CORPORATE INTEGRITY AGREEMENT BETWEEN THE OFFICE OF INSPECTOR GENERAL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND AMERICAN HEALTH FOUNDATION, INC., AMERICAN HEALTH FOUNDATION MANAGEMENT CORPORATION, AMERICAN HEALTH FOUNDATION MONTGOMERY, INC. D/B/A CHELTENHAM NURSING AND REHABILITATION CENTER, AMERICAN HEALTH FOUNDATION OHIO, INC. D/B/A THE SANCTUARY AT WILMINGTON PLACE, AND SAMARITAN CARE CENTER AND VILLA

I. PREAMBLE

American Health Foundation, Inc., American Health Foundation Management Corporation, American Health Foundation Montgomery, Inc. d/b/a Cheltenham Nursing and Rehabilitation Center, American Health Foundation Ohio, Inc. d/b/a The Sanctuary at Wilmington Place, and Samaritan Care Center and Villa (collectively, American Health Foundation, Inc.) hereby enters into this Corporate Integrity Agreement (CIA) with the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS) to promote compliance with the statutes, regulations, and written directives of Medicare, Medicaid, and all other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) (Federal health care program requirements). Contemporaneously with this CIA, American Health Foundation, Inc. is entering into a Settlement Agreement with the United States.

II. TERM AND SCOPE OF THE CIA

A. The Effective Date of this CIA shall be the date on which the final signatory of the CIA executes this CIA. The term of this CIA shall be five years from the Effective Date. Each one-year period, beginning with the one-year period following the Effective Date, shall be referred to as a "Reporting Period."

B. This CIA applies to any long term care facility in which American Health Foundation, Inc. has an ownership or control interest, as defined in 42 U.S.C. § 1320a-3(a)(3), and any long term care facility managed or operated by American Health Foundation, Inc..

C. Sections VII, X, and XI shall expire no later than 120 days after OIG's receipt of: (1) American Health Foundation, Inc.'s final Annual Report; or (2) any additional materials submitted by American Health Foundation, Inc. pursuant to OIG's request, whichever is later.

D. For purposes of this CIA, the term "Covered Persons" includes:

1. all owners, officers, directors, and employees of American Health Foundation, Inc.;

2. all owners, officers, directors, and employees of any long term care facilitty in which American Health Foundation, Inc. has an ownership or control interest, as defined in 42 U.S.C. § 1320a-3(a)(3), and of any long term care facility managed or operated by American Health Foundation, Inc. at any time during the term of the CIA; and

3. all contractors, subcontractors, agents, and other persons who: (1) are involved directly or indirectly in the delivery of resident care; (2) make assessments of residents that affect treatment decisions or reimbursement; (3) perform billing, coding, audit, or review functions; (4) make decisions or provide oversight about staffing, resident care, reimbursement, policies and procedures, or this CIA; or (5) perform any function that relates to or is covered by this CIA, including individuals who are responsible for quality assurance, setting policies or procedures, or making staffing decisions and; (6) Any nonemployee private caregivers and/or attending physicians hired by any resident or the family or friends of any resident of American Health Foundation, Inc. are not Covered Persons, regardless of the hours worked per year in American Health Foundation, Inc.

III. COMPLIANCE PROGRAM REQUIREMENTS

American Health Foundation, Inc. shall establish and maintain a compliance program that includes the following elements:

A. Compliance Officer, Compliance Committee, Board of Directors Oversight, and Management Certifications

1. *Compliance Officer.* Within 90 days after the Effective Date, American Health Foundation, Inc. shall appoint a Compliance Officer and shall

maintain a Compliance Officer for the term of the CIA. The Compliance Officer must have sufficient compliance and quality assurance experience to effectively oversee the implementation of the requirements of this CIA. The Compliance Officer shall be an employee and a member of senior management of American Health Foundation, Inc., shall report directly to the Chief Executive Officer of American Health Foundation, Inc., and shall not be or be subordinate to the General Counsel, Chief Financial Officer, or Chief Operating Officer, or have any responsibilities that involve acting in any capacity as legal counsel or supervising legal counsel functions for American Health Foundation, Inc. The Compliance Officer shall not be the Administrator, Executive Director, or Director of Nursing of the facility.

2. The Compliance Officer shall be responsible for, without limitation:

a. developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements set forth in this CIA, Federal health care program requirements, and professionally recognized standards of care;

b. making periodic (at least quarterly) reports regarding compliance matters in person to the Board of Directors of American Health Foundation, Inc. (Board) and shall be authorized to report on such matters to the Board at any time. Written documentation of the Compliance Officer's reports to the Board shall be made available to OIG upon request; and

c. monitoring the day-to-day compliance activities engaged in by American Health Foundation, Inc. and any reporting requirements created under this CIA, and ensuring that American Health Foundation, Inc. is appropriately identifying and correcting quality of care problems.

Any noncompliance job responsibilities of the Compliance Officer shall be limited and must not interfere with the Compliance Officer's ability to perform the duties outlined in this CIA.

American Health Foundation, Inc. shall report to OIG, in writing, any changes in the identity of the Compliance Officer, or any actions or changes that would affect the Compliance Officer's ability to perform the duties necessary to meet the requirements in this CIA, within five business days after such a change.

2. *Compliance Committee*. Within 90 days after the Effective Date, American Health Foundation, Inc. shall appoint a Compliance Committee.

a. *General Responsibilities*. The Compliance Committee shall, at a minimum, include the Compliance Officer and other members of senior management necessary to meet the requirements of this CIA (e.g., representatives from among senior personnel responsible for clinical operations and quality of care, human resources, operations. The Compliance Officer shall chair the Compliance Committee and the Compliance Committee shall support the Compliance Officer in fulfilling his/her responsibilities (e.g., developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements set forth in this CIA, Federal health care program requirements, and professionally recognized standards of care; monitoring the day-to-day compliance activities engaged in by American Health Foundation, Inc.; monitoring any reporting requirements created under this CIA; and ensuring that American Health Foundation, Inc. is appropriately identifying and correcting quality of care problems).

The Compliance Committee shall meet, at a minimum, every month. For each scheduled Compliance Committee meeting, senior management of American Health Foundation, Inc. shall report to the Compliance Committee on the adequacy of care being provided by American Health Foundation, Inc.. The minutes of the Compliance Committee meetings shall be made available to the OIG upon request.

American Health Foundation, Inc. shall report to OIG, in writing, any actions or changes that would affect the

Compliance Committee's ability to perform the duties necessary to meet the requirements in this CIA, within 15 business days after such a change.

b. *Staffing Responsibilities*. The Compliance Committee shall assess American Health Foundation, Inc.'s nursing staffing and make recommendations regarding how to improve such staffing. The Compliance Committee shall consult with nurse managers, registered nurses (RNs), licensed practical nurses (LPNs), and certified nursing aides (CNAs) from each facility and the Independent Monitor required under Section III.D of this CIA regarding staffing. The Compliance Committee shall:

i. review the development and implementation of the staffing-related policies and procedures required by Section III.B of this CIA.

ii. assess, on an on-going basis, whether American Health Foundation, Inc. is providing the quantity, quality, and composition of nursing staff necessary to meet residents' needs at each of its facilities;

iii. make recommendations as to how American Health Foundation, Inc. can improve the quantity, quality, and composition of nursing staff necessary to meet residents' needs;

iv. identify obstacles related to the recruitment, retention, and training of nursing staff at each of American Health Foundation, Inc.'s facilities; and

v. make recommendations as to how American Health Foundation, Inc. can improve the recruitment, retention, and training of nursing staff.

c. *Quality of Care Review Program*. The Compliance Committee shall ensure that, within 120 days after the Effective Date, American Health Foundation, Inc. establishes and implements a program for performing internal quality audits and reviews (hereinafter "Quality of Care Review Program"). The Quality of Care Review Program shall:

i. make findings as to whether the residents at American Health Foundation, Inc. are receiving the quality of care for residential settings: and quality of life consistent with professionally recognized standards of care, 42 C.F.R. Part 483, and any other applicable federal and state statutes, regulations, and directives;

ii. review quality of care related incidents and complete root cause analyses; and

iii. develop corrective action plans in response to identified quality of care problems and track the implementation and effectiveness of those plans.

d. *Quality of Care Dashboard.* The Compliance Committee, in consultation with the Monitor required under Section III.D of this CIA, shall create and implement a "Quality of Care Dashboard" (Dashboard). Quality indicator data shall be collected and reported on the Dashboard. Within 120 days after the Effective Date, the Compliance Committee shall: (1) identify and establish the overall quality improvement goals for American Health Foundation, Inc. based on its assessment of American Health Foundation, Inc.'s quality of care risk areas; (2) identify and establish the quality indicators related to those goals that American Health Foundation, Inc. will monitor through the data analysis; and (3) establish performance metrics for each quality indicator. The Compliance Committee shall measure, analyze, and

track the performance metrics for the quality indicators on a monthly basis, monitoring progress towards the quality improvement goals. At least annually, the Compliance Committee shall review the quality indicators to determine if revisions are appropriate and shall make any necessary revisions based on such review.

3. *Board of Directors Oversight*. The Board of American Health Foundation, Inc. shall be responsible for the review and oversight of matters related to compliance with the requirements of this CIA, Federal health care program requirements, and professionally recognized standards of care. The Board must include independent (i.e., non-employee and non-executive) members. The Board shall be readily available to the Compliance Officer and the Monitor required under Section III.D of this CIA to respond to any issues or questions that might arise.

The Board shall, at a minimum, be responsible for the following:

a. meeting at least quarterly to review and oversee American Health Foundation, Inc.'s compliance program, including, but not limited to, the performance of the Compliance Officer and the Compliance Committee;

b. reviewing the adequacy of American Health Foundation, Inc.'s system of internal controls, quality assurance monitoring, and resident care;

c. ensuring that American Health Foundation, Inc.'s response to state, federal, internal, and external reports of quality of care problems is complete, thorough, and resolves the problem(s) identified;

d. ensuring that American Health Foundation, Inc. adopts and implements policies, procedures, and practices designed to ensure compliance with the requirements set forth in this CIA, Federal health care program requirements, and professionally recognized standards of care;

e. reviewing and responding to the data analysis presented on the Dashboard and ensuring that American Health Foundation, Inc. implements effective responses when the data indicates potential quality problems or that American Health Foundation, Inc. is not meeting its established goals; and

f. for each Reporting Period of the CIA, adopting a resolution, signed by each member of the Board summarizing its review and oversight of American Health Foundation, Inc.'s compliance with the requirements of this CIA, Federal health care program requirements, and professionally recognized standards of care.

At a minimum, the resolution shall include the following language:

> "The Board has made a reasonable inquiry into the operations of American Health Foundation, Inc.'s Compliance Program, including the performance of the Compliance Officer and the Compliance Committee. The Board has also provided oversight on quality of care issues. Based on its inquiry and review, the Board has concluded that, to the best of its knowledge, American Health Foundation, Inc. has implemented an effective Compliance Program to meet the requirements of the CIA, Federal health care program requirements, and professionally recognized standards of care."

If the Board is unable to provide such a conclusion in the resolution, the Board shall include in the resolution a written explanation of the reasons why it is unable to provide the conclusion and the steps it is taking to implement an effective Compliance Program at American Health Foundation, Inc..

American Health Foundation, Inc. shall report to OIG, in writing, any changes in the composition of the Board, or any actions or changes that would affect the Board's ability to perform the duties necessary to meet the requirements in this CIA, within 15 business days after such a change.

4. *Management Certifications.* In addition to the responsibilities set forth in this CIA for all Covered Persons, certain American Health Foundation, Inc. employees (Certifying Employees) are expected to monitor and oversee activities within their areas of authority and shall annually certify that the applicable American Health Foundation, Inc. department is in compliance with applicable Federal health care program requirements, with the requirements of this CIA, and with professionally recognized standards of healthcare. These Certifying Employees shall include, at a minimum, the following: all members of senior management and the leaders of all business units, divisions or departments with operations that relate to the Federal health care programs, Administrators and Directors of Nursing. For each Reporting Period, each Certifying Employee shall sign a certification that states:

> "I have been trained on and understand the compliance requirements and responsibilities as they relate to [insert name of department], an area under my supervision. My job responsibilities include ensuring compliance with regard to the [insert name of department] with all applicable Federal health care program requirements, requirements of the Corporate Integrity Agreement, and American Health Foundation, Inc. policies, and I have taken steps to promote such compliance. To the best of my knowledge, the [insert name of department] of American Health Foundation, Inc. is in compliance with all applicable Federal health care program requirements, and the requirements of the Corporate Integrity Agreement. I understand that this certification is being provided to and relied upon by the United States."

If any Certifying Employee is unable to provide such a certification, the Certifying Employee shall provide a written explanation of the reasons why he or she is unable to provide the certification outlined above.

Within 90 days after the Effective Date, American Health Foundation, Inc. shall develop and implement a written process for Certifying Employees to follow for the purpose of completing the certification required by this section (e.g., reports that must be reviewed, assessments that must be completed, sub-certifications that must be obtained, etc. prior to the Certifying Employee making the required certification).

B. Written Standards

Within 90 days after the Effective Date, American Health Foundation, Inc. shall develop and implement written Policies and Procedures regarding the operation of American Health Foundation, Inc.'s compliance program, including the compliance program requirements outlined in this CIA and American Health Foundation, Inc.'s compliance with Federal health care program requirements and professionally recognized standards of care (Policies and Procedures). Throughout the term of this CIA, Provider shall enforce its Policies and Procedures and shall make compliance with its Policies and Procedures an element of evaluating the performance of all employees.

At a minimum, the Policies and Procedures shall address:

1. the requirements applicable to Medicare's Prospective Payment System (PPS) for skilled nursing facilities, including, but not limited to: ensuring the accuracy of the clinical data required under the Minimum Data Set (MDS) as specified by the Resident Assessment Instrument User's Manual; and ensuring the accuracy of billing and cost reports;

2. the coordinated interdisciplinary approach to providing care, including but not limited to all areas addressed in 42 C.F.R. § 483;

3. staffing, including but not limited to ensuring that nursing staff levels are sufficient to meet residents' needs, as required by Federal and state laws, such as 42 C.F.R. § 483.30 (nursing services); using an acuity-based staffing protocol that includes direct care nurse staffing per patient day requirements for each class of nursing staff (e.g., RNs, LPNs, CNAs); and minimizing the number of individuals working on a temporary assignment or not employed by American Health Foundation, Inc. (not including those persons who are included in the definition of Covered Persons) and creating and maintaining a standardized system to track the number of individuals who fall within this category so that the number/proportion of or changing trends in such staff can be adequately identified by American Health Foundation, Inc. or the Monitor; and

4. capital improvements, including but not limited to a process to ensure that American Health Foundation, Inc. and its nursing facilities address facility maintenance and repairs, equipment adequacy, supplies, and make necessary capital expenditures to provide a habitable environment and to protect the health and safety of residents.

The Policies and Procedures shall be made available to all Covered Persons.

At least annually (and more frequently, if appropriate), American Health Foundation, Inc. shall assess and update, as necessary, the Policies and Procedures. Any new or revised Policies and Procedures shall be made available to all Covered Persons.

All Policies and Procedures shall be made available to OIG upon request.

C. Training and Education

1. *Covered Persons Training.* Within 90 days after the Effective Date, American Health Foundation, Inc. shall develop a written plan (Training Plan) that outlines the steps American Health Foundation, Inc. will take to ensure that all Covered Persons receive (a) at least annual training regarding American Health Foundation, Inc.'s CIA requirements and Compliance Program, and (b) adequate on-going training regarding: (i) policies, procedures, and other requirements applicable to the documentation of medical records; (ii) the policies implemented pursuant to Section III.B of this CIA, as appropriate for the job category of each Covered Person; (iii) the coordinated interdisciplinary approach to providing care and related communication between disciplines; (iv) the personal obligation of each individual involved in resident care to ensure that care is appropriate and meets professionally recognized standards of care; (v) examples of proper and improper care; and (vi) reporting requirements and legal sanctions for violations of the Federal health care program requirements. The Training Plan shall also include training to address quality of care problems identified by the Compliance Committee. In determining what training should be performed, the Compliance Committee shall review the complaints received, satisfaction surveys, staff turnover data, any state or federal surveys, including those performed by the Centers for Medicare & Medicaid Services (CMS) survey and its agents the Joint Commission or other such private agencies, any internal surveys, the CMS quality indicators, and the findings, reports, and recommendations of the Monitor required under Section III.D of this CIA.

Training required in this section shall be competency-based. Specifically, the training must be developed and provided in such a way as to focus on Covered Persons achieving learning outcomes to a specified competency and to place emphasis on what a Covered Person has learned as a result of the training.

2. *Board Training*. In addition to the training described in Section III.C.1, within 90 days after the Effective Date, each member of the Board shall receive training regarding the corporate governance responsibilities of board members, and the responsibilities of board members with respect to review and oversight of the Compliance Program. Specifically, the training shall address the unique responsibilities of health care Board members, including the risks, oversight areas, and strategic approaches to conducting oversight of a health care entity. This training may be conducted by an outside compliance expert hired by the Board and should include a discussion of the OIG's guidance on Board member responsibilities.

New members of the Board shall receive the Board training described above within 30 days after becoming a member or within 90 days after the Effective Date, whichever is later.

3. *Training Records*. American Health Foundation, Inc. shall make available to OIG, upon request, training materials and records verifying that the training described in Sections III.C.1 and III.C.2 has been provided as required.

D. Independent Monitor

Within 60 days after the Effective Date, American Health Foundation, Inc. shall retain an appropriately qualified monitoring team (the "Monitor"), selected by OIG after consultation with American Health Foundation, Inc.. The Monitor may retain additional personnel, including but not limited to independent consultants, if needed to help meet the Monitor's requirements under this CIA. The Monitor may confer and correspond with American Health Foundation, Inc. or OIG individually or together. The Monitor and American Health Foundation, Inc. shall not negotiate or enter into a financial relationship, other than the monitoring engagement required by this section, and the Monitor shall refrain from recruiting or hiring any employee of American Health Foundation, Inc. until after the date of OIG's CIA closure letter to American Health Foundation, Inc. or six months after the expiration of this CIA, whichever is later.

The Monitor is not an agent of OIG. However, the Monitor may be removed by OIG at its sole discretion. If the Monitor resigns or is removed for any other reasons prior to the termination of the CIA, American Health Foundation, Inc. shall retain, within 60 days of the resignation or removal, another Monitor selected by OIG, with the same functions and authorities.

1. *Scope of Review.* The Monitor shall be responsible for assessing the effectiveness, reliability, and thoroughness of the following:

a. American Health Foundation, Inc.'s internal quality control systems, including but not limited to:

i. whether the systems in place to promote quality of care and to respond to quality of care problems are operating in a timely and effective manner;

ii. whether the communication system is effective, allowing for accurate information, decisions, and results of decisions to be transmitted to the proper individuals in a timely fashion; and

iii. whether the training programs are effective, thorough, and competency-based.

b. American Health Foundation, Inc.'s response to quality of care issues, which shall include an assessment of:

i. American Health Foundation, Inc.'s ability to identify the problem;

ii. American Health Foundation, Inc.'s ability to determine the scope of the problem, including but not limited to whether the problem is isolated or systemic;

iii. American Health Foundation, Inc.'s ability to conduct a root cause analysis;

iv. American Health Foundation, Inc.'s ability to create an action plan to respond to the problem;

v. American Health Foundation, Inc.'s ability to execute the action plan; and

vi. American Health Foundation, Inc.'s ability to monitor and evaluate whether the assessment, action plan, and execution of that plan was effective, reliable, and thorough.

c. American Health Foundation, Inc.'s proactive steps to ensure that each resident receives care in accordance with:

i. professionally recognized standards of health care;

ii. the rules and regulations set forth 42 C.F.R. Part 483;

iii. State and local statutes, regulations, and other directives or guidelines; and

iv. the Policies and Procedures adopted by American Health Foundation, Inc., including those implemented under Section III.B of this CIA;

d. American Health Foundation, Inc.'s compliance with staffing requirements;

e. American Health Foundation, Inc.'s ability to analyze outcome measures, such as the CMS Quality Indicators, and other data;

f. American Health Foundation, Inc.'s Quality of Care Review Program required under Section III.A of this CIA;

g. American Health Foundation, Inc.'s Quality of Care Dashboard required under Section III.A of this CIA; and

h. American Health Foundation, Inc.'s ability to identify and correct physical plant problems, including the implementation and effectiveness of the capital improvements process required under Section III.B of this CIA.

2. *Access*. The Monitor shall have:

a. immediate access to American Health Foundation, Inc., at any time and without prior notice, to assess compliance with this CIA, to assess the effectiveness of the internal quality assurance mechanisms, and to ensure that the data being generated is accurate and complete;

b. immediate access to:

i. the CMS quality indicators;

ii. internal or external surveys or reports;

iii. Disclosure Program complaints;

iv. resident satisfaction surveys;

v. staffing data in the format requested by the Monitor;

vi. reports of abuse, neglect, or an incident that required hospitalization or emergency room treatment;

vii. reports of any falls;

viii. reports of any incident involving a resident that prompts a full internal investigation;

ix. resident records;

x. documents in the possession or control of any quality assurance committee, peer review committee, medical review committee, or other such committee; and

xi. any other data in the format the Monitor determines relevant to fulfilling the duties required under this CIA;

c. immediate access to residents, and Covered Persons for interviews outside the presence of American Health Foundation, Inc. supervisory staff or counsel, provided such interviews are conducted in accordance with all applicable laws and the rights of such individuals. The Monitor shall give full consideration to an individual's clinical condition before interviewing a resident.

3. *Baseline Systems Assessment.* Within six months after the Effective Date of the CIA, the Monitor shall:

a. complete an assessment of the effectiveness, reliability, scope, and thoroughness of the systems described in Section III.D.1;

b. in conducting this assessment, visit at least 3 of American Health Foundation, Inc.'s facilities (selected by the Monitor) and, at a minimum, observe quality assurance meetings, observe corporate compliance meetings, observe care planning meetings, observe Board meetings, interview key employees, review relevant documents, and observe resident care; and

c. submit a written report to American Health Foundation, Inc. and OIG that sets forth, at a minimum:

i. a summary of the Monitor's activities in conducting the assessment;

ii. the Monitor's findings regarding the effectiveness, reliability, scope, and thoroughness of each of the systems described in Section III.D.1; and

iii. the Monitor's recommendations to American Health Foundation, Inc. as to how to improve the effectiveness, reliability, scope, and thoroughness of the systems described in Section III.D.1.

4. *Systems Improvements Assessments.* On a semi-annual basis, the Monitor shall:

a. re-assess the effectiveness, reliability, and thoroughness of the systems described in Section III.D.1;

b. assess American Health Foundation, Inc.'s response to recommendations made in prior written assessment reports;

c. in conducting these assessments, visit at least 3 of American Health Foundation, Inc.'s facilities (selected by the Monitor) and, at a minimum, observe quality assurance meetings, observe corporate compliance meetings, observe care planning meetings, observe board meetings, interview key employees, review relevant documents, and observe resident care (the Monitor may also want to have regular telephone calls with American Health Foundation, Inc. and any of its poorer performing facilities); and

b. submit a written report to American Health Foundation, Inc. and OIG that sets forth, at a minimum:

i. a summary of the Monitor's activities in conducting the assessment;

ii. the Monitor's findings regarding the effectiveness, reliability, scope, and thoroughness of each of the systems described in Section III.D.1;

iii. the Monitor's recommendations to American Health Foundation, Inc. as to how to improve the effectiveness, reliability, scope, and thoroughness of the systems described in Section III.D.1; and

iv. the Monitor's assessment of American Health Foundation, Inc.'s response to the Monitor's prior recommendations.

For the first Reporting Period, the assessment shall be based on the portion of the Reporting Period that was not covered in the Baseline Systems Assessment. For each subsequent Reporting Period, one assessment shall be based on the first six months of the Reporting Period and the other assessment shall be based on the second six months of the Reporting Period. The Monitor shall submit written reports no later than 30 days after the end of the relevant six-month period to Provider and OIG.

5. *Financial Requirements of American Health Foundation, Inc. and the Monitor*.

a. American Health Foundation, Inc. shall be responsible for all reasonable costs incurred by the Monitor in connection with this engagement, including but not limited to labor costs (direct and indirect); consultant and subcontract costs; materials cost (direct and indirect); and other direct costs (travel, other miscellaneous).

b. American Health Foundation, Inc. shall pay the Monitor's bills within 30 days of receipt. Failure to pay the Monitor within 30 calendar days of submission of the Monitor's invoice for services previously rendered shall constitute a basis to impose stipulated

penalties or exclude American Health Foundation, Inc., as provided under Section X of this CIA. While American Health Foundation, Inc. must pay all of the Monitor's bills within 30 days, American Health Foundation, Inc. may bring any disputed Monitor's costs or bills to OIG's attention.

c. The Monitor shall charge a reasonable amount for its fees and expenses, and shall submit monthly invoices to Provider with a reasonable level of detail reflecting all key category costs billed.

d. The Monitor shall submit a written report for each Reporting Period representing an accounting of its costs throughout the year to American Health Foundation, Inc. and to OIG by the submission deadline of American Health Foundation, Inc.'s Annual Report. This report shall reflect, on a cumulative basis, all key category costs included on monthly invoices.

6. *Additional American Health Foundation, Inc. Requirements.* American Health Foundation, Inc. shall:

a. As a condition of retaining the Monitor, American Health Foundation, Inc. shall require the Monitor to enter into a subcontract with an individual or entity, approved by OIG, that can create objective and independent Quality Indicator data analysis reports of the type described in the attached Appendix A]

b. within 30 days after receipt of each written report of the Baseline Systems Assessment or Systems Improvement Assessments, submit to OIG and the Monitor a written response to each recommendation contained in those reports stating what action American Health Foundation, Inc. took in response to each recommendation or why American Health

Foundation, Inc. has not to take action based on the recommendation;

c. provide the Monitor a report monthly, or sooner if requested by the Monitor, regarding each of the following occurrences:

i. Deaths or injuries related to use of restraints;

ii. Deaths or injuries related to use of psychotropic medications;

iii. Suicides;

iv. Deaths or injuries related to abuse or neglect (as defined in the applicable federal guidelines);

v. Fires, storm damage that poses a threat to residents or otherwise may disrupt the care provided, flooding, or major equipment failures at American Health Foundation, Inc.;

vi. Strikes or other work actions that could affect resident care;

vii. Man-made disasters that pose a threat to residents (e.g., toxic waste spills);

viii. The appointment of a receiver to manage a American Health Foundation, Inc. Facility or the potential closure of a American Health Foundation, Inc. Facility; and

viii. Any other incident that involves or causes actual harm to a resident when such incident is required to be reported to any local, state, or federal government agency or presents an imminent danger to the health, safety, or well-being of residents or places residents unnecessarily in high-risk situations.

Each such report shall contain, if applicable, the full name and date of birth of the residents(s) involved, the persons involved, the date of death or incident, and a brief description of the events surrounding the death or incident, actions taken to address the situation, and a summary of any related reports made to Federal or state regulatory or enforcement agencies or to professional licensing bodies.

d. provide to its Compliance Committee and Board of Directors Committee copies of all documents and reports provided to the Monitor;

e. ensure the Monitor's immediate access to the facility, residents, Covered Persons, and documents, and assist in obtaining full cooperation by its current employees, contractors, and agents;

f. provide access to current residents and provide contact information for their families and guardians consistent with the rights of such individuals under state or federal law, and not impede their cooperation with the Monitor;

g. assist in locating and, if requested, attempt to obtain cooperation from past employees, contractors, agents, and residents and their families;

h. provide the last known contact information for former residents, their families, or guardians consistent with the rights of such individuals under state or federal law, and not impede their cooperation; and

i. not sue or otherwise bring any action against the Monitor related to any findings made by the Monitor or related to any exclusion or other sanction of American Health Foundation, Inc. under this CIA; provided, however, that this clause shall not apply to any suit or other action based solely on the dishonest

or illegal acts of the Monitor, whether acting alone or in collusion with others.

7. *Additional Monitor Requirements.* The Monitor shall:

a. abide by all state and federal laws and regulations concerning the privacy, dignity, and employee rights of all Covered Persons, and residents;

b. abide by the legal requirements of American Health Foundation, Inc. to maintain the confidentiality of each resident's personal and clinical records. Nothing in this subsection, however, shall limit or affect the Monitor's requirement to provide information, including information from resident clinical records, to OIG, and, when legally or professionally required, to other agencies;

c. at all times act reasonably in connection with its duties under the CIA including when requesting information from American Health Foundation, Inc.;

d. if the Monitor has concerns about action plans that are not being enforced or systemic problems that could affect American Health Foundation, Inc.'s ability to render quality care to its residents, then the Monitor shall:

i. report such concerns in writing to OIG; and

ii. simultaneously provide notice and a copy of the report to American Health Foundation, Inc.'s Compliance Committee and Board of Directors Committee referred to in Section III.A of this CIA;

e. where independently required to do so by applicable law or professional licensing standards, report any finding to an appropriate regulatory or law enforcement authority, and simultaneously submit

copies of such reports to OIG and to American Health Foundation, Inc.;

f. not be bound by any other private or governmental agency's findings or conclusions, including, but not limited to, Joint Commission, CMS, or the state survey agency. Likewise, such private and governmental agencies shall not be bound by the Monitor's findings or conclusions. The Monitor's reports shall not be the sole basis for determining deficiencies by the state survey agencies. The parties agree that CMS and its contractors shall not introduce any material generated by the Monitor, or any opinions, testimony, or conclusions from the Monitor as evidence into any proceeding involving a Medicare or Medicaid survey, certification, or other enforcement action against American Health Foundation, Inc., and American Health Foundation, Inc. shall similarly be restricted from using material generated by the Monitor, or any opinions, testimony, or conclusions from the Monitor as evidence in any of these proceedings. Nothing in the previous sentence, however, shall preclude OIG or American Health Foundation, Inc. from using any material generated by the Monitor, or any opinions, testimony, or conclusions from the Monitor in any action under the CIA or pursuant to any other OIG authorities or in any other situations not explicitly excluded in this subsection;

g. abide by the provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 to the extent required by law including, without limitation, entering into a business associate agreement with American Health Foundation, Inc.; and

h. except to the extent required by law, maintain the confidentiality of any proprietary financial and operational information, processes, procedures, and forms obtained in connection with its duties under this

CIA and not comment publicly concerning its findings except to the extent authorized by OIG.

E. Risk Assessment and Internal Review Process

Within 90 days after the Effective Date, American Health Foundation, Inc. shall develop and implement a centralized annual risk assessment and internal review process to identify and address risks associated with American Health Foundation, Inc.'s participation in the Federal health care programs, including but not limited to the risks associated with standards of care, staffing levels, and the submission of claims for items and services furnished to Medicare and Medicaid program beneficiaries. The Compliance Committee shall be responsible for implementation and oversight of the risk assessment and internal review process. The risk assessment and internal review process shall be conducted at least annually and shall require American Health Foundation, Inc. to: (1) identify and prioritize risks, (2) develop internal audit work plans related to the identified risk areas, (3) implement the internal audit work plans, (4) develop corrective action plans in response to the results of any internal audits performed, and (5) track the implementation of the corrective action plans in order to assess the effectiveness of such plans. American Health Foundation, Inc. shall maintain the risk assessment and internal review process for the term of the CIA.

F. Disclosure Program

Within 90 days after the Effective Date, American Health Foundation, Inc. shall establish a Disclosure Program that includes a mechanism (e.g., a toll-free compliance telephone line) to enable individuals to disclose, to the Compliance Officer or some other person who is not in the disclosing individual's chain of command, any identified issues or questions associated with American Health Foundation, Inc.'s policies, conduct, practices, or procedures with respect to quality of care or a Federal health care program believed by the individual to be a potential violation of criminal, civil, or administrative law. American Health Foundation, Inc. shall appropriately publicize the existence of the disclosure mechanism (e.g., via periodic e-mails to employees or by posting the information in prominent common areas).

The Disclosure Program shall emphasize a nonretribution, nonretaliation policy, and shall include a reporting mechanism for anonymous communications for which appropriate confidentiality shall be maintained. The Disclosure Program also shall include a requirement that all of American Health Foundation, Inc.'s Covered Persons shall be expected to report suspected violations of any

Federal health care program requirements to the Compliance Officer or other appropriate individual designated by American Health Foundation, Inc.. Upon receipt of a disclosure, the Compliance Officer (or designee) shall gather all relevant information from the disclosing individual. The Compliance Officer (or designee) shall make a preliminary, good faith inquiry into the allegations set forth in every disclosure to ensure that he or she has obtained all of the information necessary to determine whether a further review should be conducted. For any disclosure that is sufficiently specific so that it reasonably: (1) permits a determination of the appropriateness of the alleged improper practice; and (2) provides an opportunity for taking corrective action, American Health Foundation, Inc. shall conduct an internal review of the allegations set forth in the disclosure and ensure that proper follow-up is conducted. If the inappropriate or improper practices places residents at risk of harm, then American Health Foundation, Inc. will ensure that that practice ceases immediately and that appropriate action is taken.

The Compliance Officer (or designee) shall maintain a disclosure log and shall record all disclosures, whether or not related to a potential violation of criminal, civil, or administrative law related to the Federal health care programs, in the disclosure log within two business days of receipt of the disclosure. The disclosure log shall include a summary of each disclosure received (whether anonymous or not), the individual or department responsible for reviewing the disclosure, the status of the review, and any corrective action taken in response to the review.

The disclosure log shall be sent to the Monitor required under Section III.D of this CIA not less than monthly.

G. Ineligible Persons

1. *Definitions*. For purposes of this CIA:

a. an "Ineligible Person" shall include an individual or entity who:

i. is currently excluded from participation in any Federal health care program; or

ii. has been convicted of a criminal offense that falls within the scope of 42 U.S.C. § 1320a-7(a), but has not yet been excluded.

b. "Exclusion List" means the HHS/OIG List of Excluded Individuals/Entities (LEIE) (available through the Internet at http://www.oig.hhs.gov).

2. *Screening Requirements.* American Health Foundation, Inc. shall ensure that all prospective and current Covered Persons are not Ineligible Persons, by implementing the following screening requirements.

a. American Health Foundation, Inc. shall screen all prospective Covered Persons against the Exclusion List prior to engaging their services and, as part of the hiring or contracting process, shall require such Covered Persons to disclose whether they are Ineligible Persons.

b. American Health Foundation, Inc. shall screen all current Covered Persons against the Exclusion List within 90 days after the Effective Date and on a monthly basis thereafter.

c. American Health Foundation, Inc. shall implement a policy requiring all Covered Persons to disclose immediately if they become an Ineligible Person.

Nothing in this Section III.G affects American Health Foundation, Inc.'s responsibility to refrain from (and liability for) billing Federal health care programs for items or services furnished, ordered, or prescribed by an excluded person. American Health Foundation, Inc. understands that items or services furnished, ordered, or prescribed by excluded persons are not payable by Federal health care programs and that American Health Foundation, Inc. may be liable for overpayments and/or criminal, civil, and administrative sanctions for employing or contracting with an excluded person regardless of whether American Health Foundation, Inc. meets the requirements of Section III.G.

3. *Removal Requirement*. If American Health Foundation, Inc. has actual notice that a Covered Person has become an Ineligible Person,

American Health Foundation, Inc. shall remove such Covered Person from responsibility for, or involvement with, American Health Foundation, Inc.'s business operations related to the Federal health care program(s) from which such Covered Person has been excluded and shall remove such Covered Person from any position for which the Covered Person's compensation or the items or services furnished, ordered, or prescribed by the Covered Person are paid in whole or part, directly or indirectly, by any Federal health care program(s) from which the Covered Person has been excluded at least until such time as the Covered Person is reinstated into participation in such Federal health care program(s).

4. *Pending Charges and Proposed Exclusions*. If American Health Foundation, Inc. has actual notice that a Covered Person is charged with a criminal offense that falls within the scope of 42 U.S.C. §§ 1320a-7(a), 1320a-7(b)(1)-(3), or is proposed for exclusion during the Covered Person's employment or contract term, American Health Foundation, Inc. shall take all appropriate actions to ensure that the responsibilities of that Covered Person have not and shall not adversely affect the quality of care rendered to any beneficiary or the accuracy of any claims submitted to any Federal health care program.

H. Notification of Government Investigation or Legal Proceeding

Within 30 days after discovery, American Health Foundation, Inc. shall notify OIG, in writing, of any ongoing investigation or legal proceeding known to American Health Foundation, Inc. conducted or brought by a governmental entity or its agents involving an allegation that American Health Foundation, Inc. has committed a crime or has engaged in fraudulent activities. This notification shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding. American Health Foundation, Inc. also shall provide written notice to OIG within 30 days after the resolution of the matter, and a description of the findings and/or results of the investigation or proceeding, if any.

In addition, within 15 days after notification, American Health Foundation, Inc. shall notify OIG, in writing, of any adverse final determination made by a federal, state, or local government agency or accrediting or certifying agency (e.g., Joint Commission) relating to quality of care issues.

I. Overpayments

1. *Definition of Overpayment*. An "Overpayment" means any funds that American Health Foundation, Inc. receives or retains under any Federal health care program to which American Health Foundation, Inc., after applicable reconciliation, is not entitled under such Federal health care program.

2. *Overpayment Policies and Procedures.* Within 90 days after the Effective Date, American Health Foundation, Inc. shall develop and implement written policies and procedures regarding the identification, quantification, and repayment of Overpayments received from any Federal health care program.

J. Reportable Events

1. *Definition of Reportable Event*. For purposes of this CIA, a "Reportable Event" means anything that involves:

a. a substantial Overpayment;

b. a matter that a reasonable person would consider a probable violation of criminal, civil, or administrative laws applicable to any Federal health care program for which penalties or exclusion may be authorized;

d. the employment of or contracting with *[If medical staff members are included in the definition of Covered Persons add:* or having as a member of the active medical staff*]* a Covered Person who is an Ineligible Person as defined by Section III.G.1.a; or

e. the filing of a bankruptcy petition by American Health Foundation, Inc..

A Reportable Event may be the result of an isolated event or a series of occurrences.

2. *Reporting of Reportable Events*. If American Health Foundation, Inc. determines (after a reasonable opportunity to conduct an appropriate review or investigation of the allegations) through any means that there is a Reportable Event, American Health Foundation, Inc. shall notify OIG, in

writing, within 30 days after making the determination that the Reportable Event exists.

3. *Reportable Events under Section III.J.1.a and III.J.1.b*. For Reportable Events under Section III.J.1.a and b, the report to OIG shall include:

a. a complete description of all details relevant to the Reportable Event, including, at a minimum, the types of claims, transactions or other conduct giving rise to the Reportable Event; the period during which the conduct occurred; and the names of individuals and entities believed to be implicated, including an explanation of their roles in the Reportable Event;

b. a statement of the Federal criminal, civil or administrative laws that are probably violated by the Reportable Event, if any;

c. the Federal health care programs affected by the Reportable Event;

d. a description of the steps taken by American Health Foundation, Inc. to identify and quantify any Overpayments; and

e. a description of American Health Foundation, Inc.'s actions taken to correct the Reportable Event and prevent it from recurring.

If the Reportable Event involves an Overpayment, within 60 days of identification of the Overpayment, American Health Foundation, Inc. shall repay the Overpayment, in accordance with the requirements of 42 U.S.C. § 1320a-7k(d) and any applicable CMS guidance and provide OIG with a copy of the notification and repayment.

4. *Reportable Events under Section III.J.1.c.* For Reportable Events under Section III.J.1.c, the report to OIG shall include:

a. a complete description of the Reportable Event, including the relevant facts, persons involved, the impact or potential impact on Federal health care

program beneficiaries, and any legal and Federal health care program authorities implicated;

b. a description of American Health Foundation, Inc.'s action taken to correct the Reportable Event;

c. any further steps American Health Foundation, Inc. plans to take to address the Reportable Event and prevent it from reoccurring; and

d. a summary of any related reports made to Federal or state regulatory or enforcement agencies or to professional licensing bodies.

5. *Reportable Events under Section III.J.1.d.* For Reportable Events under Section III.J.1.d, the report to OIG shall include:

a. the identity of the Ineligible Person and the job duties performed by that individual;

b. the dates of the Ineligible Person's employment or contractual relationship;

c. a description of the Exclusion List screening that American Health Foundation, Inc. completed before and/or during the Ineligible Person's employment or contract and any flaw or breakdown in the screening process that led to the hiring or contracting with the Ineligible Person;

d. a description of how the Ineligible Person was identified; and

e. a description of any corrective action implemented to prevent future employment or contracting with an Ineligible Person.

6. *Reportable Events under Section III.J.1.e.* For Reportable Events under Section III.J.1.e, the report to OIG shall include:

a. a complete description of the Reportable Event;

b. a description of American Health Foundation, Inc.'s action taken to ensure that the Reportable Event does not adversely impact resident care;

c. any further steps American Health Foundation, Inc. plans to take to address the Reportable Event;

d. if the Reportable Event involves the filing of a bankruptcy petition, documentation of the bankruptcy filing and a description of any Federal health care program requirements implicated; and

e. if the Reportable Event involves the appointment of a receiver, documentation regarding the receivership, including, but not limited to, the identification and contact information of the receiver.

7. *Reportable Events Involving the Stark Law.* Notwithstanding the reporting requirements outlined above, any Reportable Event that involves solely a probable violation of section 1877 of the Social Security Act, 42 U.S.C. §1395nn (the Stark Law) should be submitted by American Health Foundation, Inc. to CMS through the self-referral disclosure protocol (SRDP), with a copy to the OIG. If American Health Foundation, Inc. identifies a probable violation of the Stark Law and repays the applicable Overpayment directly to the CMS contractor, then American Health Foundation, Inc. is not required by this Section III.J to submit the Reportable Event to CMS through the SRDP.

IV. SUCCESSOR LIABILITY

In the event that, after the Effective Date, American Health Foundation, Inc. proposes to (a) sell any or all of its business, business units, or locations (whether through a sale of assets, sale of stock, or other type of transaction) relating to the furnishing of items or services that may be reimbursed by a Federal health care program, or (b) purchase or establish a new business, business unit, or location relating to the furnishing of items or services that may be reimbursed by a Federal health care program, the CIA shall be binding on the purchaser of any business, business unit, or location and any new business, business unit, or location (and all Covered Persons at each new business, business unit, or location) shall be subject to the applicable requirements of this CIA, unless otherwise

determined and agreed to in writing by OIG. American Health Foundation, Inc. shall give notice of such sale or purchase to OIG at least 30 days prior to the closing of the transaction.

If, in advance of a proposed sale or a proposed purchase, American Health Foundation, Inc. wishes to obtain a determination by OIG that the proposed purchaser or the proposed acquisition will not be subject to the requirements of the CIA, American Health Foundation, Inc. must notify OIG in writing of the proposed sale or purchase and include the following information at least 30 days in advance: a description of the business, business unit, or location to be sold or purchased, a brief description of the terms of the transaction and, in the case of a proposed sale, the name and contact information of the prospective purchaser.

V. IMPLEMENTATION AND ANNUAL REPORTS

A. Implementation Report.

Within 120 days after the Effective Date, American Health Foundation, Inc. shall submit a written report to OIG summarizing the status of its implementation of the requirements of this CIA (Implementation Report). The Implementation Report shall, at a minimum, include:

1. the name, business address, business phone number, and position description of the Compliance Officer required by Section III.A, and a summary of other noncompliance job responsibilities the Compliance Officer may have;

2. the names and positions of the members of the Compliance Committee required by Section III.A;

3. the names of the Board members who are responsible for satisfying the Board compliance requirements described in Section III.A;

4. a description of the Quality of Care Review Program required by Section III.A.2;

5. a description of the Dashboard required by Section III.A.2;

6. the names and positions of the Certifying Employees required by Section III.A.4 and a copy of the written process for Certifying Employees to follow in order to complete the certification required by Section III.A.4;

7. a list of all Policies and Procedures required by Section III.B;

8. the Training Plan required by Section III.C.1 and a description of the Board training required by Section III.C.2 (including a summary of the topics covered, the length of the training, and when the training was provided);

9. a description of the risk assessment and internal review process required by Section III.E;

10. a description of the Disclosure Program required by Section III.F;

11. a description of the Ineligible Persons screening and removal process required by Section III.G;

12. copy of American Health Foundation, Inc.'s policies and procedures regarding the identification, quantification, and repayment of Overpayments required by Section III.I;

13. a description of American Health Foundation, Inc.'s corporate structure, including identification of any individual owners and investors, parent and sister companies, landlords, subsidiaries, affiliates, and their respective lines of business;

14. a list of all of American Health Foundation, Inc.'s locations (including locations and mailing addresses), the corresponding name under which each location is doing business, and the location's Medicare and state Medicaid program provider number and/or supplier number(s); and

15. the certifications required by Section V.C.

B. Annual Reports. American Health Foundation, Inc. shall submit to OIG a report on its compliance with the CIA requirements for each of the five Reporting Periods (Annual Report).

Each Annual Report shall include, at a minimum, the following information:

1. any change in the identity, position description, or other noncompliance job responsibilities of the Compliance Officer, a current list of the Compliance Committee members, a current list of the Board members who are responsible for satisfying the Board compliance requirements, and a current list of the Certifying Employees, along with the identification of any changes made during the Reporting Period to the Compliance Committee, Board, and Certifying Employees;

2. a description of any changes to the written process for Certifying Employees to follow in order to complete the certification required by Section III.A.4;

3. the dates of each report made by the Compliance Officer to the Board (written documentation of such reports shall be made available to OIG upon request);

4. a summary of activities and findings under American Health Foundation, Inc.'s Quality of Care Review Program and a summary of any corrective action taken in response to any problems identified through its Quality of Care Review Program as required by Section III.A.2;

5. a summary of the Compliance Committee's measurement, analysis, and tracking of the performance metrics included in American Health Foundation, Inc.'s Dashboard, American Health Foundation, Inc.'s progress towards its quality improvement goals, and any changes to the Dashboard and the reasons for such changes, and activities, assessments, recommendations, and findings related to staffing and American Health Foundation, Inc.'s response to those findings;

6. the Board resolution required by Section III.A.3 and a description of the documents and other materials reviewed by the Board, as well as any additional steps taken, in its oversight of the compliance program and in support of making the resolution;

7. a list of any new or revised Policies and Procedures developed during the Reporting Period;

8. a description of any changes to American Health Foundation, Inc.'s Training Plan developed pursuant to Section III.C and summary of any Board training provided during the Reporting Period;

9. American Health Foundation, Inc.'s response and action plan(s) related to any written recommendations of the Monitor pursuant to Section III.D;

10. a description of any changes to the risk assessment and internal review process required by Section III.E, including the reasons for such changes;

11. a summary of the following components of the risk assessment and internal review process during the Reporting Period: (a) work plans developed, (b) internal audits performed, (c) corrective action plans developed in response to internal audits, and (d) steps taken to track the implementation of the corrective action plans. Copies of any work plans, internal audit reports, and corrective action plans shall be made available to OIG upon request;

12. a summary of the disclosures in the disclosure log required by Section III.F that relate to Federal health care programs and delivery of resident care, including at least the following information: (a) a description of the disclosure, (b) the date the disclosure was received, (c) the resolution of the disclosure, and (d) the date the disclosure was resolved (if applicable). The complete disclosure log shall be made available to OIG upon request;

13. a summary of Reportable Events (as defined in Section III.J) identified during the Reporting Period and the status of any corrective and preventative action relating to all such Reportable Events;

14. a description of any changes to the Ineligible Persons screening and removal process required by Section III.G, including the reasons for such changes;

15. a description of any changes to the Overpayment policies and procedures required by Section III.I, including the reasons for such changes;

16. a summary describing any ongoing investigation or legal proceeding required to have been reported pursuant to Section III.H. The summary shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding;

17. a description of all changes to the most recently provided list of American Health Foundation, Inc.'s locations as required by Section V.A.14;

18. a description of any changes to American Health Foundation, Inc.'s corporate structure, including any individual owners and investors, parent and sister companies, landlords, subsidiaries, affiliates, and their respective lines of business; and

19. the certifications required by Section V.C.

The first Annual Report shall be received by OIG no later than 60 days after the end of the first Reporting Period. Subsequent Annual Reports shall be received by OIG no later than the anniversary date of the due date of the first Annual Report.

C. Certifications

1. *Certifying Employees.* In each Annual Report, American Health Foundation, Inc. shall include the certifications of Certifying Employees as required by Section III.A.4;

2. *Compliance Officer and Chief Executive Officer.* The Implementation Report and each Annual Report shall include a certification by the Compliance Officer and Chief Executive Officer that:

a. to the best of his or her knowledge, except as otherwise described in the report, American Health Foundation, Inc. has implemented and is in compliance with all of the requirements of this CIA;

b. he or she has reviewed the report and has made reasonable inquiry regarding its content and believes

that the information in the report is accurate and truthful; and

c. he or she understands that the certification is being provided to and relied upon by the United States.

D. Designation of Information. American Health Foundation, Inc. shall clearly identify any portions of its submissions that it believes are trade secrets, or information that is commercial or financial and privileged or confidential, and therefore potentially exempt from disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. American Health Foundation, Inc. shall refrain from identifying any information as exempt from disclosure if that information does not meet the criteria for exemption from disclosure under FOIA.

VI. NOTIFICATIONS AND SUBMISSION OF REPORTS

Unless otherwise stated in writing after the Effective Date, all notifications and reports required under this CIA shall be submitted to the following entities:

OIG:
Administrative and Civil Remedies
Branch
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, DC 20201
Telephone: 202.619.2078
Facsimile: 202.205.0604

American Health Foundation, Inc.:
American Health Foundation
c/o: Matt Lehman
5920 Venture Drive, Suite 200
Dublin, Ohio 43017-2237
matt@abbingtononline.com
614.760.7352 voice
614.798.5125 fax

Unless otherwise specified, all notifications and reports required by this CIA may be made by electronic mail, overnight mail, hand delivery, or other means, provided that there is proof that such notification was received. Upon request by OIG, American Health Foundation, Inc. may be required to provide OIG with an additional copy of each notification or report required by this CIA in OIG's requested format (electronic or paper).

VII. OIG INSPECTION, AUDIT, AND REVIEW RIGHTS

In addition to any other rights OIG may have by statute, regulation, or contract, OIG or its duly authorized representative(s) may conduct interviews, examine and/or request copies of or to copy American Health Foundation, Inc.'s books, records, and other documents and supporting materials and conduct on-site reviews of any of American Health Foundation, Inc.'s locations for the purpose of verifying and evaluating: (a) American Health Foundation, Inc.'s compliance with the terms of this CIA; and (b) American Health Foundation, Inc.'s compliance with the requirements of the Federal health care programs. The documentation described above shall be made available by American Health Foundation, Inc. to OIG or its duly authorized representative(s) at all reasonable times for inspection, audit, and/or reproduction. Furthermore, for purposes of this provision, OIG or its duly authorized representative(s) may interview any of American Health Foundation, Inc.'s owners, employees, contractors, and directors who consent to be interviewed at the individual's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the individual and OIG. American Health Foundation, Inc. shall assist OIG or its duly authorized representative(s) in contacting and arranging interviews with such individuals upon OIG's request. American Health Foundation, Inc.'s owners, employees, contractors, and directors may elect to be interviewed with or without a representative of American Health Foundation, Inc. present.

VIII. DOCUMENT AND RECORD RETENTION

American Health Foundation, Inc. shall maintain for inspection all documents and records relating to reimbursement from the Federal health care programs and to compliance with this CIA, for six years (or longer if otherwise required by law) from the Effective Date.

IX. DISCLOSURES

Consistent with HHS's FOIA procedures, set forth in 45 C.F.R. Part 5, OIG shall make a reasonable effort to notify American Health Foundation, Inc. prior to any release by OIG of information submitted by American Health Foundation, Inc. pursuant to its requirements under this CIA and identified upon submission by American Health Foundation, Inc. as trade secrets, or information that is commercial or financial and privileged or confidential, under the FOIA rules. With respect to such releases, American Health Foundation, Inc. shall have the rights set forth at 45 C.F.R. § 5.42(a).

X. BREACH AND DEFAULT PROVISIONS

A. Specific Performance. The parties agree that, if OIG determines that American Health Foundation, Inc. is failing to comply with a provision of this CIA, OIG may seek specific performance of that provision. OIG shall provide American Health Foundation, Inc. with prompt written notification of such determination. (This notification shall be referred to as the "Noncompliance Notice.") Within 30 days after the date of the Noncompliance Notice, American Health Foundation, Inc. shall either: (1) come into compliance; or (2) request a hearing before an HHS administrative law judge (ALJ) to dispute OIG's determination of noncompliance, pursuant to the provisions set for in Section X.F of this CIA.

B. Stipulated Penalties. OIG may assess:

1. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section III.A;

2. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section III.B;

3. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section III.C;

4. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section III.D;

5. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section III.E;

6. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section III.F;

7. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section III.G;

8. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section III.H;

9. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section III.I;

10. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section III.J;

11. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section IV;

12. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section V;

13. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section VII;

14. A Stipulated Penalty of up to $2,500 for each day American Health Foundation, Inc. fails to comply with Section VIII; or

15. A Stipulated Penalty of up to $50,000 for each false certification or false statement made to OIG by or on behalf of American Health Foundation, Inc. under this CIA.

C. Timely Written Requests for Extensions. American Health Foundation, Inc. may, in advance of the due date, submit a timely written request for an extension of time to perform any act or file any notification or report required by this CIA. If OIG grants the timely written request with respect to an act, notification, or report, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until one day after American Health Foundation, Inc. fails to meet the revised deadline set by OIG. If OIG denies such a timely written request, Stipulated Penalties for failure to perform the

act or file the notification or report shall not begin to accrue until three business days after American Health Foundation, Inc. receives OIG's written denial of such request or the original due date, whichever is later. A "timely written request" is defined as a request in writing received by OIG at least five business days prior to the date by which any act is due to be performed or any notification or report is due to be filed.

D. Payment of Stipulated Penalties

1. *Demand Letter*. If OIG determines that a basis for Stipulated Penalties under Section X.A exists, OIG shall notify American Health Foundation, Inc. of: (a) American Health Foundation, Inc.'s failure to comply; and (b) OIG's demand for payment of Stipulated Penalties. (This notification shall be referred to as the "Demand Letter.")

2. *Response to Demand Letter.* Within 15 business days after the date of the Demand Letter, American Health Foundation, Inc. shall either: (a) pay the applicable Stipulated Penalties or (b) request a hearing before an ALJ to dispute OIG's determination of noncompliance, pursuant to the agreed upon provisions set forth below in Section X.F.

3. *Form of Payment*. Payment of the Stipulated Penalties shall be made by electronic funds transfer to an account specified by OIG in the Demand Letter.

E. Exclusion for Material Breach of this CIA

1. *Definition of Material Breach*. A material breach of this CIA means:

a. failure to comply with any of the requirements of this CIA for which OIG has previously issued a demand for Stipulated Penalties under Section X.D;

b. failure to comply with Section III.A.1;

c. failure to comply with Section III.D;

d. failure to comply with Section III.J;

e. failure to comply with Section V;

f. a failure to respond to a Noncompliance Notice in accordance with Section X.A;

g. a failure to respond to a Demand Letter in accordance with Section X.D;

h. failure to pay Stipulated Penalties within 20 days after an ALJ issues a decision ordering American Health Foundation, Inc. to pay the Stipulated Penalties or within 20 days after the HHS Departmental Appeals Board (DAB) issues a decision upholding the determination of OIG; or

i. failure to come into compliance with a requirement of this CIA for which OIG has demanded Stipulated Penalties pursuant to the deadlines listed in Section X.F.3.

2. *Notice of Material Breach and Intent to Exclude*. The parties agree that a material breach of this CIA by American Health Foundation, Inc. constitutes an independent basis for American Health Foundation, Inc.'s exclusion from participation in the Federal health care programs. The length of the exclusion shall be in the OIG's discretion, but not more than five years for each material breach. Upon a preliminary determination by OIG that American Health Foundation, Inc. has materially breached this CIA, OIG shall notify American Health Foundation, Inc. of: (a) American Health Foundation, Inc.'s material breach; and (b) OIG's intent to exclude American Health Foundation, Inc.. (This notification shall be referred to as the "Notice of Material Breach and Intent to Exclude.") The exclusion may be directed at one or more of American Health Foundation, Inc.'s facilities or corporate entities, depending upon the facts of the breach.

3. *Response to Notice*. American Health Foundation, Inc. shall have 30 days from the date of the Notice of Material Breach and Intent to Exclude to submit any information and documentation for OIG to consider before it makes a final determination regarding exclusion.

4. *Exclusion Letter*. If OIG determines that exclusion is warranted, OIG shall notify American Health Foundation, Inc. in writing of its determination to exclude American Health Foundation, Inc.. (This letter shall be referred to as the "Exclusion Letter.") Subject to the Dispute Resolution provisions in Section X.F, below, the exclusion shall go into effect 30 days after the date of the Exclusion Letter. The exclusion shall have national effect. The effect of the exclusion shall be that no Federal health care program payment may be made for items or services furnished, ordered, or prescribed by American Health Foundation, Inc., including administrative and management services, except as stated in regulations found at 42 C.F.R. § 1001.1901(c). Reinstatement to program participation is not automatic. At the end of the period of exclusion, American Health Foundation, Inc. may apply for reinstatement by submitting a written request for reinstatement in accordance with the provisions at 42 C.F.R. §§ 1001.3001-.3004.

F. Dispute Resolution

1. *Review Rights*. Upon OIG's issuing a Noncompliance Notice, Demand Letter, or Exclusion Letter to American Health Foundation, Inc., and as an agreed-upon remedy for the resolution of disputes arising under this CIA, American Health Foundation, Inc. shall be afforded certain review rights comparable to the ones that are provided in 42 U.S.C. § 1320a-7(f) and 42 C.F.R. Part 1005. Specifically, OIG's determination to demand specific performance, payment of Stipulated Penalties, or to seek exclusion shall be subject to review by an HHS ALJ and, in the event of an appeal, the DAB, in a manner consistent with the provisions in 42 C.F.R. § 1005.2-1005.21, but only to the extent this CIA does not provide otherwise. Notwithstanding the language in 42 C.F.R. § 1005.2: (a) the request for a hearing involving specific performance or Stipulated Penalties shall be made within 15 business days after the date of Noncompliance Notice or the Demand Letter and the request for a hearing involving exclusion shall be made within 25 days after the date of the Exclusion Letter; and (b) no discovery shall be available to the parties. The procedures relating to the filing of a request for a hearing can be found at http://www.hhs.gov/dab/division/civil/procedures/divisionprocedures.html.

2. *Specific Performance Review.* Notwithstanding any provision of Title 42 of the United States Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for specific performance of CIA requirements shall be whether American Health Foundation, Inc. is full compliance with the requirements of this CIA for which OIG seeks specific

performance. American Health Foundation, Inc. shall have the burden of proving its full and timely compliance. If the ALJ upholds the OIG's determination that American Health Foundation, Inc. was not in compliance with this CIA and orders American Health Foundation, Inc. to come into compliance, American Health Foundation, Inc. must take the actions OIG deems necessary to come into compliance within 20 days after the ALJ issues such a decision, unless American Health Foundation, Inc. properly and timely requests review of the ALJ decision by the DAB. If the ALJ decision is timely and properly appealed to the DAB and the DAB upholds the determination of OIG, American Health Foundation, Inc. must take the actions OIG deems necessary to come into compliance within 20 days after the DAB issues its decision.

3. *Stipulated Penalties Review*. Notwithstanding any provision of Title 42 of the United States Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for Stipulated Penalties under this CIA shall be: (a) whether American Health Foundation, Inc. was in full and timely compliance with the requirements of this CIA for which OIG demands payment; and (b) the period of noncompliance. American Health Foundation, Inc. shall have the burden of proving its full and timely compliance. If the ALJ upholds the OIG's determination that American Health Foundation, Inc. has breached this CIA and orders American Health Foundation, Inc. to pay Stipulated Penalties, American Health Foundation, Inc. must (a) come into compliance with the requirement(s) of the CIA that resulted in the OIG imposing Stipulated Penalties and (b) pay the Stipulated Penalties within 20 days after the ALJ issues a decision, unless American Health Foundation, Inc. properly and timely requests review of the ALJ decision by the DAB. If the ALJ decision is properly and timely appealed to the DAB and the DAB upholds the determination of OIG, American Health Foundation, Inc. must (a) come into compliance with the requirement(s) that resulted in the OIG imposing Stipulated Penalties and (b) pay the Stipulated Penalties within 20 days after the DAB issues its decision.

4. *Exclusion Review*. Notwithstanding any provision of Title 42 of the United States Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for exclusion based on a material breach of this CIA shall be whether American Health Foundation, Inc. was in material breach of this CIA. If the ALJ sustains the OIG's determination of material breach, the exclusion shall take effect 20 days after the ALJ issues the decision. If the DAB finds in favor of OIG after an ALJ decision adverse to OIG, the exclusion shall take effect 20 days after the DAB decision. American Health Foundation, Inc. shall waive its right to any notice by OIG of the exclusion if a decision upholding the exclusion is

rendered by the ALJ or DAB. If the DAB finds in favor of American Health Foundation, Inc., American Health Foundation, Inc. shall be reinstated effective on the date of the exclusion.

5. *Finality of Decision.* The review by an ALJ or DAB provided for above shall not be considered to be an appeal right arising under any statutes or regulations. The parties to this CIA agree that the DAB's decision (or the ALJ's decision if not appealed) shall be considered final for all purposes under this CIA and American Health Foundation, Inc. agrees not to seek additional review of the DAB's decision (or the ALJ's decision if not appealed) in any judicial forum.

XI. EFFECTIVE AND BINDING AGREEMENT

American Health Foundation, Inc. and OIG agree as follows:

A. This CIA shall become final and binding on the date the final signature is obtained on the CIA.

B. This CIA constitutes the complete agreement between the parties and may not be amended except by written consent of the parties to this CIA.

C. OIG may agree to a suspension of American Health Foundation, Inc.'s requirements under this CIA based on a certification by American Health Foundation, Inc. that it is no longer providing health care items or services that will be billed to any Federal health care program and it does not have any ownership or control interest, as defined in 42 U.S.C. § 1320a-3, in any entity that bills any Federal health care program. If American Health Foundation, Inc. is relieved of its CIA requirements, American Health Foundation, Inc. shall be required to notify OIG in writing at least 30 days in advance if American Health Foundation, Inc. plans to resume providing health care items or services that are billed to any Federal health care program or to obtain an ownership or control interest in any entity that bills any Federal health care program. At such time, OIG shall evaluate whether the CIA will be reactivated or modified.

D. All requirements and remedies set forth in this CIA are in addition to and do not affect (1) American Health Foundation, Inc.'s responsibility to follow all applicable Federal health care program requirements or (2) the government's right to impose appropriate remedies for failure to follow applicable Federal health care program requirements.

E. The undersigned American Health Foundation, Inc. signatories represent and warrant that they are authorized to execute this CIA. The undersigned OIG signatories represent that they are signing this CIA in their official capacities and that they are authorized to execute this CIA.

F. This CIA may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same CIA. Electronically-transmitted copies of signatures shall constitute acceptable, binding signatures for purposes of this CIA.

ON BEHALF OF AMERICAN HEALTH FOUNDATION, INC.

/J. Michael Haemmerle/	05/28/2025
Secretary	DATE
	DATE
	DATE

ON BEHALF OF THE OFFICE OF INSPECTOR GENERAL
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

/Susan Gillin/ 6/2/25

SUSAN E. GILLIN
Assistant Inspector General for Legal Affairs
Office of Inspector General
U. S. Department of Health and Human Services

DATE

/Nancy W. Brown/ 6.3.2025

NANCY W. BROWN
Senior Counsel
Office of Inspector General
U.S. Department of Health and Human Services

DATE

Appendix A to CIA - Data Analysis Subcontract Description

1. Under the Monitor's subcontract with a data analysis expert, as required by Section III.D of the CIA, the data analysis expert shall provide, at a minimum, the following reports to the Monitor and American Health Foundation, Inc. on a quarterly basis:

   a. Facility Reports: a summary report for American Health Foundation, Inc., showing facility-level quality indicator (QI) values and information on the MDS assessments underlying these values.

   b. Facility Comparison Reports: a summary table that includes QI values for each facility covered by the CIA and allows American Health Foundation, Inc. to compare the QI values among the facilities.

   c. Peer Comparison Reports: a summary report comparing American Health Foundation, Inc.'s QI values to the QI values of an appropriate peer comparison group.

   d. Resident Reports: if the data is available to the data analysis expert, a resident-level report showing which QI values were triggered by each resident in the Facility Report.

2. The data analysis expert will provide the Monitor with a QI User Guide, which will describe the format and contents of the reports listed above and provide QI definitions in terms of the underlying MDS assessment items.