc., is subject to certain data reporting requirements that arise if and when Zimmer, Inc., resolves a claim with a Medicare beneficiary in the form of a settlement, judgment, award or other payment. As a reporting entity under MMSEA, Zimmer, Inc., has access to a query function with the Centers for Medicare & Medicaid Services ("CMS") whereby it can verify a Medicare Health Insurance Claim Number ("HICN") for a given Medicare beneficiary, or it can determine whether or not an individual is a Medicare beneficiary from a person's Social Security Number ("SSN").

In connection with the claim you have asserted against Zimmer, Inc., please complete, sign and return the attached CMS Medicare Beneficiary Status Form (the "Form") to Faegre Baker Daniels, LLP. CMS has advised that all claimants cooperate in furnishing their HICN and/or SSN by completing and returning the Form as requested. Failure to cooperate may be a violation of your obligations under the Medicare Secondary Payer Statute and related regulations. (42 U.S.C. 1395y(b); 42 C.F.R. Part 411) For more information relating to the appropriateness of your cooperation in furnishing your HICN and/or SSN, please see the attached CMS Alert dated April 6, 2010.



Office of Financial Management/Financial Services Group

April 6, 2010

**Collection of Medicare Health Insurance Claim Numbers (HICNs),
Social Security Numbers (SSNs) and Employer Identification Numbers
(EINs) (Tax Identification Numbers) – ALERT**

**The Medicare Secondary Payer Mandatory Reporting Provisions in
Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007
(See 42 U.S.C. 1395y(b)(7)&(b)(8))**

This ALERT is to advise that collection of HICNs, SSNs, or EINs for purposes of compliance with the reporting requirements under Section 111 of Public Law 100-173 is appropriate.

HICNs, SSNs and EINs:

- The Medicare program uses the HICN to identify Medicare beneficiaries receiving health care services, and to otherwise meet its administrative responsibilities to pay for health care and operate the Medicare program. In performance of these duties, Medicare is required to protect individual privacy and confidentiality in accordance with applicable laws, including the Privacy Act of 1974 and the Health Insurance Portability and Accountability Act Privacy Rule. The SSN is used as the basis for the Medicare HICN. While the HICN is required to identify a Medicare beneficiary, if the HICN is not available some beneficiaries may also be identified by the SSN. Please note that The Centers for Medicare & Medicaid Services (CMS) has a longstanding practice of requesting HICNs or SSNs for coordination of benefit purposes.
- The EIN is the standard unique employer identifier. It appears on the employee's federal Internal Revenue Service Form W-2, Wage and Tax Statement received from their employer. The Medicare program uses the EIN to identify businesses. The establishment of a standard for a unique employer identifier was published in the May 31, 2002 Federal register, with a compliance date of July 30, 2004.

**A new Mandatory Insurer Reporting Law (Section 111 of Public Law 110-173)
requires group health plan insurers, third party administrators, and plan**

MMSEA111AlertSSNandHICNandEINcollection04062010final

administrators or fiduciaries of self-insured/self-administered group health plans to report, as directed by the Secretary of the Department of Health and Human Services, information that the Secretary requires for purposes of coordination of benefits. The law also imposes this same requirement on liability insurers (including self-insurers), no-fault insurers and workers' compensation laws or plans. Two key elements that are required to be reported are HICNs (or SSNs) and EINs. In order for Medicare to properly coordinate Medicare payments with other insurance and/or workers' compensation benefits, Medicare relies on the collection of both the HICN (or SSN) and the EIN, as applicable.

As a subscriber (or spouse or family member of a subscriber) to a group health plan arrangement, it is likely that your employer or insurer will ask for proof of your Medicare program coverage, by asking for your Medicare HICN (or your SSN) in order to meet the requirements of P.L. 110-173, if this information is not already on file with your insurer. Similarly, individuals who receive ongoing reimbursement for medical care through no-fault insurance or workers' compensation or who receive a settlement, judgment or award from liability insurance (including self-insurance), no-fault insurance, or workers' compensation will be asked to furnish information concerning whether or not they (or the injured party, if the settlement, judgment or award is based upon an injury to someone else) are Medicare beneficiaries, and if so, to provide their HICNs or SSNs. Employers, insurers, third party administrators, etc. will be asked for EINs. To confirm that this ALERT is an official Government document and for further information on the mandatory reporting requirements under this law, please visit the CMS website at www.cms.hhs.gov/MandatoryInsRep.

We are asking you to answer the questions below so that we may comply with this law.

MEDICARE HEALTH INSURANCE

1-800-MEDICARE (1-800-623-4227)

NAME OF BENEFICIARY: **JANE DOE**

MEDICARE CLAIM NUMBER: **000-00-0000-A**

DATE OF SERVICE: **01-01-2000**

HOSPITAL (PART A) **07-01-1988**

HOSPITAL (PART B) **07-01-1988**

DO NOT SEND CLAIMS FOR PAYMENT OF MEDICARE BENEFITS IN THIS ADDRESS

Are you presently, or have you ever been, enrolled in Medicare Part A or Part B?																				<input type="checkbox"/> Yes	<input type="checkbox"/> No												
<i>If yes, please complete the following. If no, proceed to Section II.</i>																																	
Full Name: <i>(Please print the name exactly as it appears on your SSN or Medicare card if available.)</i>																																	
Medicare Claim Number:																																	
						Date of Birth (Mo/Day/Year)						-		-																			
Social Security Number: <i>(If Medicare Claim Number is Unavailable)</i>						-		-																						Sex		<input type="checkbox"/> Female	<input type="checkbox"/> Male

I understand that the information requested is to assist the requesting insurance arrangement to accurately coordinate benefits with Medicare and to meet its mandatory reporting obligations under Medicare law.

Claim Number

Signature of Person Completing This Form

Date _____

If you have completed Sections I and II above, stop here. If you are refusing to provide the information requested in Sections I and II, proceed to Section III.

Section III

Claimant Name (Please Print)

Claim Number

For the reason(s) listed below, I have not provided the information requested. I understand that if I am a Medicare beneficiary and I do not provide the requested information, I may be violating obligations as a beneficiary to assist Medicare in coordinating benefits to pay my claims correctly and promptly.

Reason(s) for Refusal to Provide Requested Information:

Signature of Person Completing This Form

Date