

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement ("Agreement") is entered into between the United States of America, acting through the United States Department of Justice and on behalf of the Department of Health and Human Services ("HHS"), the Office of Inspector General of the Department of Health and Human Services ("OIG-HHS") (collectively the "United States"), and Majestic Oaks ("Majestic Oaks") nursing home by and through its owner and operator, Warminster Health Care Associates, L.P. (hereafter referred to as "the Parties"), through their authorized representatives.

II. PREAMBLE

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

- A. Majestic Oaks is a 180-bed long-term care facility located at 333 Newtown Road, Warminster, PA.
- B. The United States contends that Majestic Oaks submitted or caused to be submitted claims for payment to the Medicare Program ("Medicare"), Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395ggg, and/or the Medical Assistance Program ("Medicaid"), Title XIX of the Social Security Act, Title 42 U.S.C. §§ 1396-1396v.
- C. The United States contends that it has certain civil monetary claims against Majestic Oaks under the False Claims Act, other federal statutes and/or common law doctrines, for engaging in the following conduct, during the period from July 2002 to June 30,

2003, for the residents set forth in the subpoena dated July 15, 2003 relating to alleged inadequate services regarding: (1) pressure ulcer care, including the prevention and treatment of wounds, and (2) falls, and submitted and/or caused the submission of claims for reimbursement to Federal health care programs in connection therewith. The United States, through the Centers for Medicare & Medicaid Services of HHS ("CMS") also has cited Majestic Oaks for various deficiencies, including, but not necessarily limited to, the foregoing conduct, in a survey that was completed on May 15, 2003, and as to which a hearing has been scheduled under the caption *Majestic Oaks v. CMS*, Docket No. C-03-593. (All of the foregoing is hereinafter referred to as the "Covered Conduct.")

D. Majestic Oaks denies the contentions of the United States as set forth in Paragraph C, above and to the contrary, contends that its conduct was at all times lawful and appropriate.

E. In order to avoid the delay, uncertainty, inconvenience and expense of protracted litigation of these claims, the Parties reach a full and final settlement as set forth below.

III. TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual promises, covenants, and obligations set forth below, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. At the time of execution of this Agreement, Majestic Oaks agrees as part of its settlement of this matter to pay to the United States, Fifty Thousand Dollars (\$50,000.00)

in monthly installments, with simple interest, as set forth in Schedule "A" to this Agreement. Majestic Oaks agrees to make payment of this portion of the overall Settlement Amount (as further described in Paragraph 2 below) by electronic funds transfer pursuant to written instructions to be provided by the Office of the United States Attorney.

2. As part of this Agreement and as an additional part of the Settlement Amount, Majestic Oaks agrees to establish a "Quality of Care/Quality of Life Fund" ("the Fund") through which Twenty-Five Thousand Dollars (\$25,000) will be expended in addition to expenditures for programs, services and equipment already budgeted in the ordinary course of business by Majestic Oaks and its parent company and manager. The Fund shall be used to enhance the quality of life of the residents of Majestic Oaks and the quality of care provided to them. To that end, within twelve (12) months from the date of execution of this Agreement, Majestic Oaks shall expend all monies comprising the Fund on programs, services and equipment that will improve the quality of life and care rendered to Majestic Oaks residents. Majestic Oaks may variously accomplish this either by expending the cash, and/or purchasing items and/or services and incurring the obligations to pay for the same within the aforesaid twelve (12) month period. Majestic Oaks will confer with the Consultants (as described in Paragraph 8) in determining how the Fund is to be spent, and provide the United States with quarterly reports regarding the expenditure of monies from the Fund. In the event that the Fund amount is not fully expended and/or obligated within the 12-month period, Majestic Oaks agrees immediately to remit to the United States a lump sum payment for the difference between Twenty-Five Thousand (\$25,000) and the amount that has been expended and/or obligated.

3. Subject to the exceptions in Paragraph 5 below, in consideration of the obligations of Majestic Oaks set forth in this Agreement, conditioned upon Majestic Oaks's payment in full of the Settlement Amount and creation of the Fund, the United States (on behalf of itself, its officers, agents, agencies and departments) agrees to release Majestic Oaks together with its current and former parent corporations and its affiliated management company, Seniors Management North, Inc. (and their officers and directors, except to the extent set forth in Paragraph 5(G) below), and the successors and assigns of any of them, from any civil or administrative monetary claim the United States has or may have 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, breach of contract and fraud, for the Covered Conduct.

4. In consideration of the obligations of Majestic Oaks set forth in this Agreement, conditioned upon Majestic Oaks's payment in full of the Settlement Amount, the OIG-HHS agrees to release and refrain from instituting, directing or maintaining any administrative action seeking exclusion from the Medicare, Medicaid or other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) against Majestic Oaks, together with its current and former parent corporations, and the successors and assigns of any of them under 42 U.S.C. § 1320a-7a (Civil Monetary Penalties Law), or 42 U.S.C. § 1320a-7(b)(7)(permissive exclusion for fraud, kickbacks and other prohibited activities), for the Covered Conduct, except as reserved in Paragraph 5, below.

5. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person are any and all of the following:

A. Any civil, criminal or administrative claims 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;

D. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;

E. Any claims based upon such obligations as are created by this Agreement;

F. Any claims based on a failure to deliver items or services due, except as set forth in the Covered Conduct;

G. Any civil or administrative claims against individuals, including former directors, officers, employees, agents or shareholders of defendant Majestic Oaks who are criminally indicted or charged, or are convicted, or who enter into a criminal plea agreement related to the Covered Conduct.

6. Majestic Oaks agrees to continue its Corporate Compliance Program (“Compliance Program”) that sets forth the structure for reporting and addressing all components relevant to the provision of adequate care, e.g., medical, nursing, nutrition, wound care, dietary,

housekeeping, laundry, infection control, plant operations and facility management services and shall incorporate the principles and policies set forth in the OIG-HHS's Compliance Program Guidance for Nursing Facilities, a true copy of which has been provided to the United States.

7. Majestic Oaks agrees that it will comply fully with the applicable statutes, rules and regulations governing the Medicare and Medicaid Programs and the Nursing Home Reform Act.

8. Majestic Oaks agrees to employ independent third-party consultants, to assist in and assess Majestic Oaks's compliance with the terms of this Settlement Agreement. The consultants shall be chosen by the United States after consultation with Majestic Oaks. Pursuant to this selection process, Marie Boltz, MSN, NHA, and Susan Renz, MSN, RNCS, have been chosen as the Consultants. If the Consultants resign or are removed for any reason by the United States prior to the termination of their term of appointment, the United States, after consultation with Majestic Oaks, shall appoint other consultants with the same functions and authorities. The Consultants shall visit Majestic Oaks for a period of at least one (1) year from the first monitoring visit and shall have access, at any time, to all current nursing home residents, their medical records, staff and employees, and all records in the possession or control of Majestic Oaks staff and employees (e.g., quality assurance records). In addition, the Consultants shall advise management and staff as to possible procedures which, in the Consultants' view, may facilitate compliance with this Settlement Agreement. The Consultants may confer and correspond with the parties on an *ex parte* basis.

9. The parties acknowledge that the proposed Consultants have submitted an acceptable budget (to the United States and Majestic Oaks) for a one (1) year consulting period. The United States and Majestic Oaks agree that the total annual consulting fee for the Consultants shall not exceed \$50,000 without the prior written approval of the parties. The Consultants shall be compensated at the budgeted rate (\$100.00 per hour) for performance of the consulting activities set forth herein. The Consultants may retain independent consultants, as needed, to assist them in meeting their obligations, subject to the proposed annual budget. Expenditures for such independent consultants may not exceed the budgeted hourly rate or (in combination with the fees paid to the Consultants) the annual budget, without the prior written approval of the parties. Majestic Oaks shall bear all reasonable costs of the Consultants consistent with the hourly rate, not to exceed the budget limits set forth above. Failure to pay the Consultants within thirty (30) calendar days of receipt of their invoice shall constitute a breach of this Settlement Agreement subject to paragraph 13; provided, however, that Majestic Oaks shall advise the consultants of any apparent errors or contested items in the invoice within ten (10) days of receiving the invoice. In the event of a good faith disagreement that is not resolved within this time frame, Majestic Oaks shall pay all uncontested amounts within thirty (30) days of its receipt of the invoice.

10. The Consultants shall visit Majestic Oaks as they deem appropriate. At all times the Consultants shall attempt to coordinate their activities with the appropriate Majestic Oaks personnel in order to minimize disruption in the day-to-day operations of the facility. At the conclusion of each visit, the Consultants will meet with Majestic Oaks's Administrator (or

her/his designee) to discuss any observations and recommendations that have been identified, and make suggestions related to how Majestic Oaks can address these observations and recommendations. The Consultants shall create a report (the "Consultants' Report") documenting any observations and recommendations relating to compliance with this Settlement Agreement and shall present the report within ten (10) calendar days of the site visit to Majestic Oaks, the United States Attorney's Office, and the U.S. Department of Health and Human Services, Office of Inspector General. Upon receipt of the Consultants' Report, Majestic Oaks will have an opportunity to submit a response, with the assistance of the Consultants, as requested by Majestic Oaks, to address any concerns raised by the Consultants and actions taken by Majestic Oaks in response to such concerns. Such response, if any, shall be submitted within ten (10) business days of receipt by Majestic Oaks of the Consultants' Report. Majestic Oaks and the United States agree that, at the request of either party, they shall meet promptly to discuss any issues or concerns raised by the Consultants. Majestic Oaks is not bound by the Consultants' observations and recommendations but must address them in good faith. In the event the United States believes there has been a breach of this Settlement Agreement, nothing in this Settlement Agreement shall prevent the United States from calling the Consultants as witnesses or from submitting their written observations and recommendations in any proceeding. In the event that Majestic Oaks wishes to call the Consultants as witnesses in any proceeding concerning their expert opinions, Majestic Oaks will compensate the Consultants for their appearance.

11. If, after one (1) year of the date of the first monitoring visit, and in the reasonable judgment of the United States, Majestic Oaks has implemented all provisions contained in this Settlement Agreement and there are no unresolved issues that have a material impact on care to the residents of Majestic Oaks, the consulting project shall terminate. If the Consultants recommend that the consulting project should be extended beyond the one-year term, the Consultants shall state the basis for such recommendation and the reasons and circumstances for the proposed extension, as well as any proposal they may have for the duration and nature of the proposed extension and a reasonable budget for their services during the proposed extension. Such proposed extension must be reasonable under the circumstances and Majestic Oaks shall continue to compensate the Consultants at the same hourly rate as stated above and at the same annual cap as stated above if the United States determines in good faith that there are still unresolved problems requiring the extension of the consulting project.

12. The obligations imposed by this Settlement Agreement on Majestic Oaks, except for the consulting project, shall be in effect for a period of three (3) years from the effective date of this Settlement Agreement. During that three-year period, thirty (30) days after the first, second, and third anniversary of the effective date of this Settlement Agreement, Majestic Oaks shall submit Annual Reports to the OIG-HHS regarding the status of its compliance with this Settlement Agreement. Each annual report shall include: (a) any amendments or revisions to Majestic Oaks's Compliance Program made during the preceding year and the reasons for such changes (e.g., change in contractor policy); (b) a description of training programs that address the issues identified as a result of the government's investigation,

when the training programs were implemented, and a summary of the activities undertaken in furtherance of these programs; and (c) a certification by the Compliance Officer that all applicable persons have completed the training; that Majestic Oaks is in compliance with all of the requirements of this Settlement Agreement, to the best of his or her knowledge; and that the Compliance Officer has reviewed the Annual Report and has made reasonable inquiry regarding its content and believes that the information is accurate and truthful.

13. In the event that Majestic Oaks fails to comply in good faith with any of the terms of this Settlement Agreement relating to it, or should any of Majestic Oaks's representations or warranties be materially false, the United States may, at its sole discretion, exercise one or more of the following rights:

- (a) seek specific performance of this Settlement Agreement and the prevailing party shall be entitled to an award of reasonable attorneys fees and costs in its favor; or
- (b) exercise any other right granted by law; or
- (c) seek exclusion by the OIG-HHS for material breach pursuant to the following procedures:

(1) Notice of Material Breach and Intent to Exclude. The United States and Majestic Oaks agree, as a contractual remedy, that a material breach of this Settlement Agreement by Majestic Oaks constitutes an independent basis for the Nursing Facility's Majestic Oaks's exclusion from participation in the Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)). Upon a determination by OIG-HHS that Majestic Oaks have materially breached this Settlement Agreement and that exclusion should be imposed, the OIG-HHS shall

notify Majestic Oaks by certified mail of: (a) Majestic Oaks's material breach; and (b) OIG-HHS's intent to exercise its contractual right to impose exclusion ("Notice of Material Breach and Intent to Exclude").

(2) Opportunity to Cure. Majestic Oaks shall have 35 days from the date of the Notice of Material Breach and Intent to Exclude Letter to demonstrate to the OIG-HHS's satisfaction that:

- (a) Majestic Oaks is in compliance with the obligations of this Agreement cited by the OIG-HHS as being the basis for the material breach;
- (b) the alleged material breach has been cured; or
- (c) the alleged material breach cannot be cured within the 35-day period, but that: (i) Majestic Oaks has begun to take action to cure the material breach; (ii) Majestic Oaks is pursuing such action with due diligence; and (iii) Majestic Oaks has provided to OIG-HHS a reasonable timetable for curing the material breach.

(3) Exclusion Letter. If at the conclusion of the 35-day period, Majestic Oaks fails to satisfy the requirements of this Paragraph, OIG-HHS may exclude Majestic Oaks from participation in the Federal health care programs. OIG-HHS will notify Majestic Oaks in writing of its determination to exclude Majestic Oaks. Subject to the provisions in this Paragraph, the exclusion shall go into effect 30 days after the date of the Exclusion Letter. The exclusion of Majestic Oaks will have national effect and will also apply to all other federal procurement and non-procurement programs. If Majestic Oaks is excluded under the provisions of the Settlement Agreement, Majestic Oaks may seek reinstatement by submitting a written

request pursuant to the provisions at 42 C.F.R. §§ 1001.3001-.3004. Reinstatement is not automatic.

(4) Review Rights. Upon the OIG-HHS's delivery to Majestic Oaks of the Exclusion Letter, and as an agreed-upon contractual remedy for the resolution of disputes arising under the obligations of this Settlement Agreement, Majestic Oaks shall be afforded certain review rights comparable to those set forth in 42 U.S.C. § 1320a-7(f) and 42 C.F.R. Part 1005 as if they applied to the exclusion for breach of this Order. Specifically, an action for exclusion shall be subject to review by an Administrative Law Judge (ALJ) and, in the event of an appeal, the Departmental Appeals Board ("DAB"), in a manner consistent with the provisions in 42 C.F.R. §§ 1005.2-1005.21. Notwithstanding the language in 42 C.F.R. § 1005.2(c), a request for a hearing involving exclusion for breach shall be made within 30 days of the date of the Exclusion Letter.

(5) Exclusion Review. Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, the only issues in a proceeding for exclusion based on a material breach of the Settlement Agreement shall be: (a) whether Majestic Oaks was in material breach of this Settlement Agreement; (b) whether such breach was continuing on the date of the Exclusion Letter; and (c) whether the alleged material breach cannot be cured within the 35-day period, but that (i) Majestic Oaks has begun to take action to cure the material breach, (ii) Majestic Oaks is pursuing such action with due diligence, and (iii) Majestic Oaks has provided to OIG-HHS a reasonable timetable for curing the material breach.

(6) For purposes of the exclusion herein, exclusion shall take effect only after an ALJ decision that is favorable to the OIG-HHS. Majestic Oaks's election of its contractual rights to appeal to the DAB shall not abrogate the OIG-HHS's authority to exclude Majestic Oaks upon the issuance of the ALJ's decision pending appeal. If the ALJ sustains the determination of the OIG-HHS and determines that exclusion is authorized, such exclusion shall take effect 20 days after the ALJ issues such a decision, notwithstanding that Majestic Oaks may request review of the ALJ decision by the DAB.

14. In the event that the United States exercises any of its rights under paragraph 13 of this Settlement Agreement, Majestic Oaks specifically reserves all of its rights to challenge, defend and contest any such action.

15. In addition to the limitations imposed under Paragraph 13(c)(5) above, Majestic Oaks waives and will not assert any defenses Majestic Oaks may have to any criminal prosecution relating to the Covered Conduct 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 Settlement bars a remedy sought in such criminal prosecution. Majestic Oaks agrees that this settlement is not punitive in purpose or effect. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue Laws, Title 26 of the United States Code.

16. Majestic Oaks fully and finally releases the United States, its agencies, employees, servants, and agents from any claims (including attorneys fees, costs, and expenses

of every kind and however denominated) which Majestic Oaks 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. Additionally, Majestic Oaks agrees to forthwith withdraw its Request for a Hearing with prejudice, currently pending before Administrative Law Judge Alfonso Montano, Departmental Appeals Board, pursuant to 42 C.F.R. § 498.68. The above-mentioned Request for a Hearing sought to challenge CMS' remedies based on deficiencies determined during a survey completed on May 15, 2003. That Request for a Hearing is captioned as *Majestic Oaks v. CMS*, Docket No. C-03-593. Notwithstanding its denial of the contentions of the United States set forth above in II.D of this Agreement, Majestic Oaks will withdraw its hearing request with prejudice in light of this Agreement and CMS' findings of noncompliance with the requirements for participation in the Medicare program as determined during the survey completed on May 15, 2003 will remain standing; provided, however, that the proposed Civil Monetary Penalties that are the subject of the hearing shall be subsumed by the Settlement Amount paid pursuant to this Agreement.

17. The Amount that Majestic Oaks must pay pursuant to this Agreement by electronic wire transfer pursuant to Paragraph 1 above, will not be decreased as a result of any denial of claims for payment being withheld from payment by any Medicare carrier or intermediary or any State payer, related to the Covered Conduct; and Majestic Oaks agrees not to resubmit to any Medicare carrier or intermediary or any State payer any previously denied claims related to the Covered Conduct, and agrees not to appeal any such denials of claims.

18. Majestic Oaks agrees to the following:

B. Unallowable Costs Defined: that all costs (as defined in the Federal Acquisition Regulations (FAR), 48 C.F.R. § 31.205-47 and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395ggg and 1396-1396v, and the regulations and official program directives promulgated thereunder) incurred by or on behalf on Majestic Oaks, its present or former officers, directors, employees, shareholders, and agents in connection with:

- (3) the United States' audit(s) and civil investigations(s) of the Covered Conduct;
Majestic Oaks's investigation, defense, and any corrective actions
- (4) undertaken in direct response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
the negotiation and performance of this Agreement;
- (5) the payment Majestic Oaks makes to the United States pursuant to
- (6) this Agreement;
the third party consultant costs incurred pursuant to paragraph 8 of
- (7) this Agreement; and
the obligation to prepare and submit annual reports to the OIG-HHS,
- (8)

are unallowable costs on Government contracts and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP).

Nothing in this sub-paragraph that may apply to compliance costs affects the status of costs that are not allowable based on any other authority applicable to Majestic Oaks. All costs described or set forth in this Paragraph 18.A are hereafter "Unallowable Costs;" provided, however, that this Agreement does not require Majestic Oaks to self-disallow costs incurred in the ordinary

course of business in providing covered services (including for example, the salaries of managers or staff, or the ordinary costs of administering its existing compliance program) which Majestic Oaks would have incurred in the absence of this Agreement.

C. Future Treatment of Unallowable Costs: These unallowable costs will be separately estimated and accounted for by Majestic Oaks, and Majestic Oaks will 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 Majestic Oaks or any of its subsidiaries to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

D. Treatment of Unallowable Costs Previously Submitted for Payment: Majestic Oaks further agrees that within 90 days of the effective date of this Agreement, it will identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid, VA 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 that have affected its reimbursement from any federal program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by Majestic Oaks or any of its subsidiaries, and will 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. Majestic Oaks agrees that the United States, at a minimum, will be entitled to recoup from Majestic Oaks any overpayment plus applicable interest as a result of the inclusion of such

Unallowable Costs on previously-submitted cost reports, information reports, cost statements, or request for payment. Any payment 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 Majestic Oaks or any of its subsidiaries on the effect of inclusion of unallowable costs (as defined in this Paragraph) on Majestic Oaks or any of its subsidiaries' cost reports, cost statements, or information reports. Notwithstanding the foregoing, Majestic Oaks shall not be required to resubmit or amend any previously filed cost report simply because it reflects Unallowable Costs, provided that the reporting of such Unallowable Costs do not directly or indirectly impact reimbursement due in connection with any federal program (for example consulting fees which might comprise Unallowable Costs which are over and above a regulatory ceiling and therefore not subject to being reimbursement even if reported). Nothing in this Agreement shall constitute a waiver of the rights of the United States to examine or reexamine the unallowable costs described in this Paragraph.

19. Majestic Oaks covenants to cooperate fully and truthfully with the United States' investigation of individuals and entities not specifically released in this Agreement. Upon reasonable notice, Majestic Oaks will make reasonable efforts to facilitate access to, and encourage the cooperation of, its directors, officers, and to cooperatively facilitate access to its employees for interviews and testimony, consistent with the rights and privileges of such individuals.

20. This Agreement is intended to be for the benefit of the Parties, only, and by this instrument the Parties do not release any claims against any other person or entity except as otherwise specifically set forth herein.

21. Majestic Oaks agrees that it will not seek payment for any costs that are unallowed costs under this Agreement from any health care beneficiaries or their parents or sponsors. Majestic Oaks waives any causes of action against these beneficiaries or their parents or sponsors based upon the claims for payment covered by this Agreement.

22. Majestic Oaks expressly warrants that it has reviewed its financial situation and that the Settlement Amount is not a voidable transfer within the meaning of 11 U.S.C. § 547(c), that Majestic Oaks does not intend to file and is not aware of any third party filing of a petition for bankruptcy, and that it will remain in operation during and following its payments to the United States hereunder. Further, the Parties expressly warrant that, in evaluating whether to execute this Agreement, the Parties (i) have intended that the mutual promises, covenants and obligations set forth herein constitute a contemporaneous exchange for new value given to Majestic Oaks, within the meaning of 11 U.S.C. § 547(c)(1), and (ii) have concluded that these mutual promises, covenants and obligations do, in fact, constitute such a contemporaneous exchange.

23. Each party to this Agreement will bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

24. Majestic Oaks represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

25. 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 will be the United States District Court for the Eastern District of Pennsylvania, except that exclusion by the OIG-HHS pursuant to paragraph 13(c) shall be resolved pursuant to the procedures set forth in that paragraph.

26. This Agreement may not be amended except by written consent of the Parties.

27. The undersigned individuals signing this Agreement on behalf of Majestic Oaks represent and warrant that they are authorized by Majestic Oaks to execute this Agreement. The undersigned United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

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

29. This Agreement is effective on the date of signature of the last signatory to the Agreement.

THE UNITED STATES OF AMERICA

PATRICK L. MEEHAN
United States Attorney
Eastern District of Pennsylvania

DATED: _____

BY: _____

JAMES G. SHEEHAN
Associate United States Attorney
United States Attorney's Office
Eastern District of Pennsylvania

DATED: _____

BY: _____
DAVID R. HOFFMAN
Assistant United States Attorney
Eastern District of Pennsylvania

DATED: _____

BY: _____
LARRY J. GOLDBERG
Assistant Inspector General
for Legal Affairs
Office of Inspector General
United States Department of
Health and Human Services

MAJESTIC OAKS

DATED: _____

BY: _____
MARK H. GALLANT, ESQ.
COZEN O'CONNOR
1900 Market Street
Philadelphia, PA 19103

DATED: _____

BY: _____
ROBERT J. SALL, VICE PRESIDENT,
OZAL OF PA, INC., GENERAL
PARTNER of WARMINSTER HEALTH
CARE
ASSOCIATES, L.P.

SCHEDULE "A"

<u>Balance Outstanding</u>	<u>Payment Amount</u>	<u>Payment Date</u>	<u>Interest Accrued</u>
\$50,000.00	\$5,000.00	July 1, 2004	\$0.00
\$45,000.00	\$4,000.00	August 2004	\$187.50
\$41,000.00	\$4,000.00	September 2004	\$170.83
\$37,000.00	\$4,000.00	October 2004	\$154.17
\$33,000.00	\$4,000.00	November 2004	\$137.50
\$29,000.00	\$4,000.00	December 2004	\$120.83
\$25,000.00	\$4,000.00	January 2005	\$104.17
\$21,000.00	\$4,000.00	February 2005	\$87.50
\$17,000.00	\$4,000.00	March 2005	\$70.83
\$13,000.00	\$4,000.00	April 2005	\$54.17
\$9,000.00	\$4,000.00	May 2005	\$37.50
\$5,000.00	\$4,000.00	June 2005	\$20.83
\$1,000.00	\$2,145.83	July 2005	
	\$51,145.83	Total Paid	