

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General of the United States Department of Health and Human Services (“OIG-HHS”) (collectively the “United States”); Deborah Yannicelli (“Yannicelli” or “relator”); and Extended Nursing Personnel CHHA, LLC, doing business as and also sued herein as Extended Home Care (“Extended”), Telford Home Assistance, Inc., doing business as and also sued herein as Extended Health Care Services (“Extended LHCSA”) (hereinafter referred to collectively as “the Parties”), through their authorized representatives.

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. Extended, a New York limited liability company, is a Certified Home Health Agency (“CHHA”) as defined in Article 36 of the New York Public Health Law Section 3602(3), with its principal place of business located at 360 W. 31st Street, 3rd Floor, New York, New York 10001. Extended provides home health aide services, nursing services and rehabilitation therapy services in New York.

B. Extended LHCSA, a New York business corporation, is a Licensed Home Care Services Agency (“LHCSA”) as defined in Article 36 of the New York Public Health Law, Section 3605, with its principal place of business located at 1 Rabro Drive, Suite 104, Hauppauge, New York 11788-4270. Extended LHCSA furnishes nursing, home health aide and

other paraprofessional services in New York.

C. Relator Deborah Yannicelli is an individual resident of the State of New York. On November 5, 2007, Yannicelli filed a complaint against Extended Nursing Personnel CHHA, LLC, *et al.* under the *qui tam* provisions of the False Claims Act, 31 U.S.C. §§ 3730(b)-(h), and the New York State False Claims Act, N.Y. Fin. Law § 190(6), in the United States District Court for the Eastern District of New York captioned United States of America and the State of New York ex rel. Jane Doe v. Extended Nursing Personnel CCHA, LLC, et al. (Civil Action No. 07-4621) (Block, J.) (the “Civil Action”).

D. The United States contends that the owners of two home health aide training schools – Small’s Training and Counseling School and On Time Home Care Agency (hereafter referred to collectively as the “Training Schools”) – furnished to certain individuals false certificates that certified that those individuals were qualified to provide home health aide services to New York Medicaid recipients when, in fact, the individuals had never received the required training or valid certification, and therefore such services were not reimbursable by New York Medicaid.

E. New York State licenses two types of home health agencies – licensed and certified. Licensed Home Care Services Agencies (“LHCSAs”), as defined in Article 36 of the New York Public Health Law Section 3602(13), are licensed by the New York State Department of Health (“DOH”) under New York Public Health Law Section 3605 and provide directly, or through contract arrangement, nursing services, home health aide services, or personal care services. CHHAs are licensed by DOH under New York Public Health Law Section 3608.

CHHAs are required to provide, directly or through contract arrangement, nursing services and home health aide services, and at least one other related service, including, but not limited to, physical therapy, occupational therapy, speech pathology, nutritional services and medical social services. New York Public Health Law Section 3602(3). CHHAs are qualified to participate as home health agencies in the Medicare and New York Medicaid programs under the provisions of Titles XVIII and XIX of the Social Security Act and may submit claims to the Medicare and New York Medicaid programs for their services. 42 U.S.C. §§1395x(m),1395x(o), 1395bbb and 42 U.S.C. §§1396(a). However, New York State law, N.Y. Pub. Health Law §3614(1), limits reimbursement by New York Medicaid for services provided by a home care services agency to those agencies with a valid certificate of approval, namely, CHHAs. Thus, LHCSAs may not bill New York Medicaid directly for home health services provided to Medicaid beneficiaries and may not receive a home health provider number for billing Medicare. 42 U.S.C. §§1395(o), 42 C.F.R. §§409.41, 440.2(b), 440.70 and 484.12. CHHAs, however, may bill Medicare and New York Medicaid for services provided by LHCSA personnel to the CHHA under contract arrangement. N.Y. Pub. Health Law §3614(1).

F. As part of its business as a CHHA, Extended enters into contracts with LHCSAs to provide Extended with home health aides to provide services to Extended's patients under Extended's supervision.

G. Two of the LHCSAs that provided home health aides to Extended were B&H Healthcare Services, Inc., d/b/a Nursing Personnel Home Care ("Nursing Personnel") and Immediate Home Care, Inc. ("Immediate"). From at least March 1, 2004 through February 28,

2007, Nursing Personnel and Immediate provided home health aides to Extended under the terms of contracts that each LHCSA entered into with Extended.

H. Under the terms of its contracts with Nursing Personnel and Immediate, Extended contacted Nursing Personnel or Immediate to request home health aides as the need arose for particular patients. As the contracts were non-exclusive, Extended reserved the right to contract with other vendors for home health aides as well.

I. Many of Extended's patients with whom Nursing Personnel and/or Immediate home health aides were assigned to work were New York Medicaid beneficiaries and/or Medicare beneficiaries.

J. Each CHHA that bills New York Medicaid and/or Medicare is required to determine whether each of the home health aides for whom it bills New York Medicaid and/or Medicare meets the requirements of the New York Medicaid and Medicare programs with regard to, *inter alia*, each aide's training and qualifications. This requirement applies to home health aides that the CHHA contracts with LHCSAs to provide as well as to aides employed directly by the CHHA. 42 C.F.R. §§ 440.70(a)(2) & (d), 484.4, and 484.36(b)(1) and (d)(4).

K. Under the terms of their contracts with Extended, Nursing Personnel and Immediate were required to supply Extended with home health aides who met all the requirements of the applicable DOH regulations and other directives of DOH and other governmental authorities. This obligation included verification that each aide met the minimum training requirements for home health aides established by DOH.

L. Under the terms of their contracts with Extended, Nursing Personnel and

Immediate were required to provide Extended with copies of each aide's qualifications, including, but not limited to, evidence of certification, at the time that each aide was first assigned to work for Extended. Under the terms of its contracts with Nursing Personnel and Immediate, Extended retained the right to approve "at its sole discretion in advance" each aide to be assigned to Extended.

M. The contracts further required Nursing Personnel and Immediate to maintain complete personnel records for each aide assigned to Extended, which included verifications of qualifications and references, and to forward copies of each aide's complete personnel file to Extended.

N. Under the terms of their contracts with Extended, every Nursing Personnel and Immediate home health aide assigned to Extended worked under the direction and supervision of Extended's registered nurses or other personnel.

O. The United States contends that from March 1, 2004 through February 28, 2007 Extended submitted claims for payment to the Medicare Program ("Medicare"), Title XVIII of the Social Security Act, 42 U.S.C. §§1395-1395hhh, and the New York Medical Assistance Program ("Medicaid"), Title XIX of the Social Security Act, 42 U.S.C. §§1396-1396v, for home health aide services provided through contract arrangement by home health aides employed by Nursing Personnel and Immediate.

P. The United States contends that it has certain civil claims, as specified in Paragraph 4 below, against Extended for engaging in the following conduct during the period from March 1, 2004 through February 28, 2007:

a) Extended knowingly – as defined in 31 U.S.C. § 3729(b) -- submitted or caused to be submitted false claims to New York Medicaid, and received payment thereon, for home health aide services provided under contract arrangement by individuals who were actually or purportedly employed by Nursing Personnel and/or Immediate and who presented certificates from Training Schools that falsely indicated satisfactory completion of a home health aide training course, when, in fact, such individuals had never received the required training or valid certification;

b) Extended knowingly – as defined in 31 U.S.C. § 3729(b) -- submitted or caused to be submitted false claims to Medicare for reimbursement for home health aide services not rendered for the claims listed on Attachment A hereto;

(collectively, the contentions of the United States set forth in paragraphs P a) and b) are hereafter referred to as the "Covered Conduct").

Q. The United States also contends that it has certain administrative claims, as specified in Paragraph 4 below, against Extended for engaging in the Covered Conduct.

R. This Agreement is neither an admission of liability by Extended nor a concession by the United States that its claims are not well founded.

S. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, the Parties reach a full and final settlement pursuant to the Terms and Conditions set forth below.

III. TERMS AND CONDITIONS

1. Extended shall pay the United States the sum of Six Million Seven Hundred Ninety-Eight Thousand Two Hundred Dollars (\$6,798,200) (“Settlement Amount”) for the Covered Conduct. Payment to the United States shall be made as follows:

(a) Extended authorizes the State of New York Office of the Attorney General’s Medicaid Fraud Control Unit (“MFCU”) to distribute to the United States Six Million, Seven Hundred Forty-Eight Thousand, Two Hundred Dollars (\$6,748,200) from withheld Medicaid reimbursement claims due to Extended under a pre-existing DOH administrative claims withholding procedure (the “Federal Distribution”). The amount required to fund the Federal Distribution has already been transferred to the MFCU by DOH. The payment on Extended’s behalf shall be made to the United States by the MFCU of Six Million, Seven Hundred Forty-Eight Thousand, Two Hundred Dollars (\$6,748,200) by electronic funds transfer, in accordance with instructions to be provided by the Office of the United States Attorney for the Eastern District of New York, no later than five (5) business days from the Effective Date of this Agreement (as defined in Paragraph 31 below).

(b) Extended shall pay the remaining balance of Fifty Thousand Dollars (\$50,000) by electronic funds transfer pursuant to written instructions to be provided by the Office of the United States Attorney for the Eastern District of New York, no later than five (5) business days from the Effective Date of this Agreement.

2. Contingent upon the United States receiving the Settlement Amount in full and as soon as feasible after receipt, the United States, pursuant to 31 U.S.C. §3730(d), agrees to pay

relator Yannicelli One Million Three Hundred Fifty-Nine Thousand Six Hundred and Forty Dollars (\$1,359,640) in settlement of her claims against the United States for a relator's share. Payment shall be made by electronic funds transfer. The United States in no way promises or guarantees relator, nor is liable to relator for, the collection or payment of any funds pursuant to this Agreement or the payment of any relator's share except as provided herein for funds actually collected and received by the United States.

3. Extended shall pay counsel for relator Yannicelli the sum of Fifty Thousand Dollars (\$50,000) in full satisfaction of relator's claim for statutory fees and costs pursuant to 31 U.S.C. § 3730(d)(1) and New York False Claims Act, N.Y. Fin. Law §§ 189.3, 190.7 and 191.1(e). The payment shall be made by electronic funds transfer pursuant to written instructions provided by counsel for Yannicelli, Mike Bothwell, Esq., no later than ten (10) business days from the Effective Date of this Agreement.

4. Subject to the exceptions in Paragraph 7 (concerning excluded claims), in consideration of the obligations of Extended set forth in this Agreement, conditioned upon payment in full by Extended of the Settlement Amount, and, subject to Paragraph 18 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment made under this Agreement), the United States (on behalf of itself, its officers, agents, agencies, and departments) agrees to release Extended and all of its current and former officers, attorneys, members, managers and employees from any civil or administrative monetary claim the United States has or may have for the Covered Conduct under the False Claims Act, 31 U.S.C. §§3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. §1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§3801-3812; or the common law

theories of payment by mistake, unjust enrichment, and fraud.

5. Subject to the exceptions in Paragraph 7 (concerning excluded claims), in consideration of the obligations of Extended in this Agreement, conditioned upon payment in full by Extended of the Settlement Amount, as outlined in Paragraph 1 above, and subject to Paragraph 18, below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment made under this Agreement), relator Yannicelli, for herself and for her heirs, successors, attorneys, agents, and assigns, agrees to release Extended and all of its current and former officers, attorneys, members, managers and employees from any civil monetary claim the United States has or may have for the Covered Conduct against Extended under the False Claims Act, 31 U.S.C. §§3729-3733.

6. In consideration of the obligations of Extended in this Agreement and the Corporate Integrity Agreement (“CIA”) entered into between Extended and the Office of the Medicaid Inspector General of the State of New York (“OMIG”) in December 2009, conditioned upon Extended’s full payment of the Settlement Amount, and subject to Paragraph 18 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment made under this Agreement), the OIG-HHS agrees to release and refrain from instituting, directing, or maintaining any administrative action seeking exclusion from Medicare, Medicaid, and other Federal health care programs (as defined in 42 U.S.C. §1320a-7b(f)) against Extended under 42 U.S.C. §1320a-7a (Civil Monetary Penalties Law) or 42 U.S.C. §1320a-7(b)(7)(permissive exclusion for fraud, kickbacks, and other prohibited activities) for the Covered Conduct, except as reserved in Paragraph 7 (concerning excluded claims), below, and as reserved in this Paragraph. The OIG-HHS expressly reserves all rights to

comply with any statutory obligations to exclude Extended from Medicare, Medicaid, and other Federal health care programs under 42 U.S.C. §1320a-7(a)(mandatory exclusion) based upon the Covered Conduct. Nothing in this Paragraph precludes the OIG-HHS from taking action against entities or persons, or for conduct or practices, for which claims have been reserved in Paragraph 7 (concerning excluded claims).

7. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Extended and Yannicelli) are the following claims of the United States:

- a) Any civil, criminal or administrative liability arising under the Internal Revenue Code, Title 26 of the United State Code;
- b) Any criminal liability;
- c) Any civil, criminal, or administrative liability of individuals (including current or former officers, attorneys, members, managers and employees of Extended) who have received or receive in the future written notification from either the Attorney General of the State of New York or the United States Attorney for the Eastern District of New York that they are the target of a criminal investigation, or who have been or are in the future indicted, charged, convicted, or who have entered or who enter into in the future a criminal plea agreement related to the Covered Conduct;
- d) Except as explicitly stated in this Agreement, any administrative liability, including mandatory exclusion from Federal health care

programs;

- e) Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- f) Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services; and
- g) Any liability based upon such obligations as are created by this Agreement.

8. Relator Yannicelli and her heirs, successors, attorneys, agents, and assigns agree not to object to this Agreement and agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon receipt of the relator's share described in Paragraph 2, Yannicelli, for herself individually, and for her heirs, successors, attorneys, agents, and assigns, fully and finally releases, waives, and forever discharges the United States, its officers, agents, and employees, from any claims arising from or relating to 31 U.S.C. §3730 against Extended; from any claims arising from the filing of the Civil Action against Extended; from any other claims for a share of the Settlement Amount; and in full settlement of any claims Yannicelli may have against the United States under this Agreement. This Agreement does not resolve or in any manner affect any claims that the United States has or may have against Yannicelli arising under the Internal Revenue Code, or any claims arising under this Agreement.

9. Subject to the exceptions in Paragraph 7 (concerning excluded claims), in consideration of the obligations of Extended in this Agreement, conditioned upon receipt of the

payments described in Paragraphs 2 and 3 of this Agreement, and subject to Paragraph 18 (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment made under this Agreement), relator Yannicelli, for herself individually, and for her heirs, successors, attorneys, agents, and assigns, agrees to release Extended and all of its current and former officers, attorneys, members, managers and employees from any claim the relator has asserted, could have asserted or may assert in the future for any reason for any acts or omissions, including, but not limited to, the Covered Conduct, from the beginning of time up to and including the Effective Date of this Agreement.

10. Extended waives and shall not assert any defenses that it may have to any criminal prosecution or any administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the United States Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the United States Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this Paragraph or any other provision of the Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue Code, Title 26 of the United States Code.

11. Extended fully and finally releases the United States, its agencies, employees, servants, and agents from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Extended has asserted, could have asserted, or may assert in the future against the United States, its agencies, employees, servants, and agents, related to the matters covered by the Civil Action and the United States' investigation and prosecution thereof.

12. Extended fully and finally releases Yannicelli, her heirs, successors, attorneys, agents, and assigns from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Extended has asserted, could have asserted, or may assert in the future against Yannicelli, her heirs, successors, attorneys, agents, and assigns related to the Civil Action and Yannicelli's investigation and prosecution thereof.

13. Extended agrees to the following:

a. Unallowable Costs Defined: that all costs (as defined in Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§1395-1395hhh and 1396-1396v; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Extended, its present or former officers, attorneys, members, managers, employees, and agents in connection with the following shall be "Unallowable Costs" on government contracts and under the Medicare Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP) (collectively, "the federal programs") and any Medicaid Program ("the State programs"):

- (1) the matters covered by this Agreement;
- (2) the United States' and the State's audits and civil and criminal investigations of the matters covered by this Agreement;
- (3) Extended's investigation, defense, and corrective actions undertaken in response to the United States' and the State's audits

- and civil and criminal investigations in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement;
 - (5) the payments made by Extended to the United States and relator Yannicelli and her counsel pursuant to this Agreement and to the State relating to the Covered Conduct;
 - (6) the negotiation of, and obligations undertaken pursuant to the CIA entered into between Extended and the OMIG to:
 - (I) retain an independent review organization to perform annual reviews as described in Section 6 of the CIA; and
 - (ii) prepare and submit reports to the OMIG.

However, nothing in this Paragraph 13 that may apply to the obligations undertaken pursuant to the CIA affects the status of costs that are not allowable based on any other authority applicable to Extended. (All costs described or set forth in this Paragraph 13 are hereafter "Unallowable Costs.")

- b. Future Treatment of Unallowable Costs: These Unallowable Costs shall be separately determined and accounted for in non-reimbursable cost centers by Extended, and Extended shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement, or payment request submitted by Extended or its subsidiaries or affiliates to

the federal or State programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment:

Extended further agrees that within 90 days of the Effective Date of this Agreement it shall identify to applicable Medicare Administrative Contractor (MACs), carriers and/or fiscal intermediaries, TRICARE fiscal intermediaries, carriers, and/or contractors, and any Medicaid and FEHBP fiscal agents, any Unallowable Costs (as defined in this Paragraph) included in payments previously sought from the United States, or any state Medicaid Program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by Extended or its subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the unallowable costs. Extended agrees that the United States and the State of New York, at a minimum, shall be entitled to recoup from it any overpayment plus applicable interest and penalties, if any, as a result of the inclusion of such Unallowable Costs on previously-submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due to the federal programs after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. Any payments due to the State of New York Medicaid program

after the adjustments have been made shall be paid to DOH pursuant to the direction of the MFCU and/or DOH. The United States reserves its rights to disagree with any calculations submitted by Extended or its subsidiaries or affiliates, if any, on the effect of the inclusion of Unallowable Costs (as defined in this Paragraph) on Extended's or its subsidiaries or affiliates' cost reports, cost statements, or information reports.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine the books and records of Extended to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

14. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare MAC, carrier or intermediary or New York Medicaid or any other state payer, related to the Covered Conduct; and Extended agrees not to resubmit to any Medicare MAC, carrier or intermediary or New York Medicaid or any other state payer any previously denied claims related to the Covered Conduct, and agrees not to appeal any such denials of claims.

15. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity, except as expressly provided for in Paragraph 16 (waiver of beneficiaries) below.

16. Extended agrees that it will not seek payment for any health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third party payors based upon the claims defined as the Covered Conduct.

17. Extended expressly warrants that it has reviewed its financial situation and that it currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following its payment to the United States of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants and obligations set forth herein constitute a contemporaneous exchange for new value given to Extended, within the meaning of 11 U.S.C. § 547(c)(1); and (b) have concluded that these mutual promises, covenants and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value which is not intended to hinder, delay, or defraud any entity to which Extended was or became indebted on or after the date of these transfers, all within the meaning of 11 U.S.C. § 548(a)(1).

18. If, within ninety-one (91) days of the Effective Date of this Agreement or of any payment made under this Agreement, Extended commences, or a third party commences, any case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization or relief of debtors (a) seeking to have any order for relief of Extended's debts, or seeking to adjudicate Extended as bankrupt or insolvent; or (b) seeking appointment of a receiver, trustee, custodian or other similar official for Extended or for all or any substantial part of its assets, Extended agrees as follows:

a) Extended's obligations under this Agreement may not be avoided pursuant to 11 U.S.C. § 547, and Extended will not argue or otherwise take the position in any such case, proceeding or other action that: (I) Extended's obligations under this Agreement may

be avoided under 11 U.S.C. § 547; (ii) Extended was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payments made to the United States hereunder; or (iii) the mutual promises, covenants and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to Extended.

b) If Extended's obligations hereunder are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, the United States, at its sole option, may rescind the releases in this Agreement and bring any civil and/or administrative claim, action or proceeding against Extended for the claims that would otherwise be covered by the releases provided in Paragraphs 4 and 6 above. Extended agrees that (I) any such claims, actions or proceedings brought by the United States (including any proceedings to exclude Extended from participation in Medicare, any Medicaid program, or other Federal health care programs) are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the action, case or proceeding described in the first clause of this Paragraph, and Extended shall not argue or otherwise contend that the United States' claims, actions, or proceedings are subject to an automatic stay; (ii) Extended shall not plead, argue or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel or similar theories, to any such civil or administrative claims, actions or proceedings that are brought by the United States within thirty (30) calendar days of written notification to Extended that the releases herein have been rescinded pursuant to this Paragraph, except to the extent such defenses were available on November 5, 2007; and (iii) the United States has a valid claim against Extended in the amount of Ten Million, Five Hundred Forty-Nine Thousand, Eight Hundred Sixty Dollars (\$10,549,860), and the United States may pursue

its claims in the case, action or proceeding referenced in the first clause of this Paragraph, as well as in any other case, action, or proceeding.

c) Extended acknowledges that its agreements in this Paragraph are provided in exchange for valuable consideration provided in this Agreement.

19. Within thirty (30) days of receipt of the payment described in Paragraph 1, above, the United States shall file its Notice of Intervention and the United States and Yannicelli shall file a Joint Notice of Dismissal pursuant to Fed. R. Civ. P. 41(a)(1) dismissing their claims for the Covered Conduct in the Civil Action against Extended with prejudice as to the United States and Yannicelli, dismissing all remaining allegations against Extended without prejudice as to the United States and with prejudice as to Yannicelli, and dismissing without prejudice as to the United States and with prejudice as to Yannicelli all claims against Extended LHCSA.

20. Except as expressly provided to the contrary in this Agreement, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

21. Extended and Extended LHCSA represent that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever and upon due deliberation with the advice of counsel.

22. Relator Yannicelli represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever, and that she has entered into this Agreement upon due deliberation with the advice of counsel.

23. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the

Parties under this Agreement will be the United States District Court for the Eastern District of New York, except that disputes arising under the CIA shall be resolved exclusively under the dispute resolution provisions in the CIA.

24. For purposes of construction, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

25. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Party or Parties affected.

26. The individuals signing this Agreement on behalf of Extended, Extended LHCSA and Yannicelli represent and warrant that they are authorized, respectively, by Extended, Extended LHCSA and Yannicelli to execute this Agreement. The undersigned United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

27. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

28. This Agreement is binding on Extended's and Extended LHCSA's successors, transferees, heirs, and assigns.

29. This Agreement is binding on Yannicelli's successors, transferees, heirs, and assigns.

30. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

31. The effective date of this Agreement is the date upon which the last signatory

to the Agreement signs (“Effective Date of this Agreement”). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

BENTON J. CAMPBELL
United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

DATED: 12/17/09

BY: 
Assistant U.S. Attorney Erin Argo

DATED: _____

BY: _____

Marie V. Bonkowski
Senior Trial Counsel
Commercial Litigation Branch
Civil Division
United States Department of Justice
P.O. Box 261 Ben Franklin Station
Washington, D.C. 20044

DATED: _____

BY: _____

GREGORY E. DEMSKE
Assistant Inspector General for
Legal Affairs
Office of Counsel to the
Inspector General
Office of Inspector General
United States Department of
Health and Human Services

THE UNITED STATES OF AMERICA

BENTON J. CAMPBELL
United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

DATED: _____

BY: _____
Assistant U.S. Attorney Erin Argo

DATED: 12/17/09

BY: Marie V. Bonkowski
Marie V. Bonkowski
Senior Trial Counsel
Commercial Litigation Branch
Civil Division
United States Department of Justice
P.O. Box 261 Ben Franklin Station
Washington, D.C. 20044

DATED: _____

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for
Legal Affairs
Office of Counsel to the
Inspector General
Office of Inspector General
United States Department of
Health and Human Services

THE UNITED STATES OF AMERICA

BENTON J. CAMPBELL
United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201


DATED: _____

BY: _____
Assistant U.S. Attorney Erin Argo

DATED: _____

BY: _____
Marie V. Bonkowski
Senior Trial Counsel
Commercial Litigation Branch
Civil Division
United States Department of Justice
P.O. Box 261 Ben Franklin Station
Washington, D.C. 20044

DATED: 12/16/09

BY: 
GREGORY E. DEMSKE
Assistant Inspector General for
Legal Affairs
Office of Counsel to the
Inspector General
Office of Inspector General
United States Department of
Health and Human Services

**EXTENDED NURSING PERSONNEL CHHA, LLC,
doing business as EXTENDED HOME CARE**

DATED: 12/15/2009

BY: Vincent Achilarré
Vincent Achilarré
Chief Executive Officer
Extended Nursing Personnel CHHA, LLC
doing business as Extended Home Care
360 W. 31st Street, 3rd Floor
New York, N.Y. 10001

DATED: 12/15/2009

BY: Stephen A. Warnke
Stephen A. Warnke
Ropes & Gray, LLP
1211 Avenue of the Americas
New York, N.Y. 10036-8704

Counsel for Extended Nursing Personnel
CHHA, LLC d/b/a Extended Home Care

Telford Home Assistance, Inc., doing business as
EXTENDED HEALTH CARE SERVICES

DATED: 12/15/09

BY: Claudia Taglich President
Claudia Taglich
President
Telford Home Assistance, Inc doing
business as Extended Health Care
Services
1 Rabro Drive, Suite 104
Hauppauge, N.Y. 11788-4270

DATED: 12/15/09

BY: Roni Glaser
Roni E. Glaser
Glaser & Weiner, LLP
175 East Shore Road, Suite 300
Great Neck, N.Y. 11023

Counsel for Telford Home
Assistance, Inc doing business as
Extended Health Care Services

RELATOR DEBORAH YANNICELLI

DATED: December 15, 2009

BY: Deborah Yannicelli
Deborah Yannicelli

DATED: _____

BY: _____
Timothy J. McInnis, Esq.
Law Office of Timothy J. McInnis
521 5th Avenue, Suite 1700
New York, N.Y. 10175-0038

Counsel for Relator

DATED: _____

BY: _____
Mike Bothwell, Esq.
Bothwell, Bracker & Vann
304 Macy Drive
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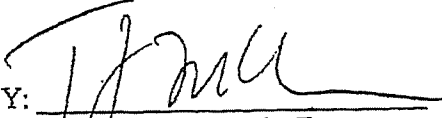
Counsel for Relator

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DATED: 12-15-09

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Counsel for Relator

Attachment A
Medicare Claims for Home Health Aide Services Not Rendered

U.S.- Extended
Settlement Agreement

Medicare DCN	CHHA	LHCSA
20630403241102	Extended	IHC
20431600425202	Extended	NP
20434104341202	Extended	NP
20514604287902	Extended	NP
20531201674802	Extended	NP
20534102535602	Extended	NP
20600402046002	Extended	NP
20609301958402	Extended	NP
20609301958502	Extended	NP
20616603209602	Extended	NP
20622702786402	Extended	NP
20712202010802	Extended	NP
20712202010902	Extended	NP