

Settlement Agreement
Between the Attorney General of the State of New York
and Staten Island University Hospital and SIUH Systems, Inc.
Dated: May 17, 2005

WHEREAS, the Attorney General of the State of New York (the “Attorney General”), on behalf of the State of New York, commenced an action against Staten Island University Hospital and others pursuant to Executive Law § 63(12), Social Services Law § 145-b, and the common law of the State of New York, dated May 17, 2005 (the “Complaint”), and had previously conducted an investigation through the Medicaid Fraud Control Unit (the “MFCU Investigation”) into activity at Staten Island University Hospital (“SI Hospital”), a corporation which SIUH Systems, Inc. controls as the sole member under the New York Not-For-Profit Corporation Law (hereinafter, collectively, with their incorporated subsidiaries, “SIUH”);

WHEREAS, the Attorney General has determined that SIUH unlawfully obtained Medicaid reimbursement by falsely billing Medicaid for services in 21 clinics operated by CHAPS Community Health Services, Inc., a corporation which SI Hospital controls as the sole member under the New York Not-For-Profit Corporation Law, by billing at high rates applicable to part-time clinics, while not in fact functioning as part-time clinics, and also obtained additional reimbursement for clinics at an improper rate due to the submission of false Cost Report financial data, as alleged in the Complaint;

WHEREAS, the New York State Department of Health (“DOH”) has established that CHAPS Community Health Services, Inc. also improperly received funds from Medicaid due to an incorrect reimbursement rate during the time from January 1999 to September 2002 (the “DOH CHAPS Retroactive Rate Claim”) and DOH has determined that SIUH should be responsible for such liability;

WHEREAS, DOH is willing to accept structured payments in satisfaction of the DOH CHAPS Retroactive Rate Claim and the Attorney General is authorized to accept such payments on behalf of DOH;

WHEREAS, SIUH is cooperating with the MFCU Investigation;

WHEREAS, as a result of the MFCU Investigation, SIUH has adopted, and under this Agreement (the “Agreement”) will continue to adopt, a number of managerial and operational reforms (the “Corporate Governance Reforms”) that will govern the conduct of SIUH officers, employees and board members;

WHEREAS, the Attorney General on behalf of the State of New York and SIUH (collectively, the “Parties”) wish to enter into this Agreement as of the date set forth above to resolve all issues in the Complaint and otherwise identified by the MFCU Investigation relating to the operations of CHAPS Community Health Services, Inc. and the DOH CHAPS Retroactive Rate Claim;

WHEREAS, the Attorney General finds the relief and promises set forth in this Agreement appropriate and in the public interest;

WHEREAS, this Agreement is entered into solely for the purpose of resolving the issues identified by the MFCU Investigation relating to the operations of CHAPS Community Health Services, Inc. and DOH CHAPS Retroactive Rate Claim, and is not intended to be used for any other purpose;

WHEREAS, SIUH neither admits nor denies the conduct set forth in the Complaint;

NOW THEREFORE, SIUH and the Attorney General on behalf of the State of New York enter into this Agreement, as follows:

Section I:

MONETARY RELIEF

1. SIUH shall pay the sum of Seventy-Six Million, Five Hundred Thousand dollars (\$76,500,000) in annual installments in the years 2005 to 2017, representing repayment of money overpaid by the State of New York for Medicaid claims submitted by SIUH, in satisfaction of the issues identified by the MFCU Investigation relating to the operations of CHAPS Community Health Services, Inc. and in satisfaction of the DOH CHAPS Retroactive Rate Claim, according to the following schedule:

Payment Due Date:	Amount of Payment to DOH	Amount of Payment to the Attorney General on behalf of the State of New York
December 31, 2005	\$5,000,000	\$15,000,000
December 31, 2006	\$2,000,000	\$3,000,000
December 31, 2007	\$2,000,000	\$3,000,000
December 31, 2008	\$2,000,000	\$3,000,000
December 31, 2009	\$2,000,000	\$3,000,000
December 31, 2010	\$2,000,000	\$3,000,000
December 31, 2011	\$2,000,000	\$3,000,000
December 31, 2012	\$2,000,000	\$3,500,000
December 31, 2013	\$2,000,000	\$3,500,000
December 31, 2014	\$2,000,000	\$3,500,000
December 31, 2015	\$3,000,000	\$0
December 31, 2016	\$3,000,000	\$0
December 31, 2017	\$4,000,000	\$0
Total Sums for Reference Only	\$33,000,000	\$43,500,000

2. Commencing upon the Effective Date of this Agreement, DOH may withhold a percentage of current and future Medicaid reimbursement validly payable to SIUH reasonably calculated to ensure, on an annualized basis, collection of the payments due to DOH and the Attorney General on behalf of the State pursuant to DOH's procedures in effect as of the date such payments are due from SIUH. In the event SIUH has not accrued, or is not expected to

accrue, sufficient valid claims for Medicaid reimbursement to satisfy the annual payments as of the date such payments are due, DOH or the Attorney General may require payment to be made by other means within thirty (30) days of written notice to SIUH.

3. In consideration of the foregoing payments by SIUH, the payments made hereunder shall be received in full satisfaction of SIUH's obligations hereunder, and neither the Attorney General nor DOH shall seek to impose on SIUH any other financial obligation or administrative sanction on account of the DOH CHAPS Retroactive Rate Claim, the conduct described in the Complaint, or otherwise previously discovered during the MFCU Investigation relating to the operations of CHAPS Community Health Services, Inc.

4. Commencing upon the Effective Date of this Agreement, DOH shall discontinue (a) all administrative claim-withholding procedures currently imposed on CHAPS Community Health Services, Inc. (MMIS# 01806959) and (b) the 15% administrative claim-withholding procedure on SI Hospital instituted on March 16, 2005, and shall credit such withheld Medicaid reimbursement funds against the payments due on December 31, 2005, set forth in Par. 1. SIUH hereby waives any claims to said withheld funds and consents to the foregoing application of said funds.

Section II:

MAINTAINING HEALTHCARE SERVICES

5. SIUH shall maintain its current level of health care services to the community. This Section shall not be construed to foreclose SIUH from: (a) increasing services to the community, (b) maintaining and/or improving the delivery of overall healthcare services by changing individual service components (including adding, consolidating, and/or

discontinuing services) provided such changes do not result in reducing the current level of primary or emergency care to underserved areas or populations, or (c) making service reductions caused by future governmental cuts in program funding or reductions in governmental or other third party reimbursement.

Section III:

CORPORATE GOVERNANCE REFORMS

Corporate Compliance Officer

6. SIUH will appoint a Chief Compliance Officer (“Compliance Officer”) who will have primary responsibility for the development, implementation, coordination and monitoring of SIUH’s compliance and ethics program. In addition, the Compliance Officer will be responsible for coordinating internal compliance audits, developing and overseeing SIUH’s compliance training programs, and serving as an advisor to SIUH and its employees on compliance questions and issues.

7. The Compliance Officer will report directly to the Chief Executive Officer of SIUH, to the SI Hospital Board of Trustees (“the SI Hospital Board”) and to the SIUH Systems Board of Trustees (“the Systems Board”) through the Systems Board’s Compliance and Audit Committee (“Audit Committee”). The Compliance Officer’s compensation will be set in accordance with Par. 28, except that the Systems Board’s Compensation Committee will consult with the Audit Committee in establishing the Compliance Officer’s recommended compensation. The CEO may not terminate the employment of the Compliance Officer without prior approval of the Systems Board. The Compliance Officer

will have the power to communicate directly and confidentially with the SI Hospital Board, the Audit Committee and the Systems Board.

8. The Compliance Officer will have immediate and unfettered access to all documents and information and the authority to attend any meeting that he or she deems necessary to conduct compliance oversight.

9. Subject to the oversight of the Audit Committee, the Compliance Officer will have the independent duty, authority and resources to initiate compliance investigations and, in consultation with the General Counsel, to retain outside counsel with respect to matters relevant to the compliance program. The Compliance Officer will inform the Independent Monitor of any activity undertaken pursuant to this authority relating to matters within the Independent Monitor's duties pursuant to Par. 45. The Compliance Officer shall inform the Independent Monitor of any circumstances preventing the Compliance Officer from carrying out the Compliance Officer's duties hereunder.

10. The Compliance Officer will develop a plan to detect, analyze and investigate compliance deficiencies and to develop timely and effective corrective action plans, and will report on the plan to the Audit Committee. The Audit Committee will, at least annually, review all corrective action plans to verify that they were implemented and were successful in eliminating identified deficiencies.

11. The Compliance Officer will issue an annual written compliance report to be distributed to each member of each SIUH Board and to the Independent Monitor. The annual compliance report will include but not be limited to: a summary of all internal compliance investigations, audits or other significant actions; an evaluation of the effectiveness of the

compliance program; the resources required to maintain the efficacy of the program; and SIUH's response to any identified compliance deficiencies.

General Counsel

12. The SI Hospital and SIUH Systems General Counsel will report directly to the CEO of SIUH, the SI Hospital Board, and the Systems Board. The General Counsel must provide the Systems Board with appropriate and timely information on SIUH's compliance with applicable laws. The General Counsel shall not be a member of any SIUH board. The General Counsel will coordinate with the Compliance Officer in administering the compliance program.

Systems Board Audit Committee

13. The Systems Board will have an Audit Committee. The Audit Committee will meet at least quarterly.

14. No member of the Audit Committee may have financial or employment relationships with any SIUH entity (other than fees or reimbursements which are generally paid to all Systems Board members). At least one member of the Audit Committee must have financial and accounting expertise, and all other members of the Audit Committee must receive, at least annually, continuing education on financial and accounting developments relevant to the healthcare industry.

15. The Audit Committee will, at least annually, review the effectiveness of the SIUH Compliance program and ensure that the Compliance program has adequate resources to carry out its function.

16. The Audit Committee will, at least annually, review with inside auditors the scope and adequacy of internal audit plans. The Audit Committee will oversee SIUH's internal financial controls and make recommendations to the Systems Board to ensure compliance with all applicable laws and regulations in all financial transactions, as well as to minimize the occurrence of mistake, fraud, misappropriation or embezzlement.

17. The Audit Committee will have direct responsibility for the appointment, compensation, and oversight of the work of the outside auditor. The Audit Committee will have the authority to retain outside counsel or other experts and may, at its discretion, consult with the General Counsel and the Compliance Officer in making that determination.

18. The Audit Committee will be required to review with the outside auditor or other experts, as appropriate, all financial statements, Form 990s, management letters, and cost reports, and to approve proposed audit plans. The Audit Committee will meet with the outside auditor at least annually outside the presence of SIUH management.

19. The Audit Committee will be required to review annually the prior year's management letters to determine whether areas of concern have been addressed.

20. The Audit Committee will require the outside auditor to disclose to the Audit Committee (a) all critical accounting policies and practices used within the organization and (b) any discussions with management concerning such policies and practices.

21. The Audit Committee will ensure that SIUH's outside auditor is changed at least once every five years, with the initial five year period commencing on August 1, 2005. It will ensure that the outside auditor does not provide non-auditing services, other than tax-related services and Form 990 preparation, to any SIUH entity.

22. The Audit Committee will be responsible for reviewing conflicts of interest and for reviewing SIUH board members' annual conflict of interest disclosure forms.

23. The Audit Committee will ensure that SIUH maintains an effective document retention policy, including provisions for retention of electronic data.

Code of Conduct and Self-Reporting

24. SIUH will have a Code of Conduct that governs employee, officer and board member conduct. SIUH will distribute its Code of Conduct to all employees and board members annually, and require each such person, upon first receipt and upon subsequent redistributions, to verify in writing that they received the Code of Conduct and will comply with its terms.

25. The Code of Conduct will, at a minimum:

- a. State that SIUH regards corporate and employee integrity as critical to its operations.
- b. Require employees, officers and board members to comply with governing laws, regulations, SIUH rules, and the Code of Conduct.
- c. State that violations of laws, regulations, SIUH rules, or the Code of Conduct will subject the violator to disciplinary action, including possible termination of employment.
- d. Require that every SIUH officer and employee (i) report any wrongdoing, (including fraud, compliance concerns, ethical breaches, conflicts of interest, and other misconduct) or suspected wrongdoing, related to SIUH operations to the Compliance Officer and (ii) fully cooperate with any investigation by

SIUH, the Independent Monitor, or any government authority. The Compliance Officer will maintain a full record of all such reports, the investigative and corrective steps taken in response to each report and any response to the reporting employee. The Compliance Officer will report on all such actions to the Independent Monitor if the matter relates to subjects within the scope of the Independent Monitor's authority pursuant to Par. 45.

- e. Require that if an SIUH officer has reported to the Compliance Officer any wrongdoing or suspected wrongdoing related to SIUH operations, such SIUH officer has an additional obligation to report such matter to the Audit Committee and, if the matter relates to subjects within the scope of the Independent Monitor's authority pursuant to Par. 45, to the Independent Monitor. The Audit Committee will maintain a full record of all such reports and the investigative and corrective steps taken.
- f. Provide a hotline telephone number for making reports pursuant to subsection d, above.
- g. State that it is a violation of the Code of Conduct for any person to harass, retaliate or take any adverse employment action against anyone making a report pursuant to subsection d, above, or to any law enforcement or regulatory body.

26. The Compliance Officer will report misconduct related to SIUH operations to the appropriate federal and state authorities if, after reasonable inquiry, the Compliance Officer believes that the misconduct may violate criminal law, or is reportable under civil or administrative law. Unless the Compliance Officer knows that the matter has already been

reported, the Compliance Officer must report such misconduct at the earliest practicable time, but in no event beyond the time period specified by law or regulation within which the matter must be reported or, if there is no such prescribed period, within 30 days from discovery or receipt of any information relating to the misconduct. If such misconduct may violate criminal law, the Compliance Officer will also report such misconduct to the Independent Monitor at the earliest practicable time.

27. SIUH will develop procedures to respond to improper or illegal activities and will take appropriate, effective, and consistent disciplinary action against employees who have violated internal compliance policies, or state, local, and federal laws or regulations.

Compensation Reforms

28. After August 1, 2005, no member of the Systems Board's Compensation Committee may have financial or employment relationships with any SIUH entity (other than fees or reimbursements which are generally paid to all Systems Board members). The Compensation Committee shall be required to approve a recommendation as to the compensation, including, but not limited to, salaries and bonuses, of the President, CEO, Chief Operating Officer, Chief Medical Officer, CFO, General Counsel, and Compliance Officer of both SI Hospital and SIUH Systems, Inc., as well as any SIUH employee serving on any SIUH board (collectively, "the Senior Personnel"). For each such approval, the Committee minutes will reflect each Committee member's vote and the factors supporting the Committee's decision ("compensation justification") which shall include a comparison to an analysis of the average compensation for that position in the healthcare industry and fully justify any compensation in excess thereof. Each compensation recommendation shall be

signed by each member voting in favor and be transmitted along with the compensation justification to the Systems Board. The Systems Board must vote on the recommendation with each member's vote recorded in the Systems Board minutes. Except for generally applicable cost-of-living adjustments, compensation arrangements of the Senior Personnel, including individual arrangements for fixed annual expense account expenditures, must be approved in advance and may not be retroactive. Total expense reimbursements for the Senior Personnel will be reviewed annually by the Compensation Committee.

29. The salaries, bonuses and expense account expenditures of each of the Senior Personnel must be specifically stated in the annual Form 990, or in the financial statements of SI Hospital and SIUH Systems, Inc.

Conflicts of Interest

30. SIUH will institute a "no gift" policy whereby no employee may solicit or accept gifts from any third-party doing business with or proposing to do business with SIUH, unless such gifts are of nominal value and are not for the purpose of influencing the employee's conduct. Physicians subject to any written gift restriction policy promulgated by SIUH consistent with 42 C.F.R. §411.357 shall be exempted from the terms of this paragraph during such time as such policy is in effect.

31. After August 1, 2005, SIUH will not enter into any transaction, other than employment agreements approved pursuant to Par. 28, with any SIUH board member or officer (or any member of his or her immediate family), or with any entity in which such person (or any member of his or her immediate family) has more than a 5% ownership interest. This prohibition shall apply to all SIUH board members and officers commencing

August 1, 2005 and shall be in effect during the time of that person's service to SIUH and for three years thereafter. Each SIUH board member and officer will annually certify under oath his or her compliance with this provision and such certification shall be maintained as part of the minutes of the Systems Board. The Audit Committee will maintain a process for answering questions, clarifying ambiguities and determining when a conflict exists.

Financial Reports to be filed with DOH

32. The CEO and CFO must each certify annually, in a form acceptable to DOH, that (a) they have reviewed each SIUH cost report, Form 990, MMIS billing certification (or equivalent) and annual financial report, and that, based upon their knowledge, each of these documents (i) does not contain any untrue statement of a material fact and (ii) does not omit to state a material fact necessary to make the statements made, in light of the circumstances in which such statements were made, not misleading; (b) based upon their knowledge, the annual financial report and the information included in the report, fairly presents in all material respects the financial condition and results of operations of SIUH as of, and for, the periods presented in the report; (c) they have evaluated the effectiveness of SIUH's internal financial controls to ensure that the material information relating to SIUH is made known to them by others within SIUH; and (d) they have disclosed to the Systems Board and SIUH's outside auditor (i) their conclusions about the effectiveness of SIUH's internal financial controls, (ii) all significant deficiencies and material weaknesses in the design or operation of SIUH's internal financial controls which could adversely affect SIUH's ability to record, process, summarize and report financial information, (iii) any corrective actions taken with regard to the identified significant deficiencies and material weaknesses in SIUH's internal financial controls, and (iv) any suspected fraud or misappropriation.

33. The CEO and the CFO will provide the Systems Board with copies of all financial and related documents that they have certified and filed with government agencies.

Board Reforms

34. A majority of the board members on each SIUH board must be persons who are not officers or other employees of SIUH. Each SIUH board member will complete annual training on SIUH's compliance requirements, relevant fraud and abuse laws, and the duties and responsibilities of board members.

35. Each SIUH board member officer shall submit an annual conflict of interest disclosure statement to the Audit Committee for filing with DOH in a form acceptable to DOH.

36. SIUH will commit to increasing the diversity of its boards by recruiting members with varied backgrounds and skills, while recognizing the needs of the Staten Island community. SIUH will not have specific residence requirements for board members, except as required by law.

37. After August 1, 2005, board members may serve a maximum of 12 years on any SIUH board.

38. All actions necessary to implement SIUH's obligations pursuant to Pars. 34-37 shall be completed no later than August 1, 2005.

39. If, subsequent to the Effective Date of this Agreement, SIUH organizes and becomes the sole member of a new tax-exempt not-for-profit corporation intended as a vehicle for fundraising for SIUH (hereinafter "SIUH Foundation"), then so long as the SIUH Foundation and its board neither have nor exercise any authority or control over SIUH, the

SIUH Foundation board members will not be subject to the requirements and obligations imposed on members of SIUH boards in Pars. 31 and 34-37. However, SIUH will not enter into any transaction with any SIUH Foundation board member (or any member of his or her immediate family), or with any entity in which such person (or any member of his or her immediate family) has more than a 5% ownership interest, unless the relevant SIUH board applies the approval procedure set forth in § 715(a)(1) of the New York Not-For-Profit Corporation Law (Interested Directors and Officers). For the purposes of applying the provisions of that statute, SIUH Foundation board members shall provide such disclosure to the relevant SIUH board as would be required of a member of such board. Each SIUH Foundation board member will annually certify to the Systems Board Audit Committee that either (a) neither they, nor any member of their immediate family, nor any entity in which they or any member of their immediate family have more than a 5% interest, have entered into any transaction with SIUH, or (b) for each such transaction entered into, the procedure outlined in this paragraph was followed.

Preventing Criminal Influence

40. SIUH shall not permit any person who SIUH or any of its present or future officers or board members, knows to be, or to have been, or who SIUH or any of its present or future officers or board members should know to be, or to have been, an alleged member or associate of an organized crime group, syndicate or “family” identified as such by a federal, state or local law enforcement or investigative agency (collectively, a “Criminal Group”) to remain or to become an officer, board member, or other employee of SIUH, nor shall SIUH permit any such person to be a vendor to SIUH, or otherwise to exercise any

control, directly or indirectly, over any operations of SIUH or to enter into any contractual obligation with SIUH.

41. In the event of a currently existing contract or other relationship between SIUH and persons or entities that SIUH suspects of being a member or associate of a Criminal Group or with any entity owned or controlled by such an individual, SIUH will immediately report all relevant facts to the Independent Monitor which will (a) investigate the relationship including, but not limited to, whether the relationship was the product of, or is currently affected by, fraud, duress, coercion, undue influence, criminal or inequitable conduct, or is otherwise void or voidable or has been breached, or whether any facts or circumstances exist permitting a legal or equitable remedy severing the relationship; and (b) provide a report of its investigation to SIUH and the Attorney General.

42. Upon receipt of a report pursuant to Par. 41, SIUH will promptly: (a) initiate and diligently prosecute lawful and appropriate litigation, if any, or take such other lawful and appropriate action, if any, to terminate the relationship between SIUH and the individual and any entity owned or controlled by such individual; and (b) report all relevant facts relating to the individual to an agency authorized to pursue civil remedies under 18 U.S.C. §1964.

43. For purposes of this Agreement, SIUH and any individual shall be deemed to have knowledge of (a) any statements concerning a person's alleged membership in, or association with, any Criminal Group appearing in any trade publication or any publication of general circulation in geographic areas in which SIUH does business, including, but not limited to, newspapers of general circulation in such areas; (b) any public reports by local, state, or federal agencies; and (c) any criminal charges publicly filed against any persons by prosecutors having jurisdiction over the geographic areas in which SIUH does business.

44. SIUH shall require vendors and individuals to certify under oath, as a condition of doing business with SIUH, that the vendor, its officers, its employees and owners are not, and have not been, members or associates of any Criminal Group as defined herein.

Independent Monitor

45. No later than August 1, 2005, SIUH will retain, at its own expense and on terms acceptable to the Attorney General, an Independent Monitor acceptable to the Attorney General for the duration of the payment schedule under this Agreement. The Independent Monitor will provide an ongoing, independent review of SIUH's adherence to all of the requirements of Pars. 26-27 concerning criminal misconduct and Pars. 40-44 concerning prevention of criminal influence, and will, in the Independent Monitor's sole discretion and without limitation, be given full access to all records of SIUH. The Independent Monitor will conduct regular audits and/or investigations to ensure that SIUH abides by the prohibition against criminal influence. The Independent Monitor may, in its sole discretion, stipulate with the Compliance Officer to a protocol for reporting de minimis instances of misconduct in satisfaction of reporting obligations to the Independent Monitor under this Agreement.

46. The Independent Monitor will make an annual written report to the Attorney General which will assess SIUH's compliance with its obligations pursuant to Pars. 26-27 concerning criminal misconduct and Pars. 40-44 concerning prevention of criminal influence, and SIUH's response to any identified compliance deficiencies. The Independent Monitor will provide each SIUH board with a copy of the report, which may be redacted in the Independent Monitor's discretion, and the Independent Monitor may require each SIUH board to respond to any identified weaknesses.

47. The Independent Monitor will have the right to communicate with state or federal regulators or prosecutors, including particularly any agency authorized to pursue civil remedies under 18 U.S.C. § 1964, without notice to, or the consent of, SIUH.

Explicit Conditions Precedent to Performance by the State

48. SIUH's obligations and representations concerning maintaining healthcare services, corporate governance and related compliance reform, avoidance of criminal influence, and the Independent Monitor, and other obligations set forth in Pars. 5-47 are explicit conditions precedent to the administrative forbearances and relief granted by the State and DOH in Par. 3, and, in the event SIUH violates such conditions, the State and DOH shall be relieved of the obligations set forth in Par. 3, and may pursue all civil, criminal and administrative remedies otherwise available under the law. Notwithstanding such violations and action by the State or DOH, SIUH's obligations hereunder shall remain in full force and effect.

Section IV:

**PROHIBITION AGAINST VIOLATING
NEW YORK LAW AND THIS AGREEMENT**

49. SIUH shall not, directly or indirectly, engage or attempt to engage in violations of Executive Law § 63(12), Social Services Law § 145-b, the Public Health Law, and the rules and regulations governing New York hospitals and the New York State Medicaid Program.

50. SIUH shall comply fully with the terms of this Agreement. The Attorney General may make any appropriate application to enforce or interpret the provisions of this Agreement or, in the Attorney General's sole discretion, commence any action or proceeding, either civil

or criminal, for such other and further relief as the Attorney General deems proper and necessary for the enforcement of this Agreement or to remedy any breach thereof.

51. DOH may take regulatory action to enforce this Agreement. DOH may investigate or take regulatory action against any current or former SIUH employee who is subject to the jurisdiction of DOH.

Section V:

COOPERATION WITH THE ATTORNEY GENERAL

52. SIUH shall fully and promptly cooperate with the Attorney General with respect to any investigation by the Attorney General, and related proceedings and actions, of any person or entity, including but not limited to SIUH's current and former employees. SIUH shall use its best efforts to ensure that its officers, directors, employees, and agents fully and promptly cooperate with any such investigation and related proceedings and actions. Cooperation shall include, without limitation: (a) production, voluntarily and without service of subpoena, of any information and all documents or other tangible evidence requested by the Attorney General (except where prohibited by statute), and any compilations or summaries of information or data that the Attorney General requests be prepared; (b) upon demand by the Attorney General, waiver of any privilege or protection applicable to information related to the MFCU Investigation, the DOH CHAPS Retroactive Rate Claim, or any matter within the authority of the Independent Monitor; (c) without the necessity of a subpoena, directing SIUH's officers, directors, employees and agents to attend any proceedings at which the presence of any such persons is requested by the Attorney General and directing such persons to answer any and all inquiries that may be put by the Attorney

General to any of them at any proceedings or otherwise (“proceedings” include, but are not limited to, any meetings, interviews, depositions, hearings, grand jury session, trial or other proceedings); (d) fully, fairly and truthfully disclosing all information and producing all records and other evidence in its possession relevant to all inquiries made by the Attorney General concerning any fraudulent or criminal conduct whatsoever about which it has any knowledge or information; and (e) SIUH shall not jeopardize the safety of any investigator or the confidentiality of any aspect of the MFCU Investigation, or any other investigation by the Attorney General, including sharing or disclosing evidence, documents, or other information with others during the course of the investigation, without the consent of the Attorney General. Nothing herein shall prevent SIUH from providing information to other government agencies or as otherwise required by law.

53. If SIUH violates the requirements of Par. 52 in any material respect, as determined solely by the Attorney General, the Attorney General may pursue any action, criminal or civil, against any person or entity for any crime it has committed, as authorized by law, without limitation. As to any criminal prosecution brought by the Attorney General for violation of law committed within six (6) years prior to the date of this Agreement or for any violation of law committed on or after the date of this Agreement, SIUH hereby waives any claim that such prosecution is time-barred on grounds of speedy trial, pre-indictment delay, speedy arraignment or any statute of limitations.

54. For the term of this Agreement, SIUH shall maintain custody of, or make arrangements to have maintained, all documents and records of SIUH related to: (a) the allegations in the Complaint and, (b) the DOH CHAPS Retroactive Rate Claims.

Section VI:

NOTICES, VENUE AND OTHER PROVISIONS

Notices

55. Any notices pursuant to this Agreement shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery, express courier, or facsimile transmission followed by postage prepaid mail, and shall be addressed as follows:

IF TO THE ATTORNEY GENERAL and the STATE:

New York State Attorney General
Medicaid Fraud Control Unit
Attn: Chief, Civil Enforcement Section
120 Broadway
New York, New York 10271

IF TO THE DEPARTMENT OF HEALTH:

Deputy Counsel
Bureau of Medicaid Law
Division of Legal Affairs
NYS Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

IF TO SIUH:

Vice President for Legal Affairs and General Counsel
Staten Island University Hospital
360 Seaview Avenue, Room 307
Staten Island, New York 10305
Facsimile: 718-226-8692

56. In any proceeding or action relating to this Agreement, facsimile transmission of a copy of any papers to the persons set forth in Par. 55, with telephone confirmation of receipt, shall be good and sufficient service on SIUH.

Term of This Agreement

57. The Effective Date of this Agreement is May 17, 2005. The term of this Agreement shall be from the Effective Date to the date of the final payment pursuant to Par.

1. At any time after five years from the Effective Date, SIUH may apply to the Attorney General for relief, in the Attorney General's sole discretion, from any obligation under this Agreement.

Persons Not Parties to This Agreement

58. Unless otherwise required by law or SIUH's bylaws, SIUH shall not pay or authorize to be paid, directly or indirectly, indemnification to any person, with regard to any or all liability arising from the allegations in the Complaint or the DOH CHAPS Retroactive Rate Claim, without approval of the Attorney General or an order of a court of competent jurisdiction; SIUH shall promptly notify the Attorney General of any demand or application for such indemnification.

59. Nothing in this Agreement shall relieve SIUH's obligations imposed by any applicable state or federal law or regulation or other applicable law, except as specifically set forth herein.

60. This Agreement shall not confer any rights upon any persons or entities other than the State, the Attorney General, DOH, and SIUH. Nothing in this Agreement shall be deemed or interpreted to create any third party beneficiaries or third party rights of action, or confer any rights in any third parties to enforce the terms of this Agreement. The State, the Attorney General, DOH, and SIUH acknowledge that nothing in this Agreement is intended

to address or resolve any issues of civil, administrative or criminal liability on the part of any person or entity not party to this Agreement, whether or not such person or entity is currently or formerly associated with or employed by SIUH. In no event shall this Agreement constitute a release as to any person or entity not a Party to this Agreement for any potential civil, administrative or criminal liability that may arise from conduct described in this Agreement.

Choice of Law and Venue

61. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York without regard to choice of law or conflict of laws principles. The Parties agree that any Stipulation of Discontinuance of the Complaint shall provide that the Court shall retain jurisdiction to enforce all provisions and terms of this Agreement. Any action to enforce the terms of this Agreement shall be brought in Supreme Court, New York County. The Parties waive any objection that any of them may now have or hereafter may have to this venue, whether concerning this Agreement or for any related suit, action or proceeding, and irrevocably consent to the jurisdiction of the Court and agree to accept and acknowledge service in any such suit, action or proceeding.

No Waiver by the State or DOH; Survivability

62. Any failure by the State or DOH to insist upon the strict performance by SIUH of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions hereof, and the State and DOH, notwithstanding that failure, shall have the right thereafter to

insist upon the strict performance of any and all of the provisions of this Agreement to be performed by SIUH.

63. If this Agreement is cancelled or voided for any reason, all payments made to the State and DOH pursuant to this Agreement, and any interest and income accrued thereon, shall be retained by the State and DOH and credited against the respective damages claims in the Complaint and the balance on the DOH CHAPS Retroactive Rate Claims. The State and DOH shall retain full rights to assert any and all causes of action against SIUH, and SIUH shall retain any and all defenses thereto.

Complete Agreement

64. This Agreement contains the entire agreement and understanding of the Parties. There are no additional promises or terms of the Agreement other than those contained herein. The terms or provisions of this Agreement may not be changed, waived, modified, or varied in any manner whatsoever unless in a writing duly signed by all Parties.

65. The captions in this Agreement are provided for convenience and do not define, limit, extend, or describe the scope or intent of this Agreement.

66. The Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be maintained by the Attorney General.

Other Provisions

67. The Agreement shall be deemed to have been mutually prepared by the Parties hereto and shall not be construed against any of them solely by reason of authorship.

68. Within fifteen (15) days of the Effective Date of this Agreement, the Attorney General and SIUH will promptly file a Stipulation of Discontinuance with Prejudice, or the equivalent, dismissing the claims against SIUH set forth in the Complaint with prejudice, and, except under the conditions set forth in Pars. 48-53, the Attorney General will not initiate a new action against SIUH related to the matters set forth in the Complaint or uncovered to date by the MFCU Investigation.

69. SIUH acknowledges that it has entered this Agreement freely and voluntarily and upon due deliberation with the advice of counsel. SIUH acknowledges that the DOH CHAPS Retroactive Rate Claim, the conduct described in the Complaint, and the conduct revealed by the MFCU Investigation exposed SIUH to substantial liability and that the forbearances and other terms granted by the State and DOH are valuable consideration for SIUH's payments and other obligations hereunder.

70. Except for the duties and obligations specifically set forth herein, this Agreement shall not be construed to conflict with the provisions of § 717 of the New York Not-For-Profit Corporation Law (Duties of Directors and Officers).

71. Any provision of this Agreement set forth in Pars. 6-47 shall be construed and interpreted to be consistent with the definitions and standards promulgated pursuant to the Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745, unless otherwise required by New York law or other terms of this Agreement.

72. Neither SIUH nor any of its affiliates, officers, directors, agents, trustees, or employees shall disparage or otherwise controvert this Agreement or any statement set forth or contemplated in this Agreement, nor take any action to deprive the State or DOH of any of the benefits under this Agreement.

73. The Attorney General may delegate any power or function hereunder to Deputy Attorneys General, Assistant Attorneys General, or other agents appointed pursuant to the Attorney General's authority, and may delegate any right or oversight function to a different State agency or officer. SIUH may not transfer or delegate any duty or obligation without consent of the Attorney General.

WHEREFORE, the following signatures are affixed hereto on this 17th day of May, 2005.

ELIOT SPITZER

Attorney General of the
State of New York

Staten Island University Hospital

BY: _____
Title:

SIUH Systems, Inc.

BY: _____
Title:

Epstein Becker & Green, P.C.

BY: _____
Hervé Gouraige, Esq.
Epstein Becker & Green, P.C.
Two Gateway Center, 12th Floor
Newark, N.J. 07102-5003

Attorneys for Staten Island University Hospital and SIUH Systems, Inc.