

SETTLEMENT AGREEMENT

1. WHEREAS, the undersigned David Manes, Personal Representative of the Estate of Olivia Manes ("Manes") claims the Estate of Olivia C. Manes and her next of kin incurred losses arising out of the January 16, 2009 death of Olivia C. Manes; and,
2. WHEREAS, Manes filed a tort claim against the State of Nebraska (TC2009-03528) to recover damages allegedly arising out of the medical malpractice and negligence that led to Olivia C. Manes' wrongful death, including damages for "pre-death terror, pain, and suffering of Olivia Manes and the wrongful death damages sustained by the next of kin"; and,
3. WHEREAS, Manes and the State desire to settle Manes' claim against the State in order to avoid the expense and uncertainty of further litigation; and
4. WHEREAS, Manes is willing to accept six hundred thousand dollars (\$600,000.00) as payment in full of any and all claims of any nature whatsoever arising out of, or to arise out of, the facts and circumstances which form the basis of tort claim TC2009-03528, and the death of Olivia C. Manes;

NOW THEREFORE,

5. In consideration of payment by the State of the sum of six hundred thousand dollars (\$600,000.00), Manes agrees to settle tort claim TC2009-03528 and further agrees to release the State and all of its departments, agencies, officials, agents, and employees, from any and all claims and causes of action of every name, nature, and description, known and unknown, and past, present and future, and of their successors and assigns, and of all persons in their behalf, resulting or to result from the facts and circumstances which form the basis of tort claim TC2009-03528. Manes specifically agrees to execute a Release at the time payment is made.

6. It is agreed that each party shall pay its own costs and attorney's fees.
7. Manes warrants that it has paid or will pay any party or entity entitled to reimbursement or subrogation from the settlement proceeds. Manes warrants that there are no current subrogation interests, assignments, liens or interests of any kind that have not been paid or will not be paid by Manes which should prevent the released State from paying the proceeds of this settlement to Manes and his attorney. Manes agrees to defend, indemnify and hold harmless the State from any claims by any party or entity for reimbursement or subrogation from the settlement proceeds.
8. The State agrees to waive any and all Medicaid subrogation interests it may have in the settlement proceeds, and further extinguishes any and all claims the State may have related to the care and treatment of Olivia C. Manes. The State further waives and abandons any and all rights to collect and/or enforce any claims for payment for the care and treatment of Olivia C. Manes.
9. It is understood between the parties that pursuant to *NEB. REV. STAT. § 81-8,211* (2008), this settlement is subject unanimous approval of the State Claims Board and further approval of the District Court of Lancaster County, Nebraska. In the event that either the State Claims Board or the District Court of Lancaster County, Nebraska, does not approve this settlement, this matter shall proceed as if no settlement agreement had ever been reached.
10. Manes agrees to execute a Joint Application for Approval of Settlement to be filed with the District Court of Lancaster County, Nebraska, seeking approval of this settlement.
11. It is understood between the parties that pursuant to *NEB. REV. STAT. § 81-8,224* (2008), no portion in excess of fifty-thousand dollars \$50,000.00 of this settlement can be

paid until the judgment approving the settlement from the District Court of Lancaster County, Nebraska, has been reviewed by the Legislature and specific appropriation is made therefor.

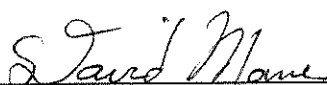
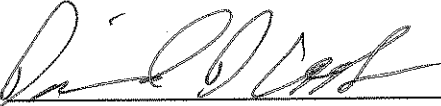
12. It is understood between the parties that this settlement is subject to approval of the County Court of Gage County, Nebraska, as part of the estate proceedings captioned at *In Re Estate of Olivia C. Manes*, Case No. PR09-17. In the event the County Court of Gage County, Nebraska, does not approve this settlement, this matter shall proceed as if no settlement agreement had ever been reached.

13. Manes agrees to take all reasonable steps necessary to obtain approval from the County Court of Gage County, Nebraska.

14. It is agreed this Settlement Agreement is a compromise of disputed claims and shall not be construed as an admission of liability on the part of the parties hereto.

15. The parties agree and understand this document is a public record of the State of Nebraska. However, the parties agree they will not discuss orally or in written form the terms of the Settlement Agreement or the facts and circumstances that form the basis of tort claim TC2009-03528, except as required or permitted by law.

16. The parties mutually warrant that each has full authority to enter into this Settlement Agreement on behalf of themselves and their respective affiliates.

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|  | 3/23/09 |  | 3/23/09 |
| David Manes, Personal Representative <i>In re Estate of Olivia C. Manes</i> County Court, Gage County, Nebraska Case No. PR09-17 | (Date) | David D. Cookson Chief Deputy Attorney General State of Nebraska | (Date) |