

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement ("Agreement") is entered into between the following (hereinafter "the Parties") through their authorized representatives: the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General ("OIG-HHS") of the Department of Health and Human Services ("HHS"), and the TRICARE Management Activity ("TMA"), through its General Counsel (collectively, "the United States"); Raritan Bay Medical Center, on behalf of its predecessors, and current and former parent corporations, affiliates, divisions, and subsidiaries; and Relators Peter Salvatori and Sara Iveson (hereafter the "Salvatori Relators"), Relator James Monahan, and Relator Anthony Kite.

II. PREAMBLE

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

A. Raritan Bay Medical Center is a 501(c)(3) non-profit corporation headquartered in Perth Amboy, New Jersey, which owns and operates two hospital facilities in New Jersey, one in Perth Amboy and the other in Old Bridge. Both hospital facilities are operated under a single Medicare provider agreement. Raritan Bay Medical Center operates or has operated the hospital facilities during some or all of the period between January 1, 1998, and the present. Raritan Bay Health Services Corporation, the parent corporation of Raritan Bay Medical Center, also has ownership interests in other non-profit and for-profit entities.

B. The Salvatori Relators are individual residents of the Commonwealth of Pennsylvania. Relators James Monahan and Anthony Kite are individual residents of the State of New Jersey. On November 4, 2002, the Salvatori Relators filed a qui tam action that is pending against Raritan Bay Medical Center and that is captioned: U.S. ex rel. Salvatori and

Iveson v. [Under Seal], Case No. 02-8309 (E.D. Pa.) (the “Salvatori Action”). On November 27, 2002, relator Monahan filed a qui tam action that is pending against Raritan Bay Medical Center and that is captioned: U.S. ex rel. Monahan v. [Under Seal], Case No. 2:02CV05702 (D.N.J.) (the “Monahan Action”). The Monahan complaint has thrice been amended. On June 15, 2005, relator Kite filed a qui tam action that is pending against Raritan Bay Medical Center and that is captioned: U.S. ex rel. Kite v. [Under Seal], Case No. 05:CV3066 (D.N.J.). The Kite complaint has been amended once. The Salvatori, Monahan, and Kite actions are collectively referred to below as the “Civil Actions.” These actions allege that Raritan Bay Medical Center excessively billed for “outlier” payments, as further described in Paragraph D, below.

C. Raritan Bay Medical Center, through its two hospital facilities, submitted or caused to be submitted claims for payment to the Medicare Program (“Medicare”), Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395hhh; and the TRICARE Program (“TRICARE”), 10 U.S.C. §§ 1071-1109 (collectively the “Government Health Care Programs”).

D. The United States alleges that it has certain civil claims against Raritan Bay Medical Center, as specified in Paragraphs 4, 6, and 7 below, under the False Claims Act, 31 U.S.C. §§ 3729-3733, other federal statutes, and/or common law doctrines, for engaging in the following conduct: From January 1, 1998, through August 7, 2003, Raritan Bay Medical Center allegedly submitted or caused to be submitted false claims to the Government Health Care Programs for inpatient and outpatient outlier payments by increasing their charges for inpatient and outpatient care such that, when adjusted to costs pursuant to the outlier statute and regulations, these charges no longer reasonably reflect or approximate Raritan Bay Medical Center’s actual costs (hereinafter the “Covered Conduct”). Certain of these claims were identified in the Relators’ Complaints filed in the Civil Actions.

E. The United States also contends that it has certain administrative claims against Raritan Bay Medical Center for the Covered Conduct.

F. The Relators contend that they have a claim against the United States under 31 U.S.C. §3730(d) to receive a portion of the Settlement Amount, described in Paragraph 1 below.

G. The United States neither confirms nor denies that Peter Salvatori, Sara Iveson, James Monahan, and/or Anthony Kite are proper relators or that they are entitled to receive a portion of the Settlement Amount under 31 U.S.C. §3730(d).

H. Raritan Bay Medical Center denies the contentions of the United States set out in Paragraphs D and E and the contentions of the Relators in the Civil Actions with respect to Raritan Bay Medical Center. This Agreement is neither an admission of liability by Raritan Bay Medical Center, nor a concession by the United States that its claims are not well founded.

I. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of these claims, the Parties reach a full and final settlement as set forth in this Agreement.

III. TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual promises, covenants, and obligations set forth below, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. Raritan Bay Medical Center agrees to make payments to the United States that total seven million, five-hundred thousand dollars (\$7,500,000), inclusive of interest (the "Settlement Amount"). Raritan Bay Medical Center shall pay the Settlement Amount to the United States in four equal installments of one million, eight-hundred and seventy-five thousand dollars (\$1,875,000) each. The first payment shall be due within ten days of the Effective Date of this Agreement, as that term is defined in Paragraph 32 below. The second payment shall be

due one year from the Effective Date of this Agreement. The third payment shall be due two years from the Effective Date of this Agreement. The fourth payment shall be due three years from the Effective Date of this Agreement. If any of these dates falls on a non-business day, payment shall be due on the first business day thereafter.

All payments of the Settlement Amount shall be made by electronic funds transfer pursuant to written instructions to be provided by Susan Steele, Civil Chief, Office of the United States Attorney for the District of New Jersey, or her successor or designee. Notwithstanding any provision of this Agreement, including the above provision that the Settlement Amount is inclusive of interest, interest shall accrue on the initial payment of the Settlement Amount (i.e., \$1,875,000) at the rate of 4.75% per annum compounded daily from December 13, 2006, until such time as the initial payment is made.

2. The United States agrees that, pursuant to 31 U.S.C. § 3730(d)(1), it shall pay to the Salvatori Relators, through their legal counsel, sixteen (16) percent of the Settlement Amount actually recovered under this Agreement. Payment to the Salvatori Relators is referred to herein as the "Relators' share." The United States agrees that, as soon as feasible after receipt of payment of any portion of the Settlement Amount, the United States will pay to the Salvatori Relators an amount equal to 16 percent of each such payment. All payments of the Relators' share under this Agreement shall be made by electronic funds transfer to an escrow account in the name of the Salvatori Relators in accordance with the written instruction of those Relators' counsel.

3. If Raritan Bay Medical Center fails to make any of the payments at the specified times described in Paragraph 1, above, then upon written notice to Raritan Bay Medical Center of this default, Raritan Bay Medical Center shall have ten (10) calendar days to cure the default.

If the default is not cured within the ten-day period, the United States may elect any of the following non-exclusive options: (a) the remaining unpaid principal portion of the Settlement Amount shall become accelerated and immediately due and payable, with interest at a simple rate of 4.75% from December 13, 2006 to the date of default, and at a simple rate of 12% per annum from the date of default until the date of payment; (b) file an action for specific performance of the Agreement; (c) offset the remaining unpaid balance of the Settlement Amount (inclusive of interest) from any amounts due and owing to Raritan Bay Medical Center and/or any of its facilities, by any department, agency, or agent of the United States; or (d) rescind this Agreement and file suit based on the Covered Conduct. Raritan Bay Medical Center, together with its current parent corporation, Raritan Bay Health Services Corporation, former parent corporations, its direct and indirect subsidiaries, divisions, including the two hospital facilities, affiliates, corporations, partnerships or other legal entities in which Raritan Bay Medical Center has or had an ownership interest, and the successors and assigns of any of them (hereafter, the "Released Raritan Bay Entities"), agree not to contest any collection action undertaken by the United States pursuant to this Paragraph, and to pay the United States all reasonable costs of collection and enforcement of this Agreement, including reasonable attorney's fees and expenses. In the event that the United States opts to rescind this Agreement following a default, the Released Raritan Bay Entities agree not to plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any civil or administrative claims that (i) are filed by the United States within 120 calendar days of written notification to Raritan Bay Medical Center that this Agreement has been rescinded, and (ii) relate to the Covered Conduct, except to the extent these defenses were available on November 4, 2002, the date the Salvatori case was originally filed.

4. Subject to the exceptions in Paragraph 9 below, in consideration of the obligations of Raritan Bay Medical Center set forth in this Agreement, conditioned upon Raritan Bay Medical Center's payment in full of the Settlement Amount, and subject to Paragraph 24 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) hereby releases the Released Raritan Bay Entities from any civil or administrative monetary claim the United States has or may have 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 and/or equitable theories of recovery for payment by mistake, unjust enrichment, and fraud, for the Covered Conduct.

5. Within 30 days of the Effective Date of this Agreement, the United States will intervene in the Salvatori Action for the limited purpose of seeking dismissal with prejudice of the claims asserted against Raritan Bay Medical Center in the Salvatori Action. The Salvatori Relators shall stipulate to such a dismissal with prejudice. The stipulation of dismissal will be conditioned upon Raritan Bay Medical Center's payment in full of the Settlement Amount and receipt of said amount by the United States, and shall specify, if necessary, that the court retains jurisdiction to resolve any ongoing issues regarding the Salvatori Relators' entitlement to a share of the Settlement Amount or to the payment of attorneys' fees. Within 30 days of the Effective Date of this Agreement, Relator Monahan and Relator Kite shall move to dismiss with prejudice their respective claims asserted against Raritan Bay Medical Center, with the dismissal being subject to Raritan Bay Medical Center's payment in full of the Settlement Amount.

6. In consideration of the obligations of Raritan Bay Medical Center set forth in this

Agreement and the Corporate Integrity Agreement (“CIA”) entered into between OIG-HHS and Raritan Bay Medical Center, conditioned upon Raritan Bay Medical Center’s payment in full of the Settlement Amount, and subject to Paragraph 24 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 Raritan Bay Medical Center under 42 U.S.C. § 1320a-7a (Civil Monetary Penalties Law) or 42 U.S.C. §§ 1320a-7(b)(6)(A) and 1320a-7(b)(7) (permissive exclusion for fraud, kickbacks, and other prohibited activities) for the Covered Conduct, except as reserved in Paragraph 9 below, and as reserved in this Paragraph. Notwithstanding the foregoing, in the event of Default, as defined in Paragraph 3 above, OIG-HHS may exclude Raritan Bay Medical Center from participating in all Federal health care programs until Raritan Bay Medical Center pays the Settlement Amount and reasonable costs as set forth in Paragraph 3 above. OIG-HHS will provide written notice of any such exclusion to Raritan Bay Medical Center. In the event of default, Raritan Bay Medical Center waives any further notice of the exclusion under 42 U.S.C. §§ 1320a-7(b)(6)(A) or 1320a-7(b)(7), and agrees not to contest such exclusion either administratively or in any state or federal court. Reinstatement to program participation is not automatic. If at the end of the period of exclusion, Raritan Bay Medical Center wishes to apply for reinstatement, Raritan Bay Medical Center must submit a written request for reinstatement to OIG-HHS in accordance with the provisions of 42 C.F.R. §§ 1001.3001-3005. Raritan Bay Medical Center will not be reinstated unless and until OIG-HHS approves such request for reinstatement. OIG-HHS expressly reserves all rights to comply with any statutory obligations to exclude the Raritan Bay

Medical Center 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 OIG-HHS from taking action against entities or persons, or for conduct and practices, for which civil, criminal, or administrative claims have been reserved in Paragraph 9 below.

7. In consideration of the obligations of the Raritan Bay Medical Center set forth in this Agreement, conditioned upon Raritan Bay Medical Center's payment in full of the Settlement Amount, and subject to Paragraph 24 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment made under this Agreement), TMA hereby releases and agrees to refrain from instituting, directing, or maintaining any administrative action seeking exclusion from the TRICARE Program against the Released Raritan Bay Entities under 32 C.F.R. § 199.9 for the Covered Conduct, except as reserved in Paragraph 9, below, and as reserved in this Paragraph. TMA expressly reserves authority to exclude Raritan Bay Medical Center, together with its current and former parent corporations, each of its direct and indirect subsidiaries, brother or sister corporations, divisions, current or former owners, affiliates, and the successors and assigns of any of them, from the TRICARE program under 32 C.F.R. §§ 199.9 (f)(1)(i)(A), (f)(1)(i)(B), and (f)(1)(iii), based upon the Covered Conduct. Nothing in this Paragraph precludes TMA or the TRICARE Program from taking action against entities or persons, or for conduct and practices, for which claims have been reserved in Paragraph 9 below.

8. The Released Raritan Bay Entities fully and finally release, compromise, acquit and forever discharge the United States, its agencies, officers, agents, employees, and contractors (and their employees) from any and all claims, causes of action, adjustments, and set-offs of any

kind (including, without limitation, any claims for additional outlier payments for the period January 1, 1998, through August 7, 2003) which the Released Raritan Bay Entities could have asserted, or may assert in the future, against the United States, its agencies, officers, agents, employees, and contractors (and their employees) arising out of or pertaining to the Covered Conduct, including the United States' investigation, prosecution, or settlement thereof.

9. 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 the Released Raritan Bay Entities, the Salvatori Relators, Relator Monahan, and Relator Kite) are any and all of the following:

- a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (commonly referred to as the Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory exclusion from the Federal health care programs;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon such obligations as are created by the execution of this Agreement;
- 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;
- g. Any liability for personal injury or property damage, or for other similar consequential damages, arising from the Covered Conduct;
- h. Any liability for failure to deliver goods or services due;

i. Any civil or administrative liability of individuals (including current or former directors, officers, employees, or agents of Raritan Bay Medical Center or the two hospital facilities) who receive written notification that they are the target of a criminal investigation (as defined in the United States Attorneys' Manual), are indicted, charged, or convicted, or who enter into a plea agreement related to the Covered Conduct; and

j. Any claims of a state arising under Medicaid, or any other provision of law, based on the Covered Conduct.

10. The Salvatori Relators, Relator Monahan, Relator Kite, and their 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).

11. Conditioned upon receipt of the Relators' share set forth in Paragraph 2 above, the Salvatori Relators, for themselves individually, and for their heirs, successors, agents, and assigns, fully and finally release, waive, and forever discharge the United States, its officers, agents, and employees, from any claims arising from or relating to 31 U.S.C. § 3730; from any claims arising from the filing of the Salvatori Action insofar as that Action includes allegations against Raritan Bay Medical Center; from any other claims for a share of the Settlement Amount; and in full settlement of any claims the Salvatori Relators may have under this Agreement. The Salvatori Relators, Relator Monahan, and Relator Kite represent that they have reached a separate agreement which resolves any Relators' share dispute between and among those Relators. Nothing in this Paragraph or any other provision of this Agreement resolves, or in any manner affects, any claims the United States has or may have against the Salvatori Relators, Relator Monahan, or Relator Kite arising under Title 26, U.S. Code (Internal Revenue

Code), or any claims arising under this Agreement.

12. Relator Monahan, for himself individually, and for his heirs, successors, agents, and assigns, fully and finally releases and waives any rights to a Relator's share from the United States pursuant to 31 U.S.C. § 3730, or this Agreement, and furthermore fully and finally releases and waives any other claims arising from or relating to 31 U.S.C. § 3730, any claims arising from the filing of the Monahan Action, insofar as that Action includes allegations against Raritan Bay Medical Center, and any claims that Relator Monahan may have under this Agreement.

13. Relator Kite, for himself individually, and for his heirs, successors, agents, and assigns, fully and finally releases and waives any rights to a relator's share from the United States pursuant to 31 U.S.C. § 3730, or this Agreement, and furthermore fully and finally releases and waives any other claims arising from or relating to 31 U.S.C. § 3730, any claims arising from the filing of the Kite Action, insofar as that Action includes allegations against Raritan Bay Medical Center, and any claims that Relator Kite may have under this Agreement.

14. The Salvatori Relators, Relator Monahan and Relator Kite agree to the following:

a. Conditioned upon the full and complete payment of the Settlement Amount to the United States by Raritan Bay Medical Center, the Salvatori Relators, for themselves, and for their heirs, successors, attorneys, agents, and assigns, agree to release the Released Raritan Bay Entities and their current and former directors, officers, employees, agents, and attorneys from any and all claims, liabilities, and demands for causes of action or suits in equity that they have or may have, known or unknown, on behalf of themselves or any other person entity, or thing, including the United States, any state or local government or sovereign, arising from the beginning of time until the date of this Agreement ("Relators' Claims"). The undersigned

counsel for the Salvatori Relators acknowledge that this Agreement releases all claims that they may have for attorneys' fees and expenses against the Released Raritan Bay Entities, and represent that they are not aware of any other attorneys who could assert a claim for attorneys' fees and expenses against the Released Raritan Bay Entities for services provided to the Salvatori Relators.

b. Further, conditioned upon the full and complete payment of the Settlement Amount to the United States by Raritan Bay Medical Center, Relator Monahan, for himself individually, and for his heirs, successors, agents, and assigns agrees to release the Released Raritan Bay Entities and their current and former directors, officers, employees, agents, and attorneys from any and all claims, liabilities, and demands for causes of action or suits in equity that they have or may have, known or unknown, on behalf of themselves or any other person entity, or thing, including the United States or any state or local government or sovereign, arising from the beginning of time until the date of this Agreement ("Relators' Claims"). The undersigned counsel for Relator Monahan acknowledge that this Agreement releases all claims that they may have for attorneys' fees and expenses against the Released Raritan Bay Entities, and represent that they are not aware of any other attorneys who could assert a claim for attorneys' fees and expenses against the Released Raritan Bay Entities for services provided to Relator Monahan.

c. Further, conditioned upon the full and complete payment of the Settlement Amount to the United States by Raritan Bay Medical Center, Relator Kite, for himself individually, and for his heirs, successors, agents, and assigns agrees to release the Released Raritan Bay Entities and their current and former directors, officers, employees, agents, and attorneys from any and all claims, liabilities, and demands for causes of action or suits in equity

that they have or may have, known or unknown, on behalf of themselves or any other person entity, or thing, including the United States or any state or local government or sovereign, arising from the beginning of time until the date of this Agreement (“Relators’ Claims”). The undersigned counsel for Relator Kite acknowledge that this Agreement releases all claims that they may have for attorneys’ fees and expenses against the Released Raritan Bay Entities, and represent that they are not aware of any other attorneys who could assert a claim for attorneys’ fees and expenses against the Released Raritan Bay Entities for services provided to Relator Kite.

d. The Salvatori Relators, Relator Monahan, and Relator Kite represent that they have not assigned or transferred any of Relators’ Claims to any person, entity, or thing, and covenant and agree not to assert or pursue in any way, including by offset or recoupment, any Relators’ Claims.

15. In consideration of the obligations of the Salvatori Relators, Relator Monahan, and Relator Kite as set forth in this Agreement, the Released Raritan Bay Entities hereby fully and finally release the Salvatori Relators, Relator Monahan, and Relator Kite, and their respective heirs, successors, assigns, agents and attorneys from any claims that Raritan Bay Medical Center has asserted, could have asserted, or may assert in the future against the Salvatori Relators, Relator Monahan, and/or Relator Kite and their attorneys, for any of the Relators’ or Relators’ counsel’s investigation and prosecution of the Civil Actions.

16. Raritan Bay Medical Center has provided financial information, including a sworn financial disclosure statement, to the United States (“Financial Information”). The United States has relied on the accuracy and completeness of the Financial Information in reaching this Agreement. Raritan Bay Medical Center warrants that the Financial Information is complete,

accurate, and current. Raritan Bay Medical Center further warrants that it did not own or have an interest in any assets at the time that the Financial Information was provided, which were not disclosed to the United States in the Financial Information, except for certain non-material assets that have been sold or acquired in the ordinary course of business. In addition, Raritan Bay Medical Center warrants that it has made no intentional misrepresentation in connection with the Financial Information. In the event that the United States learns of (a) assets in which the Raritan Bay Medical Center had an interest at the time of this Agreement that were not disclosed in the Financial Information, or (b) a misrepresentation by Raritan Bay Medical Center in connection with the Financial Information, and in the event such non-disclosure or misrepresentation changes the estimated net worth of Raritan Bay Medical Center as set forth in the Financial Information by one million dollars (\$1 million) or more, the United States may, at its option: (i) rescind this Agreement and file suit based on the Covered Conduct or (ii) let the Agreement stand and collect the full Settlement Amount plus one hundred percent (100%) of the value of the net worth of Raritan Bay Medical Center's previously undisclosed asset(s). To the extent that the United States discovers the occurrence of an event encompassed by subparts (a) and (b) of this Paragraph, Raritan Bay Medical Center agrees not to contest any collection action undertaken by the United States pursuant to these provisions. In the event that the United States opts to rescind this Agreement, Raritan Bay Medical Center agrees not to plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any civil or administrative claims that are filed by the United States within 120 calendar days of written notification to Raritan Bay Medical Center that this Agreement has been rescinded, and that relate to the Covered Conduct, except to the extent these defenses were available on the Effective Date of this Agreement.

17. The Released Raritan Bay Entities, together with their current and former parent corporations, direct and indirect subsidiaries, affiliates, and divisions, and the successors and assigns of any of them, waive and shall not assert any defenses they may have to any criminal prosecution or administrative action relating to the Covered Conduct, which defenses may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this Paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue Laws, Title 26 of the United States Code.

18. The Released Raritan Bay Entities agree to cooperate fully and truthfully with the United States' investigation of individuals and entities not released in this Agreement that the United States believes may have (a) submitted false claims to the Government Health Care Programs for inpatient and outpatient outlier payments, or (b) engaged in conduct resulting in others submitting false claims to the Government Health Care Programs for inpatient and outpatient outlier payments. Upon reasonable notice, the Released Raritan Bay Entities shall encourage, and agree not to impair, the cooperation of its directors, officers, and employees, and shall use their best efforts to make available, and encourage the cooperation of, former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. The Released Raritan Bay Entities also agree to furnish to the United States complete and unredacted copies of all documents, reports, memoranda of interviews, and records in their possession, custody, or control requested by the United States in furtherance of its investigation; provided, however, that the Released Raritan Bay Entities do not waive any

privileges that otherwise may apply to such production and do not agree to furnish to the United States documents that are subject to privileges.

19. Any and all payments of the Settlement Amount that Raritan Bay Medical Center must make pursuant to this Agreement shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare carrier or fiscal intermediary, or any state payer, related to the Covered Conduct. The Released Raritan Bay Entities agree not to resubmit to any Medicare carrier or fiscal intermediary, or any state payer, any previously denied claims related to the Covered Conduct, and agree not to appeal any such denials of claims.

20. Raritan Bay Medical Center agrees to the following:

a. Unallowable Costs Defined: That all costs (as defined in the 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 the Released Raritan Bay Entities, or their current and former employees, officers and trustees of any of them, in connection with the following are unallowable costs on government contracts and under the Medicare Program, Medicaid Program, TRICARE Program, and the Federal Employee Health Benefits Program (“FEHBP”):

- (1) the matters covered by this Agreement,
- (2) the United States’ audit(s), civil investigation(s) and litigation of the matters covered by this Agreement,
- (3) The Released Raritan Bay Entities’ investigation, defense, and corrective actions undertaken in response to the United States’ audit(s), civil investigation(s),

and litigation in connection with the matters covered by this Agreement (including attorneys' fees),

(4) the negotiation and performance of this Agreement,

(5) the payments made pursuant or ancillary to this Agreement,

including any costs and attorneys' fees, and

(6) the negotiation of, and obligations undertaken pursuant to, the CIA

entered into between OIG-HHS and Raritan Bay Medical Center to: (i) retain an independent review organization ("IRO") to perform annual reviews as described in Section III of the CIA; and (ii) prepare and submit reports to the OIG-HHS. However, nothing in this Paragraph 20.a(6) 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 the Released Raritan Bay Entities. (All costs described or set forth in this Paragraph 20.a. 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 Raritan Bay Medical Center, and Raritan Bay Medical Center 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 Raritan Bay Medical Center, or any of its current and former parent corporations, each of their direct and indirect subsidiaries, divisions, affiliates, predecessors, successors and assigns, along with the current and former employees, officers and trustees of any of them to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment:

Raritan Bay Medical Center further agrees that, within 90 days of the Effective Date of this

Agreement, it shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and 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 report, cost statement, information report, or payment request already submitted by any of the Released Raritan Bay Entities or any of their current and former employees, officers, and trustees, 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. Raritan Bay Medical Center agrees that the United States, at a minimum, shall be entitled to recoup from any of the Released Raritan Bay Entities any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted cost reports, information reports, cost statements, or requests for payment. If any of the Released Raritan Bay Entities fails to identify such costs in past-filed cost reports in conformity with this Paragraph, the United States may seek an appropriate penalty or other sanction in addition to the recouped amount.

Any payments due 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. The United States reserves its rights to disagree with any calculations submitted by the Released Raritan Bay Entities on the effect of inclusion of Unallowable Costs (as defined in this Paragraph) on the cost reports, cost statement, or information reports of the Released Raritan Bay Entities.

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 the Released Raritan

Bay Entities to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

21. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other individual, employee, or entity, except to the extent provided for specifically herein.

22. The Released Raritan Bay Entities agree that they waive and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third party payors. The Released Raritan Bay Entities waive any causes of action against these beneficiaries or their parents, sponsors, legally responsible individuals, or any third party payors based upon the claims for payment covered by this Agreement.

23. Raritan Bay Medical Center expressly warrants that it has reviewed its financial situation and that it is currently solvent within the meaning of 11 U.S.C. §§ 547(b)(3), and 548(a)(1)(B)(ii)(I), and believes that it shall remain solvent following its payments to the United States hereunder. Further, the Parties expressly 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 Raritan Bay Medical Center, 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 and do, in fact, represent a reasonably equivalent exchange of value which is not intended to hinder, delay, or defraud any entity to which Raritan Bay Medical Center was or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C.

§ 548(a)(1).

24. In the event that Raritan Bay Medical Center commences, or a third party commences, within 91 days of the Effective Date of this Agreement, or of any payment made hereunder, 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 Raritan Bay Medical Center's debts, or seeking to adjudicate Raritan Bay Medical Center as bankrupt or insolvent; or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for Raritan Bay Medical Center for all or any substantial part of Raritan Bay Medical Center's assets, Raritan Bay Medical Center agrees as follows:

a. Raritan Bay Medical Center's obligations under this Agreement may not be avoided pursuant to 11 U.S.C. §§ 547 or 548, and Raritan Bay Medical Center shall not argue or otherwise take the position in any such case, proceeding, or action that: (i) Raritan Bay Medical Center's obligations under this Agreement may be avoided under 11 U.S.C. §§ 547 or 548; (ii) Raritan Bay Medical Center was insolvent at the time this Agreement was entered into, or became insolvent as a result of any payment 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 Raritan Bay Medical Center.

b. If Raritan Bay Medical Center's obligations under this Agreement 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 Raritan Bay Medical Center for the claims that would otherwise be covered by the releases provided in Paragraphs 4, 6, and 7 above. Raritan Bay Medical Center agrees

that (i) any such claim, action, or proceeding brought by the United States (including any proceeding to exclude any of the Released Raritan Bay Entities from participation in Medicare, Medicaid, 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 that Raritan Bay Medical Center shall not argue or otherwise contend that the United States’ claim, action, or proceeding is subject to an automatic stay; (ii) Raritan Bay Medical Center 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 claim, action, or proceeding that is brought by the United States within 120 calendar days of written notification to Raritan Bay Medical Center that the releases have been rescinded pursuant to this Paragraph, except to the extent such defenses were available on the Effective Date of this Agreement; and (iii) the United States has a valid claim against Raritan Bay Medical Center for the Covered Conduct, and the United States may pursue its claims in any case, action, or proceeding referenced in the first clause of this subparagraph.

c. Raritan Bay Medical Center acknowledges that its agreements in this Paragraph are provided in exchange for valuable consideration provided in this Agreement.

25. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

26. This Agreement is governed by the laws of the United States. The United States and Raritan Bay Medical Center agree that the exclusive jurisdiction and venue for any dispute arising between the United States and Raritan Bay Medical Center under this Agreement will be in the United States District Court for the District of New Jersey. Notwithstanding the terms of this Paragraph, disputes arising under the CIA shall be resolved exclusively under the dispute

resolution provisions in the CIA.

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

28. The individuals signing this Agreement on behalf of Raritan Bay Medical Center warrant that they are authorized by Raritan Bay Medical Center to execute this Agreement. The United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement. The individuals signing this Agreement on behalf of the Salvatori Relators, Relator Monahan, and Relator Kite represent and warrant that they are authorized by those respective Relators to execute this Agreement.

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

30. This Agreement is binding on the successors, transferees, heirs, and assigns of Raritan Bay Medical Center.

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

32. This Agreement is effective on the date of signature of the last signatory to the Agreement ("Effective Date"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: 2/9/07

BY: 

STUART A. MINKOWITZ
Assistant United States Attorney
District of New Jersey

DATED: 2/12/07 *by MGH*PATRICK L. MEEHAN
United States AttorneyBY: *Virginia A. Gibson*
VIRGINIA A. GIBSON *MGH*
Chief, Civil Division
Assistant United States Attorney
Eastern District of PennsylvaniaDATED: 3/9/07BY: *Daniel A. Spiro*
DANIEL SPIRO
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: _____

BY: _____
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

DATED: _____

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Inspector General
United States Department of
Health and Human ServicesFOR RARITAN BAY MEDICAL CENTER

DATED: _____

BY: _____
Michael R. D'Agnes
President
Raritan Bay Medical Center

DATED: _____

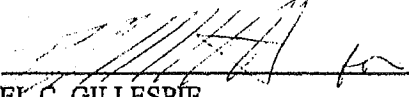
PATRICK L. MEEHAN
United States Attorney

BY: _____
VIRGINIA A. GIBSON
Chief, Civil Division
Assistant United States Attorney
Eastern District of Pennsylvania

DATED: _____

BY: _____
DANIEL SPIRO
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: 15 Feb 07

BY: 
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

DATED: _____

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

FOR RARITAN BAY MEDICAL CENTER

DATED: _____

BY: _____
Michael R. D'Agnes
President
Raritan Bay Medical Center

DATED: _____

PATRICK L. MEEHAN
United States Attorney

BY: _____
VIRGINIA A. GIBSON
Chief, Civil Division
Assistant United States Attorney
Eastern District of Pennsylvania


DATED: _____

BY: _____
DANIEL SPIRO
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: _____

BY: _____
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

DATED: 2/16/07

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

FOR RARITAN BAY MEDICAL CENTER

DATED: _____

BY: _____
Michael R. D'Agnes
President
Raritan Bay Medical Center

DATED: _____

PATRICK L. MEEHAN
United States Attorney

BY: _____

VIRGINIA A. GIBSON
Chief, Civil Division
Assistant United States Attorney
Eastern District of Pennsylvania

DATED: _____

BY: _____

DANIEL SPIRO
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: _____

BY: _____

LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

DATED: _____

BY: _____

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

FOR RARITAN BAY MEDICAL CENTER

DATED: Feb. 16, 2007

BY: Michael R. D'Agnes

Michael R. D'Agnes
President
Raritan Bay Medical Center

DATED: Feb. 16, 2007

BY: Jesse A. Witten
JESSE WITTEN
Ropes & Gray
Counsel for Raritan Bay Medical Center

FOR THE RELATORS

DATED: _____

BY: _____
PETER SALVATORI
Relator

DATED: _____

BY: _____
SARA C. IVESON
Relator

DATED: _____

BY: _____
JOHN E. RILEY, Esq.
Vaira & Riley, P.C.
Counsel for Relators Peter Salvatori and
Sara C. Iveson

DATED: _____

BY: _____
JESSE WITTEN
Ropes & Gray
Counsel for Raritan Bay Medical Center

FOR THE RELATORS

DATED: 2-9-07

BY: 
PETER SALVATORI
Relator

DATED: _____

BY: _____
SARA C. IVESON
Relator

DATED: _____

BY: _____
JOHN E. RILEY, Esq.
Vaira & Riley, P.C.
Counsel for Relators Peter Salvatori and
Sara C. Iveson

DATED: _____

BY: _____
JESSE WITTEN
Ropes & Gray
Counsel for Raritan Bay Medical Center

FOR THE RELATORS

DATED: _____

BY: _____
PETER SALVATORI
Relator

DATED: 2/12/07

BY: Sara C. Iveson
SARA C. IVESON
Relator

DATED: _____

BY: _____
JOHN E. RILEY, Esq.
Vaira & Riley, P.C.
Counsel for Relators Peter Salvatori and
Sara C. Iveson

DATED: _____

BY: _____
JESSE WITTEN
Ropes & Gray
Counsel for Raritan Bay Medical Center

FOR THE RELATORS

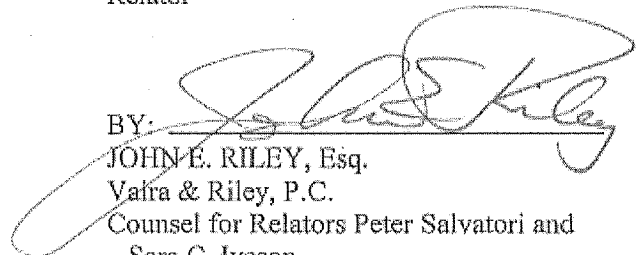
DATED: _____

BY: _____
PETER SALVATORI
Relator

DATED: _____

BY: _____
SARA C. IVESON
Relator

DATED: Feb. 9, 2007

BY: 
JOHN E. RILEY, Esq.
Valta & Riley, P.C.
Counsel for Relators Peter Salvatori and
Sara C. Iveson

DATED: 2/9/07BY: [Signature]
JAMES T. MONAHAN
Relator

DATED: _____

BY: _____
MARC S. RASPANTI, Esq.
Miller, Altano & Raspanti, P.C.
Counsel for Relator James T. MonahanDATED: 2/9/07BY: [Signature]
NICHOLAS C. HARBIST, Esq.
Blank Rome, LLP
Counsel for Relator James T. Monahan

DATED: _____

BY: _____
ANTHONY KITE
Relator

DATED: _____

BY: _____
JONATHAN S. BERCK, Esq.
Jonathan S. Berck, I.L.C.
Counsel for Relator Anthony Kite

DATED: _____

BY: _____
ERIKA A. KELTON, Esq.
LARRY P. ZOGLIN, Esq.
Phillips & Cohen, L.L.P.
Counsel for Relator Anthony Kite

DATED: _____

BY: _____
JAMES T. MONAHAN
Relator

DATED: 2/9/07

BY: Marc S. Raspanti
MARC S. RASPANTI, Esq.
Miller, Alfano & Raspanti, P.C.
Counsel for Relator James T. Monahan

DATED: _____

BY: _____
NICHOLAS C. HARBIST, Esq.
Blank Rome, LLP
Counsel for Relator James T. Monahan

DATED: _____

BY: _____
ANTHONY KITE
Relator

DATED: _____

BY: _____
JONATHAN S. BERCK, Esq.
Jonathan S. Berck, L.L.C.
Counsel for Relator Anthony Kite

DATED: _____

BY: _____
ERIKA A. KELTON, Esq.
LARRY P. ZOGLIN, Esq.
Phillips & Cohen, L.L.P.
Counsel for Relator Anthony Kite

DATED: _____

BY: _____
JAMES T. MONAHAN
Relator

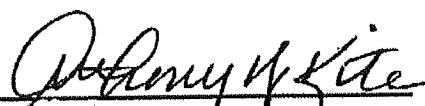
DATED: _____

BY: _____
MARC S. RASPANTI, Esq.
Miller, Alfano & Raspanti, P.C.
Counsel for Relator James T. Monahan

DATED: _____

BY: _____
NICHOLAS C. HARBIST, Esq.
Blank Rome, LLP
Counsel for Relator James T. Monahan

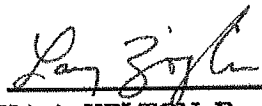
DATED: 2/12/2007

BY: 
ANTHONY KITE
Relator

DATED: _____

BY: _____
JONATHAN S. BERCK, Esq.
Jonathan S. Berck, L.L.C.
Counsel for Relator Anthony Kite

DATED: 2/13/07

BY: 
ERIKA A. KELTON, Esq.
LARRY P. ZOGLIN, Esq.
Phillips & Cohen, L.L.P.
Counsel for Relator Anthony Kite

DATED: _____

BY: _____
JAMES T. MONAHAN
Relator

DATED: _____

BY: _____
MARC S. RASPANTI, Esq.
Miller, Alfano & Raspanti, P.C.
Counsel for Relator James T. Monahan

DATED: _____

BY: _____
NICHOLAS C. HARBIST, Esq.
Blank Rome, LLP
Counsel for Relator James T. Monahan

DATED: _____

BY: _____
ANTHONY KITE
Relator

DATED: 2-13-07

BY: Jonathan S. Berck
JONATHAN S. BERCK, Esq.
Jonathan S. Berck, L.L.C.
Counsel for Relator Anthony Kite

DATED: _____

BY: _____
ERIKA A. KELTON, Esq.
LARRY P. ZOGLIN, Esq.
Phillips & Cohen, L.L.P.
Counsel for Relator Anthony Kite