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18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA

20 In re GILEAD SCIENCES SECURITIES) Master File No. C-03-4999-SI
21 LITIGATION)
22 _____) CLASS ACTION
23 This Document Relates To:) STIPULATION OF SETTLEMENT
24 ALL ACTIONS.)
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1 This Stipulation of Settlement dated as of June 28, 2010 (with all exhibits hereto, the
2 “Stipulation”), is entered into among: (a) Lead Plaintiffs Trent St. Clare and Terry Johnson
3 (collectively, “Lead Plaintiffs”), on behalf of themselves and each of the Class Members (defined
4 below in ¶1.6); and (b) Defendants Gilead Sciences, Inc. (“Gilead”), John C. Martin, John F.
5 Milligan, Mark L. Perry, Norbert W. Bischofberger, Anthony Carraciolo, and William A. Lee
6 (collectively, “Defendants”), by and through their respective counsel. This Stipulation is intended to
7 fully, finally, and forever resolve, discharge, and settle this Action and the Released Claims (defined
8 below in ¶1.23), subject to the approval of the Court and the terms and conditions set forth in this
9 Stipulation.

10 **I. THE LITIGATION**

11 On or after November 10, 2003, four securities class actions were filed against Defendants on
12 behalf of all persons who purchased Gilead publicly traded securities between July 14, 2003 and
13 October 28, 2003, inclusive, alleging violations of §§10(b) and 20(a) of the Securities Exchange Act
14 of 1934 (the “Exchange Act”), 15 U.S.C. §§ 78j(b) and 78t(a), and Rule 10b-5 promulgated
15 thereunder, 17 C.F.R. § 240.10b-5. On December 22, 2003, the Court consolidated the four actions
16 under the caption *In re Gilead Sciences Securities Litigation*, Master File No. C-03-4999-MJJ (the
17 “Action”).

18 On February 9, 2004, the Court appointed Trent St. Clare and Terry Johnson as Lead
19 Plaintiffs pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”). By the same
20 Order, Milberg Weiss Bershad Hynes & Lerach LLP (now known as Milberg LLP) and Cauley
21 Geller Bowman & Rudman LLP (now known as Robbins Geller Rudman & Dowd LLP) were
22 appointed Lead Counsel, and Kaplan Fox & Kilsheimer LLP was appointed Liaison Counsel.

23 On April 30, 2004, Lead Plaintiffs filed their Consolidated Amended Class Action Complaint
24 for Violation of Federal Securities Laws (“Amended Complaint”). The Amended Complaint alleged
25 that Gilead and its President and Chief Executive Officer, Chief Financial Officer, and four of
26 Gilead’s Vice Presidents violated the federal securities laws by making false and misleading
27 statements during the Class Period regarding sales of Viread, one of Gilead’s HIV/AIDS drugs.
28 Lead Plaintiffs alleged that Defendants failed to disclose that they were allegedly engaged in illegal

1 off-label marketing of Viread, that statements made by Defendants during the Class Period regarding
2 Viread sales caused the price of Gilead securities to be artificially inflated, and that Class Members
3 suffered damages when Defendants disclosed Gilead's true financial condition on October 28, 2003
4 and the price of Gilead's securities declined as a result.

5 On June 21, 2004, Defendants moved to dismiss the Amended Complaint. By Amended
6 Order dated January 26, 2005, the Court found that the Amended Complaint failed to state a claim
7 on which relief could be granted and dismissed the Amended Complaint without prejudice. On
8 February 25, 2005, Lead Plaintiffs filed a Second Amended Complaint and thereafter, on March 11,
9 2005, a Third Amended Complaint. Defendants moved to dismiss the Third Amended Complaint on
10 May 10, 2005. On October 11, 2005, the Court dismissed the Third Amended Complaint for failure
11 to adequately allege loss causation.

12 On December 2, 2005, Lead Plaintiffs filed a Fourth Amended Complaint, which Defendants
13 moved to dismiss on December 22, 2005. On May 12, 2006, the Court dismissed the Fourth
14 Amended Complaint with prejudice, finding that Lead Plaintiffs had not adequately alleged loss
15 causation. Lead Plaintiffs appealed the dismissal to the Ninth Circuit Court of Appeals, and on
16 August 11, 2008, the Ninth Circuit reversed the dismissal and found that Lead Plaintiffs sufficiently
17 alleged loss causation and economic loss. The case was remanded, and Defendants sought again to
18 dismiss the Fourth Amended Complaint. On June 3, 2009, the Court denied Defendants' motion,
19 finding Lead Plaintiffs adequately alleged falsity and materiality with regard to Defendants' alleged
20 omissions and misstatements, and that the Fourth Amended Complaint adequately pleaded a basis
21 for holding the individual defendants liable. The Court, however, found that Lead Plaintiffs had not
22 adequately alleged the reliability of statements made by two confidential witnesses described in the
23 Fourth Amended Complaint. The Court granted leave to amend the Fourth Amended Complaint to
24 allow Lead Plaintiffs to add further support for their allegations of off-label marketing during the
25 Class Period.

26 On July 10, 2009, Lead Plaintiffs filed a Fifth Amended Complaint, which Defendants
27 moved to dismiss on August 12, 2009. On October 13, 2009, the Court granted in part and denied in
28 part Defendants' motion, finding that Lead Plaintiffs' new confidential witness allegations regarding

1 Defendants' alleged off-label marketing of Viread were adequate to meet the PSLRA pleading
2 standards. The Court further found that there was no basis to hold the non-speaking individual
3 defendants liable under §10(b) of the Exchange Act, but that Lead Plaintiffs had adequately pled a
4 cause of action under §20(a) of the Exchange Act as to those defendants. On November 16, 2009,
5 Defendants answered the Fifth Amended Complaint, denying all of Lead Plaintiffs' allegations of
6 wrongdoing and asserting numerous affirmative defenses.

7 The parties participated in a mediation conference on March 2, 2010 with the Honorable
8 Layn R. Phillips (Ret.) serving as mediator. After extensive negotiations, the parties reached an
9 agreement-in-principle to settle the Action on March 4, 2010. The parties entered into a
10 Memorandum of Understanding documenting the key terms of their agreement-in-principle on May
11 5, 2010.

12 **II. ASSERTIONS AND DENIALS OF THE SETTLING PARTIES AND THE** 13 **BENEFITS OF SETTLEMENT**

14 Lead Plaintiffs believe that the claims asserted in the Action have merit and that the evidence
15 developed to date supports their claims. Lead Plaintiffs recognize and acknowledge, however, the
16 expense and length of continued proceedings necessary to prosecute the Action against Defendants
17 through trial and through appeals. Lead Plaintiffs have taken into account the uncertain outcome and
18 risk of any litigation, especially in complex actions such as this Action, as well as the difficulties and
19 delays inherent in such litigation. Lead Plaintiffs are mindful of the problems of proof under and
20 possible defenses to the alleged securities law violations asserted in the Action. Lead Plaintiffs
21 believe that the Settlement set forth in the Stipulation confers substantial benefits upon Class
22 Members, is in the best interests of Class Members, and is fair, reasonable, and adequate.

23 Defendants have denied and continue to deny each and all of the claims and contentions
24 alleged by Lead Plaintiffs, as well as all charges of wrongdoing or liability against them arising out
25 of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the
26 Action. In particular, Defendants deny that they engaged in off-label marketing of any kind and
27 assert that they at all times complied with all laws and regulations governing the sale and marketing
28 of Viread. Defendants also expressly have denied and continue to deny that they made any false or

1 misleading statements during the Class Period regarding Viread or otherwise, that Lead Plaintiffs or
2 the Class have suffered damages of any kind, and that the price of Gilead common stock was
3 artificially inflated during the Class Period as the result of any alleged misrepresentations, omissions,
4 non-disclosures or other conduct by Defendants. Defendants have nevertheless concluded that
5 further conduct of the Action would be protracted and expensive. Defendants also have considered
6 the uncertainty and risks inherent in any litigation, especially in complex cases like this Action, as
7 well as the availability of insurance that would fully fund this Settlement and the wishes of the
8 carriers providing that insurance. Defendants have, therefore, determined that it is desirable and
9 beneficial to them to settle the Action in the manner and upon the terms and conditions set forth in
10 this Stipulation.

11 **III. TERMS OF STIPULATION AND CONDITIONS OF SETTLEMENT**

12 NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED, AND AGREED by
13 Lead Plaintiffs, acting on behalf of themselves and all Class Members, and Defendants, through their
14 respective counsel, that, subject to the approval of the Court, the Action, the Released Claims, and
15 all matters encompassed within the scope of the releases set forth or referenced in this Stipulation
16 shall be finally, fully, and forever compromised, settled, and released, and the Action shall be
17 dismissed with prejudice, as to all Settling Parties upon and subject to the following terms and
18 conditions.

19 **1. Definitions**

20 As used in this Stipulation, the following terms have the meanings specified below:

21 1.1 “Action” means *In re Gilead Sciences Securities Litigation*, Master File No. C-03-
22 4999-SI, and all actions consolidated therein.

23 1.2 “Authorized Claimant” means any Class Member whose claim for recovery has been
24 allowed pursuant to the terms of the Stipulation.

25 1.3 “Claimant” means any Class Member who files a Proof of Claim in such form and
26 manner, and within such time, as the Court shall prescribe.

27 1.4 “Claims Administrator” means A.B. Data, Ltd., which shall administer the
28 Settlement.

1 1.5 “Class” means for purposes of the Settlement, all Persons who purchased Gilead
2 Publicly Traded Securities during the period from and including July 14, 2003 through and including
3 October 28, 2003. Excluded from the Class are the Defendants, the officers and directors of Gilead
4 during the Class Period, members of their immediate families and their legal representatives, heirs,
5 successors or assigns and any entity in which any such excluded Person has or had a controlling
6 interest. Also excluded from the Class are those Persons who timely and validly request exclusion
7 from the Class.

8 1.6 “Class Member” and/or “Member of the Class” mean a Person who falls within the
9 definition of the Class.

10 1.7 “Class Period” means the period commencing on July 14, 2003 through and including
11 October 28, 2003.

12 1.8 “Court” means the United States District Court, Northern District of California.

13 1.9 “Defendants” means Gilead, John C. Martin, John F. Milligan, Mark L. Perry,
14 Norbert W. Bischofberger, Anthony Carraciolo, and William A. Lee.

15 1.10 “Defendants’ Counsel” means Cooley LLP.

16 1.11 “Effective Date” means the date by which all of the events and conditions specified in
17 ¶8.1 of the Stipulation have been met and occurred.

18 1.12 “Escrow Agent” means Milberg LLP.

19 1.13 “Final” with respect to the Judgment approving the Stipulation means the later of: (i)
20 the expiration of three (3) business days after the time to file a motion to alter or amend the
21 Judgment under Federal Rule of Civil Procedure 59 has passed without any such motion having been
22 filed; (ii) the expiration of three (3) business days after the time in which to appeal the Judgment has
23 passed without any appeal having been taken (which date shall be deemed to be thirty-three (33)
24 days following the entry of the Judgment, unless the date to take such an appeal shall have been
25 extended by Court order or otherwise, or unless the thirty-third (33rd) day falls on a weekend or a
26 Court holiday, in which case the date for purposes of this Stipulation shall be deemed to be the next
27 business day after such thirty-third (33rd) day); and (iii) if such motion to alter or amend is filed
28 and/or if an appeal is taken, the expiration of three (3) business days after the final determination and

1 disposition of that motion and/or appeal in such a manner as to permit the consummation of the
2 Settlement substantially in accordance with the terms and conditions of this Stipulation. For
3 purposes of this paragraph, an “appeal” shall not include any appeal that concerns only the issue of
4 attorneys’ fees and expenses and/or the Plan of Allocation.

5 1.14 “Gilead Publicly Traded Securities” means Gilead common stock and put and call
6 options on Gilead common stock.

7 1.15 “Judgment” means the judgment to be rendered by the Court, substantially in the
8 form and content attached hereto as Exhibit B.

9 1.16 “Lead Plaintiffs” means Trent St. Clare and Terry Johnson.

10 1.17 “Person” means a natural person, an individual, corporation, partnership, limited
11 partnership, limited liability company, association, joint venture, joint venturer, joint stock company,
12 estate, legal representative, trust, unincorporated association, government or any political
13 subdivision or agency thereof, and any business or legal entity and their spouses, heirs, executors,
14 predecessors, successors, representatives, or assignees.

15 1.18 “Plaintiffs’ Co-Lead Counsel” means Robbins Geller Rudman & Dowd LLP and
16 Milberg LLP.

17 1.19 “Plaintiffs’ Counsel” means any counsel who has appeared for any plaintiff in this
18 Action.

19 1.20 “Plan of Allocation” means a plan or formula of allocation of the Settlement Fund
20 whereby the Settlement Fund shall be distributed to Authorized Claimants after payment of, or
21 provision for, expenses of notice and administration of the Settlement; Taxes and Tax Expenses; and
22 such attorneys’ fees, costs, expenses, and interest as may be awarded by the Court. A Plan of
23 Allocation shall be proposed by Plaintiffs’ Co-Lead Counsel. Any Plan of Allocation is not a
24 condition of the Stipulation or the Settlement, and Defendants and the Released Persons shall have
25 no responsibility or liability with respect to any Plan of Allocation.

26 1.21 “Preliminary Approval Order” means the order described in ¶4.1 hereof, substantially
27 in the form and content attached hereto as Exhibit A.

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1 1.22 “Proof of Claim” means a Proof of Claim and Release form, substantially in the form
2 and content attached hereto as Exhibit A-2.

3 1.23 “Released Claims” shall collectively mean any and all claims, debts, demands,
4 controversies, obligations, losses, rights or causes of action or liabilities of any kind or nature
5 whatsoever (including, but not limited to, any claims for damages (whether compensatory, special,
6 incidental, consequential, punitive, exemplary or otherwise), injunctive relief, declaratory relief,
7 rescission or rescissionary damages, interest, attorneys’ fees, expert or consulting fees, costs,
8 expenses, or any other form of legal or equitable relief whatsoever), whether based on federal, state,
9 local, statutory or common law or any other law, rule or regulation, whether fixed or contingent,
10 accrued or un-accrued, liquidated or un-liquidated, at law or in equity, matured or un-matured,
11 whether class or individual in nature, including both known claims and Unknown Claims (as defined
12 below), that (i) have been asserted in this Action by the Class Members or any of them against any
13 of the Released Persons (as defined below), or (ii) could have been asserted in any forum by the
14 Class Members or any of them against any of the Released Persons which arise out of or are based
15 upon the allegations, transactions, facts, matters or occurrences, representations or omissions
16 involved, set forth, or referred to in the pleadings and papers on file in this Action, including,
17 without limitation, the Fifth Consolidated Amended Class Action Complaint for Violation of Federal
18 Securities Laws, and that relate to the purchase of Gilead Publicly Traded Securities during the Class
19 Period.

20 1.24 “Released Persons” means collectively any and all of the Defendants, their past or
21 present subsidiaries, parents, successors and predecessors, officers, directors, shareholders, partners,
22 agents, employees, attorneys, insurers, insureds and any person, firm, trust, corporation, officer,
23 director or other individual or entity in which any of the Defendants has a controlling interest or
24 which is related to or affiliated with any of the Defendants, and the legal representatives, heirs,
25 successors-in-interest or assigns of the Defendants.

26 1.25 “Settlement” means the settlement on the terms set forth in this Stipulation.

27 1.26 “Settlement Fund” means the principal amount of \$8,250,000.00 in cash to be paid
28 pursuant to ¶2.1 of this Stipulation, plus all interest earned thereon.

1 1.27 “Settlement Notice” means the Notice of Proposed Settlement of Class Action,
2 substantially in the form and content attached hereto as Exhibit A-1.

3 1.28 “Settling Parties” means (a) each of the Defendants, and (b) the Lead Plaintiffs, on
4 behalf of themselves and all Class Members.

5 1.29 “Stipulation” means this Stipulation of Settlement, including the exhibits attached
6 hereto.

7 1.30 “Summary Notice” means the Summary Notice of the Settlement, substantially in the
8 form and content attached hereto as Exhibit A-3.

9 1.31 “Supplemental Agreement” means the agreement described in ¶8.4.

10 1.32 “Taxes” means all taxes (including any estimated taxes, interest or penalties) arising
11 with respect to the income earned by the Settlement Fund.

12 1.33 “Tax Expenses” means expenses and costs incurred in connection with the calculation
13 and payment of taxes or the preparation of tax returns and related documents (including, without
14 limitation, expenses of tax attorneys and/or accountants and costs and expenses relating to filing (or
15 failing to file) the returns described in ¶2.7 herein).

16 1.34 “Unknown Claims” means collectively any Released Claims which any Lead Plaintiff
17 or Class Member does not know or suspect to exist in his, her, or its favor at the time of the release
18 of the Released Claims which, if known by him, her, or it, might have affected his, her, or its
19 settlement with and release of the Released Claims, or might have affected his, her, or its decision
20 not to object to this Settlement. With respect to any and all Released Claims, the Settling Parties
21 stipulate and agree that, upon the Effective Date, Lead Plaintiffs shall waive, and each of the Class
22 Members shall be deemed to have waived, and by operation of the Judgment shall have waived, the
23 provisions, rights, and benefits of California Civil Code §1542, which provides:

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

27 Lead Plaintiffs shall expressly and each of the Class Members shall be deemed to have, and by
28 operation of the Judgment shall have, expressly waived any and all provisions, rights, and benefits

1 conferred by any law of any state or territory of the United States, or principle of common law,
2 which is similar, comparable or equivalent to California Civil Code §1542. Lead Plaintiffs and Class
3 Members may hereafter discover facts in addition to or different from those which he, she, or it now
4 knows or believes to be true with respect to the Released Claims, but Lead Plaintiffs shall expressly
5 fully, finally, and forever settle and release, and each Class Member, upon the Effective Date, shall
6 be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled
7 and released, any and all Released Claims, known or unknown, suspected or unsuspected, contingent
8 or non-contingent, whether or not concealed or hidden, which now exist, or have ever existed, upon
9 any theory of law or equity now existing or coming into existence in the future, including, but not
10 limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty,
11 law or rule, without regard to the subsequent discovery or existence of such different or additional
12 facts. Lead Plaintiffs acknowledge, and the Class Members shall be deemed by operation of the
13 Judgment to have acknowledged, that the foregoing waiver was separately bargained for and is a key
14 element of the Settlement of which this release is a part.

15 **2. The Settlement**

16 **a. Settlement Fund**

17 2.1 Gilead shall pay or cause to be paid to the Class in settlement of the Action the sum
18 of \$8,250,000.00 (Eight Million Two Hundred Fifty Thousand Dollars) (the “Settlement Amount”)
19 into an interest-bearing escrow account designated and controlled by the Escrow Agent within ten
20 (10) days after entry of the Preliminary Approval Order (“Settlement Fund”). To enable the timely
21 payment of the Settlement Amount, Plaintiffs’ Co-Lead Counsel shall provide Gilead with wire
22 instructions for the escrow account and a taxpayer identification number for the recipient of the
23 funds immediately upon execution of the Stipulation.

24 **b. The Escrow Agent**

25 2.2 The Escrow Agent shall invest the Settlement Fund deposited pursuant to ¶2.1 above
26 in short-term instruments backed by the full faith and credit of the United States Government or fully
27 insured by the United States Government or an agency thereof with a maturity date of less than 181
28 days and shall reinvest the proceeds of these instruments as they mature in similar instruments at

1 their then current market rates. The Escrow Agent bears all responsibility and liability for managing
2 the Settlement Fund and the escrow account.

3 2.3 Prior to the Effective Date, the Escrow Agent shall not disburse the Settlement Fund
4 except as provided in this Stipulation, by an order of the Court, or with the written agreement of both
5 of Plaintiffs' Co-Lead Counsel and Defendants' Counsel. After the Effective Date, the Escrow
6 Agent shall not disburse the Settlement Fund except as provided in this Stipulation, by an order of
7 the Court, or with the written agreement of both of Plaintiffs' Co-Lead Counsel.

8 2.4 Subject to further order and/or direction as may be made by the Court, the Escrow
9 Agent is authorized to execute such transactions as are consistent with the terms of the Stipulation.

10 2.5 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia*
11 *legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such
12 funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

13 2.6 The Escrow Agent may pay from the Settlement Fund, without further approval from
14 Defendants or the Court, the costs and expenses reasonably and actually incurred in connection with
15 providing notice to the Class, locating Class Members, soliciting Class claims, assisting with the
16 filing of claims, administering and distributing the Net Settlement Fund to Authorized Claimants,
17 processing Proof of Claim forms, and paying escrow fees and costs, if any, and after the Effective
18 Date, distributing the Net Settlement Fund to Authorized Claimants.

19 **c. Taxes**

20 2.7 (a) The Settling Parties agree that the Settlement Fund should be treated as being
21 at all times a "qualified settlement fund" within the meaning of Treas. Reg. §§1.468B-1 through
22 1.468B-5, 26 C.F.R. §§1.468B-1 through 1.468B-5 (1992). The Settling Parties agree that the
23 Settlement Fund shall be treated as a Qualified Settlement Fund from the earliest date possible, and
24 agree to any relation-back election required to treat the Settlement Fund as a Qualified Settlement
25 Fund from the earliest date possible. Counsel for Defendants agree to provide promptly to the
26 Escrow Agent the statement described in Treasury Regulation §1.468B-3(e).

27 (b) For the purpose of §1.468B of the Internal Revenue Code of 1986, as
28 amended, and the regulations promulgated thereunder, the "administrator" shall be the Escrow

1 Agent. The Escrow Agent shall timely and properly file all required tax returns with respect to the
2 Settlement Fund. Such returns shall be consistent with this section and in all events shall reflect that
3 all Taxes (including any estimated Taxes, interest or penalties) on the income earned by the
4 Settlement Fund shall be paid out of the Settlement Fund as provided in ¶2.7(c).

5 (c) All (i) Taxes arising with respect to the income earned by the Settlement
6 Fund, and (ii) Tax Expenses, shall be paid out of the Settlement Fund; in no event shall any of the
7 Released Persons or their counsel have any liability or responsibility for the Taxes or the Tax
8 Expenses. Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration
9 of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund
10 without prior order from the Court. Neither the Defendants; their insurance carriers, if any; nor their
11 counsel are responsible, nor shall they have any liability therefore. The Settling Parties hereto agree
12 to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent
13 reasonably necessary to carry out the provisions of this section.

14 **d. Termination of the Settlement**

15 2.8 In the event that the Stipulation is terminated, the Settlement Fund (including accrued
16 interest) less any notice and administration expenses, Taxes and Tax Expenses properly incurred (as
17 described more fully in ¶8.7) shall be refunded to Defendants or their insurer in accordance with ¶8.5
18 below. This provision shall survive any other failure of the Stipulation or Settlement and may be
19 specifically enforced by the Court.

20 **3. Certification of the Class**

21 3.1 Solely for purposes of this Settlement, the Settling Parties stipulate that the Class
22 shall be certified pursuant to Federal Rule of Civil Procedure 23. Defendants expressly reserve the
23 right to contest class certification in the event the Effective Date does not occur.

24 **4. Preliminary Approval Order**

25 4.1 Promptly after execution of the Stipulation, Plaintiffs' Co-Lead Counsel shall submit
26 the Stipulation, together with its exhibits, to the Court and shall apply for entry of an order,
27 substantially in the form and content of Exhibit A hereto, providing for preliminary approval of the
28 Settlement and this Stipulation, approving the form and manner of notice to the Class, and setting a

1 schedule for the briefing on final Settlement approval and the hearing to be held thereon (the
2 “Fairness Hearing”).

3 **5. Releases**

4 5.1 Upon the Effective Date, Lead Plaintiffs and each of the Class Members shall be
5 deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released,
6 relinquished, and discharged all Released Claims against all of the Released Persons, whether or not
7 such Class Member executes and delivers a Proof of Claim form. The Settling Parties acknowledge,
8 and the Class Members shall be deemed by operation of the Judgment to have acknowledged, that
9 the foregoing waiver of Unknown Claims, and of the provisions, rights, and benefits of §1542 of the
10 California Civil Code, was bargained for and is a key element of the Settlement of which the release
11 in this paragraph is a part.

12 5.2 Upon the Effective Date, Lead Plaintiffs and all Class Members and anyone claiming
13 through or on behalf of any of them, by operation of the Judgment, shall be forever barred and
14 enjoined from commencing, instituting, or continuing to prosecute any action or any proceeding in
15 any court of law or equity, arbitration tribunal, administrative forum, or other forum of any kind,
16 asserting any of the Released Claims against any of the Released Persons.

17 5.3 The Proof of Claim form to be executed by Class Members shall include a release of
18 all Released Claims against the Released Persons and shall be substantially in the form contained in
19 Exhibit A-2 attached hereto.

20 5.4 Upon the Effective Date, each of the Released Persons shall be deemed to have, and
21 by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and
22 discharged the Lead Plaintiffs, Class Members, and Plaintiffs’ Counsel from all claims (including
23 Unknown Claims) arising out of, relating to, or in connection with the institution, prosecution,
24 assertion, settlement, or resolution of the Action.

25 5.5 Nothing in this section 5 shall in any way impair or restrict the rights of the Settling
26 Parties or any Released Person to enforce the terms of this Stipulation.

1 **6. Administration and Calculation of Claims, Final Awards, and**
2 **Supervision and Distribution of the Settlement Fund**

3 6.1 The Settlement will be administered by the Claims Administrator. Defendants shall
4 provide the Claims Administrator with Gilead’s shareholder or other lists, as it or its transfer agent
5 may possess, as appropriate for providing notice to the Class, within five (5) calendar days following
6 the execution of the Stipulation. Defendants shall provide this information at no cost to Plaintiffs’
7 Co-Lead Counsel, Lead Plaintiffs, the Class or the Claims Administrator. The Claims Administrator
8 will be subject to such supervision and direction of the Court and/or Plaintiffs’ Co-Lead Counsel as
9 may be necessary or as circumstances may require, and shall administer and calculate the claims
10 submitted by Class Members. The Settlement Fund, and all interest earned thereon, shall be applied
11 as follows:

12 (a) to pay all the costs and expenses reasonably and actually incurred in
13 connection with providing notice, locating Class Members, soliciting Class claims, assisting with the
14 filing of claims, administering and distributing the Net Settlement Fund to Authorized Claimants,
15 processing Proof of Claim forms, and paying escrow fees and costs, if any;

16 (b) to pay the Taxes and Tax Expenses described in ¶2.7 above;

17 (c) to pay Plaintiffs’ Counsel’s attorneys’ fees and expenses if and to the extent
18 awarded by the Court; and

19 (d) to distribute the balance of the Settlement Fund (the “Net Settlement Fund”)
20 to Authorized Claimants as allowed by the Stipulation, the Plan of Allocation, or the Court.

21 6.2 Upon the Effective Date and thereafter, and in accordance with the terms of the
22 Stipulation, the Plan of Allocation approved by the Court, or such further order(s) as may be entered
23 by the Court, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in
24 accordance with the terms of this Stipulation.

25 6.3 Within thirty (30) days after the date scheduled for the Fairness Hearing, or such
26 other time as may be set by the Court, each Person claiming to be an Authorized Claimant shall be
27 required to submit to the Claims Administrator a completed Proof of Claim form signed under
28

1 penalty of perjury and containing such information and supported by such documents as are
2 specified in the Proof of Claim form.

3 6.4 Except as otherwise ordered by the Court, all Class Members who fail to timely
4 submit a Proof of Claim form within such period, or such other period as may be ordered by the
5 Court, shall be forever barred from receiving any payments pursuant to the Stipulation and the
6 Settlement set forth herein, but will in all other respects be subject to and bound by the provisions of
7 the Stipulation, the releases contained herein, and the Judgment. Notwithstanding the foregoing,
8 Plaintiffs' Co-Lead Counsel shall have the discretion to accept late-submitted claims for processing
9 by the Claims Administrator so long as distribution of the Net Settlement Fund is not materially
10 delayed thereby.

11 6.5 The Net Settlement Fund shall be distributed to Authorized Claimants substantially in
12 accordance with the Plan of Allocation approved by the Court.

13 6.6 This is not a claims-made settlement and, if all conditions of the Stipulation are
14 satisfied and the Settlement and Judgment become Final, no portion of the Settlement Fund will be
15 returned to the Defendants. The Released Persons shall have no responsibility for, interest in, or
16 liability whatsoever with respect to the distribution of the Settlement Fund; the Plan of Allocation;
17 the determination, administration, or calculation of claims; the payment or withholding of Taxes or
18 Tax Expenses; or any losses incurred in connection therewith. If there is any balance remaining in
19 the Settlement Fund after six (6) months from the date of the initial distribution of the Settlement
20 Fund to Authorized Claimants (whether by reason of tax refunds, un-cashed checks or otherwise),
21 then such balance shall, if feasible, be re-distributed to Class Members who have cashed their initial
22 distributions and who would receive at least \$10.00 from such re-distribution, after payment of any
23 unpaid costs or fees incurred in administering the Settlement Fund for such re-distribution. Six
24 months after such re-distribution any remaining balance shall be contributed to one or more not-for-
25 profit 501(c)(3) organizations to be designated by Plaintiffs' Co-Lead Counsel.

26 6.7 No Person shall have any claim against Plaintiffs' Co-Lead Counsel, the Claims
27 Administrator, or other entity designated by Plaintiffs' Co-Lead Counsel based on distributions made
28 substantially in accordance with the Stipulation and the Settlement contained herein, the Plan of

1 Allocation, or further order(s) of the Court. No Person shall have any claim whatsoever against
2 Defendants, Defendants' Counsel, or any Released Persons arising from or related to any
3 distributions made, or not made, from the Settlement Fund.

4 6.8 It is understood and agreed by the Settling Parties that any proposed Plan of
5 Allocation of the Settlement Fund including, but not limited to, any adjustments to an Authorized
6 Claimant's claim set forth therein, is not a part of the Stipulation and is to be considered by the Court
7 separately from the Court's consideration of the fairness, reasonableness, and adequacy of the
8 Settlement set forth in the Stipulation, and any order or proceeding relating to the Plan of Allocation
9 shall not operate to terminate or cancel this Stipulation or affect the finality of the Court's Judgment
10 approving this Stipulation and the Settlement, or any other orders entered pursuant to this
11 Stipulation.

12 7. **Attorneys' Fees and Expenses**

13 7.1 Plaintiffs' Co-Lead Counsel may submit an application or applications (the "Fee and
14 Expense Application") for distributions to them from the Settlement Fund for: (a) an award of
15 attorneys' fees; plus (b) expenses incurred in connection with prosecuting the Action; plus (c) any
16 interest on such attorneys' fees and expenses at the same rate and for the same periods as earned by
17 the Settlement Fund (until paid), as may be awarded by the Court. Plaintiffs' Co-Lead Counsel
18 reserve the right to make additional applications for fees and expenses incurred. Any award of
19 attorneys' fees and/or expenses by the Court ("Fee and Expense Award") shall be payable solely
20 from the Settlement Fund.

21 7.2 Any Fee and Expense Award shall be payable to Plaintiffs' Co-Lead Counsel
22 immediately upon award, notwithstanding the existence of any timely-filed objections thereto, or
23 potential for appeal therefrom, or collateral attack on the Settlement or any part thereof. Plaintiffs'
24 Co-Lead Counsel shall allocate the Fee and Expense Award in a manner in which they in good faith
25 believe reflects the contributions of Plaintiffs' Counsel to the prosecution and settlement of the
26 Action. In the event the Effective Date does not occur or the order making the Fee and Expense
27 Award is reversed or modified, or the Stipulation is cancelled or terminated for any reason and in the
28 event the Fee and Expense Award has been paid to any extent, then Plaintiffs' Counsel shall within

1 five (5) business days from receiving notice from Defendants' Counsel or from a Court of
2 appropriate jurisdiction, refund or make repayment to the Settlement Fund the Fee and Expense
3 Award previously paid to them from the Settlement Fund plus interest at the same rate earned on the
4 Settlement Fund.

5 7.3 The procedure for and the allowance or disallowance by the Court of any Fee and
6 Expense Application by Plaintiffs' Counsel are not conditions of the Settlement set forth in the
7 Stipulation, and are to be considered by the Court separately from the Court's consideration of the
8 fairness, reasonableness, and adequacy of the Settlement set forth in the Stipulation, and any order or
9 proceeding relating to any Fee and Expense Application or Award, or any appeal from any order
10 relating thereto or reversal or modification thereof, shall not operate to, or serve as grounds for Lead
11 Plaintiffs to, terminate or cancel the Stipulation, or otherwise affect or delay the finality of the
12 Judgment approving the Stipulation and the Settlement of the Action.

13 7.4 The Released Persons shall have no responsibility for, or liability with respect to,
14 allocation among Plaintiffs' Counsel and/or any other Person who may assert a claim thereto, of any
15 Fee and Expense Award that the Court may make in this Action.

16 **8. Conditions of Settlement, Effect of Disapproval, Cancellation, or**
17 **Termination**

18 8.1 The "Effective Date" of the Settlement shall be the date when all of the following
19 shall have occurred:

- 20 (a) the contribution to the Settlement Fund, as required by ¶2.1 hereof;
- 21 (b) entry by the Court of a Judgment, substantially in the form set forth in Exhibit
22 B annexed hereto, and such Judgment has become Final, or, in the event that the Court enters an
23 order and final judgment in a form other than that provided above ("Alternative Judgment"), the date
24 that such Alternative Judgment becomes Final;
- 25 (c) none of the parties hereto elects to terminate the Settlement pursuant to ¶¶8.3
26 or 8.4; and
- 27 (d) the Action is dismissed with prejudice as to all Defendants.
- 28

1 8.2 Upon the occurrence of all of the events referenced in ¶8.1 hereof, any and all
2 remaining interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely and
3 forever extinguished.

4 8.3 Defendants and Lead Plaintiffs shall each have the right to terminate the Settlement
5 and this Stipulation by providing written notice of their election to do so (a “Termination Notice”) to
6 all other parties hereto within thirty (30) days of: (a) the Court’s declining to enter the Preliminary
7 Approval Order in any material respect; (b) the Court’s refusal to approve this Stipulation or any
8 material part of it; (c) the Court’s declining to enter the Judgment in any material respect; (d) the
9 date upon which the Judgment is modified or reversed in any material respect by the Court of
10 Appeals or the Supreme Court; or (e) the date upon which an Alternative Judgment is modified or
11 reversed in any material respect by the Court of Appeals or the Supreme Court.

12 8.4 If prior to the Fairness Hearing, the aggregate number of shares of Gilead common
13 stock purchased by Persons who would otherwise be Members of the Class, but who request
14 exclusion from that Class, exceeds the sum specified in a separate supplemental agreement between
15 Lead Plaintiffs and Defendants (the “Supplemental Agreement”), Defendants shall have the option
16 (which option shall be exercised by Gilead on behalf of all Defendants in its sole discretion) to
17 terminate this Stipulation in accordance with the procedures set forth in the Supplemental
18 Agreement.

19 8.5 Unless otherwise ordered by the Court, in the event the Stipulation is terminated as
20 provided herein, then as provided in ¶2.8 hereof, within five (5) business days after such termination
21 the Escrow Agent shall return the Settlement Fund (including accrued interest), less expenses and
22 any costs which have either been disbursed or incurred pursuant to ¶¶2.6 or 2.7, including Taxes and
23 Tax Expenses, to Defendants or their insurer pursuant to written instructions from Defendants’
24 Counsel. At the request of Defendants’ Counsel, the Escrow Agent or its designee shall apply for
25 any tax refund owed on the Settlement Fund and pay the proceeds, after deduction of any fees or
26 expenses incurred in connection with such application(s) for refund, to Defendants.

27 8.6 In the event that the Stipulation is terminated in accordance with its terms, the
28 Settling Parties shall be restored to their respective positions in the Action as of March 2, 2010. In

1 such event, the terms and provisions of this Stipulation, with the exception of ¶¶2.6-2.8, 3.1, 7.2, 8.3-
2 8.5, and 9.5 hereof, shall have no further force and effect and shall not be used in the Action or in
3 any other proceeding for any purpose, and any judgment or order entered by the Court in accordance
4 with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*. No order of the Court or
5 modification or reversal on appeal of any order of the Court concerning the Plan of Allocation or any
6 Fee and Expense Award to Plaintiffs' Counsel shall constitute grounds for cancellation or
7 termination of the Stipulation.

8 8.7 If the Stipulation is terminated pursuant to its terms, neither Lead Plaintiffs nor
9 Plaintiffs' Counsel shall have any obligation to repay any amounts actually and properly incurred
10 pursuant to ¶¶2.6-2.7 hereof at the time of such termination or cancellation. The reasonable
11 expenses already incurred in connection with providing notice to the Class, locating Class Members,
12 soliciting claims, assisting with the filing of claims, administering and distributing the Net
13 Settlement Fund to Authorized Claimants, processing Proof of Claim forms, and paying escrow fees
14 and costs, if any, shall be paid by the Escrow Agent in accordance with the terms of this Stipulation
15 prior to the balance being refunded in accordance with ¶¶2.8 and 8.5 hereof.

16 **9. Miscellaneous Provisions**

17 9.1 The Settling Parties: (a) acknowledge that it is their intent to consummate this
18 Stipulation; and (b) agree to cooperate to the extent reasonably necessary to effectuate and
19 implement all terms and conditions of the Stipulation, and to exercise their reasonable best efforts to
20 accomplish the foregoing terms and conditions of the Stipulation.

21 9.2 If a case is commenced in respect of any Defendant contributing to the Settlement
22 Amount (or any insurer contributing funds to the Settlement Amount on behalf of any Defendant)
23 under Title 11 of the United States Code (Bankruptcy), or a trustee, receiver, conservator, or other
24 fiduciary is appointed under any similar law, and in the event of the entry of a final order of a court
25 of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion
26 thereof by or on behalf of such Defendant to be a preference, voidable transfer, fraudulent transfer or
27 similar transaction, and any portion thereof is required to be returned, and such amount is not
28 promptly deposited to the Settlement Fund by others, then, at the election of Plaintiffs' Co-Lead

1 Counsel, the parties shall jointly move the Court to vacate and set aside the Judgment and the
2 releases given pursuant thereto, which releases and Judgment shall be null and void, and the parties
3 shall be restored to their respective positions in the Action as of March 2, 2010 and any amounts in
4 the Settlement Fund shall be returned as provided in ¶¶2.8 and 8.5 above.

5 9.3 Gilead warrants and represents that it is not “insolvent” within the meaning of 11
6 U.S.C. §101(32) as of the time this Stipulation is executed.

7 9.4 The Settling Parties intend this Settlement to be a final and complete resolution of all
8 disputes between them with respect to the Action. The Settlement compromises claims which are
9 contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or
10 defense. The Settling Parties and their respective counsel at all times complied with the
11 requirements of Federal Rule of Civil Procedure 11 and any other similar court rule or statute with
12 respect to any claims or defenses in the Action. The Settling Parties agree that the Settlement
13 Amount to be paid and the other terms of the Stipulation were negotiated in good faith by the
14 Settling Parties, and reflect a Settlement that was reached voluntarily after consultation with
15 competent legal counsel.

16 9.5 Neither the Stipulation nor the Settlement contained herein, nor any act performed or
17 document executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) is or may be
18 deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim,
19 or of any wrongdoing or liability of any Released Person; or (b) is or may be deemed to be or may be
20 used as an admission of, or evidence of, any fault, or omission of any Released Person in any civil,
21 criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The
22 Released Persons may file the Stipulation and/or the Judgment in any action or proceeding that may
23 be brought against them in order to support a defense or counterclaim based on principles of *res*
24 *judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other
25 theory of claim preclusion or issue preclusion or similar defense or counterclaim.

26 9.6 This Stipulation shall not be construed more strictly against one party than another
27 merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of
28 the parties, it being recognized that it is the result of arm’s-length negotiations between the parties

1 and that all parties have contributed substantially and materially to the preparation of this
2 Stipulation.

3 9.7 All of the exhibits to the Stipulation are material and integral parts hereof and are
4 fully incorporated by reference.

5 9.8 The Stipulation may be amended or modified only by a written instrument signed by
6 or on behalf of all Settling Parties or their respective successors-in-interest.

7 9.9 The Stipulation and the Supplemental Agreement constitute the entire agreement
8 among the parties hereto and no representations, warranties or inducements have been made to any
9 party concerning the Stipulation, its exhibits, or the Supplemental Agreement other than the
10 representations, warranties, and covenants contained and memorialized in such documents. Except
11 as otherwise provided herein, each party shall bear its own costs.

12 9.10 Plaintiffs' Co-Lead Counsel, on behalf of the Class, are expressly authorized by Lead
13 Plaintiffs to take all appropriate action required or permitted to be taken by the Class pursuant to the
14 Stipulation to effectuate its terms and also are expressly authorized to enter into any modifications or
15 amendments to the Stipulation on behalf of the Class that they deem appropriate.

16 9.11 Each counsel or other Person executing the Stipulation or any of its exhibits on behalf
17 of any party hereto warrants that such Person has the full authority to do so.

18 9.12 The Stipulation may be executed in one or more counterparts, including by signature
19 transmitted by facsimile or by e-mail in PDF format. All executed counterparts and each of them
20 shall be deemed to be one and the same instrument.

21 9.13 The Stipulation shall be binding upon, and inure to the benefit of, the successors and
22 assigns of the parties hereto.

23 9.14 All terms of this Stipulation and the exhibits hereto shall be governed by and
24 interpreted according to the substantive laws of the State of California and without regard to its
25 choice-of-law rules.

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650/849-7400 (fax)

Counsel for Defendants

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re GILEAD SCIENCES SECURITIES
LITIGATION

) Master File No. C-03-4999-SI

) CLASS ACTION

This Document Relates To:
ALL ACTIONS.

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

) EXHIBIT A

1 WHEREAS, a consolidated action is pending before this Court styled *In re Gilead Sciences*
2 *Securities Litigation*, Master File No. 03-4999-SI (the “Action”); and

3 WHEREAS, the Settling Parties having made application, pursuant to Federal Rule of Civil
4 Procedure 23(e), for an order preliminarily approving the Settlement of this Action, in accordance
5 with a Stipulation of Settlement dated as of June 28, 2010 (together with all exhibits thereto, the
6 “Stipulation”), which sets forth the terms and conditions for a proposed Settlement of the Action and
7 for dismissal of the Action with prejudice upon the terms and conditions set forth therein; and the
8 Court having read and considered the Stipulation and the exhibits annexed thereto;

9 NOW, THEREFORE, IT IS HEREBY ORDERED:

10 1. The Court, for purposes of this Order Preliminarily Approving Settlement and
11 Providing for Notice (“Preliminary Approval Order”), adopts all defined terms as set forth in the
12 Stipulation.

13 2. The Court does hereby preliminarily approve the Settlement of the Action as set forth
14 in the Stipulation, subject to further consideration at the Fairness Hearing described below.

15 3. Pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and for the
16 purposes of the Settlement only, this Action is hereby certified as a class action on behalf of all
17 Persons who purchased Gilead Publicly Traded Securities during the period from and including July
18 14, 2003 through and including October 28, 2003. Excluded from the Class are the Defendants, the
19 officers and directors of Gilead during the Class Period, members of their immediate families and
20 their legal representatives, heirs, successors or assigns and any entity in which any such excluded
21 Person has or had a controlling interest. Also excluded from the Class are those Persons who timely
22 and validly request exclusion from the Class.

23 4. The Court finds and concludes, for the purposes of the Settlement only, that the
24 prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure
25 have been satisfied in that: (a) the number of Class Members is so numerous that joinder of all
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1 members thereof is impracticable; (b) there are questions of law and fact common to the Class; (c)
2 the claims of the named representatives are typical of the claims of the Class they seek to represent;
3 (d) the Lead Plaintiffs Trent St. Clare and Terry Johnson and Plaintiffs' Co-Lead Counsel will fairly
4 and adequately represent the interests of the Class; (e) the questions of law and fact common to the
5 Members of the Class predominate over any questions affecting only individual Members of the
6 Class; and (f) a class action is superior to other available methods for the fair and efficient
7 adjudication of the controversy.
8

9 5. Pursuant to Federal Rule of Civil Procedure 23(e), a hearing (the "Fairness Hearing")
10 shall be held before this Court on _____, 2010, at _____.m., at the United States District
11 Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, to
12 determine:

13 (a) whether the proposed settlement of the Action on the terms and conditions
14 provided for in the Stipulation is fair, reasonable, and adequate to the Class and should be approved
15 by the Court;

16 (b) whether a Judgment as provided in ¶1.15 of the Stipulation should be entered;

17 (c) whether the proposed Plan of Allocation should be approved; and

18 (d) the amount of attorneys' fees and expenses, if any, that should be awarded to
19 Plaintiffs' Counsel.
20

21 6. Pursuant to Rule 53(c) of the Federal Rules of Civil Procedure, the Court appoints the
22 firm of A.B. Data, Ltd. ("Claims Administrator") to supervise and administer the notice procedure as
23 well as the processing of claims as more fully set forth below. Neither the Settling Parties, the
24 Released Persons nor their counsel shall be liable for any act or omission of the Claims
25 Administrator.

26 (a) Not later than _____, 2010 (the "Notice Date"), the Claims
27 Administrator shall cause a copy of the Settlement Notice and the Proof of Claim, substantially in
28

1 the forms annexed as Exhibits A-1 and A-2 hereto, to be mailed by first-class mail to all Class
2 Members who can be identified with reasonable effort;

3 (b) Not later than _____, 2010, the Claims Administrator shall post the
4 Stipulation on its website at www.GileadSecuritiesSettlement.com;

5 (c) Not later than _____, 2010, the Claims Administrator shall cause
6 the Summary Notice, annexed as Exhibit A-3 hereto, to be published once in the national edition of
7 *Investor's Business Daily*; and

8 (d) Not later than ten (10) days prior to the Fairness Hearing, Plaintiffs' Co-Lead
9 Counsel shall serve on Defendants' Counsel and file with the Court proof, by affidavit or
10 declaration, of such mailing and publishing.

11 7. Nominees who purchased Gilead Publicly Traded Securities for the benefit of another
12 Person during the Class Period shall be requested, within ten (10) days after their receipt thereof, to
13 either: (a) send the Settlement Notice and Proof of Claim to all such beneficial owners of Gilead
14 Publicly Traded Securities; or (b) send a list of the names and addresses of such beneficial owners to
15 the Claims Administrator, in which event the Claims Administrator shall promptly mail the
16 Settlement Notice and Proof of Claim to such beneficial owners. The Claims Administrator shall, if
17 requested, reimburse banks, brokerage houses, or other nominees for their reasonable out-of-pocket
18 expenses incurred in providing the Settlement Notice to beneficial owners who are Class Members,
19 which expenses would not have been incurred except for the sending of such notice, subject to
20 further order of this Court with respect to any dispute concerning such compensation.

22 8. The form and method of notice specified herein is the best notice practicable, shall
23 constitute due and sufficient notice to all Persons and entities entitled to receive such notice, and
24 shall fully satisfy the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure,
25 15 U.S.C. §78u-4(a)(7), and all other applicable laws and rules.
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1 9. All Members of the Class shall be bound by all determinations and judgments in the
2 Action concerning the Settlement, whether favorable or unfavorable to the Class.

3 10. Class Members who wish to participate in the Settlement shall complete and submit
4 the Proof of Claim form in accordance with the instructions contained therein. Unless the Court
5 orders otherwise, all Proof of Claim forms must be submitted no later than thirty (30) days after the
6 date scheduled for the Fairness Hearing. Any Class Member who does not timely submit a Proof of
7 Claim within the time provided shall be barred from sharing in the distribution of the proceeds of the
8 Net Settlement Fund, unless otherwise ordered by the Court, but shall nevertheless be bound by the
9 Judgment and any other orders entered by the Court. Notwithstanding the foregoing, Plaintiffs' Co-
10 Lead Counsel shall have the discretion to accept late-submitted claims for processing by the Claims
11 Administrator so long as distribution of the Net Settlement Fund is not materially delayed.
12

13 11. Any Member of the Class may enter an appearance in the Action, at his, her, or its
14 own expense, individually or through counsel of their own choice. If they do not enter an
15 appearance, they will be represented by Plaintiffs' Co-Lead Counsel, who are hereby authorized to
16 act on behalf of the Class with respect to all acts required by, or which may be given pursuant to, the
17 Stipulation, or such other acts that are reasonably necessary to consummate the proposed Settlement
18 set forth in the Stipulation.
19

20 12. Any Person who is a Member of the Class may, upon written request, be excluded or
21 "opt out" from the Class. All Class Members shall be bound by all determinations, orders, and
22 judgments in this Action, whether favorable or unfavorable, unless such Persons request exclusion
23 from the Class in a timely and proper manner, as hereinafter provided. A Class Member wishing to
24 make a request for exclusion ("Request for Exclusion") shall mail the Request in written form by
25 first-class mail postmarked no later than _____, 2010 to the address designated in the
26 Settlement Notice. Such Request for Exclusion shall clearly indicate the name, address, and
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1 telephone number of the Person seeking exclusion, state that the sender requests to be excluded from
2 the Class in the Gilead Securities Litigation, and must be signed by such Person. Such Persons
3 requesting exclusion are also directed to state the date(s), price(s), and number(s) of shares and/or
4 options for all of their purchases and sales of Gilead Publicly Traded Securities made during the
5 Class Period from and including July 14, 2003 through October 28, 2003. A Request for Exclusion
6 shall not be effective unless it provides the required information and is made within the time stated
7 above, or is otherwise accepted by the Court. All Persons who submit valid and timely Requests for
8 Exclusion in the manner set forth in this paragraph shall have no rights under the Stipulation, shall
9 not share in the distribution of the Net Settlement Fund, and shall not be bound by the Stipulation or
10 any orders or judgment entered herein.
11

12 13. The Claims Administrator shall cause to be provided to Plaintiffs' Co-Lead Counsel
13 and Defendants' Counsel copies of all Requests for Exclusion, and any written revocation of
14 Requests for Exclusion, as expeditiously as possible and in any event within three (3) business days
15 of the Claims Administrator's receipt thereof.
16

17 14. Any Member of the Class may appear and show cause, if he, she, or it has any reason
18 why the proposed Settlement of the Action should not be approved as fair, reasonable, and adequate,
19 or why the Judgment should not be entered thereon, the Plan of Allocation should not be approved,
20 or attorneys' fees and expenses should not be awarded to Plaintiffs' Counsel; provided, however,
21 that no Class Member or any other Person shall be heard or entitled to contest the approval of the
22 terms and conditions of the proposed Settlement, or, if approved, the Judgment to be entered thereon
23 approving the same, or the order approving the Plan of Allocation, or any attorneys' fees and
24 expenses to be awarded to Plaintiffs' Counsel, unless written objections and copies of any papers
25 and briefs in support thereof are filed with the Clerk of the United States District Court for the
26 Northern District of California, and served upon Jeffrey D. Light, Robbins Geller Rudman & Dowd
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1 LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101, Lori G. Feldman, Milberg LLP, One
2 Penn Plaza, New York, NY 10119, and John C. Dwyer, Cooley LLP, Five Palo Alto Square, 3000 El
3 Camino Real, Fourth Floor, Palo Alto, CA 94306-2155, on or before _____, 2010. Any
4 Member of the Class who does not make his, her or its objection in the manner provided herein shall
5 be deemed to have waived such objection and shall forever be foreclosed from making any objection
6 to the fairness, reasonableness or adequacy of the proposed Settlement as incorporated in the
7 Stipulation, to the Plan of Allocation, and to the award of attorneys' fees and expenses to Plaintiffs'
8 Counsel, unless otherwise ordered by the Court.
9

10 15. All funds held by the Escrow Agent(s) shall be deemed and considered to be in
11 *custodia legis*, and shall remain subject to the jurisdiction of the Court, until such time as such funds
12 shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.
13

14 16. All papers in support of the Settlement, Plan of Allocation, and any application by
15 Plaintiffs' Co-Lead Counsel for attorneys' fees and expenses shall be filed and served no later than
16 fourteen (14) calendar days prior to the objection deadline in ¶14, and any reply papers shall be filed
17 and served seven (7) calendar days prior to the Fairness Hearing.

18 17. Neither Defendants nor any of the Released Persons shall have any responsibility or
19 liability for the Plan of Allocation or any application for attorneys' fees or expenses submitted by
20 Plaintiffs' Counsel or award thereon, and such matters will be considered by the Court separately
21 from the fairness, reasonableness, and adequacy of the Settlement.
22

23 18. At or after the Fairness Hearing, the Court shall determine whether the Judgment
24 should be entered and whether the Plan of Allocation proposed by Plaintiffs' Co-Lead Counsel and
25 any application for attorneys' fees and expenses should be approved.

26 19. All reasonable expenses incurred in identifying and notifying Class Members as well
27 as administering the Settlement Fund shall be paid solely from the Settlement Fund as set forth in the
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1 Stipulation. In the event the Court does not approve the Settlement, or it is terminated or otherwise
2 fails to become effective, neither Lead Plaintiffs nor any of their counsel shall have any obligation to
3 repay any amounts actually and properly incurred or disbursed pursuant to ¶2.6 or ¶2.7 of the
4 Stipulation.

5
6 20. Defendants have denied any liability, fault, or wrongdoing of any kind in connection
7 with the allegations in the Action, and as such, neither the Stipulation, nor any of its terms or
8 provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an
9 admission or concession by any Defendant of the truth of any of the allegations in the Action, or of
10 any liability, fault, or wrongdoing of any kind.

11 21. If the Settlement, including any modification made with the agreement of the Settling
12 Parties, is terminated for any reason whatsoever, the Settlement (including any modification thereof)
13 as provided in the Stipulation, class certification, and any actions taken or to be taken in connection
14 therewith (including this Preliminary Approval Order and any judgment entered herein), shall be
15 terminated and shall become null and void and of no further force and effect except that any
16 obligations or provisions relating to payment of costs and expenses incurred in connection with
17 notice and claims administration and any other obligation or provision that is expressly designated in
18 the Stipulation to survive termination of the Settlement shall survive such termination.

19
20 22. All proceedings in the Action, other than such proceedings as may be necessary to
21 carry out the terms and conditions of the Settlement, are hereby stayed and suspended until further
22 order of this Court. Pending final approval of the Settlement, Lead Plaintiffs and all Members of the
23 Class are barred and enjoined from commencing, instituting or continuing to prosecute or asserting
24 in any forum, either directly or indirectly, on their own behalf or on behalf of any class or other
25 Person, any of the Released Claims against any of the Released Persons.
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1 23. The Court reserves the right to adjourn the date of the Fairness Hearing without
2 further notice to the Members of the Class, and retains jurisdiction to consider all further
3 applications arising out of or connected with the proposed Settlement. The Court may approve the
4 Settlement, with such modifications as may be agreed to by the Settling Parties, if appropriate,
5 without further notice to the Class.
6

7 24. The Court further retains jurisdiction over this Action to consider all further matters
8 arising out of or connected with the Settlement reflected in the Stipulation, including enforcement of
9 the releases provided for in the Stipulation.

10 25. The Court may extend any of the deadlines set forth in this Preliminary Approval
11 Order without further notice to Class Members.

12 IT IS SO ORDERED.

13
14
15 DATED: _____

THE HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE

16 Submitted by:

17 ROBBINS GELLER RUDMAN
18 & DOWD LLP
19 JEFFREY D. LIGHT

20 _____
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17

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA

20

In re GILEAD SCIENCES SECURITIES) Master File No. C-03-4999-SI
21 LITIGATION)
_____) CLASS ACTION

22

This Document Relates To:) NOTICE OF PROPOSED SETTLEMENT OF
23) CLASS ACTION

24

ALL ACTIONS.)
_____) EXHIBIT A-1

25

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27

28

1 *If you purchased Gilead Sciences, Inc. (“Gilead”) common stock or call options, or wrote*
2 *(sold) put options on Gilead common stock (collectively, “Gilead Publicly Traded Securities”)*
3 *during the period from July 14, 2003 to October 28, 2003, inclusive (the “Class Period”), and are*
4 *not otherwise excluded from the Class (see Question 6 below), you could get a payment from a*
5 *class action settlement.*

6 A federal court authorized this Settlement Notice. This is not a solicitation from a lawyer.

7 **Security and Time Period:** Gilead common stock (symbol “GILD”) and call options
8 purchased, and put options written (sold to open), on Gilead common stock between July 14, 2003
9 and October 28, 2003, inclusive (the “Class Period”).

10 **Statement of Plaintiff Recovery:** \$8,250,000 in cash plus any interest earned. Your
11 recovery will depend on the timing of your purchases and any sales of Gilead Publicly Traded
12 Securities during the Class Period. Based on the information currently available to Lead Plaintiffs
13 and the analysis performed by their damage consultants, it is estimated that if Class Members submit
14 claims for 100% of the shares eligible for distribution under the Plan of Allocation (described below
15 in Question 9), the estimated average distribution per share of common stock will be approximately
16 \$.05 before deduction of Court-approved fees and expenses, including the cost of notifying Members
17 of the Class and settlement administration. Historically, actual claims rates are less than 100%,
18 which result in higher distributions per share. A Class Member’s actual recovery will be a
19 proportion of the Net Settlement Fund determined by that Claimant’s recognized claim as compared
20 to the total recognized claims of all Class Members who submit valid Proof of Claim and Release
21 forms (“Proof of Claim”).

22 **Reasons for Settlement:** Avoids the costs and risks associated with continued litigation,
23 including the danger of no recovery.

24 **Statement of Potential Outcome of Case:** Continuing with the case could result in loss at
25 summary judgment, trial or on appeal, or a plaintiffs’ verdict after trial. The two sides vigorously
26 disagree on both liability and the amount of money that could be won if Lead Plaintiffs prevailed at
27 trial. The parties disagree about: (1) the method for determining whether the price of Gilead
28 Publicly Traded Securities was artificially inflated during the relevant period; (2) the amount of any

1 such alleged inflation; (3) that there was any wrongdoing on the part of Defendants; (4) the extent to
2 which various facts alleged by Lead Plaintiffs influenced the trading price of Gilead Publicly Traded
3 Securities during the Class Period, if at all; and (5) whether the facts alleged were material, false,
4 misleading or otherwise actionable under the federal securities laws.

5 **Attorneys' Fees and Expenses:** Court-appointed Lead Plaintiffs' counsel will ask the Court
6 for attorneys' fees of 30% of the Settlement Fund and expenses not to exceed \$350,000 to be paid
7 from the Settlement Fund plus interest. Lead Plaintiffs' counsel have not received any payment for
8 their work investigating the facts, prosecuting this Action, and negotiating this Settlement on behalf
9 of the Lead Plaintiffs and the Class. If the above amounts are requested and approved by the Court,
10 the average cost per share will be \$.017.

11 **Deadlines:**

12 Submit Claim: _____, 2010

13 Request Exclusion: _____, 2010

14 File Objection: _____, 2010

15 **Court Hearing on Fairness of Settlement:** _____, 2010

16 **More Information:** www.GileadSecuritiesSettlement.com or

17 Claims Administrator:

18 *Gilead Sciences Securities Litigation*
19 Claims Administrator
20 c/o A.B. Data, Ltd.
21 P.O. Box 170500
22 Milwaukee, WI 53217-8042
23 1-866-217-4457

Representative of Lead Plaintiffs' counsel:

24 Rick Nelson
25 Shareholder Relations
26 Robbins Geller Rudman
27 & Dowd LLP
28 655 West Broadway, Suite 1900
San Diego, CA 92101
1-800-449-4900

Lori G. Feldman
Milberg LLP
One Penn Plaza
New York, NY 10119
1-212-594-5300

- Your legal rights are affected whether you act or do not act. Read this Settlement Notice carefully.

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YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

- SUBMIT A CLAIM FORM** The only way to receive a payment.
- EXCLUDE YOURSELF** Receive no payment. This is the only option that allows you to participate in another lawsuit against the Defendants for the legal claims in this case.
- OBJECT** You may write to the Court if you do not like this Settlement, the request for attorneys’ fees and expenses or the Plan of Allocation.
- GO TO A HEARING** You may ask to speak in Court about the fairness of the Settlement.
- DO NOTHING** Receive no payment. Give up your rights.

- These rights and options — *and the deadlines to exercise them* — are explained in this Settlement Notice.
- The Court in charge of this case must decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and, if there are any appeals, after appeals are resolved. Please be patient.

BASIC INFORMATION

1. Why did I get this notice package?

You or someone in your family may have purchased Gilead Publicly Traded Securities between July 14, 2003 and October 28, 2003, inclusive.

The Court directed that you be sent this Settlement Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the Settlement. If the Court approves it and after any objections or appeals (if any) are resolved, the Claims Administrator appointed by the Court will make the payments that the Settlement allows.

1 This package explains the lawsuit, the Settlement, your legal rights, what benefits are
2 available, who is eligible for them, and how to get them.

3 The Court in charge of the case is the United States District Court for the Northern District of
4 California, and the case is known as *In re Gilead Sciences Securities Litigation*, Master File No. C-
5 03-4999-SI (the “Action”). The persons who lead the Action, Trent St. Clare and Terry Johnson, are
6 called Lead Plaintiffs, and Gilead and the individuals they sued are called Defendants.

7 **2. What is this lawsuit about?**

8 This Action alleges that Gilead and its President and Chief Executive Officer, Chief
9 Financial Officer, and four of Gilead’s Vice Presidents violated the federal securities laws by making
10 false and misleading statements during the Class Period regarding sales of Viread, one of Gilead’s
11 HIV/AIDS drugs. Gilead is a biopharmaceutical company that discovers, develops, markets, and
12 sells pharmaceutical products that are treatments for life threatening illnesses. As a result, Gilead is
13 subject to the Federal Food, Drug, and Cosmetic Act and its implementing regulations which set
14 forth the manner in which pharmaceutical companies are permitted to market and promote their
15 products. Use of non-approved materials is considered “off-label” marketing and is illegal. Lead
16 Plaintiffs allege that during the Class Period Defendants failed to disclose that they were allegedly
17 engaged in illegal off-label marketing of Viread, that statements made by Defendants during the
18 Class Period regarding Viread sales caused the price of Gilead securities to be artificially inflated,
19 and that Class Members suffered damages when Defendants disclosed Gilead’s true financial
20 condition on October 28, 2003 and the price of Gilead’s securities declined as a result.

21 Defendants have denied and continue to deny each and all of the claims and contentions
22 alleged by Lead Plaintiffs, as well as all charges of wrongdoing or liability against them arising out
23 of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the
24 Action. In particular, Defendants deny that they engaged in off-label marketing of any kind and
25 assert that they at all times complied with all laws and regulations governing the sale and marketing
26 of Viread. Defendants also expressly have denied and continue to deny that they made any false or
27 misleading statements during the Class Period regarding Viread or otherwise, that Lead Plaintiffs or
28 the Class have suffered damages of any kind, and that the price of Gilead common stock was

1 artificially inflated during the Class Period as the result of any alleged misrepresentations, omissions,
2 non-disclosures or other conduct by Defendants.

3 **3. Why is this a class action?**

4 In a class action, one or more people called class representatives (in this case, the Court-
5 appointed Lead Plaintiffs, Trent St. Clare and Terry Johnson) sue on behalf of people who have
6 similar claims. Here, all of these people and/or entities are called a Class or Class Members. One
7 judge – in this case, United States District Judge Susan Illston – resolves the issues for all Class
8 Members, except for those who exclude themselves from the Class.

9 **4. Why is there a settlement?**

10 The Court did not decide in favor of Lead Plaintiffs or Defendants. Instead, the lawyers for
11 both sides of the lawsuit have negotiated a Settlement, with the assistance of a highly respected
12 mediator, retired federal judge Layn R. Phillips, that they believe is in the best interests of their
13 respective clients. The Settlement allows both sides to avoid the risks and cost of lengthy and
14 uncertain litigation and the uncertainty of a trial and appeals, and permits Class Members to be
15 compensated without further delay. The Lead Plaintiffs and their attorneys think the Settlement is
16 best for all Class Members.

17 **WHO GETS MONEY FROM THE SETTLEMENT**

18 To see if you will get money from this Settlement, you first have to determine if you are a
19 Class Member.

20 **5. How do I know if I am part of the Settlement?**

21 The Class includes *all Persons who purchased Gilead Publicly Traded Securities between*
22 *July 14, 2003 and October 28, 2003, inclusive.*

23 **6. Are there exceptions to being included in the Class?**

24 Yes. Defendants, the officers and directors of Gilead during the Class Period, members of
25 their immediate families and their legal representatives, heirs, successors or assigns, and any entity
26 in which any such excluded Person has or had a controlling interest, are excluded from the Class.
27 Also excluded from the Class are those Persons who timely and validly request exclusion from the
28 Class pursuant to this Settlement Notice.

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7. I’m still not sure if I am included.

If you are still not sure whether you are included, you can ask for free help. You can call 1-866-217-4457 or visit www.GileadSecuritiesSettlement.com for more information; or, you can call Rick Nelson at 1-800-449-4900 or Lori G. Feldman at 1-212-594-5300 for more information; or, you can fill out and return the Proof of Claim form described in Question 10 to see if you qualify.

THE SETTLEMENT BENEFITS – WHAT YOU GET

8. What does the Settlement provide?

Gilead has agreed to pay or cause to be paid \$8,250,000 in cash (the “Settlement Fund”). The Settlement Fund, plus interest earned from the date it is established, less costs, fees, and expenses (the “Net Settlement Fund”), will be divided among all eligible Class Members who send in valid Proof of Claim forms (“Authorized Claimants”). Costs, fees, and expenses include Court-approved attorneys’ fees and expenses, the costs of notifying Class Members, including the costs of printing and mailing this Settlement Notice and the cost of publishing newspaper notice, and the costs of claims administration.

9. How much will my payment be?

Your share of the Net Settlement Fund will depend on the number of valid Proof of Claim forms that Class Members send in and how many shares of stock you purchased during the relevant period and when you bought and sold them.

You can calculate your Recognized Claim in accordance with the formula shown below in the Plan of Allocation. It is unlikely that you will get a payment for all of your Recognized Claim. After all Class Members have sent in their Proof of Claim forms, the payment you get will be a part of the Net Settlement Fund equal to your Recognized Claim divided by the total of everyone’s Recognized Claims. See the Plan of Allocation beginning on page [] for more information on your Recognized Claim. Payment in this manner shall be deemed conclusive against all Authorized Claimants.

1 **Section 10(b) Claims for Common Stock**

2 **Note: Per share amounts are not adjusted for the subsequent 9/30/04 and 6/22/07 stock splits**

3 Class Period: July 14, 2003 through October 28, 2003

4 The allocation below is based on the October 29, 2003 price decline of \$7.46 per share as
5 well as the statutory PSLRA 90-day look-back average value for sales from October 29, 2003
6 through January 28, 2004, and a holding value of \$58.01 per share for shares held after the close of
7 trading on January 26, 2004.

8 **PLAN OF ALLOCATION OF SETTLEMENT PROCEEDS AMONG CLASS MEMBERS**

9 The \$8,250,000 cash settlement amount and the interest earned thereon shall be the
10 Settlement Fund. The Settlement Fund, less all taxes, costs, fees, and expenses (the “Net Settlement
11 Fund”) shall be distributed to Members of the Class who submit acceptable Proof of Claim forms
12 (“Authorized Claimants”).

13 The Claims Administrator shall determine each Authorized Claimant’s *pro rata* share of the
14 Net Settlement Fund based upon each Authorized Claimant’s “Recognized Claim.”

15 The following Plan of Allocation reflects Lead Plaintiffs’ allegations that the price of Gilead
16 common stock was artificially inflated during the Class Period (from July 14, 2003 through and
17 including October 28, 2003), and that the \$7.46 per share decrease in the price of Gilead common
18 stock upon revelations made after the close of trading on October 28, 2003 reflected the elimination
19 of the artificial inflation that the Defendants’ alleged misrepresentations may have caused.

20 Pursuant to the PSLRA, the Plan of Allocation also reflects the fact that in the 90 days
21 following the alleged corrective disclosure, the price of Gilead common stock partially rebounded
22 and that Class Members who sold during the 90-day period following the October 29, 2003
23 disclosure or who held at the end of the 90-day period (on January 26, 2004) may have recovered
24 part of the loss allegedly occurring immediately upon the alleged corrective disclosure.

25 **COMMON STOCK PURCHASES**

26 For shares of Gilead common stock *purchased during the Class Period (from July 14, 2003*
27 *through and including October 28, 2003)*, a Claimant’s Recognized Claim shall be calculated as
28 follows:

- 1 (a) ***If sold on or before October 28, 2003***, the Recognized Claim is zero (\$0.00).
- 2 (b) ***If sold at a gain prior to January 26, 2004***, the Recognized Claim is zero (\$0.00).
- 3 (c) ***If sold at a loss during the period from October 29, 2003 through and including***
4 ***January 26, 2004***, the Recognized Claim shall be ***the least of: (i)*** \$7.46 per share (the October 29,
5 2003 price decline); ***or (ii)*** the difference between the purchase price paid and the sales price
6 received; ***or (iii)*** the difference between the purchase price paid and the average closing price per
7 share up to the date of sale as set forth in the table below.
- 8 (d) If retained as of the close of trading on January 26, 2004, the Recognized Claim shall
9 be ***the lesser of: (i)*** \$7.46 per share, ***or (ii)*** the difference between the purchase price paid and \$58.01
10 per share (the statutory PSLRA 90-day look back average amount).

	Closing Price	Average Closing Price
29-Oct-03	\$52.00	\$52.00
30-Oct-03	\$54.36	\$53.18
31-Oct-03	\$54.56	\$53.64
3-Nov-03	\$54.96	\$53.97
4-Nov-03	\$53.68	\$53.91
5-Nov-03	\$52.60	\$53.69
6-Nov-03	\$53.92	\$53.73
7-Nov-03	\$53.40	\$53.69
10-Nov-03	\$52.08	\$53.51
11-Nov-03	\$52.16	\$53.37
12-Nov-03	\$54.20	\$53.45
13-Nov-03	\$55.04	\$53.58
14-Nov-03	\$54.28	\$53.63
17-Nov-03	\$54.72	\$53.71
18-Nov-03	\$53.96	\$53.73
19-Nov-03	\$54.72	\$53.79
20-Nov-03	\$55.64	\$53.90
21-Nov-03	\$56.80	\$54.06
24-Nov-03	\$59.36	\$54.34
25-Nov-03	\$58.28	\$54.54
26-Nov-03	\$58.76	\$54.74
28-Nov-03	\$58.68	\$54.92
1-Dec-03	\$60.16	\$55.14
2-Dec-03	\$59.84	\$55.34
3-Dec-03	\$58.64	\$55.47
4-Dec-03	\$58.68	\$55.60
5-Dec-03	\$57.60	\$55.67
8-Dec-03	\$57.28	\$55.73
9-Dec-03	\$56.72	\$55.76
10-Dec-03	\$56.00	\$55.77

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	Closing	Average
Date	Price	Closing
		Price
11-Dec-03	\$56.04	\$55.78
12-Dec-03	\$56.04	\$55.79
15-Dec-03	\$56.08	\$55.80
16-Dec-03	\$56.36	\$55.81
17-Dec-03	\$57.08	\$55.85
18-Dec-03	\$58.76	\$55.93
19-Dec-03	\$59.40	\$56.02
22-Dec-03	\$59.64	\$56.12
23-Dec-03	\$59.48	\$56.20
24-Dec-03	\$59.16	\$56.28
26-Dec-03	\$58.96	\$56.34
29-Dec-03	\$58.60	\$56.40
30-Dec-03	\$58.16	\$56.44
31-Dec-03	\$58.28	\$56.48
2-Jan-04	\$58.04	\$56.51
5-Jan-04	\$58.16	\$56.55
6-Jan-04	\$57.96	\$56.58
7-Jan-04	\$62.36	\$56.70
8-Jan-04	\$61.36	\$56.80
9-Jan-04	\$62.40	\$56.91
12-Jan-04	\$62.84	\$57.02
13-Jan-04	\$61.44	\$57.11
14-Jan-04	\$61.04	\$57.18
15-Jan-04	\$61.96	\$57.27
16-Jan-04	\$63.40	\$57.38
20-Jan-04	\$63.56	\$57.49
21-Jan-04	\$65.36	\$57.63
22-Jan-04	\$65.20	\$57.76
23-Jan-04	\$65.76	\$57.90
26-Jan-04	\$64.52	\$58.01

CALL OPTION PURCHASES

For call options on Gilead common stock *purchased (to open) during the Class Period (from July 14, 2003 through and including October 28, 2003)*, a Claimant’s Recognized Claim shall be calculated as follows:

(a) The Recognized Claim is zero (\$0.00) for any call options on Gilead common stock purchased during the Class Period that were *not owned as of the close of trading on October 28, 2003*.

(b) *If exercised by the Claimant during the Class Period (from July 14, 2003 through and including October 28, 2003)*, the Recognized Claim, if any, shall be calculated as a purchase of common stock on the exercise date for the exercise price plus the cost of the call option.

1 (c) *If open and unexercised and still owned by the Claimant at the close of trading on*
2 *October 28, 2003*, the Recognized Claim for call options on Gilead common stock purchased (to
3 open) during the Class Period shall be *the lesser of: (i)* the difference, if a loss, between (x) the
4 amount paid for the call options during the Class Period and (y) the sum for which said call options
5 were subsequently sold at a loss (or \$0.00) if the call option expired while still owned by the
6 Claimant; *or (ii)* \$7.46 per share covered by such call option contracts.

7 NOTE: No Recognized Claim will be allowed with respect to call options on Gilead
8 common stock *written* (sold to open) and re-purchased during the Class Period.

9 PUT OPTION SALES

10 For put options on Gilead common stock *written (sold to open) during the Class Period*
11 *(from July 14, 2003 through and including October 28, 2003)*, a Claimant's Recognized Claim
12 shall be calculated as follows:

13 (a) *If re-purchased on or before the close of trading on October 28, 2003, or otherwise*
14 *NOT the open, unexercised liability of the Claimant at the close of trading on October 28, 2003*,
15 the Recognized Claim is zero (\$0.00).

16 (b) *If re-purchased for less than the premium received on the sale*, the Recognized
17 Claim is zero (\$0.00).

18 (c) *If exercised, at any time during or after the Class Period*, the Recognized Claim is
19 calculated as if it were a purchase of Gilead common stock as shown above, and as if the writing
20 (sale) of the put option were instead a purchase of Gilead common stock on the date of the writing
21 (sale) of the put option, and the common stock purchase price paid shall be the strike price less the
22 proceeds received on the sale of the put option.

23 (d) *If open and unexercised at the close of trading on October 28, 2003 and thereafter*
24 *re-purchased at a loss*, the Recognized Claim is *the lesser of: (i)* the difference between the price
25 paid upon settlement of the put option contract, less the initial proceeds received upon the sale of the
26 put option contract, *or (ii)* \$7.46 per share covered by the put options.

27 (e) *If expired unexercised on or after the close of trading on October 28, 2003*, the
28 Recognized Claim is zero (\$0.00).

1 NOTE: No Recognized Claim, zero (\$0.00), will be allowed with respect to put options on
2 Gilead common stock purchased to open during the Class Period.

3 * * * *

4 NOTE: The combined recovery for the put/call options shall not exceed 3% of the Net
5 Settlement Fund.

6 * * * *

7 To the extent a claimant had a gain from his, her or its overall transactions in Gilead Publicly
8 Traded Securities during the Class Period, the value of the Recognized Claim will be zero. To the
9 extent that a claimant suffered an overall loss on his, her or its overall transactions in Gilead Publicly
10 Traded Securities during the Class Period, but that loss was less than the Recognized Claim
11 calculated pursuant to the above provisions, then the Recognized Claim shall be limited to the
12 amount of the actual loss.

13 For purposes of determining whether a claimant had a gain from his, her or its overall
14 transactions in Gilead Publicly Traded Securities during the Class Period or suffered a loss, the
15 Claims Administrator shall: (i) total the amount paid for all Gilead Publicly Traded Securities
16 purchased during the Class Period by the Claimant (the “Total Purchase Amount”); (ii) match any
17 sales of Gilead Publicly Traded Securities during the Class Period first against the Claimant’s
18 opening position in the Gilead Publicly Traded Securities (the proceeds of those sales will not be
19 considered for purposes of calculating gains or losses); (iii) total the amount received for sales of the
20 remaining Gilead Publicly Traded Securities sold during the Class Period (the “Sales Proceeds”);
21 (iv) ascribe a holding value for the Gilead Publicly Traded Securities as outlined in the Recognized
22 Claim formula (“Holding Value”). The difference between (i) the Total Purchase Amount and the
23 (ii) sum of the Sales Proceeds and Holding Value, will be deemed a Claimant’s gain or loss on his,
24 her or its overall transactions in Gilead Publicly Traded Securities during the Class Period.

25 Each Authorized Claimant shall be allocated a *pro rata* share of the Net Settlement Fund
26 based on his, her or its Recognized Claim as compared to the total Recognized Claims of all
27 Authorized Claimants. The minimum distribution amount to an Authorized Claimant with a valid
28 Recognized Claim shall be \$10.00.

1 Class Members who do not submit acceptable Proof of Claim forms will not share in the
2 Settlement proceeds. Class Members who do not either submit a request for exclusion or submit an
3 acceptable Proof of Claim form will nevertheless be bound by the Settlement and any judgment of
4 the Court dismissing this Action.

5 Distributions will be made to Authorized Claimants after all claims have been processed and
6 after the Court has finally approved the Settlement. If there is any balance remaining in the
7 Settlement Fund after six (6) months from the date of the initial distribution of the Settlement Fund
8 to Authorized Claimants (whether by reason of tax refunds, un-cashed checks or otherwise), then
9 such balance shall, if feasible, be re-distributed to Class Members who have cashed their initial
10 distributions and who would receive at least \$10.00 from such re-distribution, after payment of any
11 unpaid costs or fees incurred in administering the Net Settlement Fund for such re-distribution. Six
12 months after such re-distribution any remaining balance shall be contributed to one or more not-for-
13 profit 501(c)(3) organizations to be designated by Plaintiffs' Co-Lead Counsel.

14 The Court has reserved jurisdiction to allow, disallow or adjust the claim of any Class
15 Member on equitable grounds.

16 Payment pursuant to the Plan of Allocation set forth above shall be conclusive against all
17 Authorized Claimants. No Person shall have any claim against Lead Plaintiffs, Plaintiffs' Counsel,
18 any claims administrator or other Person designated by Lead Plaintiffs' counsel or Defendants and/or
19 the Released Persons and/or their counsel based on distributions made substantially in accordance
20 with the Stipulation and the Settlement contained therein, the Plan of Allocation, or further orders of
21 the Court. All Class Members who fail to complete and file a valid and timely Proof of Claim form
22 will be barred from participating in distributions from the Net Settlement Fund (unless otherwise
23 ordered by the Court), but otherwise will be bound by all of the terms of the Stipulation, including
24 the terms of any judgment entered and the releases given.

25 **HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM**

26 **10. How will I get a payment?**

27 To qualify for a payment, you must send in a Proof of Claim form. A Proof of Claim form is
28 enclosed with this Settlement Notice. Please read the instructions carefully. You must fill out the

1 form, include all the information and documents the form asks for, sign it, and mail it in the enclosed
2 envelope postmarked no later than _____, 2010.

3 **11. When will I get my payment?**

4 The Court will hold a Fairness Hearing on _____, 2010, at _____, to decide whether to
5 approve the Settlement. If Judge Illston approves the Settlement, there may be appeals. It is always
6 uncertain whether these appeals can be resolved favorably, and resolving them can take time,
7 perhaps more than a year. It also takes time for all the claim forms to be processed. If there are no
8 appeals and depending on the number of claims submitted, the Claims Administrator could distribute
9 the Net Settlement Fund as early as nine months to a year after the Fairness Hearing (*see* Question
10 20 below). Please be patient.

11 **12. What am I giving up to get a payment or stay in the Class?**

12 Unless you exclude yourself, you are staying in the Class, and that means that you cannot
13 sue, continue to sue, or be part of any other lawsuit against the Defendants about the same issues in
14 this case or about issues that could have been asserted in this case. It also means that all of the
15 Court's orders will apply to you and legally bind you and you will release your Released Claims in
16 this case against the Released Persons.

17 "Released Claims" shall collectively mean any and all claims debts, demands, controversies,
18 obligations, losses, rights or causes of action or liabilities of any kind or nature whatsoever
19 (including, but not limited to, any claims for damages (whether compensatory, special, incidental,
20 consequential, punitive, exemplary or otherwise), injunctive relief, declaratory relief, rescission or
21 rescissionary damages, interest, attorneys' fees, expert or consulting fees, costs, expenses, or any
22 other form of legal or equitable relief whatsoever), whether based on federal, state, local, statutory or
23 common law or any other law, rule or regulation, whether fixed or contingent, accrued or un-
24 accrued, liquidated or un-liquidated, at law or in equity, matured or un-matured, whether class or
25 individual in nature, including both known claims and Unknown Claims, that (i) have been asserted
26 in this Action by the Class Members or any of them against any of the Released Persons (as defined
27 below), or (ii) could have been asserted in any forum by the Class Members or any of them against
28 any of the Released Persons which arise out of or are based upon the allegations, transactions, facts,

1 matters or occurrences, representations or omissions involved, set forth, or referred to in the
2 pleadings and papers on file in this Action, including, without limitation, the Fifth Consolidated
3 Amended Class Action Complaint for Violation of Federal Securities Laws, and that relate to the
4 purchase of Gilead Publicly Traded Securities during the Class Period.

5 “Released Persons” means collectively any and all of the Defendants, their past or present
6 subsidiaries, parents, successors and predecessors, officers, directors, shareholders, partners, agents,
7 employees, attorneys, insurers, insureds and any person, firm, trust, corporation, officer, director or
8 other individual or entity in which any of the Defendants has a controlling interest or which is related
9 to or affiliated with any of the Defendants, and the legal representatives, heirs, successors-in-interest
10 or assigns of the Defendants.

11 **EXCLUDING YOURSELF FROM THE CLASS**

12 If you do not want a payment from this Settlement, but you want to keep the right to sue or
13 continue to sue the Defendants on your own about the same issues in this case, then you must take
14 steps to get out of the Class. This is called excluding yourself or is sometimes referred to as opting
15 out of the Class.

16 **13. How do I get out of the Class?**

17 To exclude yourself from the Class, you must send a letter by mail stating that you want to be
18 excluded from *In re Gilead Sciences Securities Litigation*, Master File No. C-03-4999-SI. You must
19 include your name, address, telephone number, and your signature. Your letter should also state the
20 date(s), price(s), and number(s) of all of your purchases and sales of Gilead common stock and put
21 and call options during the Class Period (July 14, 2003 through October 28, 2003, inclusive). You
22 must mail your exclusion request postmarked no later than _____, 2010 to:

23 *Gilead Sciences Securities Litigation*
24 Claims Administrator
25 c/o A.B. Data, Ltd.
P.O. Box 170500
Milwaukee, WI 53217-8042

26 You cannot exclude yourself on the phone or by e-mail. If you ask to be excluded, you are
27 not eligible to get any Settlement payment, and you cannot object to the Settlement. You will not be
28 legally bound by anything that happens in the Action.

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14. If I do not exclude myself, can I sue the Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right to sue the Defendants for the claims that this Settlement resolves. Remember, the exclusion deadline is _____, 2010.

15. If I exclude myself, can I get money from this Settlement?

No. If you exclude yourself, do not send in a claim form to ask for any money. Once you exclude yourself, you will receive no cash payment even if you also submit a claim form.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

The Court appointed the law firms of Robbins Geller Rudman & Dowd LLP and Milberg LLP to represent you and other Class Members. These lawyers are called Plaintiffs' Co-Lead Counsel. The Court also appointed Kaplan Fox & Kilsheimer LLP as Liaison Counsel. Plaintiffs' Co-Lead Counsel will apply to the Court for payment of attorneys' fees and expenses from the Settlement Fund on behalf of Plaintiffs' Counsel; you will not otherwise be charged for Plaintiffs' Counsel's services. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will the lawyers be paid?

At the Fairness Hearing, Lead Plaintiffs' counsel will request the Court to award attorneys' fees of 30% of the Settlement Fund and for expenses up to \$350,000, which were incurred in connection with the Action. If awarded, the total cost of these awards would be \$.017 per share. This compensation will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses. To date, Lead Plaintiffs' counsel have not received any payment for their services in conducting this litigation on behalf of the Lead Plaintiffs and the Class, nor have counsel been paid for their expenses. The fee requested will compensate Lead Plaintiffs' Counsel for their work in achieving the Settlement Fund and is within the range of fees awarded to class counsel under similar circumstances in other cases of this type. The Court may award less than this amount.

1 **OBJECTING TO THE SETTLEMENT**

2 You can tell the Court that you do not agree with the Settlement or some part of it.

3 **18. How do I tell the Court that I do not like the Settlement?**

4 If you are a Class Member (and you have not excluded yourself), you can object to all or any
5 part of the Settlement, the request for attorneys' fees and expenses, or the Plan of Allocation. You
6 can give reasons why you think the Court should not approve the Settlement, the request for
7 attorneys' fees and expenses, or the Plan of Allocation. The Court will consider your views. To
8 object, you must send a signed letter saying that you object to the proposed Settlement in *In re*
9 *Gilead Sciences Securities Litigation*, Master File No. C-03-4999-SI. Your letter must include your
10 name, address, telephone number, your signature, the number of shares of Gilead common stock
11 and/or call options purchased and/or put options you wrote (sold) between July 14, 2003 and
12 October 28, 2003, inclusive, and the reasons you object to the Settlement, the requested attorneys'
13 fees and expenses, or the Plan of Allocation. Any such objection must be mailed or delivered such
14 that it is received by each of the following no later than _____, 2010:

15 *Court:*

16 Clerk of the Court
17 United States District Court
18 Northern District of California
450 Golden Gate Avenue, 16th Floor
San Francisco, CA 94102

19 *Plaintiffs' Co-Lead Counsel:*

20 ROBBINS GELLER RUDMAN & DOWD LLP
21 JEFFREY D. LIGHT
655 West Broadway, Suite 1900
San Diego, CA 92101

22 MILBERG LLP
23 LORI G. FELDMAN
24 One Penn Plaza
New York, NY 10119

25 *Counsel for Defendants:*

26 COOLEY LLP
27 JOHN C. DWYER
Five Palo Alto Square, 4th Floor
3000 El Camino Real
28 Palo Alto, CA 94306-2155

1 **19. What is the difference between objecting and excluding myself**
2 **from the Settlement?**

3 Objecting is telling the Court that you do not like something about the proposed Settlement.
4 You can object *only* if you stay in the Class. Excluding yourself is telling the Court that you do not
5 want to be part of the Class. If you exclude yourself, you have no basis to object because the case no
6 longer applies to you.

7 **THE COURT’S FAIRNESS HEARING**

8 The Court will hold a hearing to decide whether to approve the proposed Settlement. You
9 may attend, but you do not have to.

10 **20. When and where will the Court decide whether to approve the**
11 **Settlement?**

12 The Court will hold a hearing at _____, on _____, 2010, at the United States District
13 Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102.
14 At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The
15 Court will take into consideration any written objections filed in accordance with the instructions in
16 this Settlement Notice. The Court also may listen to people who have properly indicated, within the
17 deadline identified above, an intention to speak at the hearing; but decisions regarding the conduct of
18 the hearing will be made by the Court. The Court will also decide whether to approve the Plan of
19 Allocation and the payment of fees and expenses to Plaintiffs’ Counsel. We do not know how long
20 the hearing will take or whether the Court will make its decision on the day of the hearing or
21 sometime later.

22 You should be aware that the Court may change the date and time of the Fairness Hearing.
23 Thus, if you want to come to the hearing, you should check with Plaintiffs’ Co-Lead Counsel before
24 coming to be sure that the date and/or time has not changed.

25 **21. Do I have to come to the Fairness Hearing?**

26 No. Plaintiffs’ Co-Lead Counsel will answer questions Judge Illston may have. But, you are
27 welcome to come at your own expense. If you send an objection, you do not have to come to Court
28 to talk about it. As long as you mailed your written objection on time, the Court will consider it.
29 You may also pay your own lawyer to attend, but you are not required to do so.

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22. May I speak at the Fairness Hearing?

You may ask the Court for permission to speak at the hearing. To do so, you must send a letter saying that it is your intention to appear in *In re Gilead Sciences Securities Litigation*, Master File No. C-03-4999-SI. Your letter must include your name, address, telephone number, your signature, and the number of shares of Gilead common stock and/or put and call options purchased between July 14, 2003 and October 28, 2003, inclusive. Your notice of intention to appear must be received no later than _____, 2010, by the Clerk of the Court, Plaintiffs’ Co-Lead Counsel, and Defendants’ counsel, at the addresses listed in Question 18. You cannot speak at the hearing if you exclude yourself from the Class.

IF YOU DO NOTHING

23. What happens if I do nothing at all?

If you do nothing, you will get no money from this Settlement. But, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants about the same issues in this case and you will be bound by all of the orders and judgments entered in this Action.

GETTING MORE INFORMATION

24. Are there more details about the Settlement?

This Settlement Notice summarizes the proposed Settlement. More details are in the Stipulation of Settlement dated June 28, 2010 (“Stipulation”), which has been filed with the Court. You can get a copy of the Stipulation from the Clerk’s office at the United States District Court, Northern District of California, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102, during regular business hours, or at www.GileadSecuritiesSettlement.com.

25. How do I get more information?

You can call 1-800-449-4900 or write to a representative of Plaintiffs’ Co-Lead Counsel, Rick Nelson, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101 or Lori G. Feldman, Milberg LLP, One Penn Plaza, New York, NY 10119, 1-212-594-

1 5300, or visit the Claims Administrator's website at www.GileadSecuritiesSettlement.com. ***Please***
2 ***do not call the Court or the Clerk of the Court for additional information about the Settlement.***

3 **26. Special notice to nominees**

4 If you hold any Gilead common stock and/or call options purchased, or put options written
5 (sold), between July 14, 2003 and October 28, 2003, inclusive, as a nominee for a beneficial owner,
6 then, within ten (10) days after you receive this Settlement Notice, you must either: (1) send a copy
7 of this Settlement Notice by first-class mail to all such Persons; or (2) provide a list of the names and
8 addresses of such Persons to the Claims Administrator:

9 *Gilead Sciences Securities Litigation*
10 Claims Administrator
11 c/o A.B. Data, Ltd.
P.O. Box 170500
Milwaukee, WI 53217-8042

12 If you choose to mail the Settlement Notice and Proof of Claim yourself, you may obtain
13 from the Claims Administrator (without cost to you) as many additional copies of these documents
14 as you will need to complete the mailing.

15 Regardless of whether you choose to complete the mailing yourself or elect to have the
16 mailing performed for you, you may obtain reimbursement for or advancement of reasonable
17 administrative costs actually incurred or expected to be incurred in connection with forwarding the
18 Settlement Notice and which would not have been incurred but for the obligation to forward the
19 Settlement Notice, upon submission of appropriate documentation to the Claims Administrator.

20 DATED: _____, 2010

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 SANFORD SVETCOV (36561)
SUSAN K. ALEXANDER (124276)
3 100 Pine Street, Suite 2600
San Francisco, CA 94111
4 Telephone: 415/288-4545
415/288-4534 (fax)
5 ssvetcov@rgrdlaw.com
salexander@rgrdlaw.com

6 - and -
7 DAVID J. GEORGE (*admitted pro hac vice*)
ROBERT J. ROBBINS (*admitted pro hac vice*)
120 East Palmetto Park Road, Suite 500
8 Boca Raton, FL 33432
Telephone: 561/750-3000
9 561/750-3364 (fax)
dgeorge@rgrdlaw.com
10 rrobbins@rgrdlaw.com

11 MILBERG LLP
JOSHUA H. VINIK (*admitted pro hac vice*)
12 LORI G. FELDMAN (*admitted pro hac vice*)
One Penn Plaza
13 New York, NY 10119
Telephone: 212/594-5300
14 212/868-1229 (fax)
jvinik@milberg.com
15 lfeldman@milberg.com

16 Co-Lead Counsel for Plaintiffs

17

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA

20

In re GILEAD SCIENCES SECURITIES) Master File No. C-03-4999-SI
21 LITIGATION)

22) CLASS ACTION

23 This Document Relates To:) PROOF OF CLAIM AND RELEASE

24 ALL ACTIONS.) EXHIBIT A-2

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1 **I. GENERAL INSTRUCTIONS**

2 1. To recover as a Member of the Class based on your claims in the action entitled *In re*
3 *Gilead Sciences Securities Litigation*, Master File No. C-03-4999-SI (the “Action”), you must
4 complete and, on page ___ hereof, sign this Proof of Claim and Release. If you fail to submit a
5 properly addressed Proof of Claim and Release form, your claim may be rejected and you may be
6 precluded from any recovery from the Settlement Fund created in connection with the proposed
7 Settlement of the Action.¹

8 2. Submission of this Proof of Claim and Release form, however, does not ensure that
9 you will share in the proceeds of the Settlement of the Action.

10 3. **YOU MUST MAIL YOUR COMPLETED AND SIGNED PROOF OF CLAIM**
11 **AND RELEASE FORM POSTMARKED ON OR BEFORE _____, 2010,**
12 **ADDRESSED AS FOLLOWS:**

13 *Gilead Sciences Securities Litigation*
14 Claims Administrator
15 c/o A.B. Data, Ltd.
16 P.O. Box 170500
17 Milwaukee, WI 53217-8042

18 If you are NOT a Member of the Class (as defined below and in the Notice of Proposed
19 Settlement of Class Action (“Settlement Notice”)), **DO NOT** submit a Proof of Claim and Release
20 form.

21 If you are a Member of the Class and you did not timely and validly request exclusion in
22 connection with the proposed Settlement, and if the Settlement is approved, you will be bound by the
23 terms of any judgment entered in the Action, including the releases provided therein, **WHETHER**
24 **OR NOT YOU SUBMIT A PROOF OF CLAIM AND RELEASE FORM.**

25 **II. CLAIMANT IDENTIFICATION**

26 If you purchased Gilead common stock or call options, or wrote (sold) put options on Gilead
27 common stock (collectively, “Gilead Publicly Traded Securities”), and held documents evidencing
28 _____

¹ All capitalized terms not otherwise defined in this document shall have the meaning provided
in the Stipulation of Settlement dated June 28, 2010 (“Stipulation”). The Stipulation can be viewed
and/or downloaded at www.GileadSecuritiesSettlement.com.

1 these transactions (i.e. stock certificate(s), etc.) in your name, you are the beneficial owner as well as
2 the owner of record. If, however, you purchased Gilead Publicly Traded Securities and the
3 transactional document(s) was/were registered in the name of a third party, such as a nominee or
4 brokerage firm, you are the beneficial owner and the third party is the owner of record.

5 Use Part I of the Proof of Claim and Release form – entitled “Claimant Identification” – to
6 identify each owner of record or nominee (if different from the beneficial owner) of Gilead Publicly
7 Traded Securities for which you seek to make a claim. **THIS CLAIM MUST BE FILED BY THE
8 ACTUAL BENEFICIAL OWNER(S), OR THE LEGAL REPRESENTATIVE OF SUCH
9 OWNER(S), OF THE GILEAD PUBLICLY TRADED SECURITIES UPON WHICH THIS
10 CLAIM IS BASED.**

11 All joint owners must sign this claim. Executors, administrators, guardians, conservators,
12 trustees, authorized signers, or other legal representatives must complete and sign this claim on
13 behalf of persons represented by them and their authority must accompany this claim and their titles
14 or capacities must be stated. The Social Security (or employer identification) number and telephone
15 number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing
16 information could delay verification of your claim or result in rejection of the claim.

17 **III. CLAIM FORM**

18 Use Part II of the Proof of Claim and Release form – entitled “Transactions in Gilead
19 Publicly Traded Securities” – to supply all required details of your transaction(s) in Gilead Publicly
20 Traded Securities. If you need more space or additional schedules, attach separate sheets giving all
21 of the required information in substantially the same form. You must (a) sign and (b) print or type
22 your name on each additional sheet.

23 On the schedules, provide all of the requested information with respect to *all* of your
24 purchases and *all* of your sales of Gilead common stock which took place at any time between July
25 14, 2003 and January 26, 2004, inclusive, and *all* of your purchases and *all* of your sales of Gilead
26 put and call options which took place at any time between July 14, 2003 and October 28, 2003,
27 inclusive, whether such transactions resulted in a profit or a loss. You must also provide all of the
28 requested information with respect to all of the Gilead Publicly Traded Securities you held at the

1 close of trading on July 13, 2003, October 28, 2003, and January 26, 2004. Failure to report all such
2 transactions may result in the rejection of your claim.

3 List each transaction separately and in chronological order, by trade date, beginning with the
4 earliest. You must accurately provide the month, day, and year of each transaction you list.

5 The date of covering a “short sale” is deemed to be the date of purchase of Gilead Publicly
6 Traded Securities. The date of a “short sale” is deemed to be the date of sale of Gilead Publicly
7 Traded Securities. Short sales will have no recognized loss; however, these transactions must be
8 included on the Proof of Claim and Release form.

9 Copies of broker confirmations or other documentation of your transactions in Gilead
10 Publicly Traded Securities should be attached to your claim. Failure to provide this documentation
11 could delay verification of your claim or result in rejection of your claim.

12 Gilead Publicly Traded Securities that you acquired by means of a gift, inheritance, or
13 operation of law shall only be considered if the securities in question were purchased during the
14 Class Period by the donor, decedent, or transferor, and the donor, decedent, or transferor does not
15 submit a Proof of Claim and Release form with respect to the shares. To submit a claim regarding
16 any such shares, you must provide documentation of the original purchase in addition to the transfer.

17 Separate Proof of Claim and Release forms should be submitted for each separate legal entity
18 (*e.g.*, a claim from joint owners should not include separate transactions of just one of the joint
19 owners or an individual should not combine his or her IRA transactions with transactions made
20 solely in the individual’s name). Conversely, a single Proof of Claim and Release form should be
21 submitted on behalf of one legal entity including all transactions made by that entity no matter how
22 many separate accounts that entity has (*e.g.*, a corporation with multiple brokerage accounts should
23 include all transactions in Gilead Publicly Traded Securities) and no matter how many accounts the
24 transactions were made in.

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1 **In re Gilead Sciences Securities Litigation**

2 Please print or type

3 **PART I: CLAIMANT IDENTIFICATION**

4 _____
Beneficial Owner's Name (First, Middle, Last) / Joint Owner's Name

5 _____
6 Street Address

7 _____
8 City State Zip Code

9 _____
Foreign Province Foreign Country

10 _____ (work)
11 Area Code Telephone Number

12 _____ (home)
13 Area Code Telephone Number

14 _____
Social Security Number or Taxpayer Identification Number

15 _____
Record Owner's Name (if different from beneficial owner listed above)

16 Check appropriate box (check only one box):

- 17 Individual/Sole Proprietor Joint Owners Pension Plan
18 Corporation Partnership Trust
 IRA Other (describe: _____)

19 Excluded from the Class are the Defendants, the officers and directors of Gilead during the Class
20 Period, members of their immediate families and their legal representatives, heirs, successors or
21 assigns and any entity in which any such excluded Person has or had a controlling interest. Also
22 excluded from the Class are those Persons who timely and validly request exclusion from the Class.

23 _____ Check here if the Claimant or beneficial owner is excluded from the Class.

24 _____ Check here if the Claimant or beneficial owner was an officer, director or executive of Gilead at
25 any time during the Class Period. If so, please state position(s) held and dates of employment.
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1 **PART II: TRANSACTIONS IN GILEAD PUBLICLY TRADED SECURITIES**

2 **A. INITIAL COMMON STOCK HOLDINGS:** State the number of shares of Gilead
 3 common stock you owned at the close of trading on July 13, 2003. If none, write "zero" or "0". If
 other than zero, be sure to attach the required documentation. _____

4 **B. COMMON STOCK PURCHASES:** List all purchases of Gilead common stock made
 5 between July 14, 2003 and January 26, 2004, inclusive. Be sure to attach the required
 documentation.

6	Trade Date(s) (List Chronologically) 7 <u>Month/Day/Year</u>	Number of 8 <u>Shares Purchased</u>	Purchase Price* 9 <u>Per Share</u>
8	____/____/____	_____	\$ _____
9	____/____/____	_____	\$ _____
10	____/____/____	_____	\$ _____
11	____/____/____	_____	\$ _____
11	____/____/____	_____	\$ _____

12 * excluding commissions, transfer taxes or other fees

13 **IMPORTANT: Identify by number listed above all purchases in which you covered a "short**
 14 **sale":** _____

15 **C. TOTAL COMMON STOCK PURCHASES:** State the total number of shares of Gilead
 common stock purchased between July 14, 2003 and October 28, 2003, inclusive. _____

16 **D. COMMON STOCK SALES:** List all sales of Gilead common stock made between July 14,
 17 2003 and January 26, 2004, inclusive. Be sure to attach the required documentation.

18	Trade Date(s) (List Chronologically) 19 <u>Month/Day/Year</u>	Number of 20 <u>Shares Sold</u>	Sale Price* 21 <u>Per Share</u>
19	____/____/____	_____	\$ _____
20	____/____/____	_____	\$ _____
21	____/____/____	_____	\$ _____
22	____/____/____	_____	\$ _____
23	____/____/____	_____	\$ _____

23 *excluding commissions, transfer taxes or other fees

24 **E. TOTAL COMMON STOCK SALES:** State the total number of shares of Gilead common
 25 stock you sold between July 14, 2003 and October 28, 2003, inclusive.

26 **F. ENDING COMMON STOCK HOLDINGS ON OCTOBER 28, 2003 AND JANUARY**
 27 **26, 2004:** State the number of shares of Gilead common stock you owned at the close of trading on
 28 October 28, 2003 and January 26, 2004. Be sure to attach the required documentation. Held on
 October 28, 2003: _____. Held on January 26, 2004: _____.

1 **G. INITIAL CALL OPTION HOLDINGS:** State the number of Gilead call options you
 2 owned at the close of trading on July 13, 2003:

3 <u>Number</u> 4 <u>of Contracts</u>	5 <u>Date and Strike Price</u> 6 <u>of Option Contract</u>	7 <u>Total Amount</u> 8 <u>Paid for Option Contract*</u>
9 _____	10 ____/____/____	11 \$ _____
12 _____	13 ____/____/____	14 \$ _____
15 _____	16 ____/____/____	17 \$ _____

18 * excluding commissions, transfer taxes or other fees

19 **H. CALL OPTION PURCHASES:** List all purchases of Gilead call options made between
 20 July 14, 2003 and October 28, 2003, inclusive. Be sure to attach the required documentation.

21 <u>Trade Date(s)</u> 22 <u>(List Chronologically)</u> 23 <u>Month/Day/Year</u>	24 <u>Number of</u> 25 <u>Contracts</u> 26 <u>Purchased</u>	27 <u>Expiration</u> 28 <u>Month/Year</u>	29 <u>Strike Price</u>	30 <u>Purchase Price*</u> 31 <u>Per Contract</u>
32 ____/____/____	33 _____	34 ____/____	35 \$ _____	36 \$ _____
37 ____/____/____	38 _____	39 ____/____	40 \$ _____	41 \$ _____
42 ____/____/____	43 _____	44 ____/____	45 \$ _____	46 \$ _____
47 ____/____/____	48 _____	49 ____/____	50 \$ _____	51 \$ _____
52 ____/____/____	53 _____	54 ____/____	55 \$ _____	56 \$ _____

57 * excluding commissions, transfer taxes or other fees

58 **I. TOTAL CALL OPTION PURCHASES:** State the total number of Gilead call options
 59 purchased between July 14, 2003 and October 28, 2003, inclusive. _____

60 **J. CALL OPTION SALES:** List all sales of Gilead call options listed in Section H above
 61 made at any time on or after July 14, 2003. Be sure to attach the required documentation.

62 <u>Trade Date(s)</u> 63 <u>(List Chronologically)</u> 64 <u>Month/Day/Year</u>	65 <u>Number of</u> 66 <u>Contracts</u> 67 <u>Sold</u>	68 <u>Expiration</u> 69 <u>Month/Year</u>	70 <u>Strike Price</u>	71 <u>Sale Price*</u> 72 <u>Per Contract</u>
73 ____/____/____	74 _____	75 ____/____	76 \$ _____	77 \$ _____
78 ____/____/____	79 _____	80 ____/____	81 \$ _____	82 \$ _____
83 ____/____/____	84 _____	85 ____/____	86 \$ _____	87 \$ _____
88 ____/____/____	89 _____	90 ____/____	91 \$ _____	92 \$ _____
93 ____/____/____	94 _____	95 ____/____	96 \$ _____	97 \$ _____

98 *excluding commissions, transfer taxes or other fees

99 **K. TOTAL CALL OPTION SALES:** State the total number of shares of Gilead call options
 100 you sold between July 14, 2003 and October 28, 2003, inclusive. _____

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1 **L. CALL OPTION EXERCISES:** List all Gilead call options you exercised between July 14,
 2 2003 and October 28, 2003, inclusive. (If none, write "zero" or "0") (If other than zero, must be
 3 documented):

4	<u>Date of Exercise</u> <u>(Month/Day/Year)</u>	<u>Strike Price</u>	<u>Expiration Date</u> <u>(Month/Day/Year)</u>	<u>Number of Contracts</u>
5	____/____/____	\$ _____	____/____/____	_____
6	____/____/____	\$ _____	____/____/____	_____
7	____/____/____	\$ _____	____/____/____	_____
8	____/____/____	\$ _____	____/____/____	_____

9 **M. ENDING CALL OPTION HOLDINGS:** List all Gilead call options you still held as of
 10 October 28, 2003, which thereafter you either sold or exercised or which expired:

11	<u>Number of</u> <u>Contracts</u>	<u>Strike Price</u>	<u>Expiration Date</u> <u>(Month/Day/Year)</u>	<u>Sale Proceeds</u>	<u>Exercised</u>	<u>Expired</u>
12	_____	\$ _____	____/____/____	\$ _____	_____	_____
13	_____	\$ _____	____/____/____	\$ _____	_____	_____
14	_____	\$ _____	____/____/____	\$ _____	_____	_____

15 **N. INITIAL PUT OPTION LIABILITIES:** Identify any Gilead put options on which you
 16 were obligated at the close of trading July 13, 2003:

17	<u>Number of</u> <u>Contracts</u>	<u>Expiration</u> <u>Month/Year</u>	<u>Strike Price</u>
18	_____	____/____	\$ _____
19	_____	____/____	\$ _____
20	_____	____/____	\$ _____
21	_____	____/____	\$ _____

22 **O. TOTAL PUT OPTIONS WRITTEN (SOLD):** List all Gilead put options you wrote (sold)
 23 between July 14, 2003 and October 28, 2003, inclusive:

24	<u>Trade Date(s)</u> <u>(List Chronologically)</u> <u>Month/Day/Year</u>	<u>Number of</u> <u>Contracts</u> <u>Written</u> <u>(Sold)</u>	<u>Expiration</u> <u>Month/Year</u>	<u>Strike Price</u>	<u>Sales Price*</u> <u>Per Contract</u>
25	____/____/____	_____	____/____	\$ _____	\$ _____
26	____/____/____	_____	____/____	\$ _____	\$ _____
27	____/____/____	_____	____/____	\$ _____	\$ _____

28

Trade Date(s) (List Chronologically) <u>Month/Day/Year</u>	Number of Contracts Written (Sold)	Expiration <u>Month/Year</u>	<u>Strike Price</u>	<u>Sales Price*</u> Per Contract
___/___/___	_____	___/___	\$ _____	\$ _____
___/___/___	_____	___/___	\$ _____	\$ _____

*excluding commissions, transfer taxes or other fees

P. PUT OPTION RE-PURCHASES: List all re-purchases of the Gilead put options listed in Section O above made at any time on or after July 14, 2003. Be sure to attach the required documentation.

Trade Date(s) (List Chronologically) <u>Month/Day/Year</u>	Number of Contracts Purchased	Expiration <u>Month/Year</u>	<u>Strike Price</u>	<u>Purchase Price*</u> Per Contract
___/___/___	_____	___/___	\$ _____	\$ _____
___/___/___	_____	___/___	\$ _____	\$ _____
___/___/___	_____	___/___	\$ _____	\$ _____
___/___/___	_____	___/___	\$ _____	\$ _____
___/___/___	_____	___/___	\$ _____	\$ _____

*excluding commissions, transfer taxes or other fees

Q. PUT OPTIONS EXERCISED AND ASSIGNED TO YOU: List any Gilead put options which you wrote (sold) **during** the period between July 14, 2003 and October 28, 2003, inclusive, which were exercised by the holders thereof and assigned to you (Include all exercises whether occurring during or after the Class Period):

<u>Number of Contracts</u>	<u>Strike Price</u>	<u>Expiration Date</u> (Month/Day/Year)	<u>Date of Exercise</u> (Month/Day/Year)
_____	\$ _____	___/___/___	___/___/___
_____	\$ _____	___/___/___	___/___/___
_____	\$ _____	___/___/___	___/___/___
_____	\$ _____	___/___/___	___/___/___

R. ENDING PUT OPTION LIABILITIES: Identify any Gilead put options which were unexpired and unexercised on which you were obligated at the close of trading on October 28, 2003:

<u>Number of Contracts</u>	<u>Expiration Month/Year</u>	<u>Strike Price</u>
_____	___/___	\$ _____
_____	___/___	\$ _____
_____	___/___	\$ _____
_____	___/___	\$ _____

1
2 **IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS PLEASE**
3 **PHOTOCOPY THIS PAGE; WRITE YOUR NAME, SOCIAL SECURITY OR**
4 **TAXPAYER IDENTIFICATION NUMBER, AND FULL ACCOUNT NAME ON THE**
5 **COPY; AND CHECK THIS BOX**

6 **IF YOU DO NOT CHECK THIS BOX AND INCLUDE THIS PAGE WITH YOUR**
7 **CLAIM FORM, ANY ADDITIONAL PAGES YOU ATTACH MAY NOT BE REVIEWED**

8 **PART III: RELEASE OF CLAIMS AND SIGNATURE**

9 **Definitions**

10 “Class” means for purposes of the Settlement, all Persons who purchased Gilead Publicly
11 Traded Securities during the period from and including July 14, 2003 through and including October
12 28, 2003. Excluded from the Class are the Defendants, the officers and directors of Gilead during
13 the Class Period, members of their immediate families and their legal representatives, heirs,
14 successors or assigns and any entity in which any such excluded Person has or had a controlling
15 interest. Also excluded from the Class are those Persons who timely and validly request exclusion
16 from the Class.

17 “Defendants” means Gilead, John C. Martin, John F. Milligan, Mark L. Perry, Norbert W.
18 Bischofberger, Anthony Carraciolo, and William A. Lee.

19 “Gilead Publicly Traded Securities” means Gilead common stock and put and call options on
20 Gilead common stock.

21 “Judgment” means the judgment to be rendered by the Court, substantially in the form and
22 content attached as Exhibit B to the Stipulation.

23 “Released Claims” shall collectively mean any and all claims, debts, demands, controversies,
24 obligations, losses, rights or causes of action or liabilities of any kind or nature whatsoever
25 (including, but not limited to, any claims for damages (whether compensatory, special, incidental,
26 consequential, punitive, exemplary or otherwise), injunctive relief, declaratory relief, rescission or
27 rescissionary damages, interest, attorneys’ fees, expert or consulting fees, costs, expenses, or any
28 other form of legal or equitable relief whatsoever), whether based on federal, state, local, statutory or
common law or any other law, rule or regulation, whether fixed or contingent, accrued or un-
accrued, liquidated or un-liquidated, at law or in equity, matured or un-matured, whether class or
individual in nature, including both known claims and Unknown Claims (as defined below), that (i)
have been asserted in this Action by the Class Members or any of them against any of the Released
Persons (as defined below), or (ii) could have been asserted in any forum by the Class Members or
any of them against any of the Released Persons which arise out of or are based upon the allegations,
transactions, facts, matters or occurrences, representations or omissions involved, set forth, or
referred to in the pleadings and papers on file in this Action, including, without limitation, the Fifth
Consolidated Amended Class Action Complaint for Violation of Federal Securities Laws, and that
relate to the purchase of Gilead Publicly Traded Securities during the Class Period.

“Released Persons” means collectively any and all of the Defendants, their past or present
subsidiaries, parents, successors and predecessors, officers, directors, shareholders, partners, agents,
employees, attorneys, insurers, insureds and any person, firm, trust, corporation, officer, director or
other individual or entity in which any of the Defendants has a controlling interest or which is related

1 to or affiliated with any of the Defendants, and the legal representatives, heirs, successors-in-interest
2 or assigns of the Defendants.

3 “Unknown Claims” means collectively any Released Claims which any Lead Plaintiff or
4 Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of
5 the Released Claims which, if known by him, her, or it, might have affected his, her, or its settlement
6 with and release of the Released Claims, or might have affected his, her, or its decision not to object
7 to this Settlement. With respect to any and all Released Claims, the Settling Parties stipulate and
8 agree that, upon the Effective Date, Lead Plaintiffs shall waive, and each of the Class Members shall
9 be deemed to have waived, and by operation of the Judgment shall have waived, the provisions,
10 rights, and benefits of California Civil Code §1542, which provides:

11
12 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
13 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
14 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN
15 BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER
16 SETTLEMENT WITH THE DEBTOR.
17

18 Lead Plaintiffs shall expressly and each of the Class Members shall be deemed to have, and by
19 operation of the Judgment shall have, expressly waived any and all provisions, rights, and benefits
20 conferred by any law of any state or territory of the United States, or principle of common law,
21 which is similar, comparable or equivalent to California Civil Code §1542. Lead Plaintiffs and Class
22 Members may hereafter discover facts in addition to or different from those which he, she, or it now
23 knows or believes to be true with respect to the Released Claims, but Lead Plaintiffs shall expressly
24 fully, finally, and forever settle and release, and each Class Member, upon the Effective Date, shall
25 be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled
26 and released, any and all Released Claims, known or unknown, suspected or unsuspected, contingent
27 or non-contingent, whether or not concealed or hidden, which now exist, or have ever existed, upon
28 any theory of law or equity now existing or coming into existence in the future, including, but not
limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty,
law or rule, without regard to the subsequent discovery or existence of such different or additional
facts. Lead Plaintiffs acknowledge, and the Class Members shall be deemed by operation of the
Judgment to have acknowledged, that the foregoing waiver was separately bargained for and is a key
element of the Settlement of which this release is a part.

The Release

19 I (We) understand and acknowledge that without further action by anyone, on and after the
20 Effective Date (as defined in the Stipulation), each Class Member, *including members who have*
21 *pending or later initiate any other actions, arbitrations, or other proceedings against Gilead, any of the*
22 *individual defendants, or any Released Person relating to the Released Claims*, on behalf of
23 themselves, their heirs, executors, administrators, successors, assigns, and any person they represent, for
24 good and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, shall be
25 deemed to have, and by operation of law and of the Judgment shall have fully, finally, and forever
26 released, relinquished, settled and discharged all Released Claims against each and every one of the
27 Released Persons, including such Released Claims as already may have been asserted in any pending
28 actions, arbitrations, or other proceedings, and whether or not a Proof of Claim and Release is executed
and delivered by, or on behalf of, such Class Member.

SIGNATURE AND CERTIFICATIONS

26 By signing and submitting this Proof of Claim and Release, the Claimant(s) or the person(s) who
27 represents the Claimant(s) certifies, as follows:
28

1 I (We) submit this Proof of Claim and Release under the terms of the Stipulation of Settlement
2 described in the Settlement Notice. I (We) also submit to the jurisdiction of the United States District
3 Court for the Northern District of California, with respect to my (our) claim as a Class Member and for
4 purposes of enforcing the releases set forth herein. I (We) further acknowledge that I am (we are) bound
5 by and subject to the terms of any judgment and any other orders that may be entered in the Action. I
6 (We) agree to furnish additional information to the Claims Administrator to support this claim if
7 requested to do so. I (We) have not submitted any other claim covering the same purchases or sales of
8 Gilead Publicly Traded Securities during the Class Period and know of no other Person having done so
9 on my (our) behalf.

10 I (We) hereby acknowledge, upon the Effective Date, full and complete satisfaction of, and do
11 hereby fully, finally and forever settle, release and discharge all Released Claims against each and all of
12 the Released Persons.

13 I (We) further acknowledge:

14 1. that the Claimant(s) is a (are) Class Member(s), as defined herein and in the
15 Settlement Notice;

16 2. that I (we) have not filed a request for exclusion from the Class and that I (we) do not
17 know of any request for exclusion from the Class filed on my (our) behalf with respect to my (our)
18 transactions in Gilead Publicly Traded Securities;

19 3. that I (we) own(ed) the Gilead Publicly Traded Securities identified in this Proof of
20 Claim, or that, in signing and submitting this Proof of Claim, I (we) have the authority to act on
21 behalf of the owner(s) thereof;

22 4. that Claimant(s) may be entitled to receive a distribution from the Net Settlement
23 Fund;

24 5. that I (we) agree to furnish such additional information with respect to this Proof of
25 Claim as the Claims Administrator, parties or the Court may require; and

26 6. that I (we) waive trial by jury, to the extent it exists, and agree to the Court's
27 summary disposition of the determination of the validity or amount of the claim made by this Proof
28 of Claim.

SUBSTITUTE FORM W-9 – FOR UNITED STATES CITIZEN, RESIDENT OR ENTITY

Enter taxpayer identification number (TIN) below for the beneficial owner(s). For individuals, this
is your Social Security number (SSN). The Internal Revenue Service (IRS) requires this
information. If you fail to provide this information, your claim may be rejected.

_____ - _____ - _____

Taxpayer Identification Number (TIN for estates, trusts, corporations, etc.)

_____ - _____ - _____

Social Security Number (SSN for individuals)

I (We) certify that the number shown on this form is my (our) correct TIN.

I (We) certify that I am (we are) NOT subject to backup withholding under the provisions of
Section 3406(a)(1)(C) of the Internal Revenue Code because (a) I am (we are) exempt from backup

1 withholding; or (b) I (we) have not been notified by the IRS that I am (we are) subject to backup
2 withholding as a result of a failure to report all interest or dividends; or (c) the IRS has notified me
(us) that I am (we are) no longer subject to backup withholding.

3 If the IRS has notified you that you **are** subject to backup withholding, please strike out the
4 language that you are not subject to backup withholding in the certification above.

5 **NOTE: If you have a joint account, only the SSN associated with that account is**
6 **required to be provided. However, if your account is held jointly, BOTH parties must sign the**
7 **form below. For sole proprietors, you may enter either your SSN or your TIN.**

8 The Internal Revenue Service does not require your consent to any provision of this
9 document other than the certification required to avoid backup withholding.

10 I (We) declare, under penalty of perjury under the laws of the United States of America, that the
11 statements made and answers given in this Proof of Claim and Release are true and correct and that the
12 documents submitted herewith are true and genuine.

13 Signature of Claimant
14 _____
15 Print Name of Claimant _____ Date _____

16 Signature of Joint Claimant, if any
17 _____
18 Print Name of Joint Claimant _____ Date _____

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

21 Signature of Person Completing Form
22 _____
23 Print Name of Person Completing Form _____ Date _____

24 Capacity of Person Signing (*e.g.*, Executor, President, Trustee, etc.)
25 _____

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2 **REMINDER CHECKLIST**

3 Please sign the Signature and Certifications section of the Proof of Claim and Release form.

4 If this claim is being made on behalf of Joint Claimants, then both must sign.

5 Please remember to attach supporting documents.

6 **DO NOT SEND STOCK CERTIFICATES** or copies of **STOCK CERTIFICATES**, as they do
7 not prove the purchase date, the price paid, or continued holding.

8 **DO NOT SEND ORIGINALS OF ANY SUPPORTING DOCUMENTS. PLEASE SEND**
9 **ONLY COPIES.**

10 Keep a copy of your Proof of Claim and Release form and all documentation submitted for
11 your records; originals cannot be returned to you once the documents are submitted.

12 If you move or change your name after submitting this Proof of Claim and Release form, please
13 notify the Claims Administrator of the change in your name and/or address at the following
address as soon as possible:

14 *Gilead Sciences Securities Litigation*
15 Claims Administrator
16 c/o A.B. Data, Ltd.
P.O. Box 170500
Milwaukee, WI 53217-8042

17 The Claims Administrator will acknowledge receipt of your Proof of Claim and Release by
18 mail, within 60 days. Your claim is not deemed filed until you receive an acknowledgment
19 postcard. If you do not receive an acknowledgment postcard within 60 days, please call the
Claims Administrator toll free at 1 (866) 217-4457.

20 **Do not use highlighter on the Proof of Claim and Release form or supporting**
21 **documentation.**

22 **THIS PROOF OF CLAIM MUST BE POSTMARKED NO LATER THAN _____,**
23 **2010 AND MUST BE MAILED TO:**

24 *Gilead Sciences Securities Litigation*
25 Claims Administrator
26 c/o A.B. Data, Ltd.
P.O. Box 170500
Milwaukee, WI 53217-8042

27 **ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT**
28 **OF TIME.**

THANK YOU FOR YOUR PATIENCE

1 ROBBINS GELLER RUDMAN
& DOWD LLP
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16 Co-Lead Counsel for Plaintiffs

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re GILEAD SCIENCES SECURITIES)	Master File No. C-03-4999-SI
LITIGATION)	
_____)	<u>CLASS ACTION</u>
This Document Relates To:)	SUMMARY NOTICE
ALL ACTIONS.)	EXHIBIT A-3
_____)	

1 TO: ALL PERSONS WHO PURCHASED GILEAD SCIENCES, INC. ("GILEAD") COMMON
2 STOCK AND/OR CALL OPTIONS, OR WHO WROTE (SOLD) GILEAD PUT OPTIONS
3 ON GILEAD COMMON STOCK, BETWEEN JULY 14, 2003 AND OCTOBER 28, 2003,
4 INCLUSIVE

5 YOU ARE HEREBY NOTIFIED that pursuant to an Order of the United States District
6 Court for the Northern District of California, a hearing will be held on _____, 2010,
7 at __:__ .m., before the Honorable Susan Illston, at the United States District Court for the
8 Northern District of California, 450 Golden Gate Avenue, San Francisco, California, for the purpose
9 of determining: (1) whether the proposed Settlement of the Action for the sum of \$8,250,000 in cash
10 should be approved by the Court as fair, reasonable, and adequate; (2) whether, thereafter, this
11 Action and all claims relating thereto should be released and dismissed with prejudice as set forth in
12 the Stipulation of Settlement dated as of June 28, 2010; (3) whether the Plan of Allocation of
13 Settlement proceeds is fair, reasonable, and adequate and therefore should be approved; and (4) the
14 reasonableness of the application of Plaintiffs' Co-Lead Counsel for the payment of attorneys' fees
15 and expenses incurred in connection with this Action, together with interest thereon.

16 If you purchased Gilead common stock and/or call options, or wrote (sold) Gilead put options
17 on Gilead common stock, between July 14, 2003 and October 28, 2003, inclusive, your rights may
18 be affected by this Action and the Settlement thereof. If you have not received a detailed Notice of
19 Proposed Settlement of Class Action and a copy of the Proof of Claim and Release, you may obtain
20 copies by writing to *Gilead Sciences Securities Litigation*, Claims Administrator, c/o A.B. Data,
21 Ltd., P.O. Box 170500, Milwaukee, WI 53217-8042, by downloading this information at
22 www.GileadSecuritiesSettlement.com, or by calling 1-866-217-4457. If you are a Class Member, in
23 order to share in the distribution of the Net Settlement Fund, you must submit a Proof of Claim and
24 Release postmarked no later than _____, 2010, establishing that you are entitled to a recovery.
25 You will be bound by any judgment rendered in the Action unless you request to be excluded, in
26 writing, to the above address, postmarked by _____, 2010.

27 Any objection to any aspect of the Settlement must be filed with the Clerk of the Court no
28 later than _____, 2010, and **received** by the following no later than _____, 2010:

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Plaintiffs' Co-Lead Counsel:

ROBBINS GELLER RUDMAN
& DOWD LLP
JEFFREY D. LIGHT
655 West Broadway, Suite 1900
San Diego, CA 92101

MILBERG LLP
LORI G. FELDMAN
One Penn Plaza
New York, NY 10119

Counsel for Defendants:

COOLEY LLP
JOHN C. DWYER
Five Palo Alto Square, 4th Floor
3000 El Camino Real
Palo Alto, CA 94306-2155

**PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE
REGARDING THIS NOTICE.**

DATED: _____, 2010

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re GILEAD SCIENCES SECURITIES LITIGATION)	Master File No. C-03-4999-SI
_____)	<u>CLASS ACTION</u>
This Document Relates To:)	[PROPOSED] FINAL JUDGMENT AND
ALL ACTIONS.)	ORDER OF DISMISSAL WITH PREJUDICE
_____)	EXHIBIT B

1 This matter came before the Court for hearing pursuant to the Order of this Court dated
2 _____, 2010 (“Preliminary Approval Order”), on the application of the parties for
3 approval of the Settlement set forth in the Stipulation of Settlement dated as of June 28, 2010 (the
4 “Stipulation”). Due and adequate notice having been given to the Class as required in the
5 Preliminary Approval Order, and the Court having considered all papers filed and proceedings held
6 herein and otherwise being fully informed in the premises and good cause appearing therefore, IT IS
7 HEREBY ORDERED, ADJUDGED AND DECREED that:

8 1. This Judgment incorporates by reference the definitions in the Stipulation, and all
9 capitalized terms used, but not defined herein, shall have the same meanings as in the Stipulation.

10 2. This Court has jurisdiction over the subject matter of the Action and over all parties to
11 the Action, including all Members of the Class.

12 3. The Settlement Notice and the Summary Notice have been given to the Class,
13 pursuant to and in the manner directed by the Preliminary Approval Order. The form and manner of
14 the Settlement Notice and Summary Notice are hereby determined to have: (a) constituted the best
15 practicable notice under the circumstances, including individual notice to all Members of the Class
16 who could be identified through reasonable effort, (b) constituted notice that was reasonably
17 calculated, under the circumstances, to apprise Class Members of the pendency and nature of the
18 Action, of the effect of the Stipulation, including the releases provided for therein, of their right to
19 object to the proposed Settlement, of their right to exclude themselves from the Class, and of their
20 right to appear at the Fairness Hearing, and (c) fully satisfied all applicable requirements of the
21 Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause),
22 Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. §78u-4(a)(7), as amended by
23 the Private Securities Litigation Reform Act of 1995, the Rules of the Court, and any other
24 applicable law. It is further determined that all members of the Class who did not validly exclude
25 themselves from the Settlement as provided in the Preliminary Approval Order and Stipulation are
26 bound by the Judgment herein.

27 4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby finally
28 certifies this Action as a class action for purposes of effectuating the Settlement, on behalf of a Class

1 consisting of all Persons who purchased Gilead Publicly Traded Securities during the period from
2 and including July 14, 2003 through and including October 28, 2003. Excluded from the Class are
3 Defendants, the officers and directors of Gilead during the Class Period, members of their immediate
4 families and their legal representatives, heirs, successors or assigns, and any entity in which any such
5 excluded Person has or had a controlling interest. Also excluded from the Class are those Persons
6 who timely and validly requested exclusion from the Class pursuant to the Settlement Notice.

7 5. In connection with the certification of the Class for purposes of effectuating the
8 Settlement, this Court hereby finds that each of the provisions of Fed. R. Civ. P. 23 has been
9 satisfied, and the Action has been properly maintained according to the provisions of Rules 23(a)
10 and 23(b)(3). Specifically, this Court finds and concludes that: (a) the Members of the Class are so
11 numerous that joinder of all Class Members in the Action is impracticable; (b) there are questions of
12 law and fact common to the Class which predominate over any individual question; (c) the claims of
13 the Lead Plaintiffs are typical of the claims of the Class; (d) Lead Plaintiffs and their counsel have
14 fairly and adequately represented and protected the interests of the Class Members; and (e) a class
15 action is superior to other available methods for the fair and efficient adjudication of the controversy,
16 considering: (i) the interests of the Members of the Class in individually controlling the prosecution
17 of the separate actions, (ii) the extent and nature of any litigation concerning the controversy already
18 commenced by Members of the Class, (iii) the desirability or undesirability of concentrating the
19 litigation of these claims in this particular forum, and (iv) the difficulties likely to be encountered in
20 the management of the Action.

21 6. Pursuant to Federal Rule of Civil Procedure 23, this Court hereby finds that the
22 Settlement is, in all respects, fair, reasonable, and adequate. The Court further finds that the
23 Settlement is the result of arm's-length negotiations between experienced counsel representing the
24 interests of the Settling Parties. Accordingly, the Settlement embodied in the Stipulation is hereby
25 finally approved in all respects. The Settling Parties are hereby authorized and directed to comply
26 with and to consummate the Settlement in accordance with the Stipulation.

27 7. Except as to those Persons (identified in Exhibit 1 hereto) who have validly and
28 timely requested exclusion from the Class, the Action and all claims asserted therein, including in

1 the Fifth Amended Complaint, as well as all of the Released Claims are hereby dismissed with
2 prejudice as to Lead Plaintiffs and all other Members of the Class, and as against each and all of the
3 Released Persons. The Settling Parties are to bear their own costs, except as otherwise provided in
4 the Stipulation.

5 8. Upon the Effective Date, Lead Plaintiffs and each of the Class Members shall be
6 deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released,
7 relinquished, settled and discharged all Released Claims against each and all of the Released
8 Persons, whether or not such Class Member executes and delivers a Proof of Claim and Release.

9 9. Upon the Effective Date, Lead Plaintiffs and all Class Members and anyone claiming
10 through or on behalf of any of them, are forever barred and enjoined from commencing, instituting
11 or continuing to prosecute any action or any proceeding, in any court of law or equity, arbitration
12 tribunal, administrative forum, or other forum of any kind, any of the Released Claims against any of
13 the Released Persons.

14 10. Upon the Effective Date, each of the Released Persons shall be deemed to have, and
15 by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and
16 discharged the Lead Plaintiffs, Class Members, and Plaintiffs' Counsel from all claims (including
17 Unknown Claims) arising out of, relating to, or in connection with, the institution, prosecution,
18 assertion, settlement, or resolution of the Action.

19 11. In accordance with 15 U.S.C. §78u-4(f)(7)(A), any and all claims for contribution
20 arising out of any Released Claim (i) by any Person against any Defendant, and (ii) by any
21 Defendant against any Person, other than a Person whose liability has been extinguished by the
22 Settlement, are hereby permanently barred and discharged.

23 12. Notwithstanding ¶¶8-11, inclusive, herein, nothing in this Judgment shall bar any
24 action or claim by any of the Settling Parties or the Released Persons to enforce or effectuate the
25 terms of the Stipulation or this Judgment.

26 13. Neither the Plan of Allocation nor any order entered regarding the Fee and Expense
27 Application shall in any way disturb or affect the finality of this Judgment, and both shall be
28 considered separate from this Judgment.

1 14. Neither the Stipulation nor the Settlement contained therein, nor any act performed or
2 document executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) is or may be
3 deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim,
4 or of any wrongdoing or liability of any of the Defendants; or (b) is or may be deemed to be or may
5 be used as an admission of, or evidence of, any fault or omission of any of the Defendants in any
6 civil, criminal or administrative proceeding in any court, administrative agency or other tribunal.
7 The Stipulation may be filed in any action or proceeding to enforce or interpret the terms of the
8 Stipulation, the Settlement contained therein, and any other documents executed in connection with
9 the performance of the agreements embodied therein. Defendants and/or the other Released Persons
10 may file the Stipulation and/or this Judgment in any action or proceeding that may be brought
11 against them in order to support a defense or counterclaim based on the principles of *res judicata*,
12 collateral estoppel, full faith and credit, release, good faith settlement, judgment bar, or reduction or
13 any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

14 15. No Class Member shall have any claim against any Defendant, Defendants' Counsel,
15 or any of the Released Persons with respect to: (a) any act, omission or determination of Plaintiffs'
16 Counsel, the Escrow Agent or the Claims Administrator, or any of their respective designees or
17 agents, in connection with the administration of the Settlement or otherwise; (b) the management,
18 investment or distribution of the Settlement Fund and/or the Net Settlement Fund; (c) the Plan of
19 Allocation; (d) the determination, administration, calculation or payment of claims asserted against
20 the Settlement Fund and/or the Net Settlement Fund; (e) the administration of the Escrow Account;
21 (f) any application for, or award of, attorney fees and expenses to Plaintiffs' Counsel, or the
22 allocation or distribution thereof as between them; (g) any losses suffered by, or fluctuations in the
23 value of, the Settlement Fund and/or the Net Settlement Fund; or (h) the payment or withholding of
24 any Taxes or Tax Expenses incurred in connection with the taxation of the Settlement Fund and/or
25 the Net Settlement Fund or the filing of any tax returns.

26 16. Without affecting the finality of this Judgment in any way, this Court hereby retains
27 continuing jurisdiction over the Action, Lead Plaintiffs, the Class, and the Released Persons for the
28 purposes of: (a) implementing, enforcing, construing, interpreting and administering the Stipulation,

1 the Plan of Allocation, and this Judgment; (b) disposition of the Settlement Fund; and (c) hearing
2 and determining any Fee and Expense Application filed in the Action.

3 17. The Court finds that during the course of the Action, the Settling Parties and their
4 respective counsel at all times complied with the requirements of Rule 11 of the Federal Rules of
5 Civil Procedure and all other similar rules or statutes.

6 18. In the event that the Settlement does not become effective in accordance with the
7 terms of the Stipulation or the Effective Date does not occur, or in the event that the Settlement
8 Fund, or any portion thereof, is returned to the Defendants, then this Judgment shall be rendered null
9 and void to the extent provided by and in accordance with the Stipulation and shall be vacated and,
10 in such event, all orders entered and releases delivered in connection herewith shall be null and void
11 to the extent provided by and in accordance with the Stipulation.

12 19. There is no reason for delay in the entry of this Judgment, and immediate entry by the
13 Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil
14 Procedure.

15 IT IS SO ORDERED.

16
17 DATED: _____

THE HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE

18 Submitted by:
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