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## SETTLEMENT AGREEMENT AND RELEASE

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### I. PARTIES

The parties to this Settlement Agreement and Release (“Agreement”) are: (i) the State of Texas (the “STATE” or “TEXAS”); (ii) DSM Healthcare Ventures, LLC d/b/a Trirax Rehabilitation f/k/a Advanced Therapy Services of Arlington (“ATS-ARLINGTON”); and (iii) David Scott Mitchell (“MITCHELL”) (ATS-ARLINGTON and MITCHELL collectively referred to as the “DSM DEFENDANTS”). In this Agreement, the STATE, ATS-ARLINGTON, and MITCHELL are each individually referred to as a “Party” and collectively referred to as the “Parties.” The Parties enter into this Agreement as of the “Effective Date” defined in paragraph A.

### II. PREAMBLE

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

A. The Effective Date of this Agreement shall be the date of signature of the last signatory to this Agreement (“Effective Date”).

B. The Texas Office of the Attorney General (“OAG”) initiated an investigation of the DSM DEFENDANTS and others, and has incurred costs and fees associated therewith (“Investigation Costs”).

C. On or about April 26, 2016, the STATE filed its First Amended Petition and Request for Disclosure against the DSM DEFENDANTS and others in *State of Texas v. DSM Healthcare Ventures, LLC d/b/a Trirax Rehabilitation f/k/a Advanced Therapy Services of Arlington, et al.*; Cause No. D-1-GV-15-005227 pending in the 419th Judicial District Court of

Travis County, Texas (the "Lawsuit").<sup>1</sup> In the Lawsuit, the STATE seeks recovery from the DSM DEFENDANTS of: (i) the value of all payments or monetary or in-kind benefits that the STATE and/or the Texas Medicaid Program ("Texas Medicaid") provided to the DSM DEFENDANTS and/or the other defendants as a result of the unlawful acts alleged therein, which the STATE contends exceed \$2.7 million; together with (ii) pre-judgment and post-judgment interest; (iii) an additional two times the value of such payments and/or benefits; (iv) statutory civil penalties of not less than \$1,000.00 or more than \$10,000.00 for each alleged unlawful act committed by the DSM DEFENDANTS; and (v) fees, expenses, and costs incurred by the STATE pursuant to statute.

D. In the Lawsuit, the STATE further contends that between 2004 and 2006, the DSM DEFENDANTS made or caused to be made allegedly false statements and/or misrepresentations to the STATE and/or Texas Medicaid when the DSM DEFENDANTS (i) knowingly made or caused to be made false, fraudulent, and/or misleading statements concerning information (including information regarding ownership/control, chain affiliation, the identity of subcontractors, and prior criminal convictions) in the Provider Enrollment Application ("Application") submitted by or on behalf of ATS-ARLINGTON; (ii) knowingly made or caused to be made false, fraudulent, and/or misleading statements concerning the amounts due and owing to ATS-ARLINGTON on claims billed to Texas Medicaid by or on behalf of ATS-ARLINGTON; (iii) knowingly or intentionally entered into an agreement, combination, or conspiracy with a Comprehensive Outpatient Rehabilitation Facility ("CORF") owned by Defendant Shahriar Raoufipour a/k/a Shawn Raoufipour and others named Progressive Pediatric Therapy LLC ("PPT") and/or others to defraud the STATE by obtaining or aiding PPT in obtaining unauthorized

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<sup>1</sup> Texas filed its Original Petition in the Lawsuit on or about November 12, 2015.

payments or benefits from Texas Medicaid; (iv) knowingly made or caused to be made false, fraudulent, and/or misleading statements concerning the classification of an investment as an expense for consulting services MITCHELL had not provided; and (v) knowingly made or caused to be made false, fraudulent, and/or misleading statements concerning travel expenses of Defendant Cynthia L. Kidd. The STATE contends in the Lawsuit that these alleged false statements and/or misrepresentations, independently or in combination, resulted in payments made to ATS-ARLINGTON, PPT, and ATS-Fort Worth or benefits received by ATS-ARLINGTON, PPT, and ATS-Fort Worth from Texas Medicaid for which ATS-ARLINGTON, PPT, and ATS-Fort Worth were not entitled. The STATE further contends in the Lawsuit that the DSM DEFENDANTS committed unlawful acts under the Texas Medicaid Fraud Prevention Act, as defined by TEX. HUM. RES. CODE § 36.002, in connection with these alleged false statements and/or misrepresentations. In this Agreement, the conduct described in this paragraph is referred to as the "Covered Conduct."

E. The DSM DEFENDANTS maintain that they have a number of defenses to the STATE's claims in the Lawsuit and have denied and continue to deny the STATE's allegations or that any wrongdoing occurred.

F. This Agreement is the result of a compromise of disputed issues of law and fact concerning the Covered Conduct and is neither an admission of facts or liability by the DSM DEFENDANTS, nor a concession by the STATE that the STATE's allegations and claims are not well-founded.

G. As a result of a mutual desire to settle their disputes and to avoid the delay, expense, inconvenience, and uncertainty of protracted investigation or litigation of the STATE's claims, the

Parties have reached a full and final settlement of the STATE's claims, as set forth in this Agreement; and

H. The STATE has concluded that this settlement is in the public interest and is fair, adequate, and reasonable under the circumstances.

### III. AGREEMENT

NOW, THEREFORE, in reliance on the representations contained herein and in consideration of the mutual promises, covenants, and obligations set forth in this Agreement, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. The foregoing Preamble is incorporated herein.
2. MITCHELL shall make payment in full to the STATE the total sum of ONE MILLION ONE HUNDRED THOUSAND DOLLARS (\$1,100,000.00) (the "Settlement Amount") within five business days of the Effective Date. MITCHELL shall pay the Settlement Amount in accordance with wiring instructions provided by Raymond Winter, Chief of the Civil Medicaid Fraud Division at the Office of the Attorney General of Texas.

a. The Parties understand and agree that no portion of the Settlement Amount shall be allocated, attributed to, or characterized as the payment of fines, penalties, or other punitive assessments. In all other respects, the DSM DEFENDANTS expressly acknowledge and agree that they are not entitled to direct or influence the manner in which the STATE allocates the Settlement Amount. The STATE may allocate and distribute to the United States Government a pro rata share of the Settlement Amount in accordance with state and federal law, if and only to the extent such allocation is required. The Parties understand and agree that the Settlement Amount includes payment of the STATE's

Investigation Costs attributable solely to the STATE's claims against the DSM DEFENDANTS alone.

b. The DSM DEFENDANTS agree to submit to the jurisdiction of Texas courts in any proceeding to enforce this Agreement.

c. The DSM DEFENDANTS further agree that they will testify at trial or hearings in Travis County in the Lawsuit if called as a witness by TEXAS, upon reasonable notice, notwithstanding the limitations of TEX. R. CIV. P. 176. The DSM DEFENDANTS agree that their counsel identified in Paragraph 18(b) below is authorized to accept service on the DSM DEFENDANTS' behalf of any subpoena or notice that may be required by this Paragraph.

d. The DSM DEFENDANTS further agree that, upon reasonable notice, they will testify at a deposition in the Lawsuit if requested by TEXAS, and that they will cooperate with the STATE in scheduling same.

e. The DSM DEFENDANTS further agree to make themselves available upon reasonable notice to meet with attorneys for TEXAS prior to testifying at trial or deposition in the Lawsuit to prepare for same, if requested by the STATE, and to cooperate with TEXAS in scheduling same.

f. The DSM DEFENDANTS further agree to preserve any documents or data in their possession, custody, or control that may be relevant to the Lawsuit, if any.

g. The DSM DEFENDANTS further agree to answer any questions that the attorneys for TEXAS may have regarding the facts and issues in the Lawsuit, and to make themselves available to do so upon reasonable notice.

h. MITCHELL agrees to the imposition of a lifetime exclusion from participation in the Texas Medicaid program. MITCHELL understands that neither he, nor any entity owned or controlled by him, in whole or in part regardless of percentage of ownership (except as to ATS-ARLINGTON to the extent provided in this Agreement), will be eligible to participate in the Texas Medicaid program under this exclusion. As part of this exclusion, MITCHELL agrees his enrollment in the Texas Medicaid program is terminated in lieu of further disciplinary proceedings and waives any potential appeal rights for termination. MITCHELL acknowledges that this termination is related to allegations of fraud, integrity, or quality, and that the termination will be reported to the appropriate federal databases, which will result in the termination of MITCHELL's enrollment in the Medicaid programs of other states. MITCHELL agrees that he will not seek or submit any new application to participate in the Texas Medicaid Program, and that this exclusion and Agreement are responsive to Questions 2 and 3 of Provider Information Forms PIF-1 and PIF-2, and similar questions in any comparable or subsequent application forms to participate in any state or federally funded program. As part of this exclusion, MITCHELL further understands and agrees that he may not and shall not provide (or arrange to provide) health care services under the Medicaid program, or supply or sell (directly or indirectly) a product to or under the Medicaid program. MITCHELL further understands and agrees that no Medicaid program payment will be made for any item or service that he furnishes, orders, or prescribes. These prohibitions apply to MITCHELL, anyone who employs or contracts with MITCHELL, any hospital or other provider where MITCHELL provides services, and anyone else. This exclusion applies regardless of who submits the claims and applies to all administrative and management services furnished by MITCHELL.

MITCHELL further understands and agrees that this same lifetime exclusion applies to any entity owned or controlled by him, in whole or in part regardless of percentage of ownership, (except as to ATS-ARLINGTON to the extent provided in this Agreement).

i. MITCHELL agrees to sell, give, or otherwise divest all interests owned or held by him in ATS-ARLINGTON on or before September 1, 2017 (as described herein the "Divestiture"). MITCHELL agrees that the Divestiture will be complete and will be at arms-length. Following Divestiture, no person or entity (a) related to MITCHELL to any degree by blood or marriage; or (b) affiliated with MITCHELL in any way shall own or hold any whole or partial interest in ATS-ARLINGTON of any percentage whatsoever. The DSM DEFENDANTS agree that OAG will have the right to review any proposed transaction intended to effectuate the Divestiture, and that OAG must approve same to be effective. The Parties agree that OAG will have fourteen (14) days to respond to the DSM DEFENDANTS from the date OAG receives the complete proposed Divestiture transaction documents.

j. MITCHELL shall have the option to extend the deadline to complete the Divestiture until October 2, 2017 (the "First Extended Divestiture Period") in exchange for an additional payment of the sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) (the "First Option Payment"). The First Option Payment shall be paid to the State on or before August 15, 2017 for the First Extended Divestiture Period to become effective. If MITCHELL timely invokes the First Extended Divestiture Period in accordance with this Paragraph, he shall have a second option to extend the deadline to complete the Divestiture until November 1, 2017 (the "Second Extended Divestiture Period") in exchange for an additional payment of the sum of FIFTY THOUSAND

DOLLARS (\$50,000.00) (the "Second Option Payment"). The Second Option Payment shall be paid to the State on or before September 15, 2017 for the Second Extended Divestiture Period to become effective. If MITCHELL timely invokes the First and Second Extended Divestiture Periods in accordance with this Paragraph, he shall have a third option to extend the deadline to complete the Divestiture until December 1, 2017 (the "Third Extended Divestiture Period") in exchange for an additional payment of the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) (the "Third Option Payment"). The Third Option Payment shall be paid to the State on or before October 16, 2017 for the Third Extended Divestiture Period to become effective. If MITCHELL timely invokes the First, Second, and Third Extended Divestiture Periods in accordance with this Paragraph, he shall have a fourth and final option to extend the deadline to complete the Divestiture until January 1, 2018 (the "Final Extended Divestiture Period") in exchange for an additional payment of the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) (the "Final Option Payment"). The Final Option Payment shall be paid to the State on or before November 15, 2017 for the Final Extended Divestiture Period to become effective. The September 1, 2017 deadline to complete the Divestiture, as and to the extent modified by the Extended Divestiture Periods properly invoked by MITCHELL as set forth in this Paragraph, if any, shall hereinafter be referred to in this Agreement as the "Divestiture Deadline."

k. The DSM DEFENDANTS agree that if MITCHELL fails to complete the Divestiture described in Paragraphs 2.i. and 2.j. of this Agreement by the Divestiture Deadline, then a lifetime exclusion from participation in the Texas Medicaid program shall be imposed upon ATS-ARLINGTON effective the first calendar day following the



Divestiture Deadline (the "Conditional Exclusion"). ATS-ARLINGTON understands that neither ATS-ARLINGTON, nor any entity owned or controlled by ATS-ARLINGTON, in whole or in part regardless of percentage of ownership, will be eligible to participate in the Texas Medicaid program under the Conditional Exclusion. As part of this Conditional Exclusion, ATS-ARLINGTON agrees that its enrollment in the Texas Medicaid program will be terminated in lieu of further disciplinary proceedings and waives any potential appeal rights for such termination. ATS-ARLINGTON acknowledges that this termination is related to allegations of fraud, integrity, or quality, and that the termination will be reported to the appropriate federal databases, which will result in the termination of ATS-ARLINGTON's enrollment in the Medicaid programs of other states. Should the Conditional Exclusion occur, ATS-ARLINGTON agrees that it will not seek or submit any new application to participate in the Texas Medicaid Program, and that this Conditional Exclusion and Agreement would be responsive to Questions 2 and 3 of Provider Information Forms PIF-1 and PIF-2, and similar questions in any comparable or subsequent application forms to participate in any state or federally funded program. As part of this Conditional Exclusion, ATS-ARLINGTON further understands and agrees that it may not and shall not provide (or arrange to provide) health care services under the Medicaid program, or supply or sell (directly or indirectly) a product to or under the Medicaid program. ATS-ARLINGTON further understands and agrees that no Medicaid program payment will be made for any item or service that ATS-ARLINGTON furnishes, orders, or prescribes. These prohibitions apply to ATS-ARLINGTON, anyone who employs or contracts with ATS-ARLINGTON, any hospital or other provider where ATS-ARLINGTON provides services, and anyone else. This Conditional Exclusion applies

regardless of who submits the claims and applies to all administrative and management services furnished by ATS-ARLINGTON. ATS-ARLINGTON further understands and agrees that this same lifetime Conditional Exclusion applies to any entity owned or controlled by ATS-ARLINGTON, in whole or in part regardless of percentage of ownership. The STATE acknowledges and agrees that the Conditional Exclusion only applies if MITCHELL fails to complete Divestiture by the Divestiture Deadline in accordance with the terms of Paragraphs 2.i. and 2.j. of this Agreement.

1. It is the Parties' intent that MITCHELL's lifetime exclusion in Paragraph 2.h herein and ATS-ARLINGTON's Conditional Exclusion in Paragraph 2.k herein be enforced as written. In the event that any court should determine that the permanent durations of such exclusions are not enforceable for any reason, it is the Parties' intent that such exclusions apply for the greatest duration that is enforceable and that in no event shall such durations be less than the ten (10) year period set forth in TEX. HUM. RES. CODE § 36.005(b).

m. The Parties further agree that § 36.112 of the TEX. HUM. RES. CODE does not apply to the Lawsuit or any matter addressed by this Agreement.

3. Subject to Paragraph 6 below and in exchange for the consideration described herein (including payment in full of the Settlement Amount), the STATE (on behalf of (i) itself, its past and present officers, agents, entities, divisions, agencies, commissions, and departments, including all of their respective predecessors, successors, and assigns, and (ii) any insurers and reinsurers of those identified in sub-clause (i)), as of the date of payment in full of the Settlement Amount, fully and finally, and to the greatest extent allowed by law, releases, discharges, and covenants not to sue the DSM DEFENDANTS and each of the DSM DEFENDANTS' respective

past and present insurers and attorneys (collectively, the "Released Parties") for any civil, regulatory, and/or administrative claim, action, suit, demand, right, cause of action, liability, judgment, damage, or proceeding, direct or indirect, known or unknown (including claims for damages, attorneys' fees, penalties, costs, and expenses of every kind and however denominated) the STATE has, may have, has asserted, or could assert in the future under any source of law, contract, in equity or other right, for the Covered Conduct. In addition, the Parties agree that the payment of the Settlement Amount fully discharges the Released Parties from any obligation to the STATE to pay restitution, damages, penalties, or fines to the STATE for the Covered Conduct. In addition, the STATE agrees that it will not initiate, prosecute, direct, recommend, or maintain any action or other proceeding, including by way of example and not limitation, civil investigative demands, against the Released Parties arising from the Covered Conduct on behalf of itself or the United States. This Agreement does not prevent the STATE from discussing, communicating, or sharing information with other states or federal agencies or any other person or entity as permitted by the Texas Medicaid Fraud Prevention Act, TEX. HUM. RES. CODE §§ 36.001, *et seq.* ("TMFPA"). This Agreement only releases claims or causes of action that arise from the Covered Conduct.

4. ATS-ARLINGTON, on behalf of itself and each of its respective past and present insurers and attorneys, fully and finally, and to the greatest extent allowed by law, releases and discharges from liability and covenants not to sue the STATE, its agents, agencies, employees, servants, attorneys, and departments from any claims based on events occurring prior to the Effective Date (including attorneys' fees, costs, and expenses of every kind and however denominated) which ATS-ARLINGTON has asserted, could assert, or may assert in the future against the STATE, its agents, agencies, divisions, employees, servants, attorneys, departments,

past and present commissioners or officers, and insurers arising from the Covered Conduct and the STATE's investigation and prosecution thereof.

5. MITCHELL, on behalf of himself and each of his respective past and present insurers and attorneys, fully and finally, and to the greatest extent allowed by law, releases and discharges from liability and covenants not to sue the STATE, its agents, agencies, employees, servants, attorneys, and departments from any claims based on events occurring prior to the Effective Date (including attorneys' fees, costs, and expenses of every kind and however denominated) which MITCHELL has asserted, could assert, or may assert in the future against the STATE, its agents, agencies, divisions, employees, servants, attorneys, departments, past and present commissioners or officers, and insurers arising from the Covered Conduct and the STATE's investigation and prosecution thereof.

6. Notwithstanding any other terms of this Agreement, including the releases in Paragraphs 3, 4, and 5 above, any and all of the following are specifically reserved and excluded from the scope and terms of this Agreement, and from the scope and terms of the Releases, as to any entity or person, including the Parties:

- a. Any claim based upon an obligation created by the Agreement;
- b. Any claim against any defendant or potential defendant in the Lawsuit, other than the DSM DEFENDANTS.
- c. Any claim based upon an express or implied product or service warranty or for defective or deficient products or services, including quality of goods and services, provided by the DSM DEFENDANTS;
- d. Any claim based on liability that any person or entity has or may have to the STATE or to individual consumers or state program payors, other than liability relating

to Texas Medicaid for the Covered Conduct, involving unfair and/or deceptive acts and practices and/or violations of consumer protection laws;

e. Any claim for state or federal antitrust violations;

f. Any claim that any person or entity, other than the STATE, has or may have regarding inducement of healthcare providers to retain CORF services;

g. The subrogation rights to claims for personal injury or property damage arising from usage of the DSM DEFENDANTS' products or services by a participant in the Medicaid Program;

h. Any claim based on a failure to deliver products or services due;

i. Any claim arising from the DSM DEFENDANTS' obligation to pay rebates to the STATE under any law or contract, to the extent that such obligation exists; and

j. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code) or any state tax or revenue law.

7. The STATE hereby agrees to file a non-suit with prejudice dismissing the DSM DEFENDANTS from the Lawsuit within ten (10) business days of the STATE's receipt in full of the Settlement Amount. The Parties agree that the non-suit shall apply only as to claims asserted by the STATE against the DSM DEFENDANTS, and shall not be applicable to claims the STATE has or may have against any other person or entity. The form of non-suit to be filed pursuant to this paragraph is attached to this Agreement as Exhibit A, which the Parties agree is mutually acceptable.

8. The Parties hereby agree that this Agreement, and any and all negotiations, documents and discussions associated with this Agreement, shall be without prejudice to the rights of any Party, shall not be deemed or construed to be an admission or evidence of any violation of

any statute or law, of any liability or wrongdoing by the Released Parties or of the truth or the infirmity of any of the claims or allegations of the STATE, and evidence thereof shall not be discoverable or used directly or indirectly by the STATE in any way (except that the provisions of this Agreement may be used by the Parties to enforce its terms), whether in Texas or in any other forum. The STATE agrees it will not urge or seek to admit this Agreement as evidence of any fault or liability of the Released Parties (other than to enforce its terms) in any investigation, administrative claim, action, suit or proceeding, or federal or state court or arbitration proceeding unless ordered to do so by a state court, federal court, or arbitration panel.

9. The STATE represents to the DSM DEFENDANTS, subject only to the rights possessed by the United States, if any, and any other assignment occurring by operation of law, that no interest in any claim herein released has been assigned by it to any third party.

10. Nothing in this Agreement shall be construed to create a waiver of the STATE's Sovereign Immunity, except that the STATE waives such immunity for the purpose of any action to enforce this Agreement.

11. Any Party shall be entitled to enforce the terms of this Agreement in the District Courts of Travis County, Texas, which shall have exclusive jurisdiction and venue over any such action. The DSM DEFENDANTS agree to submit to the jurisdiction of the Texas courts and venue in Travis County in any proceeding to enforce this Agreement.

12. This Agreement, including all exhibits, constitutes the complete agreement between the Parties with regard to the settlement of the Covered Conduct as defined herein. This Agreement may not be amended or modified in any respect except by a writing signed by all Parties.

13. Except as otherwise provided herein, each Party will bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

14. This Agreement shall be governed by the laws of the State of Texas.

15. This Agreement shall be construed and interpreted to effectuate the Parties' intent, which is to resolve completely the STATE's allegations and claims in connection with the Covered Conduct with respect to the DSM DEFENDANTS. This Agreement expressly does not resolve or affect the claims and actions reserved by and excluded from the release in paragraph 6.

16. None of the Parties to this Agreement shall be considered the drafter of this Agreement or of any included provision for the purpose of any statute, case law, or rule of construction that would or might cause any provision to be construed against the drafter.

17. The Parties each represent that this Agreement is freely and voluntarily entered into without any degree of duress whatsoever and with the advice of counsel of their own respective choosing.

18. Unless otherwise stated in writing subsequent to the Effective Date, all notifications and communications made pursuant to this Agreement shall be submitted to the persons or entities listed below:

- a. The STATE of Texas, for all purposes:  
Office of the Attorney General of Texas  
Raymond C. Winter  
Chief, Civil Medicaid Fraud Division  
P.O. Box 12548  
Austin, Texas 78711-2548  
Phone: (512) 936-1709  
Fax: (512) 499-0712  
Email: Raymond.Winter@oag.texas.gov

b. The DSM DEFENDANTS, for all purposes:

Bill Cobb  
COBB & COUNSEL PLLC  
401 Congress Avenue, Suite 1540  
Austin, Texas 78701  
Phone: (512) 693-7570  
Email: bill@cobbcounsel.com

19. The Parties have read the Agreement and accept and agree to the provisions contained herein and have caused this Agreement to be signed as of the day and date adjacent to their respective signatures. MITCHELL represents and warrants that he is of sound mind, over the age of twenty-one (21) years old, has consulted with legal counsel of his choosing regarding the terms, rights, and obligations of this Agreement, and is authorized to execute this Agreement. The undersigned ATS-ARLINGTON signatory represents that ATS-ARLINGTON has consulted with legal counsel of its choosing regarding the terms, rights, and obligations of this Agreement, that he is signing this Agreement in his official capacity, and that he is authorized to execute this Agreement and to compromise the claims of ATS-ARLINGTON. The undersigned STATE signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement and to compromise the claims of the STATE. The Texas Health and Human Services Commission ("HHSC") Executive Commissioner concurs with the aspects of the agreement that are within his authority.

20. The Parties represent and acknowledge that in entering into this Agreement they are not relying on any promises or representations other than those expressly set forth in this Agreement and its exhibits. The Parties understand, acknowledge, and agree that (i) they have each performed an independent investigation of the allegations of fact and law made in connection with the Covered Conduct; and (ii) they each may hereafter discover facts, claims, or defenses in



addition to, or different from, those that they now know or believe to be true with respect to the Covered Conduct or the subject matter of this Agreement. Nevertheless, it is the Parties' intention to resolve their disputes pursuant to the terms of this Agreement and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and the Agreement shall not be subject to rescission or modification by reason of any change or difference in facts or law.

21. The waiver of any rights conferred by this Agreement shall be effective only if made in writing by the waiving Party. The waiver by any Party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior to, subsequent to, or contemporaneously with this Agreement.

22. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement. Faxed and/or portable document format ("PDF") signatures will suffice.

23. Each Party agrees to perform such further acts and to execute and to deliver such further documents as may reasonably be necessary to carry out this Agreement.

STATE of TEXAS  
Office of the Attorney General

By:

Date:

*Raymond C. Winter*  
Raymond C. Winter  
Chief, Civil Medicaid Fraud Division  
Assistant Attorney General  
Office of the Attorney General of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

David Scott Mitchell

By:

Date: 5/5/17

*David Scott Mitchell*  
David Scott Mitchell  
1019 Oleander St.  
Franklin, TN 37064

Texas Health & Human Services Commission

By:

Date:

*Karen Ray*  
Karen Ray  
Chief Counsel  
Texas Health & Human Services Commission  
Brown-Heatly Building  
4900 N. Lamar Blvd.  
Austin, Texas 78751-2316

DSM Healthcare Ventures, LLC d/b/a  
Tritrax Rehabilitation f/k/a  
Advanced Therapy Services of Arlington

By:

Date: 5/5/17

*David Scott Mitchell*  
David Scott Mitchell  
President and Managing Member  
DSM Healthcare Ventures, LLC  
13619 Inwood Road, Suite 325  
Farmers Branch, Texas 75244-4643