

STATE SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement ("Agreement") is entered into between the State of New York (the "STATE"), EIHAB Human Services, Inc ("EIHAB") through their authorized representatives, and Jane Merolla and Maria Cioffi-Krause (the "Relators"), hereinafter collectively referred to as "the Parties."

II. PREAMBLE

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

- A. EIHAB is a corporation organized under the laws of the State of New York with its principal place of business located at 168-18 South Conduit Avenue, Springfield Gardens, New York.
- B. EIHAB provides Day Habilitation, Residential Habilitation, Medicaid Service Coordination and other services to Medicaid recipients.
- C. Jane Merolla is an individual resident of Pennsylvania.
- D. Maria Cioffi-Krause is an individual resident of New York.
- E. On March 1, 2010, Jane Merolla and Maria Cioffi-Krause (collectively, the "Relators") filed a qui tam Complaint, and on or about February 27, 2012 the Relators filed an Amended Qui Tam Complaint (the "Amended Complaint"), in the United States District Court for the Eastern District of New York captioned United States ex rel. Jane Doe and Mary Roe v. EIHAB Human Services, Inc., et al., No. 10-CV-0898 (EDNY) (hereinafter, "the EDNY Civil Action").

F. EIHAB has entered into or will be entering into a separate settlement agreement (the "Federal Settlement Agreement") with the United States (as that term is defined in the Federal Settlement Agreement).

G. The State of New York contends that it has certain claims against EIHAB for engaging in the following conduct (hereinafter referred to as the "Covered Conduct") in connection with services provided to New York State Medicaid Program ("Medicaid") recipients during the period January 1, 2006 through December 31, 2010: EIHAB presented false claims to Medicaid for Day Habilitation services purportedly provided by EIHAB to Medicaid recipients on days in which the Medicaid recipients who purportedly received the services were listed as absent from EIHAB's Day Habilitation the program in EIHAB's internal attendance records. In reliance on EIHAB's claim submissions, the New York State Medicaid program paid EIHAB for Day Habilitation services purportedly provided to Medicaid recipients who were not present at EIHAB's facilities according to EIHAB's internal attendance records.

H. This Agreement is neither an admission of liability by EIHAB nor a concession by the State of New York or Relators that their claims are not well founded.

I. 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 below.

III. TERMS AND CONDITIONS

1. EIHAB shall pay to the United States and the State of New York, the sum of Ninety Thousand Dollars and zero cents (\$90,000.00) (the "Full Settlement Amount"). On the Effective Date of this Agreement, as defined in Paragraph 22 herein ("Effective Date"), this sum shall constitute a debt due and immediately owing to the United States and the State of New

York. EIHAB shall discharge its debt to the United States and the State of New York under the following terms and conditions:

- a. EIHAB shall pay to the United States the sum of Thirty-Six Thousand Dollars and zero cents (\$36,000.00) (the "Federal Settlement Amount").
- b. EIHAB shall pay to the State of New York the sum of Fifty-Four Thousand Dollars and zero cents (\$54,000.00) (the "State Settlement Amount").

2. EIHAB agrees to obtain a compliance monitor (the "Monitor") at EIHAB's expense relating to EIHAB services provided and billed under the Medicaid program. The Monitor will be subject to the approval of the STATE, will commence as of February 1, 2013 and continue for a period of two years. The STATE agrees not to unreasonably withhold approval of any reasonable selection of the Monitor by EIHAB. The Monitor shall be responsible for selecting and reviewing a sample of EIHAB's records on a quarterly basis for the purpose of ensuring that EIHAB is maintaining adequate and accurate documentation of all services provided and billed under the Medicaid program. After each quarterly review, the Monitor shall file a written report of its findings with the New York State Attorney General's Office. In the event that the Attorney General's Office in its sole discretion deems the Monitor's reports, or EIHAB's responses thereto, to be inadequate, the Attorney General's Office may require EIHAB to extend the term of the Monitor for an additional period of up to one year, or take any other action authorized by law to remedy the deficiencies identified by the Attorney General's Office.

3. Subject to the exceptions in Paragraph 5 below, and in consideration of the obligations of EIHAB set forth in this Agreement, conditioned upon receipt by the State of the State Settlement Amount defined in Paragraph 1.b above and EIHAB's compliance with the

terms of Paragraph 2 above, the State of New York agrees to release EIHAB, its current or former owners, transferees, assigns, and their current or former directors, officers, attorneys and employees (collectively, the "EIHAB Released Entities"), from any civil or administrative monetary claim that the State has for the Covered Conduct under the New York False Claims Act, N.Y. State Fin. Law §§ 187 et seq., N.Y. Executive Law § 63(12), N.Y. Social Services Law § 145-b, or the common law or equitable theories of payment by mistake, disgorgement, unjust enrichment, breach of contract and fraud.

4. Upon receipt of the Full Settlement Amount, the Parties shall promptly sign and file a Joint Partial Stipulation of Dismissal in the EDNY Civil Action. The stipulation of dismissal shall be (a) with prejudice as to the claims encompassed by the Covered Conduct pursuant to and consistent with the terms and conditions of the Agreement; and (b) without prejudice as to the State of New York and the United States and with prejudice as to Relators as to all other qui tam claims. Relators shall be permitted to move forward with their claims asserted in Counts 7, 11, 12, 13, 14, and 15 of the Amended Complaint. In addition, the Court shall retain jurisdiction over this Stipulation and each Party to the extent the obligations herein remain unsatisfied by that Party.

5. Notwithstanding any term of this Agreement, the State of New York specifically does not release any person or entity from any of the following liabilities:

- a. Any civil, criminal, or administrative liability arising under state revenue codes;
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability;

- d. Any civil liability that EIHAB has or may have under any state statute, regulation, or rule not covered by this agreement;
- e. Any liability to the State of New York for any conduct other than the Covered Conduct;
- f. Any liability which may be asserted, directly or indirectly, by private payors or insurers, including those that are paid by the State of New York's Medicaid Program on a fully capitated basis;
- g. Any liability based upon such obligations as are created by this Agreement;
- h. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct;
- j. Any liability for failure to deliver goods or services due; or
- k. Except as expressly provided for in Paragraph 3, any liability of individuals.

6. EIHAB waives and shall not assert any defenses EIHAB may have to any criminal prosecution or 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 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 State of New York concerning the characterization of the State Settlement Amount for purposes of the state tax laws.

7. EIHAB, for itself and its officers, directors, employees, agents, attorneys, assigns and successors in interest, fully and finally releases the State of New York, its agencies, employees, attorneys and agents from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that EIHAB has asserted, could have asserted, or may assert in the future against the State of New York, its agencies, employees, attorneys, and agents, related to the Covered Conduct and the State of New York's investigation and prosecution thereof.

8. Relators, for themselves, and for their heirs, successors, attorneys, agents, and assigns, release EIHAB, and its officers, agents, and employees, from any liability to Relators arising from the filing of the Civil Action, with the exception of: (a) claims under 31 U.S.C. § 3730(d) and N.Y. State Fin. Law 190(7) for expenses or attorney's fees and costs; and (b) those claims asserted in Counts 7, 11, 12, 13, 14, and 15 of the Amended Complaint.

9. EIHAB, for itself and its officers, directors, employees, agents, attorneys, assigns and successors in interest, releases Relators and their respective heirs, successors, attorneys, agents and assigns, from any liability to EIHAB relating to the Covered Conduct, Relators' investigation of the qui tam claims in this action, and the qui tam claims that Relators have asserted on behalf of the State of New York or the United States and in this action.

10. EIHAB agrees not to resubmit to the State of New York's Medicaid Program any previously-denied claims related to the Covered Conduct, and agrees not to appeal any such denials of claims. Nothing in this Paragraph 10 shall restrict EIHAB's right to contest any

denials, withholdings, or claims by any private payors or insurers, including those paid by the State of New York's Medicaid Program on a capitated basis.

11. Contingent upon receipt of the State Settlement Amount, the STATE agrees to pay, as soon as feasible after such receipt, agreed-upon amounts that have been addressed via side letter to the Relators.

12. This Agreement is intended to be for the benefit of the Parties and the EIHAB Released Entities only. The Parties do not release any claims against any other person or entity, other than the EIHAB Released Entities.

13. EIHAB agrees that it waives 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 based upon the claims defined as Covered Conduct.

14. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement, except for Relators' claim against EIHAB for attorneys' fees, costs, and expenses pursuant to 31 U.S.C. § 3730 (d) and New York State Fin. Law § 190(7) and except to the extent attorneys' fees, costs, and expenses may be otherwise recoverable in connection with Relators' claims asserted in Counts 7, 11, 12, 13, 14, and 15 of the Amended Complaint in the Civil Action.

15. EIHAB represents that this Agreement is freely and voluntarily entered into without duress or compulsion.

16. This Agreement is governed by the laws of the State of New York.

17. 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.

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

19. The individuals signing this Agreement on behalf of EIHAB represent and warrant that they are authorized by EIHAB to execute this Agreement. The signatories of the State of New York represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement. Counsel for the Relators signing this agreement represent and warrant that they are authorized by the Relators to execute this Agreement.

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

21. This Agreement is binding on EIHAB's successors, transferees, heirs, and assigns.

22. This Agreement is effective on the later of the date of the last signatory to the Agreement and the Effective Date of the Federal Settlement Agreement ("Effective Date of this Agreement"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

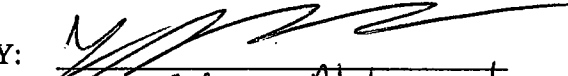
THE STATE OF NEW YORK

DATED: 1/25/13 BY:

AG
Name Andrew Gropper
Title Special Assistant Attorney General
Office of the Attorney General

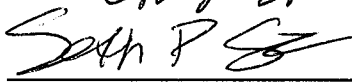
EIHAB - DEFENDANT

DATED: 1/19/13

BY: 

Name: Fabma Abbond
Title: Chief Executive Director

DATED: 1/24/13

BY: 

Seth P. Stein
Counsel for EIHAB

COUNSEL FOR RELATORS

MCINNIS LAW

Richard F. Bernstein

Richard F. Bernstein, Esq.

McInnis Law

521 5th Ave, 17th Floor

New York, NY 10175