

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 05-
	)	
THE STATE OF NEW JERSEY;	)	
Richard J. Cody,	)	
Acting Governor of	)	
the State of New Jersey;	)	
James Davy, Commissioner,	)	
Department of Human Services;	)	
Carol Grant, Director,	)	
Division of Developmental Disabilities;	)	
John Dougherty, Chief	)	
Executive Officer,	)	
Woodbridge Developmental Center,	)	
	)	
Defendants.	)	
	)	
_____	)	

**SETTLEMENT AGREEMENT**

**A. GENERAL PROVISIONS**

1. This Settlement Agreement (the “Agreement”) is entered into between the United States and the State of New Jersey; Department of Human Services, Division of Developmental Disabilities; and Woodbridge Developmental Center (collectively referred to as “the State”).
  
2. The Agreement resolves the investigation conducted by the United States Department of Justice (“DOJ”) at the Woodbridge Developmental Center (“Woodbridge”) pursuant to the Civil Rights of Institutionalized Persons Act (“CRIPA”), 42 U.S.C. §1997. The Agreement addresses the corrective measures set forth by DOJ in its November 12, 2004 letter to the State (Findings Letter). This Agreement does not serve as an admission by the State that corrective measures are

necessary to meet the constitutional and statutory rights of the residents of Woodbridge or any other developmental center operated by the State.

3. In conformity with CRIPA, this Agreement represents a voluntary effort by the State to meet the concerns raised by DOJ's investigation. See 42 U.S.C. §1997b(a)(2)(B) and §1997g.
4. Pursuant to 42 U.S.C. §1997b(a)(2)(B) and §1997g, the United States agrees to support the State's application for federal funding that will be used to implement the remedial measures in Section C of this Agreement.
5. Nothing in this Agreement shall be construed as an acknowledgment, an admission, or evidence of liability of the State under CRIPA, the Constitution or federal or state law and this Agreement may not be used as evidence of liability in this or any other civil or criminal proceeding.
6. The signatures below of officials representing the United States and the State signify that these parties have given their final approval to this Agreement.
7. This Agreement is enforceable only by the parties or the court pursuant to paragraph E(4). This Agreement is binding upon the parties, by and through their officials, agents, employees, and successors. No person or entity is intended to be a third party beneficiary of the provisions of this Agreement for purposes of any civil, criminal, or administrative action, and accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under this Agreement in any civil, criminal, or administrative action. Similarly, this Agreement does not authorize, nor shall it be construed to authorize, access to State documents by persons or entities not a party to this Agreement.
8. Nothing in this Agreement is intended to alter the existing collective bargaining agreements between the State and employee bargaining units or impair the collective bargaining rights of employees in those units under state and local law.
9. This Agreement shall constitute the entire integrated Agreement of the parties. No prior contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes of determining the meaning of any provisions herein in any litigation or any other proceeding.
10. Since the United States issued the November 12, 2004 Findings Letter, the State has made progress in remedying the problems the United States identified in the Findings Letter. The parties agree it is in their mutual interests to avoid litigation. The parties further agree that resolution of this matter pursuant to this Agreement is in the best interests of Woodbridge residents. Now, therefore, pursuant to Fed. R. Civ. P. 41(a), the parties hereby agree to file in the United States District Court for the District of

New Jersey, the Vicinage of Trenton, this Agreement, together with a Complaint and a notice to conditionally dismiss the Complaint under the conditions set forth in this Agreement. The parties further agree that this case will remain on the Court's inactive docket, during the term of and subject to this Agreement, and that, from time to time, the Court may hold, at the request of either party, status conferences to informally resolve disputes between the parties, if any, until this Agreement terminates.

11. All parties shall bear their own costs, including attorney fees, in this and any subsequent proceeding.
12. This Agreement shall take effect on the day it is filed with the United States District Court, Vicinage of Trenton.

## **B. DEFINITIONS**

1. "Section" shall mean one of the portions of Section C of this Agreement, including: Protection from Harm; Behavior Programs; Restraints; Psychiatric Care; Habilitation; Neurological Care; Nutritional and Physical Management and Therapy Services; and Community Placement.
2. "Substantial Compliance" shall mean that the State is complying with the material requirements of section C and that substantial compliance has occurred for a period of six months. Isolated incidents of non-compliance shall not preclude a finding of substantial compliance. In determining whether the State has substantially complied with the sections of this Agreement, the Monitor and the United States shall take into account the fact that CRIPA requires a pattern or practice of violations by the State that deprive residents of the full enjoyment of the rights, privileges, or immunities secured or protected by the Constitution or laws of the United States of the residents of Woodbridge.
3. "Professional judgment" shall be defined as it is in Youngberg v. Romeo, 457 U.S. 307 (1982). To the extent any provision of this Agreement relating to the provision of care, treatment, or services requires that any action be taken, or thing be done to a level of quality or in an amount that is not otherwise specified or quantified in the Agreement, that provision shall be interpreted consistent with "professional judgment" as enunciated in Youngberg. In particular, all qualifying terms used in this Agreement, including but not limited to "individualized needs," "adequate," "necessary" or "as needed" shall be interpreted to mean that level, quality, amount or timeliness of care, treatment or services that is consistent with "professional judgment" as enunciated in Youngberg.

4. "Significant incidents" shall include all instances of alleged, suspected or substantiated abuse, neglect, moderate or major injury, elopement, theft, hospitalization due to an injury, or unexpected death.

**C. EFFORTS TO BE UNDERTAKEN BY THE STATE.**

In order to achieve compliance with this Agreement, Woodbridge shall undertake the following:

**1. Protection from Harm**

- a. Woodbridge shall comply with the standards set forth in Youngberg, and therefore, shall provide a reasonably safe and humane environment for all Woodbridge residents.
- b. Woodbridge shall continue to ensure that all resident incidents and injuries are timely and appropriately documented and are available for review in a central location.
- c. Woodbridge shall continue to ensure appropriate and timely administrative review of all significant incidents. Woodbridge shall also conduct a clinical review of significant incidents when appropriate. The administrative review shall identify individual and systemic issues raised by the significant incident, make recommendations to address the individual and systemic issues, and implement the recommendation to prevent future occurrences.
- d. Woodbridge shall continue to implement adequate policies and procedures with regard to conducting investigations of significant incidents and preparing adequate written reports.
- e. Woodbridge shall continue to adequately train staff and independent investigators on how to implement the policies and procedures regarding conducting investigations of significant incidents and preparing adequate written reports.
- f. Woodbridge shall also continue to develop and implement a quality assurance program which tracks trends of incidents and injuries. Woodbridge shall analyze the trends and document recommendations for reducing significant incidents in the future. Woodbridge shall timely implement adequate and appropriate remedial measures to address patterns or trends that are identified through the quality assurance program.
- g. Woodbridge shall impose discipline that is appropriate for the employees involved in substantiated cases of abuse or neglect, for employees who fail

to report abuse or neglect, and for employees who provide materially false information during an investigation. The United States recognizes that the ultimate determination as to the appropriateness of any such discipline for substantiated cases of abuse or neglect lies not with Woodbridge but is subject to the appeal rights of employees as established in the applicable New Jersey statutes, regulations, case law, and the collective bargaining agreements entered into by the State. Further, the United States recognizes that Woodbridge's ability to discipline and take other action as deemed appropriate may be subject to the rights of Woodbridge's employees as established by the applicable New Jersey statutes, regulations, case law, and the collective bargaining agreements.

## **2. Behavior Programs**

- a. Woodbridge shall continue to provide its residents who have behavioral problems with an adequate behavioral assessment in order to determine the appropriate treatments and intervention for each person. This assessment shall be interdisciplinary, comport with professional judgment, and shall incorporate any conditions that may contribute to a person's behavior. Based on the assessments Woodbridge shall develop and implement adequate and appropriate behavior support plans.
- b. Woodbridge shall provide adequate and appropriate training to the appropriate staff as to how to implement behavior programs. Woodbridge shall certify that each staff member receiving such training has demonstrated the ability to implement the behavior program.
- c. Woodbridge shall implement the behavior plan for each resident and on an ongoing basis monitor the residents' progress in the programs and revise the programs when necessary to ensure that their behavioral needs are being met. This step shall also involve ongoing training for staff whenever a revision is required. The monitoring shall include the recording of appropriate behavioral data with regard to the person's progress in the program.

## **3. Restraints**

- a. Woodbridge shall ensure that all mechanical, physical (including personal control techniques), and chemical restraints are used only pursuant to professional judgment, and are not used in lieu of adequate and appropriate behavior programs and interventions.
- b. Woodbridge shall review each use of mechanical, physical (including personal control techniques), and chemical restraints to determine whether the restraint could have been avoided. During the review, Woodbridge will

determine whether staff are implementing the behavior program adequately and appropriately.

- c. Woodbridge shall document, analyze, and monitor the use of all mechanical, physical, and chemical restraints, including the use of helmets and personal control techniques. Woodbridge shall continue to develop strategies for reducing the use of all restraints. Woodbridge shall ensure that any reduction in the use of mechanical restraints is not replaced with the use of chemical restraints unless the chemical restraint is used pursuant to professional judgment.
- d. Woodbridge shall ensure that all helmets are the least intrusive possible and are suited to meet the needs of each resident.

#### **4. Psychiatric Care**

- a. Woodbridge shall ensure that each resident at Woodbridge with mental illness is provided a psychiatric assessment that meets the resident's needs and is consistent with professional judgment.
- b. Woodbridge shall ensure that each resident receiving psychotropic medications is assessed by a qualified psychiatrist at least annually and other residents with a mental illness will be assessed as clinically indicated in accordance with professional judgment.
- c. Woodbridge shall provide an appropriate diagnosis for each resident with mental illness and develop a treatment plan that meets each resident's needs. Woodbridge shall provide adequate behavioral and other data to psychiatrists to better facilitate adequate and appropriate psychiatric treatment for each person.
- d. Woodbridge shall adequately and appropriately implement the resident's treatment plan. Psychiatric services shall be developed and implemented in close collaboration with Woodbridge's psychologists so as to provide coordinated behavioral care.
- e. Psychotropic medication shall be used only in accordance with accepted professional judgment. Woodbridge shall ensure that no resident receives psychotropic medication without an accompanying behavior program unless it is documented by the appropriate professionals that the resident has not benefitted from a behavior program.
- f. Woodbridge shall have a qualified professional monitor the effectiveness of all psychiatric treatments including the use of psychotropic medications on

a quarterly basis and whenever appropriate revise the treatment regimen in a timely manner.

**5. Habilitation**

- a. Woodbridge's interdisciplinary teams shall continue to provide adequate and appropriate assessments to identify the individual needs, preferences, and interests of each Woodbridge resident. Based on this information, Woodbridge shall continue to develop and implement a comprehensive interdisciplinary plan for the provision of training, services, and supports to meet the needs, preferences, and interests of each resident in an integrated fashion.
- b. Woodbridge shall continue to provide adequate and appropriate training to staff on how to implement the habilitation plans and monitor implementation of the plans. Woodbridge shall certify that each staff member receiving such training has demonstrated the ability to implement the plan. Woodbridge shall continue to implement an adequate system to revise the residents' plans, whenever necessary, to meet the needs of each resident.
- c. As part of the Individual Habilitation Plan ("IHP") process, Woodbridge shall continue to provide an adequate and appropriate assessment of all residents' day programming needs and where appropriate, shall provide a vocational assessment in accordance with professional judgment. Recommendations from the assessment will be incorporated into each resident's plan.
- d. Woodbridge shall provide residents with day programming and, when appropriate, vocational/employment opportunities to meet each resident's needs to the extent that these opportunities can be reasonably developed in and around Woodbridge.

**6. Neurological Care**

- a. Woodbridge shall provide routine, chronic, and emergency seizure management to all individuals with a seizure disorder at Woodbridge in accordance with accepted professional judgment.
- b. Woodbridge shall provide residents with seizure disorders adequate and appropriate assessments and develop plans of care that meet each resident's needs. Woodbridge shall also implement the treatment plan properly and provide ongoing monitoring of the treatment plan to determine if it is working as intended. If the plan is not working as intended, Woodbridge will reassess the resident and revise or develop a new treatment plan as necessary.

- c. Woodbridge shall employ or contract with sufficient physicians to meet residents' neurological needs in accordance with accepted professional judgment.

**7. Nutritional and Physical Management and Therapy Services**

- a. Woodbridge shall implement policies and protocols to provide each resident with adequate and appropriate nutritional and physical management in accordance with professional judgment.
- b. Woodbridge shall continue to identify each resident who has a nutritional management problem, including dysphagia, difficulty swallowing, chewing, or retaining food and/or liquids.
- c. Woodbridge shall have an interdisciplinary team comprehensively assess those residents identified with nutritional and physical management needs and, where appropriate, develop a plan that adequately addresses each resident's nutritional and physical management needs.
- d. Woodbridge shall develop and implement a system to regularly monitor the progress of residents with nutritional and physical management difficulties to ensure that staff is implementing nutritional and physical management plans correctly. Woodbridge shall also ensure that the plans are modified in a timely manner if the plans are not working as intended.
- e. Woodbridge shall continue to provide each resident with adequate and appropriate therapy services in accordance with accepted professional judgment.
- f. Woodbridge shall provide adequate and appropriate training to staff to utilize safe and proper handling/transfer techniques for residents. Woodbridge shall certify that each staff member receiving such training has demonstrated the ability to implement the techniques. Woodbridge shall develop and implement an appropriate system to monitor the staff implementation of the techniques.

**8. Community Placement**

- a. In accordance with Title II of the ADA, 42 U.S.C. § 12132, and implementing regulation 28 C.F.R. § 35.130, the State shall ensure that each Woodbridge resident is served in the most integrated setting appropriate to meet each resident's needs.



- b. To that end, the State shall comply with Olmstead v. L.C., 527 U.S. 581 (1999) and Third Circuit case law, and shall provide community-based placements for Woodbridge residents when:
  - i. the State's treatment professionals have determined that community placement is appropriate based on a reasonable assessment of each resident;
  - ii. the transfer from institutional care to a less restrictive setting is not opposed by the affected resident; and
  - iii. the placement can be reasonably accommodated, taking into account the State's fundamental alteration defense as defined by Olmstead and Third Circuit case law and any other defense available to the State under current or future law. Under current Third Circuit case law, in order to establish a fundamental alteration defense, the State must develop and implement a statewide plan for serving residents in the most integrated setting appropriate to their needs.
- c. As part of the IHP process, Woodbridge shall ensure that there are adequate interdisciplinary team assessments of each resident to determine whether the resident is placed in the most integrated setting appropriate to his or her needs. Woodbridge shall also provide training and supervision to the appropriate staff on the interdisciplinary teams to enable them to assess fully each resident's community placement needs according to generally accepted professional standards of care.
- d. If it is determined that a more integrated setting would appropriately meet the resident's needs, the State shall promptly include that person in its placement efforts. Woodbridge shall continue to develop and implement a transition plan that specifies actions necessary for a safe and appropriate transition from Woodbridge to the appropriate community-based setting.
- e. The State shall train and provide adequate information to Woodbridge staff about community providers to facilitate awareness of the available community-based options for placements, programs and employment. The State shall also provide adequate information to residents and families about community placement options so that they can make an informed decision under paragraph (b)(ii) of this Section.
- f. The Monitor may provide technical assistance to the State to help it improve the efficiency with which it places residents in the community.

**D. Compliance Monitor**

1. Elin Howe shall be appointed as the Compliance Monitor ("Monitor") who shall, as set forth below, monitor and report on the State's substantial compliance or non-compliance with all provisions in Part C of this Agreement. The Monitor shall be permitted to utilize the services of up to four independent consultants in any area related to the provisions in Part C of this Agreement, if the Monitor deems such independent consultants necessary. The identities of such consultants shall be determined by the Monitor, but the State and the United States shall have the right to reject any of the Monitor's proposed consultants prior to the Monitor retaining any such consultant.
2. The parties and the Monitor have agreed to the monitoring protocol and budget annexed hereto as Exhibit A. All monitoring shall be done in accordance with the Monitoring Protocol.
3. The State shall bear all costs of the Monitor and his or her consultants. The costs for the Monitor and his or her consultants shall not exceed \$200,000 per year. If the Monitor needs additional resources to investigate a death caused by alleged abuse, neglect or improper care, the Monitor will provide written notice to the parties and the State agrees to pay all of the Monitor's reasonable requests for costs, but the reasonable costs shall not exceed \$50,000 per year.
4. The United States does not concede that the use of the words "continue to" in Part C of this Agreement implies that the State has already been meeting the residents' needs in each area. However, the parties mutually agree that the Monitor shall have the authority to determine whether the changes the State has made have brought it into substantial compliance with this Agreement, and if so, the time at which substantial compliance began.
5. The Monitor and his or her consultants shall tour Woodbridge once every six months and issue a written report 45 days after the end of each review. All written reports shall include findings of substantial compliance or non-compliance with respect to each provision in Part C of the Agreement. When appropriate, the Monitor will provide Woodbridge with recommendations and technical assistance that may help it meet the substantive requirements of this Agreement.
6. Subject to the terms of this paragraph, once per year during the term of this Agreement, the United States shall have the right to have one employee (investigator or paralegal) accompany the Monitoring team during its compliance tour. The United States shall provide reasonable notice to the Monitor and the State when it is exercising this right. The monitor may impose any reasonable restrictions on the United States employee accompanying the Monitor that the Monitor deems necessary. The United States may not accompany the Monitor on the first monitoring tour. This tour shall be independent of, and in addition to, any tours authorized by paragraphs E.2, E.4, and E.5 of this Agreement.

7. In the event of the death of a resident caused by alleged abuse, neglect or improper care at Woodbridge, Woodbridge will report the death to the Monitor and the United States within 5 business days of the incident and provide an investigation report with the results of Woodbridge's investigation to date. Woodbridge's report will also include what, if any, additional information is necessary for a final conclusion. If, after reviewing Woodbridge's investigative report, the Monitor believes that the death is related to a lack of compliance with a provision in Part C of this Agreement, then the Monitor may conduct an additional review, in addition to the tours referred to in paragraph D(5), prior to the next scheduled tour. If the Monitor elects to conduct an additional review pursuant to this Paragraph, the Monitor will give reasonable notice of the additional review to the parties. The scope of the additional review shall be limited to Part C of the Agreement.
8. If the Monitor determines that the State is not in substantial compliance with a provision in Part C, the Monitor shall so state in its written report and provide the factual basis for the findings, including, as appropriate: identification of residents involved; dates and times of incidents; and/or care, treatment, or services at issue and a summary specifying the documents and records the Monitor reviewed and the interviews the Monitor conducted that support the Monitor's determination.
9. If the Monitor determines that the State is in substantial compliance with all provisions of a section in Part C, the Monitor shall so state and provide the factual basis for the findings, including a summary specifying the documents and records the Monitor reviewed and the interviews the Monitor conducted that support the Monitor's determination. If the Monitor determines that the State is in substantial compliance with all provisions of a section in Part C, the Monitor shall cease monitoring and reporting on that section for the remaining term of this Agreement.

#### **E. Termination**

1. Subject to the other provisions Part E, this Agreement shall automatically terminate four years from the date the Complaint, Agreement, and a Rule 41 Notice of Conditional Dismissal is filed with the Court, without the need for any action on behalf of any party. The parties agree that no court or tribunal shall have the power to extend the Agreement past the four-year automatic termination date. The Agreement may be extended beyond the four-year term only with the written mutual agreement of all parties.
2. If, prior to the expiration of the four-year term, the Monitor determines that the State is in substantial compliance with all provisions within a section in Part C of this Agreement, then the Monitor shall cease monitoring and reporting on that section for the remaining term of this Agreement. The United States shall have the right to conduct an onsite review (including the right to tour, inspect and copy documents,

interview staff and residents, and physically inspect the facility) to verify the Monitor's finding of substantial compliance regarding any section(s) at its expense and at a mutually agreeable time within 90 days after the Monitor issues his or her report. The United States may bring clinical experts in a relevant area to assist with the onsite review.

3. If at any time during the term of this Agreement, either the United States or the State becomes concerned that the Monitor has failed to meet his/her obligations or has failed to apply the appropriate standard in determining compliance under this Agreement that party shall utilize the following procedure:
  - a. The party concerned about the Monitor shall notify the other party in writing of the concern and the reason for such concern. From the date of the written notice, the Monitor shall cease all monitoring activities until the concern is resolved.
  - b. If within 10 days of the written notice the parties cannot resolve the concern the parties agree:
    - i. to mediate the concern;
    - ii. to use the services of the first available Mediator on the pre-approved list of Mediators attached to this Agreement as Exhibit B. The party requesting mediation shall bear the cost of the mediation; and
    - iii. to work with the Mediator to resolve the concern for a period of 30 days. If the Mediation is unsuccessful within 30 days, the Mediator shall make a written, binding determination as to the concern within 30 days. The parties agree that the Mediator's binding decision shall not be appealable to the Court.
  - c. The parties agree that in the event that the parties or the Mediator determines that the Monitor should be replaced, the parties shall mutually agree on the identity of the replacement Monitor.
  - d. The parties agree that the term of this agreement shall be tolled for the period of time from the written notice of the concern until the point at which the concern is amicably resolved, the Mediator issues a written, binding determination as to the concern, and/or the parties agree on the identity of the new Monitor. The parties agree that any tolling time shall be added on to the term of the Agreement.
4. If at any time during the term of this Agreement the Monitor is unable or unwilling to fulfill his/her obligations pursuant to this Agreement, the Monitor will make every reasonable effort to notify the United States and the State 60 days prior to his/her expected withdrawal. The United States and the State shall mutually agree on the

identity of the replacement Monitor. The parties agree that the term of the Agreement shall be tolled for any period of time greater than 45 days that it takes for the parties to agree mutually on the identity of the new Monitor and for the new Monitor to begin the performance of his/her obligations pursuant to Part C of this Agreement. The parties agree that any time tolled pursuant to this paragraph shall not reduce the number of scheduled monitoring visits as set forth in Part D(5) of this Agreement.

5. During the term of this Agreement, Woodbridge shall provide timely notice of all resident deaths, and copies of completed death investigations or mortality and morbidity reviews as appropriate, to the United States and the Monitor. If the United States has cause to believe that the death was caused by the State's non-compliance with any Section(s) of this Agreement and that the non-compliance threatens the immediate health and safety of the other residents, the United States shall immediately notify the State and the Monitor of the specific provisions of this Agreement that the United States has cause to believe has been violated and the facts upon which this allegation is based. The State shall provide the United States with reasonable access to Woodbridge to investigate the immediate health and safety risk. In this situation, the United States shall have the right to move, and the State shall have the right to oppose, the Court to reopen or reinstate this litigation with regard to the Section(s) of the Agreement for which the United States believes that the State's non-compliance therewith caused a resident death and threatens the immediate health and safety of the other residents.
  - a. Pursuant to this paragraph, where the United States has cause to believe that the State's noncompliance with any Section(s) of this Agreement caused a resident's death and threatens the immediate health and safety of the other residents, any motion to reopen or reinstate the litigation shall terminate that Section(s) as of the filing date of the motion, but the remaining Sections of the Agreement continue in full force and effect. If under this paragraph, two or more Sections of the Agreement are terminated, either at one time, or at different times, the State shall have the right to terminate the Agreement pursuant to subparagraph d.
  - b. Pursuant to this paragraph, where the United States has cause to believe that the State's noncompliance with any Section(s) of this Agreement caused a resident death and threatens the immediate health and safety of the other residents, as an alternative to bringing a motion to reopen or reinstate this litigation, the United States may bring a motion seeking to enforce the Section(s) at issue. If the motion to enforce concerns two or more Sections, the State shall have the right to terminate the Agreement pursuant to subparagraph d.
  - c. In addition, the State shall have the right to terminate the Agreement pursuant to subparagraph d, if there is any other situation in which

the United States seeks to enforce or to reopen or reinstate the litigation based on two or more Sections at one time.

- d. In paragraph E(4), the phrase "terminate the Agreement" means that the State has the right to terminate the Agreement in its entirety by giving written notice to the United States. In such an event, the United States may take whatever action the United States deems necessary to enforce the constitutional and statutory rights of the residents of Woodbridge.
6. At any time during the last six months of this Agreement, the United States shall have access, at a mutually agreed upon time, to conduct a compliance review (including the right to tour, inspect and copy documents, interview staff and residents, and physically inspect the facility), if necessary, of all the sections of the Part C of the Agreement that remain in force at that time.
7. If the State has substantially complied with all of the provisions in Part C of this Agreement at the end of the four-year term or before, the Agreement shall terminate and the United States agrees not to reopen the lawsuit on any issue addressed in the findings letter dated November 12, 2004.
8. At the expiration of four years, if the Monitor determines the State has not substantially complied with the provisions in Part C of this Agreement, the Agreement shall still terminate unless the parties mutually agree in writing to extend this Agreement. After termination, the United States may take whatever action the United States deems necessary to enforce CRIPA.

**F. Enforcement**

1. The State and the United States agree that this is a mutually binding agreement.
2. Neither the State nor the United States shall challenge the validity of this Agreement on the ground that the signatories hereto lack the authority or capacity to contract or the ground that the Agreement is not supported by adequate consideration.

**AGREED TO BY THE UNDERSIGNED:**

**FOR THE STATE:**

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Attorney General of New Jersey

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**FOR THE UNITED STATES:**

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