CORPORATE INTEGRITY AGREEMENT
Community Innovations, Inc.

This Corporate Integrity Agreement ("the Agreement") is entered into between Community Innovations, Inc., f/k/a P.C. Contract Management Services, Inc. ("Community Innovations") and the Office of Inspector General of the United States Department of Health and Human Services ("HHS/OIG"). Pursuant to this Agreement, Community Innovations agrees to undertake the compliance obligations outlined below.

I. Preamble

Community Innovations is a Medicaid participating provider in the Community Alternatives Program of the State of North Carolina — a program designed to provide an alternative to institutional care for individuals who are at risk for mental health disabilities, substance abuse or developmental problems. Community Innovations is also a Medicaid participating provider in the Community Alternatives Program for Persons with Mental Retardation.

Community Innovations agrees to implement a Corporate Integrity Program designed to prevent fraud, abuse, and false billing to Medicaid and Medicare and other Federal programs, including but not limited to other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)), by Community Innovations and by its subsidiaries, employees, independent contractors and third parties who are directly involved in or responsible for the delivery of home and community care services and those who are involved in or directly or indirectly responsible for the submission of claims for home and community care services to Medicaid and Medicare and other Federal programs. The Corporate Integrity Program shall be maintained so as to ensure that Community Innovations and each of its directors, officers, employees and contractors maintains the business integrity required of a participant in Federal programs, and that Community Innovations is in compliance with all laws and regulations applicable to such programs and with the terms of the Agreement set out below.

Glossary of Terms. This Agreement contains the following terms. This glossary is provided for convenience only. The obligations under this Agreement are in no way limited to the following services:

Adaptive Behavior Training ("ABT") — This describes training to increase an individual's independence and includes self-help skills, independent living skills, domestic skills, and social skills. It is now commonly referred to as Community Inclusion, as stated below.

Community Alternatives Program ("CAP") — This refers to the programs that provide an alternative to institutional care for individuals with various mental impairments. The training and services described in this Glossary currently are provided through CAP.

Community Alternatives Program for Persons with Mental Retardation ("CAP-MR") — CAP-MR provides home and community care to individuals who otherwise would be institutionalized in an intermediate care facility for the mentally retarded. CAP-MR services include adaptive behavior training, described above.

Community Inclusion ("CI") — This is the term that has come to replace ABT, defined above. Another synonymous term is Supportive Living.

Client Behavior Intervention ("CBI") — This refers to a variety of services provided to both adults and children who are at risk of disability or an inability to live successfully in the community. CBI seeks the development of skills, behavior and individual responsibility that would promote the client's ability to function successfully and independently in the community and traditional family environment.

High Risk Intervention ("HRI") — This service is provided to children or young adults under the age of 21 who are at risk for developing or exacerbating mental health, substance abuse or developmental problems. HRI includes psycho-educational activities designed to reduce disability and dysfunction. HRI is considered to be a more intensive therapeutic regimen than CBI, described above.

Periodic Service Log — The Periodic Service Log is a document maintained in each component program which tracks the number of hours of periodic services provided to each consumer each day. It is updated daily by the program manager from information received from direct care staff about their activities of the previous day. The program manager calls each regional office location with the

log information daily. Weekend numbers are reported on Monday mornings. Each regional office faxes this information daily to the accounting office.

II. Corporate Integrity Policies and Code of Standards

The period of future compliance obligations under this Agreement shall be four (4) years and thirty (30) days from the date of execution of this Agreement. The date of execution of this Agreement shall be deemed to be the date of the final signature for this Agreement. All reports and notifications required under this Agreement shall be sent to:

Civil Recoveries Branch -- Compliance Unit
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services
Cohen Building Room 5527
330 Independence Avenue, S.W.
Washington, D.C. 20201
(202) 619-2078 Telephone
(202) 205-0604 Fax

All HHS/OIG correspondence and notifications sent to Community Innovations shall be sent to:

Dora Campbell
Corporate Compliance Officer
Community Innovations, Inc.
1530 N. Gregson St., Suite 200
Durham, NC 27701
(919) 286-7727 Telephone
(919) 286-7375 Fax

Community Innovations agrees to implement the following measures:

A. Corporate Compliance Committee

Within thirty (30) days of the execution of this Agreement, Community Innovations' Board of Directors shall create a compliance committee that shall be

responsible for the Corporate Integrity Program. The members of the Corporate Compliance Committee shall at least include the Corporate Compliance Officer (presently Dora Campbell), the Chairman of the Board of Directors (presently Charles N. Stephens), an outside director of Community Innovations, who shall be appointed by the Chairman of the Board of Directors, and representatives of relevant components of Community Innovations (*i.e.*, billing, human resources, *etc.*). The Corporate Compliance Officer will have primary responsibility for compliance operations and reporting requirements. Changes to the membership of the Corporate Compliance Committee will be noted in the Annual Report.

B. Corporate Compliance Officer

For at least the term of this Agreement, Community Innovations shall continue to have a Corporate Compliance Officer with primary responsibility for compliance operations and reporting requirements. When the Corporate Compliance Officer is replaced, Community Innovations shall notify the HHS/OIG of such change, in writing, within fifteen (15) days. This change will also be noted in the Annual Report, described below.

C. Billing and Contracting Procedures

1. Annual Review by Outside Firm

Within one-hundred and twenty (120) days of execution of this Agreement, Community Innovations shall retain an independent review organization, such as an accounting firm, law firm or health care consultant, to review on an annual basis Community Innovations' dealings with Medicaid, Medicare and other Federal programs. The independent review organization must have expertise in the billing, coding, reporting and other requirements of Medicaid, Medicare and other Federal health care programs from which Community Innovations seeks reimbursement. The name of the independent review organization should be stated in the one-hundred and fifty (150) day interim report.

The independent review organization should audit Community Innovations' billing practices, to ensure Community Innovations is in compliance with all applicable federal and state health care statutes, regulations, policies,

procedures, program requirements and Community Innovations' policies and procedures, and to ensure Community Innovations' compliance with the terms of this Agreement. The independent review organization will conduct this audit and compliance review annually. With regard to Community Innovations' compliance with all applicable federal and state health care statutes, regulations, policies, procedures, program requirements and Community Innovations' policies and procedures, these audits shall provide:

(1) An assessment of the provider's billing and coding operation (including how the billing system operates, strengths and weaknesses of the system).

(2) An audit and analysis of whether Community Innovations is submitting accurate claims for services billed to Medicaid and any other Federal health care programs.

(3) An assessment of Community Innovations' procedures to correct inaccurate billings or codings to Medicaid and other Federal health care programs.

(4) An assessment of Community Innovations' internal controls over its billing procedures to determine whether they are working effectively.

(5) An assessment of whether Community Innovations' program, policies, operations, and procedures comply with the statutes, regulations and other requirements of Medicaid and other Federal health care programs from which Community Innovations seeks reimbursement.

(6) An assessment of whether Community Innovations is a party to or benefits from any illegal arrangements, (*e.g.*, arrangements that violate the anti-kickback statute, 42 U.S.C. §1320a-7b, or the physician self-referral ("Stark") law, 42 U.S.C. §1395nn).

(7) An assessment of the steps Community Innovations is taking to bring its operation into compliance or to correct problems identified by the audit.

The third-party review organization will also assess whether Community Innovations is complying with the terms of this Agreement.

2. Mandatory Disclosure of Violations

If, during the course of its annual review pursuant to this paragraph, the reviewer discovers any material violation of Federal law or regulations concerning Community Innovations' practices (including, but not limited to, those practices described above), the Corporate Compliance Officer will promptly report such material violation to HHS/OIG as promptly as possible, but in no event later than thirty (30) days after discovering the violation. The Corporate Compliance Officer's report to HHS/OIG will include the following: (a) the annual review's findings concerning any such material violations; (b) Community Innovations' actions to correct such material violations; and (c) any further steps it plans to take to address such material violations and prevent them from recurring in the future. A corrective action plan to remedy the material violation should be in place within sixty (60) days. The corrective action plan will be available to the HHS/OIG upon request.

3. Mandatory Disclosure of Deficiencies

If, during the term of this Agreement, the Corporate Compliance Officer discovers any material deficiency related to Medicaid, Medicare, or any other Federal program, then within thirty (30) days of discovering the material deficiency the Corporate Compliance Officer will report the material deficiency to the relevant Medicaid agency, Medicare contractor or other relevant payor, and Community Innovations will repay any overpayment resulting from the material deficiency.

The notice to the Medicaid agency, Medicare contractor or other relevant payor should state that the repayment is being made pursuant to the terms of this Corporate Integrity Agreement and should include: (i) a description of

the circumstances surrounding the overpayment; (ii) the methodology by which the overpayment was determined; (iii) any claim-specific information used to determine the overpayment; (iv) the amount of the overpayment; and (v) the provider identification number under which the refund is being made.

Contemporaneous with the notification to the payor as provided above, Community Innovations shall notify HHS/OIG of the following: (i) all of the information provided to the Medicaid agency, Medicare contractor or other relevant payor in returning the overpayment; (ii) the name and address of the Medicaid agency, Medicare contractor or other relevant payor to whom the overpayment was sent; (iii) Community Innovations' findings concerning the deficiency; (iv) Community Innovations' action to correct the deficiency; and (v) any further steps Community Innovations plans to take to address such deficiency and prevent it from recurring.

For purposes of this Agreement, a "material deficiency" shall mean anything that has a significant, adverse financial impact upon the Medicaid and/or Medicare programs, which may be the result of an isolated event or a series of occurrences, and which lacks conformity with Medicaid and/or Medicare reimbursement principles or other applicable statutes, and the regulations and written directives issued by the Health Care Financing Administration ("HCFA") and/or its agents, or any other agency charged with administering the health care program implicated and/or its agents.

While this reporting requirement focuses on occurrences having a "significant, adverse financial impact," this provision does not excuse Community Innovations' statutory obligation as a Medicare or Medicaid participant to bring to a payor's attention any other billing deficiencies, however de minimis, make appropriate refunds and take any steps necessary to prevent the occurrence in the future.

D. Corporate Compliance Policy and Procedures

Within one-hundred and twenty (120) days of the execution of this Agreement, Community Innovations shall implement written policies and procedures regarding its commitment to ensure compliance with all statutes, regulations, policies,

procedures and guidelines related to Medicaid and other Federal health care programs, especially those statutes, regulations, policies, procedures and guidelines related to the delivery of home and community care services, including the requirement that all services be accurately documented by the individual providing the service and accurately represented in any claims for payment. Community Innovations' policies and procedures shall be adopted by the Board of Directors and distributed to all employees and independent contractors.

Within thirty (30) days of receiving the policies and procedures each employee and independent contractor shall certify, in writing, that he or she has read, understands, and agrees to abide by Community Innovations' policies and procedures. Community Innovations will maintain these certifications on file and they will be available to the HHS/OIG upon request.

Further, Community Innovations' policies and procedures shall include, but will not be limited to the requirement that the Corporate Compliance Officer perform on-site inspections and periodic reviews (at least quarterly) of documents, including but not limited to employee time sheets, progress notes (including but not limited to progress notes for ABT/CI, CAP, CAP-MR, CBI, and HRI), service logs, billing sheets, and census reports from each residential facility to verify compliance with Medicaid and Medicare and other Federal laws and regulations, including but not limited to the following:

(1) That the number of hours recorded in the Periodic Service Log accurately reflect the number of hours recorded in employee time sheets, including but not limited to services for ABT/CI, CAP, CAP-MR, CBI or HRI.

(2) That the number of hours billed accurately reflect the number of hours recorded in the Periodic Service Log.

(3) That the number of hours recorded in the employee time sheets and Periodic Service Log and the number of hours billed accurately reflect the periods of service actually provided.

(4) That the signatures on progress notes, including but not limited to progress notes for ABT/CI, CAP, CAP-MR, CBI, or HRI, match the signatures in the Periodic Service Log.

(5) That a service that should be provided by one employee at one time is billed accordingly, *i.e.*, the services of two employees are not billed when only one employee provided the service or when only one employee is necessary to provide the service.

(6) That all progress notes, including but not limited to progress notes for ABT/CI, CAP, CAP-MR, CBI, and HRI, are signed and dated by the appropriate staff.

(7) That clients are present in the residential facility or an associated day program or an approved outing location or a location that is an appropriate part of the client's plan of treatment (*i.e.*, the client is not in the hospital or on a home visit), and receiving services during the period for which the services are billed.

(8) That all employee time sheets and progress notes, including but not limited to progress notes for ABT/CI, CAP, CAP-MR, CBI, and HRI, include a signature and certification from the employee that the stated hours and services are true and accurate to the employee's knowledge.

(9) That the certifications described immediately above are signed and dated on the date the information is entered onto the employee time sheets or progress notes, including but not limited to progress notes for ABT/CI, CAP, CAP-MR, CBI, and HRI.

(10) That payment is returned to Medicaid or (if applicable) Medicare or other relevant payor for any services that do not satisfy the aforementioned criteria or that otherwise violate applicable Medicaid, Medicare or other laws and regulations.

A copy of Community Innovations' policies and procedures will be available to the HHS/OIG upon request. Community Innovations shall post in a prominent place accessible to each appropriate employee a notice detailing its commitment to comply with all applicable Medicaid, Medicare and other Federal laws and regulations in the conduct of its business.

E. Information and Education

(a) *General Training*. Within one-hundred and twenty (120) days after execution of this Agreement, Community Innovations shall require and provide at least one hour of training to each and every employee of Community Innovations. This general training shall: (1) cover Community Innovations' policies and procedures; (2) reinforce the need for strict compliance with the applicable statutes, regulations, policies, procedures, and program guidelines, and Community Innovations' policies and procedures; and (3) advise employees that any failure to comply may result in disciplinary action. New employees shall receive the general training described above within one week of the beginning of their employment or within one-hundred and twenty (120) days after the execution of this Agreement, whichever is later.

(b) *Billing Training*. In addition to the general training described above, within one week of the beginning of their employment or within one-hundred and twenty (120) days after execution of this Agreement, whichever is later, each and every person involved in the documentation of services billed to Medicaid, Medicare, or any other Federal health care program, or in the preparation or billing of such services shall receive at least three hours of training regarding the applicable statutes, regulations, policies, procedures, and program guidelines for Medicaid, Medicare, and all other Federal health care programs. Annually thereafter, Community Innovations shall require and provide at least two hours of the above described coding training to such individuals. Each employee who attends the training should sign an attestation statement acknowledging that he or she has received the general and/or billing training and agrees to abide by the policies and procedures set forth in the training. Community Innovations will maintain all attestations and these acknowledgments will be available for HHS/OIG review, upon request.

F. Confidential Disclosure Program

Within one-hundred and twenty (120) days of execution of this Agreement, Community Innovations shall establish a Confidential Disclosure Program enabling employees, and agents and contractors, if applicable, to communicate about compliance issues to the Corporate Compliance Officer. The Confidential Disclosure Program shall include methods, such as a toll-free compliance

"hotline," for employees, agents, and contractors to disclose any practices or procedures with respect to Medicare, Medicaid, or any other Federal health care program, alleged by the individual to be inappropriate, to the Corporate Compliance Officer or some other person who is not in the reporting individual's chain of command. The Confidential Disclosure Program shall emphasize a non-retribution, non-retaliation policy, and shall include a reporting mechanism for anonymous, confidential communication. Community Innovations shall use intake procedures designed to elicit all relevant information from individuals reporting alleged misconduct. For any disclosure that is sufficiently specific that it reasonably (1) permits a determination of the appropriateness of the alleged improper practice, and (2) provides opportunity for the taking of corrective action, Community Innovations shall require the internal review of the allegations set forth in such disclosure and ensure that proper follow-up is conducted. Community Innovations shall, in good faith, make a preliminary inquiry into the allegations set forth in every disclosure to ensure that it has obtained all of the information necessary to determine whether it should conduct an internal review as provided above. The Corporate Compliance Officer shall maintain a confidential disclosure log, which shall include a record of each allegation received, status of the investigation of the allegation, and any corrective action taken in response to the investigation. The Corporate Compliance Officer shall maintain all documentation related to information in the log and include a copy of the log in Community Innovations' Annual Report.

G. Dealing with Excluded or Convicted Persons or Entities

Effective upon the date of execution of this Agreement, Community Innovations shall not employ or contract with, with or without compensation, an individual or entity who is listed by a Federal agency as excluded, debarred, suspended or otherwise ineligible to participate in a Federal program. In order to carry out the policy, within one-hundred and twenty (120) days of the execution of this Agreement, Community Innovations shall make reasonable inquiry into the status of any current or potential employee, consultant, and contractor. Such reasonable inquiry shall include, at a minimum, review of the HHS/OIG Cumulative Sanctions Report that is currently available on the Internet at http://www.dhhs.gov/progorg/oig, and the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs at http://www.arnet.gov/epls.

If an individual becomes suspended or is proposed for exclusion during his or her employment with Community Innovations, Community Innovations will remove such employee from responsibility for, or involvement with, Community Innovations' Medicare, Medicaid or other Federal health care program operations until the resolution of such suspension or proposed exclusion. In addition, if any employee of Community Innovations is charged with a criminal offense relating to its Medicare, Medicaid or other Federal health care program business, Community Innovations will remove that employee immediately from responsibility for or involvement with its Medicare, Medicaid or other Federal health care program business affairs. If the employee is convicted or excluded, Community Innovations may no longer employ the individual unless and until the individual is reinstated to participate in the Federal health care programs. Community Innovations shall notify HHS/OIG of each such personnel action taken among its own personnel and the reasons therefor, in its Annual Report.

Community Innovations shall not allow, or cause to be allowed, any person convicted in any local, State or Federal court of any felony involving health care matters to hold the position of officer or director of itself or any of its subsidiaries.

H. Interim and Annual Reports

Within one-hundred and fifty (150) days after the execution of this Agreement, Community Innovations shall submit a written implementation report to the HHS/OIG summarizing the implementation status of the compliance obligations required by this Agreement. This implementation report shall include at least the following items:

(1) The Corporate Compliance Officer's name, address, telephone number and a corporate organization chart depicting the Corporate Compliance Officer's position within the organization.

(2) The names, addresses, and telephone numbers of the other Corporate Compliance Committee members.

(3) A certification by the Corporate Compliance Officer that the written policies and procedures required by Paragraph D of this section have been developed and are being implemented.

(4) A copy of the agenda of the training provided pursuant to Paragraph E of this section, and a schedule depicting the dates and times at which the training has been provided to date.

(5) A description of the Confidential Disclosure Program established pursuant to Paragraph F of this section.

(6) The identity, address and telephone number of the independent review organization selected to perform the audit required by Paragraph C(1) of this section, as well as the start date and completion date of the first audit.

(7) A certification by the Corporate Compliance Officer that Community Innovations does not employ as employees, consultants, or contractors, any individual identified as convicted or excluded, as described in Paragraph G of this section.

On or before the thirtieth (30th) day beyond the first, second, third, and fourth anniversary dates of the execution of this Agreement, Community Innovations shall provide HHS/OIG with a report relating to the following items:

(1) A summary about any ongoing investigation or legal proceeding conducted or brought by any governmental entity involving an allegation that Community Innovations may have committed a crime or may have engaged in fraudulent activities. The statement shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding.

(2) A complete copy of the third party review organization's audit.

(3) A complete description of any corrective steps taken to address deficiencies identified by the third party review organization's audit.

(4) A status report of the communications received from the Confidential Disclosure Program established pursuant to Paragraph F of this section, including but not limited to a description of the disclosures received and a copy of the confidential disclosure log described in Paragraph F, and the results of any investigations performed as a result of any disclosures.

(5) A report of the aggregate amount of overpayments that have been returned to the Medicaid, Medicare or other Federal programs, that were discovered as a direct or indirect result of the compliance obligations in this Agreement. The overpayment amounts should be broken down into the following categories: Medicare, Medicaid (report each applicable state separately) and other Federal payors.

(6) A certification by the Corporate Compliance Officer that Community Innovations does not employ or contract with any persons or entities that have been excluded from participation in Federal programs, as described in Paragraph G of this section, and a description of all personnel actions (including the bases therefor) taken pursuant to Paragraph G of this section.

(7) The Corporate Compliance Officer's certification that the training required pursuant to Paragraph E of this section has occurred.

(8) Any changes to the members of Community Innovations' officers, directors or Corporate Compliance Committee members.

(9) A resolution (or its equivalent) from Community Innovations' Board of Directors certifying that they have reviewed the annual report and have made reasonable inquiry regarding its contents and believe that, upon their inquiry, the statements made therein are accurate and truthful.

(10) The Corporate Compliance Officer's certification that all employees and independent contractors have received Community Innovations' policies and procedures and that within thirty (30) days of receiving the policies and procedures, each employee has certified in writing that he or she has read, understands, and agrees to abide by Community Innovations' policies and procedures.

(11) A listing of all of Community Innovations' locations (including the street address, city, state, and zip code), the "doing business as" name for each location, and the Federal health care program provider identification number and the payor or Federal contractor that issued each provider number.

III. HHS/OIG Inspection, Audit and Review Rights

In addition to any other right that HHS/OIG may have by statute, regulation, contract or pursuant to this Agreement, HHS/OIG or its duly authorized representative(s) may examine any of Community Innovations' non-privileged books, records, and other company documents and supporting materials for the purpose of verifying and evaluating: (a) Community Innovations' compliance with the terms of this Agreement; (b) Community Innovations' business conduct in its dealing with the United States Government, or any agencies or agents thereof; and (c) Community Innovations' compliance with the requirements of Medicaid, Medicare and other Federal programs. The documentation described above shall be made available by Community Innovations at all reasonable times for inspection, audit or reproduction. Furthermore, for purposes of this provision, HHS/OIG or its authorized representative(s) may interview any Community Innovations employee who consents to be interviewed at the employee's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the employee and HHS/OIG; employees may elect to be interviewed with or without a representative of Community Innovations present, but each employee has the right to have counsel present at the interview.

IV. Document and Record Retention

Community Innovations shall maintain for inspection documents and records relating to Medicaid, Medicare or other Federal reimbursement for a period of six (6) years following the execution of this Agreement, or for whatever other period of time required by law or policy, whichever is longer.

V. Breach and Default Provisions

Community Innovations' compliance with the terms and conditions of this Agreement shall constitute an element of its present responsibility with regard to direct or indirect participation in Federal programs. Full and timely compliance by Community Innovations shall be expected throughout the duration of this Agreement with respect to all of the obligations herein.

A. Stipulated Penalties for Failure to Comply with Certain Obligations

As a contractual remedy, Community Innovations and HHS/OIG hereby agree that failure to comply with certain obligations set forth in this Agreement may lead to the imposition of specific monetary penalties (hereinafter referred to as "stipulated penalties") in accordance with the following provisions.

1. A stipulated penalty of $1,500 for each day that Community Innovations fails to comply with any of the following, which stipulated penalty shall begin to accrue on the date the obligation becomes due:

   a failure to submit the complete Annual Report to HHS/OIG by the thirtieth (30th) day beyond the first, second, third, and fourth anniversary dates of the execution of this Agreement;

   b. failure to submit to HHS/OIG those items that are required to be submitted within one-hundred and fifty (150) days of the date of execution of this Agreement, pursuant to section II.H., above;

2. A stipulated penalty of $1,500 for each day Community Innovations fails to comply by having fully in force during the term of this Agreement any of the following, which stipulated penalty shall begin to accrue on the date of the HHS/OIG's notice of noncompliance in accordance with Paragraph B of this section, below.

   a. the Education and Information Program required under section II.D. of this Agreement;

   b. the Confidential Disclosure Program required under section II.E. of this Agreement.

3. A stipulated penalty of $1,500 for each day Community Innovations fails to grant access to the information or documentation necessary to exercise the HHS/OIG's inspection, audit and review rights set forth in section III of this Agreement, which stipulated penalty shall begin to accrue on the date Community Innovations fails to grant access.

4. A stipulated penalty of $1,500 for each day Community Innovations knowingly employs in a position related to the Federal programs (as specified in section II.F above) an individual after that individual has been listed by a Federal agency as excluded, debarred, suspended or otherwise ineligible for participation in the Medicaid, Medicare or any other Federal health care program (as defined in 42 U.S.C. § 1320a-7b(f)), which stipulated penalty shall begin to accrue on the date of the beginning of the employment.

5. A stipulated penalty of $1,000 for each day Community Innovations fails to comply with any other requirement in this Agreement, which is not covered by provisions 1 through 4 of this Paragraph, above, which stipulated penalty shall begin to accrue on the date of the HHS/OIG's notice of noncompliance, in accordance with Paragraph B of this section.

B. <u>Payment of Stipulated Penalties</u>

Upon finding that Community Innovations has failed to comply with any of the above-enumerated obligations, HHS/OIG may choose to demand payment of the stipulated penalties above. To effectuate the demand, HHS/OIG shall notify Community Innovations of: (i) Community Innovations' failure to comply; and (ii) HHS/OIG's exercise of its contractual right to demand payment of the stipulated penalties payable under this Agreement (this notification is hereinafter referred to as the "Demand Letter").

Within ten (10) days of receipt of the Demand Letter, Community Innovations shall respond by either: (i) curing the breach to the HHS/OIG's satisfaction, paying the applicable stipulated penalties and notifying the HHS/OIG of its corrective actions; or (ii) sending in writing to the HHS/OIG a request for a hearing before an HHS administrative law judge to dispute the HHS/OIG's determination of noncompliance, pursuant to the agreed upon provisions set forth in Paragraph D of this section, below. Failure to respond to the Demand Letter shall be considered a material breach of this Agreement and shall be grounds for exclusion under Paragraph C of this section, below.

If Community Innovations submits a timely written request to HHS/OIG for an extension of the relevant time period to perform any act or file any notification or

report under this Agreement, HHS/OIG agrees that Stipulated Penalties shall not begin to accrue until two (2) business days following Community Innovations' receipt of HHS/OIG's written denial of such a request. A "timely written request" is defined as a request in writing received by HHS/OIG at least five (5) business days prior to the date by which any act is due to be performed or notification or report is due to be filed.

Payment of the stipulated penalties shall be made by certified or cashier's check, payable to "Secretary of the Department of Health and Human Services," and submitted to OCIG at the address set forth in section II of this Agreement.

C. Material Breach and Exclusion

If Community Innovations engages in conduct that HHS/OIG considers to be a material breach of this Agreement, HHS/OIG may seek exclusion of Community Innovations from participation in the Medicaid, Medicare and any other Federal health care programs (as defined in 42 U.S.C. §1320a-7b(f)).

Upon making its determination, HHS/OIG shall notify Community Innovations of the alleged material breach by certified mail and of its intent to exclude as a result thereof (this letter shall be referred to hereinafter as the "Notice of Material Breach and Intent to Exclude"). Community Innovations shall have thirty-five (35) days from the date of the letter to:

(1) demonstrate to the HHS/OIG's satisfaction that Community Innovations is in full compliance with this Agreement;

(2) cure the alleged material breach; or

(3) demonstrate to the HHS/OIG's satisfaction that the alleged material breach cannot be cured within the thirty-five (35) day period, but that Community Innovations has begun to take action to cure the material breach and that such action shall be pursued with due diligence. Community Innovations shall, at this time, submit a timetable for curing the material breach for the HHS/OIG's approval.

If, at the conclusion of the thirty-five day period (or other specific period as subsequently agreed to by the parties), Community Innovations fails to meet the requirements of provisions 1, 2 or 3 above, HHS/OIG may exclude Community Innovations from participation in the Medicaid, Medicare and all other Federal health care programs (as defined in 42 U.S.C. §1320a-7b(f)). HHS/OIG shall notify Community Innovations in writing of its determination to exclude (this letter shall be referred to hereinafter as the "Exclusion Letter").

The exclusion shall take effect thirty (30) days from the date of the Exclusion Letter unless Community Innovations exercises its contractual right to seek review of the HHS/OIG's exclusion determination by requesting a hearing before an administrative law judge as provided in Paragraph D ("Review Process") of this section, below. In the event such a hearing is requested, the exclusion shall not be effective until the issuance of an administrative law judge's decision supporting the HHS/OIG's exclusion determination. The exclusion shall have national effect and will also apply to all other Federal procurement and non-procurement programs.

For purposes of this section, a "material breach" shall mean: (i) a failure to report a material violation and take corrective action as described in the section entitled *Billing and Contracting Procedures — Mandatory Disclosure of Violations*, above; or (ii) repeated or flagrant violations of the obligations under this Agreement.

D. <u>Review Process</u>

Upon HHS/OIG's delivery to Community Innovations of the Demand Letter or Exclusion Letter, and as an agreed upon contractual remedy for the resolution of disputes arising under the obligations in this Agreement, Community Innovations shall be afforded review rights comparable to the ones that are provided in 42 U.S.C. § 1320a-7(f) and 42 C.F.R. § 1005 as if they applied to the stipulated penalties or exclusion sought pursuant to this Agreement. Specifically, the HHS/OIG's determination to demand payment of stipulated penalties or to seek exclusion shall be subject to review by an HHS administrative law judge 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), the request for a hearing involving stipulated penalties shall be made within ten (10) days of the date of the

Demand Letter and the request for a hearing involving exclusion shall be made within thirty (30) days of the date of the Exclusion Letter.

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 stipulated penalties under this section shall be: (i) whether, on the date of the Demand Letter, Community Innovations was in full and timely compliance with the obligations in this Agreement for which OIG demands payment; and (ii) the period of noncompliance. For purposes of paying stipulated penalties under this Agreement, and if Community Innovations chooses to seek review in lieu of curing the breach and paying the stipulated penalties, as set forth above, the administrative law judge's decision shall trigger Community Innovations' obligation to pay. Thus, payment will be due twenty (20) days from the day the administrative law judge's decision is issued.

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 this Agreement shall be: (i) whether Community Innovations was in material breach of one or more of its obligations under this Agreement; (ii) whether the alleged material breach was continuing on the date of the Exclusion Letter; (iii) whether the alleged material breach could have been cured within the thirty-five-day period or such other period as agreed to in writing between Community Innovations and HHS/OIG. For purposes of the exclusion herein agreed to, in the event of a material breach of this Agreement, an administrative law judge's decision finding in favor of the HHS/OIG shall be deemed to make the exclusion effective, at which time the HHS/OIG may proceed with its exclusion of Community Innovations.

Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, HHS/OIG shall have the burden of going forward and the burden of persuasion with respect to the issue of whether Community Innovations was in breach and with respect to the period of noncompliance. Community Innovations shall bear the burden of going forward and the burden of persuasion with respect to the issue of whether, as of the date of the Exclusion Letter, Community Innovations cured the alleged breach, and with respect to the issue of whether the alleged breach could have been cured during the

specified period. The burden of persuasion will be judged by a preponderance of the evidence.

The review by an administrative law judge provided for above shall not be considered to be an appeal right arising under any statutes or regulations. Consequently, the parties to this Agreement agree that the administrative law judge's decision shall be considered final for all purposes under this Agreement and agree to waive any right they may have to appeal the decision administratively, judicially or otherwise seek its review by any court or other adjudicative forum.

Community Innovations shall have the right to seek reinstatement following the period of exclusion, subject to the provisions of 42 C.F.R. Part 1001 Subpart F.

VI. Costs Related to Corporate Compliance Plans

In addition to the obligations assumed by Community Innovations under the Agreement and as described above, if HHS/OIG reasonably determines that Community Innovations may have breached this Agreement and it is necessary to conduct an independent audit or review to determine the extent to which Community Innovations is complying with its obligation under this Agreement, Community Innovations agrees to pay for the reasonable cost of any such audit or review.

VII. Modification

Community Innovations and HHS/OIG agree that any modification of this Agreement must be made by written consent of the parties.

VIII. Privileges

Nothing in this Agreement, or any communication or report made pursuant to this Agreement, shall constitute or be construed as any waiver by any party of its attorney-client, work product or other applicable privileges.

IX. Confidentiality

Subject to HHS's Freedom of Information Regulations, set forth in 45 C.F.R. part 5, the HHS/OIG shall make a reasonable effort to notify Community Innovations prior to any release by the HHS/OIG of information submitted by Community Innovations pursuant to its obligations under this CIA and identified upon submission as trade secrets or privileged or confidential commercial or financial information within the meaning of the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(4), and HHS's Freedom of Information Regulations, 45 C.F.R. § 5.65. Community Innovations will refrain from identifying any information as trade secrets or privileged or confidential commercial or financial information unless the information meets the criteria for exemption from disclosure under FOIA and HHS's Freedom of Information Regulations. Nothing in this Agreement shall be construed to prohibit HHS/OIG from providing information to any other department or agency of the United States Government or any State charged with enforcing the laws against health care fraud if the information relates to matters within the department's or agency's jurisdiction, provided that any such entity receiving such information shall be advised by HHS/OIG of the confidentiality provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto affix their signatures

FOR COMMUNITY INNOVATIONS, INC.:

April 1, 1999
Date

Anthony R. Anderson, President

April 1, 1999
Date

Dora Campbell
Corporate Compliance Officer for Community Innovations, Inc.

FOR THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

3/31/99
Date

Lewis Morris
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
Department of Health and Human Services