SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General (OIG-HHS) of the Department of Health and Human Services (HHS) (the "United States"); and The State of North Carolina (the "State"), (hereafter collectively referred to as "the Parties"), through their authorized representatives.

II. PREAMBLE

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

A. The State of North Carolina administers the Medicaid Program, which is funded by both State and Federal money. On or about April 13, 2004, the North Carolina Office of State Auditor issued audit findings and recommendations (the "State Audit"), raising concerns as to the correctness of payments made by the State to hospitals in the North Carolina Medicaid Program in connection with the Inpatient Medicaid Supplemental program and the Disproportionate Share Hospital (DSH) payment program during fiscal years 1997-2002. The United States, by and through the Centers for Medicare and Medicaid Services (CMS), the HHS Office of Inspector General, and the Department of Justice (specifically, the United States Attorneys Offices for the Eastern, Middle and Western Districts of North Carolina), has investigated the issues raised in the State Audit. The State Plan covering hospital payments during federal fiscal years 1997-2002 required that certain of the payments made during those years be adjusted based on cost data made available through cost reports submitted by the hospitals, which adjustments are sometimes referred to as "settlements." The State Department of Health and Human Services ("State DHHS") had previously reported to CMS, prior to the

State audit, that overpayments had been identified due to the use of erroneous data provided by the State's data processing contractor and that the settlement process had been delayed. The State also hired an independent nationally recognized consulting firm to analyze the cost reports. The subsequent State Audit and federal investigation confirmed that the settlements were not made in a timely manner, as required by federal regulations and by the State Plan, and that overpayments remained to be accounted for. The Parties have agreed upon an appropriate amount to be repaid to the United States in connection with these matters.

B. The United States contends that it has certain civil and administrative claims, as specified herein, against the State for engaging in the following conduct during the period from October 1, 1996 through September 30, 2002: submitting claims in excess of what was allowable under federal regulations and the State Plan approved by CMS and its predecessor agency under the Inpatient Medicaid Supplemental program and the DSH payment programs (hereinafter referred to as the "Covered Conduct").

C. The State acknowledges that overpayments were made to hospitals during the period from October 1, 1996 through September 30, 2002, but has raised a number of issues concerning the determination of the overpayment amounts.

D. This Agreement is neither an admission of liability by the State nor a concession by the United States that its issues are not well founded.

E. 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. The State agrees to pay to the United States One Hundred Fifty-One Million Five Hundred Thousand Dollars ($151,500,000.00) (the "Settlement Amount"). The State agrees to pay the Settlement Amount by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney for the Eastern District of North Carolina. The State agrees to make these electronic funds transfers pursuant to the following schedule: (a) the first payment shall be made no later than September 30, 2006, and shall be in the amount of $106,500,000.00, (b) the second payment shall be made no later than September 30, 2007, and shall be in the amount of $15,000,000.00 plus accrued interest, (c) the third payment shall be made no later than September 30, 2008, and shall be in the amount of $15,000,000.00 plus accrued interest, and (d) the final payment shall be made no later than September 30, 2009, and shall be the balance of the Settlement Amount (which should be $15,000,000.00 plus accrued interest). Interest shall only begin accruing as of January 1, 2007, and shall accrue at the rate of 5.01%. The State may prepay any of the installments without penalty, in which event the interest shall accrue up to the date of payment. It is recognized that some of the Settlement Amount to be paid by the State will be recouped by the State from the various hospitals which benefitted from the covered conduct. In recognition of that fact, if the State has not received all of the anticipated payments from some of the hospitals by September 30, 2006, it may reduce the first scheduled payment above by the amount it has not yet collected from those hospitals. In such event, however, the State shall make a supplemental payment by December 31, 2006 to make up the balance of the first payment set out above.

2. Subject to the exceptions in Paragraph 3, below, in consideration of the obligations of the State set forth in this Agreement, conditioned upon the State's full payment of the Settlement Amount, the United States (on behalf of itself, its officers, agents, agencies, and departments) agrees to release the State of North Carolina from any civil or administrative monetary claim the United States has or may have for the Covered Conduct under the Medicaid program as well as under the common law theories of payment by mistake or unjust enrichment. No individuals are released by this Agreement.

3. 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 State) are the following:

a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code);

b. Any criminal liability;

c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory exclusion from Federal health care programs pursuant to 42 U.S.C. § 1320a-7(a), and permissive exclusion from Federal health care programs pursuant to 42 U.S.C. § 1320a-7a (Civil Monetary Penalties Law) and 42 U.S.C. § 1320a-7(b)(7) (permissive exclusion for fraud, kickbacks, and other prohibited activities);

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 this Agreement;

f. Any liability of individuals, including officers and employees; and

g. Any claims that the United States may have under the False Claims Act, 31 U.S.C. §§ 3729-3733, for the Covered Conduct.

4. The payments made by the State pursuant to this Agreement shall be appropriately accounted for as between the Department of Justice and CMS so that the State's Medicaid account properly reflects the payments made.

5. The State fully and finally releases the United States, its agencies, employees, servants, and agents from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that the State has asserted, could have asserted, or may assert in the future against the United States, its agencies, employees, servants, and agents, related to the Covered Conduct and the United States' investigation and prosecution thereof.

6. The State agrees to the following:

a.. The State will inform each hospital from which it collects any portion of the Settlement Amount, as part of the documentation of the settlement, that it may not include in any of its cost reports, nor in any request for payment (whether by contract or grant) to the State or to the United States, or to any program funded in whole or in part by the State or the United States (including Medicare, Medicaid, TRICARE and Federal Employees Health Benefits Program), any expenditures (including any payments for attorney fees, audit expenses, consultant fees or other outlays) related to or in response to the United States' audit(s) and civil or criminal investigations(s) of the matters covered by this Agreement, or to the State's investigation, defense and corrective actions undertaken in response to those audit(s) and civil and criminal

investigation(s), incurred subsequent to March 11, 2004 (the date of the draft State Auditors' Report relating to the matters covered by this Agreement).

b. The State will further inform each such hospital, as part of the documentation of the settlement, that the payment made by the hospital (or otherwise recovered by the State) of its portion of the Settlement Amount shall not be regarded as a cost of hospital services and shall not be included in any of its cost reports, nor in any request for payment (whether by contract or grant) to the State or to the United States, or to any program funded in whole or in part by the State or the United States, including those programs listed in subparagraph (a) above.

c. The State will use its best efforts to insure that the applicable hospitals comply with the foregoing provisions. In the event that the State learns that any hospital has violated such a provision, the State shall notify both CMS (or its successor agency) and the United States Attorney in the district in which said hospital is located.

d. The State's treatment of all costs paid from State funds in connection with this Agreement shall be governed by the appropriate statutes and regulations. The State will use its best efforts to comply with such regulations, and will identify such costs in a transparent manner so they can be reviewed by CMS. The United States reserves its rights to disagree with any calculations submitted by the State or any of its subsidiaries or affiliates on the effect of inclusion of such costs on the State's or any of its subsidiaries or affiliates' cost reports, cost statements, or information reports. Nothing in this Agreement shall constitute a waiver of the rights of the United States to examine or reexamine the costs described in this Paragraph.

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

8. The State 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.

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

10. The State represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

11. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement is the United States District Court for the Eastern District of North Carolina, except that disputes concerning individual hospitals, including the inappropriate inclusion of unallowable costs by hospitals, may also be brought in the Federal judicial district where such hospital is located or does business.

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

13. The individuals signing this Agreement on behalf of the State represent and warrant that they are authorized by the State 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 on behalf of the Department of Justice and the Department of Health and Human Services, including CMS and HHS-OIG.

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

15. This Agreement is binding on the successors, transferees, heirs, and assigns of the State and the United States.

16. All parties consent to the disclosure of this Agreement, and information about this Agreement, to the public.

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

8/17/06
Date

GEORGE E.B. HOLDING
Acting United States Attorney
Eastern District of North Carolina

8/10/06
Date

GRETCHEN C.F. SHAPPERT
United States Attorney
Western District of North Carolina

August 16 2006
Date

ANNA MILLS WAGONER
United States Attorney
Middle District of North Carolina

8/17/06
Date

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

August 17, 2006
Date

Carmen Hooker Odom
CARMEN HOOKER ODOM
Secretary, N.C. Department of
Health and Human Services