

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is entered into between the State of Arizona ("State"), by and through the Arizona Attorney General, and Hacienda Skilled Nursing Facility, Inc., a nonprofit corporation organized under the laws of Arizona; Los Niños Hospital, Inc., a nonprofit corporation organized under the laws of Arizona; Hacienda Children's Hospital, Inc., a nonprofit corporation organized under the laws of Arizona; South Mountain Health Supply Inc., a for profit corporation organized under the laws of Arizona; Children's Angel Foundation, Inc., a nonprofit corporation organized under the laws of Arizona; Hacienda HealthCare, a nonprofit corporation organized under the laws of Arizona; Innovative Home Health, Inc., a non-profit corporation organized under the laws of Arizona; and Hacienda, Inc., a non-profit corporation organized under the laws of Arizona, a group of affiliated entities sharing common senior management and common board members (collectively "Hacienda"), pursuant to authority granted by its Board of Directors. Where applicable, the State and Hacienda are individually referred to as "Party" and collectively as "Parties."

RECITALS

- A. During the period of fiscal years 2014 through 2018, the State contracted with Hacienda to provide medical and behavioral health services to members of the Arizona Health Care Cost Containment System ("AHCCCS"). Hacienda's Intermediate Care Facility for the Intellectually Disabled ("ICF-ID") is an all-inclusive residential care facility for long-term, transition-to-home and short-term respite care. Under the contract terms, Hacienda billed the State a flat rate of \$1,100 per patient per day for ICF-ID services. These costs were to be considered and reviewed by the State through a Cost Settlement Reconciliation process at the end of each fiscal year to ensure that the costs were reasonable and allowable. Hacienda was, among other things, required to comply with OMB Circular A-122, provide the State with its Annual Audited Financial Statements, the ICF-ID Profit and Loss Statement, and the ICF-ID Uniform Accounting Report ("UAR") containing the ICF-ID's balance sheet and other supporting schedules.
- B. Based on a preliminary investigation by AHCCCS under Case No. 2015-1503, the State learned that Hacienda failed to comply with the contract terms. Hacienda only provided the information necessary to conduct the Cost Settlement Reconciliation to AHCCCS Office of the Inspector General ("AHCCCS OIG") after numerous court filings challenging the OIG's legal authority to issue administrative subpoenas.
- C. The Arizona Attorney General's Office (AGO) investigated for potential criminal violations a number of areas of concern, including the conduct alleged in the above Recitals. The scope of this investigation included, but was not limited to: 1) AGO Special Agents subpoenaing from Hacienda financial records, correspondence, board meeting minutes, and other documents, 2) review of said documents, 3) review of any forensic accountings completed as

part of the AHCCCS OIG investigation, 4) consulting with forensic accountants, and 5) interviewing numerous witnesses including current and former Hacienda employees, Hacienda Board members, forensic accountants, and employees of AHCCCS and the Arizona Department of Economic Security (“DES”). The AGO investigation was subsequent to the investigation conducted by AHCCCS OIG. The facts and evidence discovered during this investigation corroborate the findings of AHCCCS OIG and support the facts in the Recitals and the Statement of Culpability within this Agreement. The investigative information set forth in Paragraphs B and C constitute collectively the “Covered Conduct” referenced in and applicable to this Agreement and its Addendum.

- D. The State alleges that Hacienda, by improperly allocating direct and indirect costs and inflating reported expenses, engaged in a pattern of improper billing during the period of fiscal years 2014 through 2018, resulting in an overpayment of \$10,895,648.25. The State has the authority, pursuant to A.R.S. § 36-2903.01(L), to conduct post-payment reviews and recoup any monies erroneously paid by the Medicaid system in Arizona. Furthermore, the State has the authority, pursuant to A.R.S. § 36-2918 and/or § 36-2957(A) as applicable, if a person violates specified prohibited acts, to impose a civil penalty of not to exceed two thousand dollars for each item or service claimed and can levy an assessment of not to exceed twice the amount claimed for each item or service.
- E. The State has determined that it could institute against Hacienda a civil racketeering action pursuant to chapter 23 of A.R.S. Title 13, A.R.S. §§ 13-2301 *et seq.*, and chapter 39 of A.R.S. Title 13, A.R.S. §§ 13-4301 *et seq.*, and obtain remedial orders, a monetary judgment, *in personam* and *in rem* forfeiture judgments, costs and expenses of investigation and prosecution, and the costs and expenses of ongoing remedial and compliance orders against Hacienda. The State has determined that it could institute a criminal prosecution action against Hacienda pursuant to chapter 23 of A.R.S. Title 13, A.R.S. §§ 13-2301 *et seq.*
- F. The State has concluded that it would be in its best interests to enter into this Agreement based upon amounts identified in its preliminary investigation. The State has not made final audit findings as to the potential overpayments. It is possible, but unknown, that if the investigation were to continue to completion that additional documentation, a re-evaluation of the facts and applicable law, or some other relevant factor pertinent to the investigation would change the amounts identified in the preliminary investigation.
- G. Hacienda accepts and acknowledges culpability and responsibility for the Covered Conduct, including the conduct set forth in the Statement of Admitted Facts and Culpability comprising and included as the Addendum to this Agreement. Hacienda enters into this Agreement because it acknowledges that the State may be able to establish civil and/or criminal liability against Hacienda through the evidence and information gained in its investigation; that a fully completed investigation into this matter may identify additional

overpayments; and, pursuant to A.R.S. § 36-2918(A) and/or 36-2957(A) as applicable, the State may be in a position to pursue and impose additional civil assessments up to two times the amount improperly claimed plus a civil penalty up to \$2,000.00 per improper claim.

- H. The Parties enter into this Agreement to fully and finally resolve all of the potential regulatory, civil and criminal enforcement actions that could arise from the Covered Conduct set forth in this Agreement and in its Addendum. This Agreement does not resolve any other past, pending or future regulatory, civil or criminal disputes or causes of action between the Parties, whether known or unknown, arising outside of the conduct discovered in the investigation and described in the Statement of Culpability.
- I. This Settlement Agreement is being entered in lieu of litigating a civil action pursuant to chapter 23 of A.R.S. Title 13, A.R.S. §§ 13-2301 *et seq.* and chapter 39 of A.R.S. Title 13, A.R.S. §§ 13-2301 *et seq.*, and A.R.S. §§ 36-2901, *et seq.*, and/or the filing of a criminal action by the AGO under chapter 23 of A.R.S. Title 13 and the litigation thereof, and the liabilities, punishments, and consequences resulting therefrom. A.R.S. § 13-2313 and A.R.S. § 13-2314 and A.R.S. §§ 36-2901, *et seq.*, contain provisions for civil and criminal liability orders and remedial orders, including but not limited to the recovery of costs of investigation and prosecution and compensation for economic loss due to the conduct recited in this Agreement. The parties agree that the terms of this Agreement shall operate in lieu of litigating those matters. The parties agree that the terms of this Agreement are binding on the Parties as they would be had they been ordered in a civil action or a criminal action pursuant to chapters 23 and 39 of A.R.S. Title 13 and A.R.S. §§ 36-2901, *et seq.*

SETTLEMENT TERMS AND CONDITIONS

In reliance on the representations made herein and in consideration of the mutual promises, covenants and obligations set forth in this Agreement, the Parties agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated into and deemed a part of this Agreement.
2. Statement of Admitted Facts and Culpability: Hacienda accepts and acknowledges responsibility and culpability for the Covered Conduct set forth in this Agreement and in the Statement of Admitted Facts and Culpability comprising and included as the Addendum to this Agreement.
3. Settlement Amount. Hacienda agrees to repay the State an overpayment in the amount of \$10,895,648.25 ("Settlement Amount"). AHCCCS, and not Hacienda, shall be responsible for remitting that portion of the Settlement Amount received that must be remitted to CMS pursuant to 42 C.F.R. § 433.320. Hacienda agrees that the Settlement Amount shall be

deemed to be an amount imposed as a civil penalty and assessment and recovery for the benefit of AHCCCS because the Covered Conduct constituted a prohibited act or acts under chapter 23 of A.R.S. Title 13, A.R.S. §§ 13-2301 *et seq.*, and A.R.S. § 36-2918, including for purposes of consideration of any discharge in bankruptcy proceedings. The Settlement Amount shall have the full force and effect and authorization of law as if entered by a court of competent jurisdiction, including pursuant to chapter 23 of A.R.S. Title 13, A.R.S. §§ 13-2301 *et seq.*, and A.R.S. § 36-2918. Hacienda agrees that the debt shall not be subject to discharge in any bankruptcy proceeding pursuant to 11 U.S.C §523(a)(7). The Settlement Amount shall constitute a debt immediately due and owing to the State on the Effective Date of this Agreement, subject to the terms of this Agreement. The debt shall be forever discharged by payment in full of the Settlement Amount to the State under the following terms and conditions:

- a. Payment Schedule. Hacienda agrees to pay the Settlement Amount under the following schedule: Hacienda will deliver to the State on January 5, 2021 an initial payment of \$7,000,000.00 ("Initial Payment") irrespective of the status of any existing moratoriums imposed by AHCCCS or DES/DDD. \$6,500,000 of the Initial Payment will be applied to the Settlement Amount and the remaining \$500,000 will be applied to the Fine Amount as described in paragraph 4. To ensure the availability of the funds necessary to make the Initial Payment, Hacienda agrees to hold \$7,000,000 in an escrow account as of August 24, 2020 and further agrees to provide supporting documentation showing the establishment of said account. If AHCCCS and DES/DDD both lift their moratoriums prior to January 5, 2021, Hacienda will make the Initial Payment within thirty (30) days following the date the last moratorium is lifted, unless January 5, 2021 comes during the thirty (30) day period. If January 5, 2021 comes during the thirty (30) day period then Hacienda will pay the Initial Payment on January 5, 2021. Following the Initial Payment, Hacienda shall pay the remaining Settlement Amount balance in equal, uninterrupted, monthly installments of \$50,000.00 each ("Monthly Installment Payment") until the Settlement Amount has been paid in full. The first Monthly Installment Payment ("Initial Monthly Installment Payment") shall come due on the first day of the calendar month that follows the month of the Initial Due Date. Thereafter, each successive Monthly Installment Payment shall become due on the first day of the respective month; provided, however, that, if such due date is a legally observed holiday or weekend, the due date shall be the following business day. Hacienda may prepay the Settlement Amount in whole or in part at any time and from time-to-time, but any such prepayment will not negate or otherwise ameliorate Hacienda's duty to remit each Monthly Installment Payment as required by this Agreement. So long as Hacienda complies with this payment schedule, no interest shall accrue on the unpaid portions of the Settlement Amount.

4. Fine Amount. Hacienda agrees to pay the State a fine amount of \$1,000,000.00 ("Fine Amount"). The Fine Amount shall be paid to the Arizona Attorney General's Office, which shall deposit the Fine Amount in the revolving fund established by A.R.S. § 13-2314.01, where it shall be allocated to the AGO and the AHCCCS OIG pursuant to whatever agreement exists between them. The Fine Amount allocated to the AGO and the AHCCCS OIG shall be used for the purposes authorized by A.R.S. § 13-2314.01 and any other applicable state law or federal guideline. Hacienda agrees that the Fine Amount shall be deemed to be an amount imposed as a civil penalty and assessment and recovery for the benefit of the AGO and the AHCCCS OIG because the Covered Conduct constituted a prohibited act or acts under chapter 23 of A.R.S. Title 13, A.R.S. §§ 13-2301 *et seq.*, and A.R.S. § 36-2918, including for purposes of consideration of any discharge in bankruptcy proceedings. The Fine Amount shall have the full force and effect and authorization of law as if entered by a court of competent jurisdiction, including pursuant to chapter 23 of A.R.S. Title 13, A.R.S. §§ 13-2301 *et seq.*, and A.R.S. § 36-2918. Hacienda agrees that the debt shall not be subject to discharge in any bankruptcy proceeding pursuant to 11 U.S.C §523(a)(7). The Fine Amount shall constitute a debt immediately due and owing to the State on the Effective Date of this Agreement, subject to the terms of this Agreement. The debt shall be forever discharged by payment in full of the Fine Amount to the State under the following terms and conditions:

a. Payment Schedule. Hacienda agrees to pay the Fine Amount under the following schedule: Following the Initial Payment, Hacienda shall pay the Fine Amount balance in equal, uninterrupted, monthly installments of \$15,000.00 each ("Monthly Installment Payment") until the Fine Amount has been paid in full. The first Monthly Installment Payment ("Initial Monthly Installment Payment") shall come due on the first day of the calendar month which follows the month of the Initial Due Date. Thereafter, each successive Monthly Installment Payment shall become due on the first day of the respective month; provided, however, that, if such due date is a legally observed holiday or weekend, the due date shall be the following business day. Hacienda may prepay the Fine Amount in whole or in part at any time and from time-to-time, but any such prepayment will not negate or otherwise ameliorate Hacienda's duty to remit each Monthly Installment Payment as required by this Agreement. So long as Hacienda complies with this payment schedule, no interest shall accrue on the unpaid portions of the Fine Amount.

5. Manner of Payment. Hacienda shall make all Settlement Amount and Fine Amount payments required under this Agreement as follows:

a. Settlement Amount Payments. Hacienda shall make all Settlement Amount payments in the form of a cashier's check or money order made payable to

“AHCCCS Administration.” Hacienda shall write “AHCCCS OIG Case No. 2015-1503” on the payment instrument and deliver all Settlement Amount payments to:

Arizona Health Care Cost Containment System
Office of the Inspector General
801 East Jefferson Street, MD-4500
Phoenix, AZ 85034

Alternatively, the State and Hacienda can reach an agreement on making the Settlement Amount Payments to AHCCCS Administration through electronic transfer of funds and provide each other with the information necessary to establish that manner of payment.

- b. Fine Amount Payments. Hacienda shall make all Fine Amount payments in the form of a cashier’s check or money order made payable to “Arizona Attorney General’s Office.” Hacienda shall write “AHCCCS OIG Case No. 2015-1503” on the payment instrument and deliver all Fine Amount payments to:

Arizona Attorney General’s Office
ATTN: Criminal Division, Chief Counsel’s Office
2005 N. Central Avenue
Phoenix, AZ 85004

Alternatively, the State and Hacienda can reach an agreement on making the Fine Amount Payments to the Arizona Attorney General’s Office through electronic transfer of funds and provide each other with the information necessary to establish that manner of payment.

6. Sufficient Funds and Solvency. Hacienda represents and warrants that, based upon its investigation and knowledge of all relevant facts, it has sufficient funds to remit to the State the entire Settlement Amount and Fine Amount inclusive of the Initial Payment and each Monthly Installment Payment and that such funds are not subject to the claim(s) of any third party. Moreover, Hacienda represents and warrants that it is not insolvent pursuant to 11 U.S.C. § 547(b)(3). Additionally, Hacienda will not deliver the Initial Payment or any Monthly Installment Payment if it is insolvent or if the delivery of the Settlement Amount or Fine Amount will cause it to become insolvent. It is expressly understood that the terms of this section are a material provision of this Agreement, and that absent this representation the State would not enter into this Agreement.
7. Default, Breach, Acceleration and Remedies. Time being of the essence of the Agreement, in the event of a default in the payment of the Settlement Amount or Fine Amount, the State may, without notice or demand, declare the entire amount then unpaid

immediately due and payable. In the event of default, the State may take civil action available to it under the law including, but not limited to, filing an action in the Maricopa County Superior Court, pursuant to A.R.S. § 36-2918(F), to recover that portion of the Settlement Amount or Fine Amount unpaid at the time of default. Upon any willful and material breach of this Agreement by Hacienda or any event that renders this Agreement null and void, the State shall provide to Hacienda a written notice and declaration of the alleged breach within fifteen (15) business days of the alleged breach or within a reasonable longer period of time at the sole discretion of the State. Hacienda shall have fifteen (15) business days from the date of the notice to present to the State an explanation that no breach occurred, that any breach was not willful and material, or that the breach has been cured. The failure to make such a presentation to the State within the applicable time period shall allow the State to infer that the breach was willful and material and has not been cured. Upon receiving and considering such a presentation the State may in its sole discretion conclude that Hacienda is in willful and material breach of the Agreement and it has not been cured and may invoke any remedy or action allowed under the Agreement. The State's exercise of discretion under this Agreement is not subject to review in any court, tribunal, or otherwise, outside of the Arizona Attorney General's Office. In any resulting or following regulatory, civil or criminal enforcement proceedings the State may use any information provided to it at any time by Hacienda.

8. Parties Bound by Terms of Agreement. The terms of this Agreement are applicable to and binding on the State and on Hacienda as a corporate entity. Any of Hacienda's current or former directors, officers, employees, delegates or agents, or other individual employed by or serving in these capacities for Hacienda during the Covered Conduct set forth herein are not vested with the protections or immunities described and provided for in this Agreement.
9. Approval of Agreement. The execution of the signatures of all of the Parties and representatives below shall constitute approval of and the effective date of the Agreement. The Agreement and all of its terms and conditions shall be deemed binding on the State and Hacienda upon approval of the Agreement. The Agreement and all of its terms and conditions shall have the full force and effect and authorization of law as if entered by a court of competent jurisdiction, including pursuant to chapter 23 of A.R.S. Title 13, A.R.S. §§ 13-2301 *et seq.*, and chapter 29 of A.R.S. Title 36, A.R.S. §§ 36-2901 *et seq.*, and shall be enforceable by the Parties to the Agreement as set forth in the Agreement.
10. Reservation of Rights. Hacienda agrees that any violations or offenses that could have been charged civilly or criminally or administratively arising from the State's investigation may in the sole discretion of the State be charged against Hacienda within twelve (12) months of the State's declaration of any willful and material breach of this

Agreement by Hacienda or any event that renders this Agreement null and void, notwithstanding the expiration of any applicable statute of limitations or claim time. Hacienda agrees that it waives and shall waive any and all statutes of limitations, claim time, and rights to a speedy trial pursuant to the Sixth Amendment of the United States Constitution, the Arizona Constitution, the Arizona Rules of Criminal Procedure, and the Arizona Rules of Civil Procedure, as to this Agreement and the time period for which the completion of its terms are in effect.

11. Waiver of Appeal and Judicial Review. Hacienda hereby waives any rights to an appeal or judicial review and in the event of default Hacienda shall not raise an alleged failure to exhaust administrative remedies, or entitlement to an appeal or judicial review as a defense. Hacienda stipulates that any and all matters that could be raised as a defense to payment of the Settlement Amount or Fine Amount could have been raised in a hearing before the director or in an appeal pursuant to title 12, chapter 7, article 6 of the Arizona Revised Statutes and, as such, such matters may not be raised as a defense in any action to recover any portion of the Settlement Amount or Fine Amount unpaid at the time of default.
12. Transfer of Assets. Until such time as the Settlement Amount and Fine Amount are paid in full, Hacienda shall not Transfer, as that term is defined in A.R.S. § 44-1001, any Asset or Assets, as that term is defined in A.R.S. § 44-1001, with a total present value in excess of \$25,000 without the advance written consent of the State. The State may condition consent to any Transfer upon any and all such terms and conditions that may be specified by the State, including terms and conditions as to the disposition of proceeds of such Transfer. Any Transfer in violation of the requirements specified herein shall be deemed to be a fraudulent transfer under the Uniform Fraudulent Transfer Act (A.R.S. §§ 44-1001-44-1010) entitling the State to any and all remedies available in law or in equity, including, but not limited to, those remedies specified by A.R.S. § 44-1007. Moreover, all officers and directors of Hacienda who participate in or approve any transfer in violation of the requirements specified herein shall be jointly and severally liable for any portion of the Settlement Amount or Fine Amount unpaid at the time of any such transfer, which liability shall be deemed to be a fine or penalty not subject to discharge in any bankruptcy proceeding pursuant to 11 U.S.C §523(a)(7).
13. Tolling of Statute of Limitations. The Parties agree that any statute of limitations or repose applicable to any cause of action potentially arising out of this Agreement shall be tolled while the Agreement remains in effect.
14. Refrain from Civil, Criminal or Administrative Legal Action. The State agrees not to take any civil, criminal, or administrative legal action against Hacienda for the Covered Conduct except as provided for in this Agreement. The Parties expressly acknowledge

and agree that this Agreement shall not, under any circumstances, be construed as a general release of Hacienda.

15. Release. Hacienda waives and discharges the State, its employees, servants, contractors, subcontractors, and agents from any causes of action, claims, liabilities, rights, obligations, charges, promises, agreements, injuries, expenses, compensations, losses, debts, monies, damages, demands, lawsuits, appeals, complaints, grievances, proceedings, costs, interest, and fees, of any kind or nature whatsoever, whether in law, in equity, known, unknown, liquidated, or unliquidated, that Hacienda has asserted, could have asserted, or may assert in the future against the State, its employees, servants, contractors, subcontractors, and agents arising from the State's investigations and prosecution of the Covered Conduct. Hacienda acknowledges and agrees that the release, waiver and discharge set forth above is a general release and waiver. Conversely, upon satisfaction of all terms and conditions of this Agreement, including payment in full of the Settlement Amount and Fine Amount, Hacienda shall be deemed released from any further civil, criminal or administrative liability and obligations under this Agreement and for the Covered Conduct.
16. No Assignment or Delegation. Neither the State nor Hacienda may assign, transfer or convey any rights or delegate any obligations under this Agreement without the written agreement to the assignment or delegation by all of the Parties. Assignment or delegation of this Agreement shall be void unless prior written approval of such assignment or delegation is obtained from all of the Parties.
17. Modification/Amendment of Agreement. This Agreement may be modified or amended solely by mutual agreement of all of the Parties in writing.
18. Severability. In the event that a court of competent jurisdiction determines that any provision of this Agreement is unenforceable, such provision shall be severed from the Agreement and all other provisions shall remain valid and enforceable; provided, however, that if the severance of any such provision materially alters the rights or obligations of the Parties, they shall, through reasonable, good faith negotiations, agree upon such other amendments hereto as may be necessary to restore the Parties as closely as possible to the relative rights and obligations initially intended to them hereunder.
19. Third-Party Rights. This Agreement may be enforced solely by the Parties. This Agreement shall be unenforceable by third parties and shall not be construed to create third party beneficiary rights.

20. Costs of Compliance. Each Party will assume and bear its own costs of compliance with this Agreement except as expressly stated otherwise in this Agreement. In the event of a default by Hacienda the State shall be entitled to the recovery of its attorneys' fees and costs incurred to enforce the terms of this Agreement. The Parties expressly acknowledge and agree that any fees and costs subject to recovery by the State may include, without limitation, those related to, arising out of, or otherwise connected to, collection activity by the State or the Arizona Attorney General including, without limitation, notices, letters, demands for payment, acquisition and/or enforcement of a judgment as well as any actions, demands, or proceedings related to any of the foregoing.
21. Merger and Integration. The Agreement contains the entire agreement of the Parties with respect to the subject matter of the Agreement. All prior agreements, promises, negotiations or representations, either oral or written, relating to the subject matter of this Agreement not expressly set forth herein shall be of no force or effect.
22. No Effect on Other State Agencies. The Agreement shall not be construed to create any obligations or liabilities on the part of any agency of the State of Arizona other than AHCCCS and the Attorney General's Office.
23. Waiver of Breach. The failure of any Party at any time to insist upon the strict performance of any provision of this Agreement is not to be construed as a waiver of the right to insist upon the strict performance of the same or any other provision of this Agreement at any future time, nor shall such failure constitute a continuing waiver of any subsequent breach of either the same or any other provision of the Agreement.
24. Construction; Headings. This Agreement shall be deemed drafted equally by all Parties. Its language shall be construed as a whole and according to its fair meaning. Any presumption or principle that the language is to be construed against any party shall not apply. The headings in this Agreement are only for convenience and are not intended to affect construction or interpretation. Any references to paragraphs, subparagraphs, sections or subsections are to those parts of this Agreement, unless the context clearly indicates to the contrary. Also, unless the context clearly indicates to the contrary, (a) the plural includes the singular and the singular includes the plural; (b) or is used both conjunctively and disjunctively; (c) any, all, each, or every means any and all, and each and every; (d) includes and including are each without limitation; (e) herein, hereof, hereunder and other similar compounds of the word here refer to the entire Agreement and not to any particular paragraph, subparagraph, section or subsection; and (f) all pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the entities or persons referred to may require.

25. Choice of Law. All terms of this Agreement shall be governed by and interpreted according to the substantive laws of the State of Arizona without regard to its choice of law or conflict of laws principles.
26. Execution in Counterparts. This Agreement may be executed in counterparts. Facsimile and electronic signatures shall be considered as valid signatures as of the date thereof.
27. Effective Date. This Agreement shall become effective on the date when it has been signed by all of the Parties to the Agreement.
28. Authority to Execute Agreement. The individual who signs this Agreement on behalf of the State represents that he or she is authorized to execute and legally bind the State to this Agreement. The individual who signs this Agreement on behalf of the Hacienda represents that he or she is legally competent and has the sole and exclusive authority to settle the claims referred to in the Recitals on behalf of Hacienda, execute and legally bind the Hacienda to this Agreement, provide the consideration specified in this Agreement, and enters into this Agreement as a voluntary act having had an opportunity to review this Agreement with legal counsel.

State of Arizona, by and through the Arizona Attorney General

By:

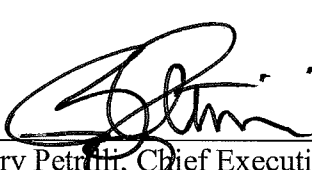


Scott W. Blake
Assistant Attorney General

8/24/2020
Date

Hacienda

By:



Perry Petrilli, Chief Executive Officer

8/17/2020
Date

The undersigned is counsel for Hacienda

In connection with such representation, I acknowledge that:

- (1) I have discussed this Agreement with our client; and,
(2) I believe our client completely understands all of the Agreement's terms.

Osborn Maledon PA
Attorneys for Hacienda

By:



Tim Eckstein

8/18/2020
Date

ADDENDUM TO SETTLEMENT AGREEMENT AND RELEASE **STATEMENT OF ADMITTED FACTS AND CULPABILITY**

1. Hacienda provides medical, residential, therapeutic, social, and recreational services for children and adults with developmental disabilities. The company operates an intermediate care facility, medical group homes, a day treatment program, training and employment programs, and an independent living program for the developmentally disabled.

2. The State of Arizona contracts through the Department of Economic Security Division of Developmental Disabilities ("DES/DDD") with Hacienda for intermediate care services for the intellectually disabled ("ICF-ID"). Hacienda's intermediate care facility is an all-inclusive residential care facility for long-term, transition-to-home, and short-term respite care for people with intellectual disabilities.

3. Between 2013 and 2018, DES/DDD contracted with Hacienda for ICF-ID services under a cost reimbursement plus margin contract. Contract No. ADES14-057593. The contract required, among other things, that the costs be reasonable and allocable to the performance of the contract. At the same time, Hacienda had other contracts with the State for its other programs for which it received per diem reimbursement based on numbers of individuals served.

4. During the contract term, Hacienda's Board of Directors met regularly. Hacienda's CEO and CFO presented the Board with financial data regarding the entity's performance, including some detail on a program-by-program basis. The Board was not provided with any data or explanation as to how costs were allocated between affiliated programs and entities.

5. Based on what it knew as of December 2018, Hacienda's Board of Directors believed that Hacienda had appropriately allocated and accounted for all of its costs incurred under the DES/DDD contract.

6. Hacienda's CEO during the course of the DES/DDD contract was William Timmons. Mr. Timmons was initially hired by the board in 1989 as Hacienda's Executive Director. Mr. Timmons title then changed to CEO. As CEO, Mr. Timmons had broad powers as to the finances and operation of Hacienda's various programs. On or about January 7, 2019, Mr. Timmons resigned as president and CEO. Mr. Timmons' resignation was accepted unanimously by the Board of Directors.

7. On or about January 20, 2019, Hacienda's CFO disclosed to the Hacienda Board that costs had not been allocated correctly over the course of the DES/DDD contract, and that

both he and the former CEO were aware of this. The CFO resigned from Hacienda on or about March 1, 2019.

8. Hacienda acknowledges that through the Covered Conduct of its former officers, agents and representatives set forth in detail in the Settlement Agreement and Release, it knew or had reason to know of the Covered Conduct and that it received an overpayment under the terms of the contract. Hacienda acknowledges responsibility and culpability for the Covered Conduct and for receiving the overpayment under the terms of the contract.

9. The Hacienda Board acknowledges that Hacienda received an overpayment under the terms of the contract. Upon discovery of the misallocated costs, the Hacienda Board took steps to remedy this problem, including:

- a. Hiring outside auditors to review the prior cost allocations;
- b. Directing legal counsel to begin discussions with the State regarding reconciliation of any inappropriately allocated costs;
- c. Directing Hacienda's management team to implement new procedures to ensure that costs were appropriately allocated going forward;
- d. Agreeing pursuant to the accompanying Settlement Agreement to reimburse AHCCCS for the overpayment.
- e. Cooperating fully in the AGO investigation described in the above Recitals.

10. A new administrative team took over in March 2019 and undertook a review of internal accounting and cost allocations. Working with outside consultants, that team confirmed that Hacienda was appropriately billing and allocating costs, consistent with generally accepted accounting principles and all applicable regulations.

*** END ***