

**Early Resolution Conciliation Agreement Between the
U.S. Department of Labor
Office of Federal Contract Compliance Programs
and**

**BIOFIRE DIAGNOSTICS LLC
515 Colorow Drive
Salt Lake City, UT 84108**

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (“OFCCP”) evaluated the BioFire Diagnostics, LLC (“BioFire”) establishment located at 515 Colorow Drive, Salt Lake City, UT 84108, beginning on November 19, 2018. OFCCP found that BioFire failed to comply with Executive Order 11246, as amended (“EO 11246”) and its implementing regulations at 41 Code of Federal Regulations (CFR) Chapter 60.

In the interest of resolving the violations without engaging in further legal proceedings and in exchange for sufficient and valuable consideration described in this document, OFCCP and BioFire enter into this Conciliation Agreement (“Agreement”) and its attachments, and the parties agree to all the terms therein.

The attachments to this Agreement are deemed incorporated into this Conciliation Agreement.

II. General Terms and Conditions

1. In exchange for BioFire’s fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under EO 11246 based on the violations alleged. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if BioFire violates any provision of this Agreement, as set forth in paragraph I, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. OFCCP may review BioFire’s compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. BioFire will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all hard copy or electronic reports and documents it requests, including those specified in this Agreement.
3. Nothing in this Agreement relieves BioFire of its obligation to fully comply with the requirements of EO 11246, Section 503, VEVRAA, their implementing regulations, or other applicable laws requiring non-discrimination or equal employment opportunity through affirmative action.
4. The parties agree that any release of claims required by this Agreement will only pertain to claims under EO 11246, Section 503, and/or VEVRAA.

5. BioFire agrees that it will not retaliate against any potential or actual beneficiary of this Agreement or against any person who files a complaint, who has provided information or assistance, or who participates in any manner in any proceeding in this matter.
6. The parties understand the terms of this Agreement and enter into it voluntarily.
7. This Agreement, including its attachments, constitutes the entire Agreement and represents the complete and final understanding of the parties. This Agreement contains all of the terms binding the parties and it supersedes all prior written and oral negotiations and agreements. Any modifications or amendments to this Agreement must be agreed upon in writing and signed by all parties.
8. This Agreement becomes effective on the day it is signed by the Southwest and Rocky Mountain Regional Director (the "In Effect Date").
9. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
10. This Agreement will expire sixty (60) days after BioFire submits its final progress report required in Part VIII, below, unless OFCCP notifies BioFire in writing before the expiration date that BioFire has failed to fulfill all of its obligations under the Agreement. In this instance, the Agreement is automatically extended until the date that OFCCP determines that BioFire has met all of its obligations under the Agreement.
11. If BioFire violates this Agreement:
 - a. The procedures at 41 C.F.R. § 60-1.34, 41 CFR 60-300.63 and 41 CFR 60-741.63 will govern:
 - i. OFCCP will send BioFire a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. The BioFire shall have 15 days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
 - iii. If BioFire is unable to demonstrate that it has not violated the Agreement, or if OFCCP alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement.
 - iv. In the event of a breach of this Agreement by BioFire, OFCCP may elect to proceed to a hearing on the entire case and seek full make-whole relief, and not be limited to the terms agreed to in the Agreement.
 - b. BioFire may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. 60-1.27 and/or other appropriate relief for violating this Agreement.

12. BioFire does not admit any violation of the Executive Order and there has not been an adjudication on the merits regarding any such violation.
13. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
14. The parties understand and agree that nothing in this Agreement is binding on other governmental departments or agencies other than the United States Department of Labor.
15. Each party shall bear its own fees and expenses with respect to this matter.
16. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with this Agreement, shall constitute admissible evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this specific Agreement.
17. All references to “days” in this Agreement, and in the Timeline included as Attachment E, are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a Federal holiday, that deadline will be extended to the next business day.

III. Special Terms and Conditions

- A. OFCCP retains the right to investigate complaints of discrimination at establishments covered by the ERCA under EO 11246, Section 503, and VEVRAA.
- B. If BioFire violates the terms of the Agreement, OFCCP reserves the right to bring an enforcement action per the terms of 41 CFR 60-1.34. In that event, the five-year compliance evaluation scheduling exemption will be void.
- C. If during the five-year period, OFCCP schedules a different establishment of BioFire for a compliance evaluation not covered by this Agreement, OFCCP will conduct the compliance evaluation consistent with its normal policies and procedures.
- D. This agreement does not relieve BioFire from compliance with OFCCP requirements of equal employment opportunity through affirmative action and non-discrimination across its entire workforce, including preparing and monitoring affirmative action programs (AAPs).

IV. Violations and Remedies

1. **VIOLATION:** OFCCP found that BioFire is not in compliance with the nondiscrimination requirements of the equal opportunity clause of EO 11246 section 202 and 41 CFR 60-1.4(a)(1). OFCCP’s analysis of BioFire’s hiring process and selection procedures revealed that during the period of November 19, 2016 through November 19, 2018 (“review period”) BioFire discriminated against White, Black and Asian applicants for the Manufacturing

Technician I and Manufacturing Trainee Positions as follows:

- a. OFCCP's analysis demonstrated statistical hiring disparities against White, Black and Asian applicants in Manufacturing Technician I – Day Shift positions during the review period. OFCCP's analysis found a statistically significant disparity of 4.00 standard deviations against White applicants with a shortfall of 4. Further, OFCCP's analysis found a statistically significant disparity over four standard deviations against Black applicants with a shortfall of 3. In addition, OFCCP's analysis found a statistically significant disparity of over three standard deviations against Asian applicants with a shortfall of 2.
- b. OFCCP's analysis demonstrated statistical hiring disparities against White applicants in Manufacturing Technician I – Swing Shift positions during the review period. OFCCP's analysis found a statistically significant disparity of over three standard deviations against White applicants with a shortfall of 10.
- c. OFCCP's analysis demonstrated statistical hiring disparities against White and Asian applicants in Manufacturing Technician Trainee – Day Shift positions during the review period. OFCCP's analysis found a statistically significant disparity of 4.71 standard deviations against White applicants with a shortfall of 6. Further, OFCCP's analysis found a statistically significant disparity of over four standard deviations against Asian applicants with a shortfall of 2.
- d. OFCCP's analysis demonstrated statistical hiring disparities against White and Black applicants in Manufacturing Technician Trainee – Swing Shift positions during the review period. OFCCP's analysis found a statistically significant disparity of over three standard deviations against White applicants with a shortfall of 6. Further, OFCCP's analysis found a statistically significant disparity of over three standard deviations against Black applicants with a shortfall of 2.

V. Financial and Non-Monetary Remedies for Hiring Violations

- A. BioFire does not agree with OFCCP's findings. However, in the interest of resolving the violations found by OFCCP without further protracted proceedings, BioFire agrees to the following:
 1. **Revision of the Hiring Process, Implementation and Training:** In accordance with the timeline listed in Attachment E (the "Timeline"), BioFire will revise in writing, the practices, policies and procedures each establishment uses to recruit, track and hire applicants¹ for open positions at BioFire (hereinafter the "Revised Hiring Procedures"). With respect to the Revised Hiring Procedures and training to be conducted, BioFire agrees to the following:
 - i. To adopt or revise written procedures for recruiting applicants, including mandatory posting and outreach efforts.

¹ The term "applicant" refers to any individual that expresses interest in employment through BioFire's established application process in a position for which the individual meets the minimum qualifications.

- ii. To use non-discriminatory qualifications and written criteria to select and/or reject job seekers and applicants at each step of the hiring process, including the qualifications and criteria to be used in any application screen, interview, test, post-offer screening or other selection procedures. BioFire will also implement procedures, as appropriate and feasible, intended to limit subjectivity in the hiring process with respect to the evaluation and use of minimum qualifications.
 - iii. To adopt or revise procedures to ensure that: (i) applicants are tracked and decisions are documented at each step in the hiring process, and (ii) documents are retained in accordance with 41 CFR § 60-1.12(a) and Part 60-3.
 - iv. To conduct adverse impact analyses (*i.e.*, comparing the number of applicants versus the number of hires, by race and by sex to the extent known, for the applicable job title during the applicable time period) on at least an annual basis, as set forth in Part IV below. BioFire will provide OFCCP with the results of these analyses. If statistically significant adverse impact is found in the total selection process, BioFire will analyze each component of the hiring process to determine the step or steps potentially causing the adverse impact and will promptly make appropriate adjustments to the hiring process to eliminate the statistically-significant adverse impact. For purposes of these analyses, BioFire will not include Eligible Class Members (as defined in subparagraph c below) who are hired pursuant to this Agreement as applicants or hires; in the same way, these analyses also will not include any opening filled by an Eligible Class Member. BioFire will report to OFCCP about any analysis resulting in statistically significant adverse impact and any adjustments, if applicable, during the relevant 12-month monitoring period and as required by the Reporting Section VI. BioFire will retain all records used in the adverse impact analyses and records related to any adjustments to its hiring processes.
 - v. BioFire will fully implement the Revised Hiring Process and will provide appropriate training to all individuals involved in any way in recruiting, selecting or tracking applicants on the Revised Hiring Process in accordance with the timeframes set forth in this Agreement.
- 2. Notification:** In accordance with the timeline, BioFire will notify the Class Members (Attachment A, "List of Affected Applicants") of the terms of this Agreement by mailing by first class mail to each class member the: Notice to Affected Class (Attachment B, "Notice"), Information Verification & Employment Interest Form (Attachment C, "Interest Form"), the Release of Claims Under Executive Order 11246 (Attachment D, "Release"), and a postage-paid return envelope. In the event that the Class Member is deceased or as otherwise provided under the law, the Class Member's legal representative can respond by returning the completed Interest Form and executed Release. BioFire will provide OFCCP with a list of all Class Members whose forms were returned as undeliverable or have not fully completed and returned the Claim Form or executed Release. OFCCP will attempt to obtain updated addresses and will provide updated Class Member contact information to BioFire. BioFire will then mail by first class mail a second Notice, Interest Form, Release, and postage-paid return envelope to all Class Members for whom updated addresses were obtained.

- i. **Eligibility:** In order to participate in the settlement, a Class Member must return both the Interest Form and executed Release. Those Class Members who meet the race requirements, timely complete, sign and return the Release and Interest Form by the due date (“Eligible Class Members”) will equally share in the monetary settlement.

If a Class Member does not return a completed Interest Form and/or a fully-executed Release to BioFire, the Class Member will no longer be entitled to any monetary settlement, an offer of employment, or any other relief pursuant to this Agreement.

In accordance with the Timeline, BioFire will provide OFCCP with a list of the Eligible Class Members who timely returned a completed Interest Form and executed Release, along with a copy of each Interest Form and executed Release received. In accordance with the Timeline, OFCCP will review and approve the final list of Eligible Class Members or discuss with BioFire any issues necessary to finalize the list, such as the inclusion or exclusion of certain Class Members. The monetary settlement for BioFire discussed in paragraph 4, below, will be divided equally among all Eligible Class Members who are on the final approved list of Eligible Class Members. All Eligible Class Members on the final approved list are entitled to an equal share of the monetary settlement regardless of whether they are interested in employment with BioFire.

3. **Offer of Employment:** As positions become available, BioFire will extend job offers to qualified Eligible Class Members who express an interest in employment for the applicable position(s) at its establishments. BioFire shall make bona fide job offers to Eligible Class Members who have expressed interest in employment and are not currently employed by BioFire. With each job offer BioFire will provide a position description and a list of minimum qualifications for the position; the offer will make clear that in order to be hired the offered Eligible Class Member must meet the minimum qualifications for the position. BioFire will make offers to ECMs who applied for Manufacturing Tech Trainee positions until 16 placements are made or the list is exhausted. For the Manufacturing Tech I position, if an ECM applied for both the Manufacturing Tech I and Manufacturing Tech Trainee position, placement to the Tech I position will be considered first if the ECM’s application on file indicates that the ECM has the required qualifications. If the ECM does not have the required qualifications at the time of placement, the ECM will be offered a Manufacturing Tech Trainee position. The required number of placements for the ECM List 2 is 19 (or exhaustion of the list). If the ECM is placed in the Manufacturing Tech Trainee position, the ECM will be promoted to the Manufacturing Tech I after six months in the trainee position and meeting the same performance expectations that apply to all employees in the Manufacturing Tech Trainee position. BioFire will continue extending offers to ECMs until 31 (23 White, 5 Black and 3 Asian) are filled or the list of Eligible Class Members is exhausted, whichever comes first. Because BioFire hired potential class members after the review period the number of job offers would be 31 as opposed to the original shortfall of 35.

Eligible Class Members shall be considered in the order that BioFire receives their

completed Interest Forms expressing an interest in employment. If multiple completed Interest Forms are received on the same date, the earliest original application date of the Eligible Class Member will determine the order of employment consideration. Once hired, Eligible Class Members will be subject to the same probationary period, attendance, performance standards, job-bidding requirements, and any other applicable waiting periods as other similarly-situated new hires at BioFire.

BioFire will contact Eligible Class Members interested in a position as openings for these applicable positions become available. If the Eligible Class Member does not respond in person or in writing to the offer within seven (7) days of the receipt of the written offer, the offer will be withdrawn by BioFire. Once an offer has been withdrawn consistent with this Agreement the Eligible Class Member will not be entitled to another offer of employment under this Agreement. BioFire shall initiate the hiring process for Eligible Class Members as soon as practicable after receiving completed Interest Forms and executed Releases under this Agreement.

The report-to-work date for Eligible Class Members hired pursuant to this Agreement shall be no later than fourteen (14) days after the date the job offer is accepted. The Eligible Class Member must report to work on the day designated, otherwise, BioFire may withdraw the job offer and shall be under no obligation to hire that Eligible Class Member under this Agreement. BioFire remains obligated to continue making job offers to the Eligible Class Members who remain on the list until 31 (23 White, 5 Black and 3 Asian) are filled or the list of Eligible Class Members is exhausted, whichever comes first. BioFire hired four class members, therefore, the shortfall of 35 will be adjusted to 31 placements.

Eligible Class Members hired into positions pursuant to this Agreement shall be paid the current wage rate for new hires for these positions and shall be provided with the same benefits, opportunities to earn overtime, shift differentials and other earnings as other similarly-situated newly-hired employees at BioFire. In addition, all Eligible Class Members hired must receive retroactive seniority using the date of the original application as their hire date for job retention, job bidding and non-monetary benefits.

Eligible Class Members shall be responsible for notifying BioFire's settlement administrator of any changes to their addresses or contact information.

- 4. Monetary Settlement:** In settlement of all potential claims for back pay and other monetary relief to Eligible Class Members, BioFire agrees to pay a total amount of \$300,000.00 (\$264,000 in back pay and \$36,000 in interest). The monetary settlement is a negotiated amount that represents estimated back pay and takes into account tenure and interim earnings.

BioFire will distribute the monetary settlement, less deductions required by law, equally among the Eligible Class Members for each establishment by mailing a check via certified mail to each Eligible Class Member representing the Eligible Class Member's pro rata share of the total amount of the monetary settlement. BioFire will pay the Internal Revenue Service ("IRS") the employer's share of social security and

Medicare withholdings and will mail each Eligible Class Member an IRS W-2 Form reporting the portion of the payment representing back pay and an IRS Form 1099 for the portion of the payment representing interest. These IRS forms will be mailed either with the settlement checks or by the deadline imposed by applicable law. BioFire will disburse the Monetary Settlement within 15 calendar days after OFCCP approves and provides BioFire with a copy of the final lists of Eligible Class Members.

Every two weeks BioFire will provide OFCCP via email sent to Lauren Blunck at (b) (6), (b) (7)(C)@dol.gov a list of Eligible Class Members whose checks were returned as undeliverable. OFCCP will attempt to locate these Eligible Class Members. If OFCCP obtains an alternate address, BioFire will re-mail the check to the alternative address. Any check that remains uncashed will be void. With respect to any uncashed funds, in the event that the total amount of uncashed checks exceeds \$20.00 of the original monetary settlement per class member, BioFire shall make a second distribution within 30 days after the initial, uncashed check was void to all Eligible Class Members who cashed their first check. If the total amount of uncashed funds is equal to or less than \$20.00 of the original monetary settlement per class member, BioFire shall use the uncashed funds to provide training in equal employment opportunity to its personnel in addition to the training each establishment has agreed to provide under this Agreement.

VI. Reporting. BioFire will provide reports described below to on the dates specified in the Timeline (Attachment E):

Office of Federal Contract Compliance Programs
ATTN: Ronald W. Sullivan, II, District Director
Denver District Office
1244 Speer Boulevard Suite 540
Denver, CO 80204

1. Documentation of monetary payments to all Eligible Class Members as specified in Section III, including for each: the name of the person receiving a monetary settlement, the check number and amount of the check, and the date the check cleared the bank. OFCCP may request copies of canceled checks disbursed by BioFire to Eligible Class Members or other equivalent documentation verifying that Eligible Class Members were paid;
2. Documentation for each Eligible Class Member who is hired into a position at BioFire, including name, date of hire, job title hired into, rate of pay;
3. Documentation for each Eligible Class Member who was considered for employment but was not hired into a position at BioFire, along with the reason(s) for non-selection and all relevant documentation relating to that non-selection;
4. The total number of external applicants and hires and the breakdown by race, sex and ethnic group of applicants seeking work with BioFire during the monitoring period, on the dates specified by the Timeline, including all temporary, part time, and seasonal workers who were

referred to and/or assigned to work at BioFire by a staffing firm or employment agency. Each report must cover the preceding twelve-month period, and must be submitted within 30 calendar days after the close of that twelve-month period. The twelve-month will be the same as the AAP year. This reporting will be for years 2 and 4 of the Agreement.

Close of Monitoring Period and Termination of Agreement. This Agreement shall remain in effect until the monitoring period is completed. The monitoring period will close once OFCCP accepts BioFire's final progress report as set forth in Part II, Paragraph I, above. If OFCCP fails to notify BioFire in writing within sixty (60) days of the date of the final progress report that BioFire has not fulfilled all of its obligations under the Agreement, OFCCP will be deemed to have accepted the final report and the Monitoring Period and this Agreement will terminate. If OFCCP notifies BioFire within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines BioFire has met all of its obligations under the Agreement.

VII. SIGNATURES

The person signing this Agreement on behalf of BioFire personally warrants that he or she is fully authorized to do so, that BioFire has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on BioFire.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and BIOFIRE DIAGNOSTICS LLC.

(b) (6), (b) (7)(C)

Andrea Kendell
Ad Interim, Chief Executive Officer
BIOFIRE DIAGNOSTICS LLC
Salt Lake City, UT

(b) (6), (b) (7)(C)

Melissa L. Speer
Regional Director
Southwest & Rocky Mountain Region

DATE:

August 26, 2020

DATE: August 26, 2020

Attachments:

- (A) List of Affected Applicants
- (B) Notice Documents (Notice, Claim, and Release Forms)
- (C) Interest Form
- (D) Release Form
- (E) Timeline

Attachment A – Applied for Manufacturing Tech 1/Manufacturing Technician Trainee

Count	Class Member Name	Race	Application Date(s)	JT Applied for (Manufacturing Tech 1/Manufacturing Technician Trainee)
1	(b) (6), (b) (7)(C)			Manufacturing Tech 1
2				Manufacturing Tech 1
3				Manufacturing Tech 1
4				Manufacturing Tech 1, Manufacturing Technician Trainee
5				Manufacturing Tech 1
6				Manufacturing Tech 1
7				Manufacturing Tech 1
8				Manufacturing Tech 1
9				Manufacturing Tech 1
10				Manufacturing Tech 1
11				Manufacturing Tech 1
12				Manufacturing Tech 1
13				Manufacturing Tech 1
14				Manufacturing Tech 1
15				Manufacturing Technician Trainee, Manufacturing Tech 1
16				Manufacturing Tech 1
17				Manufacturing Tech 1
18				Manufacturing Tech 1
19				Manufacturing Tech 1
20				Manufacturing Technician Trainee, Manufacturing Tech 1
21				Manufacturing Tech 1
22				Manufacturing Tech 1
23				Manufacturing Tech 1
24				Manufacturing Technician Trainee, Manufacturing Technician Trainee, Manufacturing Tech 1
25				Manufacturing Tech 1
26				Manufacturing Tech 1
27				Manufacturing Tech 1
28				Manufacturing Tech 1
29				Manufacturing Tech 1
30				Manufacturing Tech 1
31				Manufacturing Tech 1
32				Manufacturing Tech 1
33				Manufacturing Tech 1
34				Manufacturing Tech 1
35				Manufacturing Tech 1

36	(b) (6), (b) (7)(C)	Manufacturing Tech 1
37		Manufacturing Tech 1
38		Manufacturing Tech 1
39		Manufacturing Tech 1
40		Manufacturing Tech 1
41		Manufacturing Tech 1
42		Manufacturing Tech 1
43		Manufacturing Tech 1
44		Manufacturing Tech 1, Manufacturing Technician Trainee
45		Manufacturing Tech 1
46		Manufacturing Tech 1, Manufacturing Technician Trainee
47		Manufacturing Tech 1
48		Manufacturing Tech 1
49		Manufacturing Tech 1
50		Manufacturing Tech 1
51		Manufacturing Tech 1
52		Manufacturing Tech 1
53		Manufacturing Tech 1
54		Manufacturing Tech 1
55		Manufacturing Tech 1
56		Manufacturing Tech 1
57		Manufacturing Tech 1
58		Manufacturing Tech 1
59		Manufacturing Tech 1
60	Manufacturing Tech 1	
61	Manufacturing Tech 1, Manufacturing Technician Trainee	
62	Manufacturing Tech 1	
63	Manufacturing Tech 1	
64	Manufacturing Tech 1, Manufacturing Technician Trainee	
65	Manufacturing Tech 1	
66	Manufacturing Tech 1	
67	Manufacturing Tech 1	
68	Manufacturing Tech 1, Manufacturing Technician Trainee, Manufacturing Technician Trainee, Manufacturing Tech 1	
69	Manufacturing Tech 1, Manufacturing Technician Trainee	
70	Manufacturing Tech 1	
71	Manufacturing Tech 1	
72	Manufacturing Tech 1	
73	Manufacturing Tech 1	
74	Manufacturing Technician Trainee, Manufacturing Tech 1	

75	(b) (6), (b) (7)(C)	Manufacturing Technician Trainee,
76		Manufacturing Tech 1
77		Manufacturing Tech 1
78		Manufacturing Tech 1
79		Manufacturing Tech 1
80		Manufacturing Tech 1
81		Manufacturing Tech 1
82		Manufacturing Tech 1, Manufacturing Technician Trainee
83		Manufacturing Tech 1
84		Manufacturing Tech 1
85		Manufacturing Tech 1
86		Manufacturing Tech 1
87		Manufacturing Tech 1
88		Manufacturing Tech 1
89		Manufacturing Tech 1
90		Manufacturing Tech 1
91		Manufacturing Tech 1
92		Manufacturing Tech 1
93		Manufacturing Tech 1
94		Manufacturing Tech 1
95		Manufacturing Tech 1
96		Manufacturing Tech 1
97		Manufacturing Tech 1
98		Manufacturing Tech 1
99		Manufacturing Tech 1
100		Manufacturing Tech 1
101		Manufacturing Tech 1
102		Manufacturing Tech 1

Attachment A – Manufacturing Technician Trainee Only

Count	Class Member Name	Race	Application Date(s)	JT Applied for (Manufacturing Tech 1/Manufacturing Technician Trainee)
1	(b) (6), (b) (7)(C)			Manufacturing Technician Trainee
2				Manufacturing Technician Trainee
3				Manufacturing Technician Trainee
4				Manufacturing Technician Trainee
5				Manufacturing Technician Trainee
6				Manufacturing Technician Trainee

7	(b) (6), (b) (7)(C)	Manufacturing Technician Trainee
8		Manufacturing Technician Trainee
9		Manufacturing Technician Trainee
10		Manufacturing Technician Trainee
11		Manufacturing Technician Trainee
12		Manufacturing Technician Trainee
13		Manufacturing Technician Trainee
14		Manufacturing Technician Trainee
15		Manufacturing Technician Trainee
16		Manufacturing Technician Trainee
17		Manufacturing Technician Trainee
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27		Manufacturing Technician Trainee
28		Manufacturing Technician Trainee
29		Manufacturing Technician Trainee
30		Manufacturing Technician Trainee
31		Manufacturing Technician Trainee
32		Manufacturing Technician Trainee
33		Manufacturing Technician Trainee
34		Manufacturing Technician Trainee
35		Manufacturing Technician Trainee
36		Manufacturing Technician Trainee
37		Manufacturing Technician Trainee
38		Manufacturing Technician Trainee
39		Manufacturing Technician Trainee
40		Manufacturing Technician Trainee
41		Manufacturing Technician Trainee
42		Manufacturing Technician Trainee
43		Manufacturing Technician Trainee
44		Manufacturing Technician Trainee
45		Manufacturing Technician Trainee
46		Manufacturing Technician Trainee
47		Manufacturing Technician Trainee

48	(b) (6), (b) (7)(C)	Manufacturing Technician Trainee
49		Manufacturing Technician Trainee
50		Manufacturing Technician Trainee
51		Manufacturing Technician Trainee
52		Manufacturing Technician Trainee
53		Manufacturing Technician Trainee
54		Manufacturing Technician Trainee
55		Manufacturing Technician Trainee
56		Manufacturing Technician Trainee
57		Manufacturing Technician Trainee
58		Manufacturing Technician Trainee
59		Manufacturing Technician Trainee
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67		Manufacturing Technician Trainee
68		Manufacturing Technician Trainee
69		Manufacturing Technician Trainee
70		Manufacturing Technician Trainee
71		Manufacturing Technician Trainee
72		Manufacturing Technician Trainee
73		Manufacturing Technician Trainee
74		Manufacturing Technician Trainee
75		Manufacturing Technician Trainee
76		Manufacturing Technician Trainee
77		Manufacturing Technician Trainee
78		Manufacturing Technician Trainee
79		Manufacturing Technician Trainee
80		Manufacturing Technician Trainee
81		Manufacturing Technician Trainee
82		Manufacturing Technician Trainee
83		Manufacturing Technician Trainee
84		Manufacturing Technician Trainee
85		Manufacturing Technician Trainee
86		Manufacturing Technician Trainee
87		Manufacturing Technician Trainee
88		Manufacturing Technician Trainee
89	Manufacturing Technician Trainee	

90	(b) (6), (b) (7)(C)	Manufacturing Technician Trainee
91		Manufacturing Technician Trainee

ATTACHMENT B

NOTICE TO AFFECTED CLASS

Dear [name]:

BioFire Diagnostics, LLC (BioFire) and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) have entered into a Conciliation Agreement (Agreement) to remedy the violations of Executive Order 11246 (E.O. 11246), as amended, that OFCCP found during a compliance review of BioFire's facility located at 515 Colorow Drive, Salt Lake City, UT. OFCCP's analysis of BioFire's hiring process and selection procedures revealed that during the period of November 19, 2016 through at least November 19, 2018 (Review Period), BioFire's hiring process and selection procedures had a statistically significant adverse impact on White, Black and Asian applicants for Manufacturing Technician I positions and Manufacturing Technician Trainee positions. OFCCP found that there was a statistical disparity based on race in the hiring for Manufacturing Technician I positions and Manufacturing Technician Trainee positions. BioFire has not admitted to any violation of E.O. 11246 and there has not been any adjudicated finding that BioFire violated any laws. OFCCP and BioFire entered into the Agreement to resolve the matter without resorting to further legal proceedings. You have been identified as an individual who applied but was not hired for a Manufacturing Technician I position or Manufacturing Technician Trainee position during that time period.

As part of this Agreement, you are eligible to receive a distribution of at least \$[XXX] less lawful payroll deductions. Under the terms of this Agreement, it may take up to [number] months from the date of this letter before you receive your distribution. In order to be eligible for a payment, you must complete, sign, and return the enclosed Information Verification and Employment Interest Form and the Release of Claims Form. You should mail the completed and signed forms as soon as possible to the address below.

[Name]
[Position]
[Contractor]
[Address]

In order for you to be eligible to participate in the settlement, your documents must be received by [insert date by which class members must respond].

You may use the enclosed postage-paid return envelope to return the completed and signed Information Verification and Employment Interest Form and the Release of Claims Form.

In addition to the monetary distribution, BioFire will be making job offers for the Manufacturing Technician I positions or Manufacturing Technician Trainee positions to a limited number of individuals receiving this notification. It is not certain that you will receive a job offer. If you are still interested in employment with BioFire, please check the appropriate box on the enclosed Information Verification and Employment Interest Form. Those receiving this notice will be considered for Manufacturing Technician I positions or Manufacturing Technician Trainee

positions in the order that BioFire receives the Information Verification and Employment Interest Form expressing an interest in employment. In order to be hired you will need to meet the minimum qualifications for the position offered; the minimum qualifications will be provided to you at the same time that an offer of employment is made.

All individuals hired pursuant to this Agreement will be provided with retroactive seniority using the date of your original application as your hire date for job retention, job bidding and non-monetary benefits. If you have any questions you may call Kimberly Mephram, Senior Manager Talent Acquisition at BioFire, at 385-770-####, or OFCCP Compliance Officer (b) (6), (b) (7)(E) at 720-264-3200. Your call will be returned as soon as possible.

IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO BioFire BY *[insert date by which class members must respond]*, YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.

Sincerely,

[Name]

Enclosures

- (1) Information Verification and Employment Interest Form
- (2) Release of Claims Form

**ATTACHMENT C
INFORMATION VERIFICATION & EMPLOYMENT INTEREST FORM**

You must complete this form in order to be eligible for the monetary payment and/or employment opportunities under the terms of the Conciliation Agreement (“Agreement”) between BioFire Diagnostics, LLC (“BioFire”) and the Department of Labor’s Office of Federal Contract Compliance Programs. Please print legibly, except for the signature.

Name: _____

Address: _____

Telephone Nos.: Home _____ Cell _____ Work _____

Notify BioFire promptly at the following address if your address or phone number changes within the next six months: _____

Your Social Security Number (to be used for tax purposes only): _____ - _____ - _____

For purposes of this settlement, it is necessary to verify your RACE:

White Black Hispanic Asian American Indian

Please indicate below whether you are currently interested in employment in a Manufacturing Technician I or Manufacturing Trainee Position with BioFire. If you complete, sign, and return this Information Verification and Employment Interest Form, you remain eligible for the monetary payment whether or not you are interested in employment at this time.

Yes, I am still interested in employment with BioFire in a Manufacturing Technician I or Manufacturing Trainee position.

No, I am not currently interested in employment with BioFire in either a Manufacturing Technician I or Manufacturing Trainee positions.

IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO THE ADDRESS BELOW BY [DATE], YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.

I, _____, certify the above is true and correct.
(print name)

Signature

Date

ATTACHMENT D

RELEASE OF CLAIMS UNDER EXECUTIVE ORDER 11246, AS AMENDED

This Release of Claims (Release) under Executive Order 11246, as amended, is a legal document. This document states that in return for BioFire Diagnostics, LLC (BioFire) paying you money, you agree that you will not file any lawsuit against BioFire for allegedly violating Executive Order 11246, as amended, in connection with its selection procedures for applicants for Manufacturing Technician I positions and Manufacturing Technician Trainee positions. It also says that BioFire does not admit it violated any laws. This Release says you had sufficient time to look at the document, to talk with others about the document, including an attorney if you choose, and that no one pressured you into signing the document. Finally, it says that if you do not sign and return the document by a certain date, you will not receive any money.

In consideration of the payment of at least \$[XXX] (less deductions required by law) by BioFire to me, which I agree is acceptable, I, (print name) _____, agree to the following:

I.

I hereby waive, release and forever discharge BioFire, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its and their shareholders, directors, officers, employees, agents, successors, and assigns, of and from any and all actions, causes of action, damages, liabilities, and claims arising out of or actionable under Executive Order 11246, as amended, which I or my representatives (heirs, executors, administrators, or assigns) have or may have had which relate to my nonselection for employment as a Manufacturing Technician I positions and Manufacturing Technician Trainee positions on the basis of my race at any time through the effective date of this Release. By signing this agreement, I agree that I have been made whole for any claim that could have been brought under Executive Order 11246, as amended, relating to my nonselection with BioFire through the Effective Date of this Release.

II.

I understand that BioFire denies that it treated me unlawfully or unfairly in any way and that BioFire entered into a Conciliation Agreement with the U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP) and agreed to make the payment described above to resolve alleged disparities in hiring and to resolve the matter without further legal proceedings in the compliance review initiated by OFCCP on [date]. I further agree that the payment of the aforesaid sum by BioFire to me is not to be construed as an admission of any liability by BioFire.

III.

I declare that I have read this Release and that I have had a full opportunity to consider and understand its terms and to consult with my advisors and seek legal advice. I further declare that I have decided of my own free will to sign this Release.

IV.

I understand that if I do not sign this Release and return it to the contact listed on the enclosed Notice to Affected Class Members, by the deadline listed on the Notice, I will not be entitled to receive any payment (less deductions required by law) from BioFire.

IN WITNESS WHEREOF, I have signed this document on this ____ day of _____,
20__.

Printed Name

Signature

Company Name: BioFire Diagnostics, Inc. Effective Date of Conciliation Agreement:		08/26/2020
Action Required	Number of Days	Due Date
BioFire will notify white, black and female class members found on Attachment A within 45 days of the effective date of the Agreement.	45	10/10/2020
BioFire shall initiate its hiring obligations of eligible white, black and Asian class members after 45 days of the effective date of this Agreement.	45	10/10/2020
Withing 60 calendar days of the effective date of the Agreement, BioFire will revise, in writing, the practices, policies and procedures it uses to recruit, track and hire applicants for Manufacturing Technician I and Manufacturing Trainee Positions.	60	10/25/2020
BioFire will notify OFCCP within 75 calendar days of the effective date of all white, black and asian class member letters returned as undeliverable and provide a list to OFCCP of those class members who have not yet responded to the Notice and/or have not returned a fully executed Interest Form and Release.	75	11/09/2020
OFCCP will provide updated contact information to BioFire within 15 calendar days of OFCCP's receipt of the list of non-responsive class members.	90	11/24/2020
Within 90 calendar days of the effective date of the Agreement, BioFire will fully implement the Revised Hiring Process and will train all individuals involved in any way in recruiting, selecting or tracking applicants for Manufacturing Technician I and Manufacturing Trainee Positions.	90	11/24/2020
BioFire will mail a second Notice, Interest Form, Release, and postage paid return envelope to white, black and asian class members OFCCP located within 15 days of receipt of the updated contact information from OFCCP.	105	12/09/2020
Class member deadline to be Entitled to Relief (Signed Interest Form and Release)	150	01/23/2021
BioFire will provide OFCCP a list of those class members who responded, along with copies interest forms and releases.	160	02/02/2021
Within 170 calendar days of the effective date of Agreement, OFCCP will review with BioFire and approve the final list of eligible white, black and female class members	170	02/12/2021
BioFire will disburse monetary settlement for the white, black and female class members within 180 calendar days of the effective date of the agreement.	180	02/22/2021
BioFire will provide OFCCP bank verification of payments made to Eligible Hiring Class Members.	210	03/24/2021
Uncashed checks are void	300	06/22/2021

Second disbursement to class members if needed (30 days after the checks are voided).	330	07/22/2021
BioFire's first monitoring report is due to OFCCP (summary data for all applicants and hires May 1, 2020 to April 30, 2021)	365	08/26/2021
BioFire's second monitoring report is due to OFCCP (summary data for all applicants and hires May 1, 2021 to April 30, 2022)	730	08/26/2022
Terminate of ERCA in 5 years from the effective date	1825	08/25/2025