

SETTLEMENT AGREEMENT

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), (collectively, the “United States”); Carrefour Associates, LLC; Crossroads Hospice of Cincinnati, LLC; Crossroads Hospice of Cleveland, LLC; Crossroads Hospice of Dayton, LLC; Crossroads Hospice of Northeast Ohio, LLC; and Crossroads Hospice of Tennessee, LLC (collectively “Crossroads Hospice” or “Defendants”); David Weber (“Tennessee Relator”); and Leanne Robinson, Angela Corman, and Jackie Ann Morgan (collectively, the “Ohio Relators”) (all hereafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. Defendant Carrefour Associates, LLC is an Oklahoma corporation that provides administrative, management, and back-office support to various related corporate entities that provide hospice and palliative care services throughout the United States under the name Crossroads Hospice and Palliative Care. Defendants Crossroads Hospice of Cincinnati, LLC; Crossroads Hospice of Cleveland, LLC; Crossroads Hospice of Dayton, LLC; Crossroads Hospice of Northeast Ohio, LLC; and Crossroads Hospice of Tennessee, LLC are independent companies that provide hospice and palliative care services.

B. On July 13, 2015, the Ohio Relators filed a *qui tam* action in the United States District Court for the Southern District of Ohio captioned *United States ex rel. Leanne Malone et al. v. Carrefour Associates, LLC et al.* (No. 1:15-cv-460), pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Ohio Civil Action”).¹ In the Ohio Civil Action,

¹ At the time the Ohio Relators filed their action, Leanne Robinson was known as Leanne Malone, Angela Corman was known as Angela Heck, and Jackie Ann Morgan was known as Jackie Ann Burns.

the Relators alleged that Defendants submitted or caused to be submitted claims for payment to the Medicare Program by falsely admitting Medicare beneficiaries to hospice care and falsely certifying and recertifying Medicare beneficiaries as eligible for hospice services.

C. On August 23, 2016, the Tennessee Relator filed a *qui tam* action in the United States District Court for the Western District of Tennessee captioned *United States ex rel. David Weber v. Crossroads Hospice of Tennessee, LLC* (No. 2:16-cv-02684), pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Tennessee Civil Action”). In the Tennessee Civil Action, the Relator alleged that Defendants submitted or caused to be submitted claims for payment to the Medicare Program by falsely admitting Medicare beneficiaries to hospice care and falsely certifying and recertifying Medicare beneficiaries as eligible for hospice services.

D. The United States contends that Crossroads Hospice submitted or caused to be submitted claims for payment to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll (“Medicare”).

E. The United States contends that it has certain civil claims against Crossroads Hospice arising from the following alleged conduct during the period from January 1, 2012, through December 31, 2014. That conduct is referred to below as the “Covered Conduct.” Specifically:

1) Crossroads Hospice submitted claims to Medicare for hospice services provided to beneficiaries with a terminal diagnosis of Alzheimer’s disease or dementia who received hospice services for three years or longer but who were ineligible for hospice care under Medicare requirements.²

² The Covered Conduct is limited to Medicare beneficiaries with a terminal diagnosis of one of the following ICD-9 codes: Dementia (ICD-9 290.*, 292.82, 294.1*, 294.2*, 331.82 or ICD-10 F01.*, F02.*, F03.*, F10.27, F10.97, F13.27, F13.97, F18.17, F18.27, F18.97, F19.17, F19.27, F19.97, and G31.83) and Alzheimer’s Disease (ICD-9

2) The Covered Conduct is limited to Medicare beneficiaries who received hospice services from the following entities: Crossroads Hospice of Cincinnati, LLC; Crossroads Hospice of Cleveland, LLC; Crossroads Hospice of Dayton, LLC; Crossroads Hospice of Northeast Ohio, LLC; and Crossroads Hospice of Tennessee, LLC.

3) The United States contends that Crossroads Hospice knowingly submitted false or fraudulent claims for these beneficiaries to Medicare and was improperly reimbursed for these hospice claims.

F. This Settlement Agreement is neither an admission of liability by Crossroads Hospice nor a concession by the United States or the Relators that their claims are not well founded.

G. The Relators claim entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement and to Relators' reasonable expenses, attorneys' fees and costs.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Crossroads Hospice shall pay to the United States five million five hundred thousand dollars (\$5,500,000.00) (Settlement Amount) and interest on the Settlement Amount at a rate of 1.25% per annum from August 18, 2021, of which two million seven hundred fifty thousand dollars (\$2,750,000) is restitution, no later than seven (7) calendar days after the

331.0* or ICD-10 G30.*). The asterisks above are defined as a wildcard symbol used to represent any additional numeric value yielding a valid diagnosis code. For example, 290.* is inclusive of ICD-9 codes found between 290.0 and 290.9.

Effective Date of this Agreement by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the United States Department of Justice.

2. Conditioned upon the United States receiving the Settlement Amount and as soon as feasible after receipt, the United States shall pay \$1,045,000.00 plus any proportionate share of interest to Ohio Relators by electronic funds transfer (Relators' Share) pursuant to written instructions to be provided by Counsel for Ohio Relators.

3. Defendants and the Tennessee Relator and Ohio Relators have resolved Relators' claims for reasonable attorneys' fees, expenses, and costs pursuant to 31 U.S.C. § 3730(d) pursuant to separate agreements.

4. Subject to the exceptions in Paragraph 7 (concerning reserved claims) below, and upon the United States' receipt of the Settlement Amount, plus interest due under Paragraph 1, the United States releases Crossroads Hospice, together with its current and former parent corporations; direct and indirect subsidiaries; and brother or sister corporations from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake, unjust enrichment, and fraud.

5. Subject to the exceptions in Paragraph 7 below, and upon the United States' receipt of the Settlement Amount, plus interest due under Paragraph 1, Ohio Relators, for themselves and for their heirs, successors, attorneys, agents, and assigns, release Crossroads Hospice from any civil monetary claim the Ohio Relators have on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733.

6. Subject to the exceptions in Paragraph 7 below, and upon the United States' receipt of the Settlement Amount, plus interest due under Paragraph 1, Tennessee Relator, for

himself and for his heirs, successors, attorneys, agents, and assigns, releases Crossroads Hospice from any civil monetary claim the Tennessee Relator has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733.

7. Notwithstanding the releases given in Paragraph 4 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any 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 or enforcement right, including mandatory or permissive exclusion from 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 obligations created by this Agreement; and
- f. Any liability of individuals.

8. Ohio Relators and their heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Ohio Relators' receipt of the Relators' Share, Ohio Relators and their heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Actions or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Ohio Civil Action.

9. Ohio Relators, conditioned upon the act of the execution and satisfaction of the separate settlement agreement between themselves and Crossroads Hospice resolving Ohio Relators' claims under 31 U.S.C. § 3730(d) for expenses or attorneys' fees and costs, for themselves, and for their heirs, successors, attorneys, agents, and assigns, release Crossroads Hospice, and its officers, agents, and employees, from any liability to Ohio Relators arising from the filing of the Ohio Civil Action, or under 31 U.S.C. § 3730(d) for expenses or attorneys' fees and costs.

10. Tennessee Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Ohio Relators' receipt of the Relators' Share, Tennessee Relator and his heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Actions or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Tennessee Civil Action.

11. Tennessee Relator, conditioned upon the act of the execution and satisfaction of the separate settlement agreement related to his claims under 31 U.S.C. § 3730(d) for expenses or attorneys' fees and costs between himself and Crossroads Hospice, for himself, and for his heirs, successors, attorneys, agents, and assigns, releases Crossroads Hospice, and its officers, agents, and employees, from any liability to Tennessee Relator arising from the filing of the Tennessee Civil Action, or under 31 U.S.C. § 3730(d) for expenses or attorneys' fees and costs.

12. Crossroads Hospice waives and shall not assert any defenses Crossroads Hospice 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.

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

14. Crossroads Hospice fully and finally releases the Ohio Relators from any claims that Crossroads Hospice has asserted, could have asserted, or may assert in the future against the Ohio Relators, related to the Covered Conduct and the Relators' investigation and prosecution thereof.

15. Crossroads Hospice fully and finally releases the Tennessee Relator from any claims that Crossroads Hospice has asserted, could have asserted, or may assert in the future against the Tennessee Relator, related to the Covered Conduct and the Relator's investigation and prosecution thereof.

16. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare contractor (e.g., Medicare Administrative Contractor, fiscal intermediary, carrier) or any state payer, related to the Covered Conduct; and Crossroads Hospice agrees not to resubmit to any Medicare contractor or any state payer any previously denied claims related to the Covered Conduct, agrees not to appeal any such denials of claims, and agrees to withdraw any such pending appeals.

17. Crossroads Hospice agrees to the following:

a. Unallowable Costs Defined: 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. §§ 1395-1395lll and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Crossroads Hospice, its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) Crossroads Hospice's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement; and
- (5) the payment Crossroads Hospice makes to the United States pursuant to this Agreement and any payments that Crossroads Hospice may make to Relators, including costs and attorneys fees;

are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP) (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by Crossroads Hospice, and Crossroads Hospice 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 Crossroads

Hospice or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment:

Crossroads Hospice 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 reports, cost statements, information reports, or payment requests already submitted by Crossroads Hospice or any of its subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. Crossroads Hospice agrees that the United States, at a minimum, shall be entitled to recoup from Crossroads Hospice 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.

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 Crossroads Hospice or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Crossroads Hospice or any of its subsidiaries or affiliates' cost reports, cost statements, or information reports.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine Crossroads Hospice's books and records to

determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

18. 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 to the extent provided for in Paragraph 19 (waiver for beneficiaries paragraph), below.

19. Crossroads Hospice 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.

20. Upon receipt of the payment described in Paragraph 1, above, and the payment of attorneys' fees and costs outlined in the separate settlement agreements, the Ohio Relators, the Tennessee Relator, and the United States shall promptly sign and file in the Civil Actions a Joint Stipulation of Dismissal of the Civil Action pursuant to Rule 41(a)(1). The Stipulation of Dismissal shall specify that dismissal is with prejudice to the United States as to the Covered Conduct, and without prejudice as to all other matters set forth in the Ohio Civil Action and Tennessee Civil Action; and with prejudice as to each of the Relators as to all matters set forth in the Ohio Civil Action and Tennessee Civil Action.

21. 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 that nothing in this paragraph shall release, waive or affect any claim of the Ohio Relators or Tennessee Relator against Defendants for attorney's fees and costs under 31 U.S.C § 3730(d). Such claims for fees and costs have been resolved by the separate agreements referred to in Paragraph 3, above, which release all claims against Defendants by Ohio Relators and Tennessee Relator and their counsel.

22. Each Party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.
23. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Southern District of Ohio. For purposes of construing this Agreement, 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.
24. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.
25. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.
26. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.
27. This Agreement is binding on Crossroads Hospice's successors, transferees, heirs, and assigns.
28. This Agreement is binding on Ohio Relators' successors, transferees, heirs, and assigns.
29. This Agreement is binding on Tennessee Relator's successors, transferees, heirs, and assigns.
30. All Parties consent to the disclosure of this Agreement, and information about this Agreement, to the public.
31. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles and electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

DATED: 10-28-21

BY:



JONATHAN K. HOERNER
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: 10-27-21

BY:



ANDREW MALEK
Assistant United States Attorney
Deputy Civil Chief
Southern District of Ohio

DATED: 10-28-2021

BY:



EILEEN KUO
Assistant United States Attorney
Western District of Tennessee

DATED: 10/27/2021

BY:



LISA M. RE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
United States Department of Health and Human Services

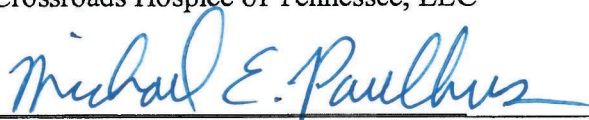
CROSSROADS HOSPICE - DEFENDANT

DATED: 10/18/21

BY: 
CLAYTON FARMER
President
Carrefour Associates, LLC

Chief Operating Officer
Crossroads Hospice of Cincinnati, LLC;
Crossroads Hospice of Cleveland, LLC;
Crossroads Hospice of Dayton, LLC;
Crossroads Hospice of Northeast Ohio, LLC; and
Crossroads Hospice of Tennessee, LLC

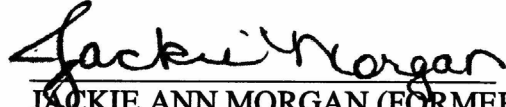
DATED: 10/18/21

BY: 
MICHAEL E. PAULHUS
King & Spalding LLP
Counsel for Carrefour Associates, LLC;
Crossroads Hospice of Cincinnati, LLC;
Crossroads Hospice of Cleveland, LLC;
Crossroads Hospice of Dayton, LLC;
Crossroads Hospice of Northeast Ohio, LLC; and
Crossroads Hospice of Tennessee, LLC

LEANNE MALONE, ANGELA HECK, AND JACKIE BURNS – OHIO RELATORS

DATED: 10/13/21 BY: 
LEANNE ROBINSON (FORMERLY MALONE)

DATED: 10/13/21 BY: 
ANGELA CORMAN (FORMERLY HECK)

DATED: 10-13-21 BY: 
JACKIE ANN MORGAN (FORMERLY BURNS)

DATED: 10/14/21 BY: 
DONALD GALLICK
Counsel for Ohio Relators

DAVID WEBER – TENNESSEE RELATOR

DATED: _____ BY: _____
DAVID WEBER

DATED: _____ BY: _____
JANEL QUINN
Counsel for Tennessee Relator

LEANNE MALONE, ANGELA HECK, AND JACKIE BURNS – OHIO RELATORS

DATED: _____ BY: _____
LEANNE ROBINSON (FORMERLY MALONE)

DATED: _____ BY: _____
ANGELA CORMAN (FORMERLY HECK)

DATED: _____ BY: _____
JACKIE ANN MORGAN (FORMERLY BURNS)

DATED: _____ BY: _____
DONALD GALLICK
Counsel for Ohio Relators

DAVID WEBER – TENNESSEE RELATOR

DATED: **10/15/2021** BY: 
DAVID WEBER Electronically signed by David J. Weber MD

DATED: Oct 19, 2021 BY: 
JANEL QUINN
Counsel for Tennessee Relator