



**CORPORATE INTEGRITY AGREEMENT
BETWEEN THE
NEW YORK STATE OFFICE OF THE MEDICAID INSPECTOR GENERAL
AND
YOUNG ADULT INSTITUTE, INC.
“YAI”**

January 14, 2011

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CORPORATE INTEGRITY AGREEMENT

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NEW YORK STATE OFFICE OF THE MEDICAID INSPECTOR GENERAL
AND
YOUNG ADULT INSTITUTE, INC.
“YAI”**

I. Preamble

YOUNG ADULT INSTITUTE, INC. (“YAI”) a not-for-profit health and human services organization serving people with developmental and learning disabilities and their families throughout the New York, New York metropolitan area and operating programs licensed and/or certified under the New York State Office for People with Developmental Disabilities (“OPWDD”), enters into this Corporate Integrity Agreement (“CIA”) with the New York State Office of the Medicaid Inspector General (“OMIG”) to promote compliance by YAI’s officers, directors, employees, and contractors with the requirements of New York’s medical assistance program (“Medicaid program”).

Contemporaneously with this CIA, YAI is entering into the Stipulations and Orders of Settlement and Dismissal (collectively, “Settlement Agreements”) with the Medicaid Fraud Control Unit of the New York State Office of the Attorney General (“MFCU”) and with the United States of America, acting through the Department of Justice (“DOJ”). Pursuant to the Settlement Agreements, YAI is settling allegations that during the period from at least May 27, 1999 to November 18, 2010, YAI knowingly presented, or caused to be presented, false claims to the Medicaid program for Covered Conduct as defined in Section III. C. of this CIA.

II. Term of the CIA

This CIA and the compliance obligations assumed by YAI hereunder shall expire five years from the Effective Date of this CIA, except that the obligation to retain an Independent Review Organization (“IRO”) shall run for three (3) years from the effective date unless extended. OMIG may extend the IRO retention period for up to two (2) additional years (five years in total) if it determines, in its sole discretion, that an IRO is necessary to ensure that YAI has an effective and sustainable Compliance Program which shall include, but not be limited to, the reasonably necessary systems, processes, procedures, controls and expertise to ensure that YAI’s Consolidated Fiscal Reports (“CFRs”) submitted to the Medicaid Program are accurate.

The Effective Date of this CIA shall be the date on which it is executed by OMIG.

III. Definitions

This CIA shall be governed by the following definitions:

- A. “Covered Persons” means all officers, directors, and employees of YAI. Covered Persons shall also mean contractors of YAI responsible for preparing all OPWDD’s CFRs, cost reports, claims reports, cost allocation assumptions and reports and the

reasonably necessary supporting documentation that are submitted to the Medicaid program for payment for covered Medicaid program services;

- B. "Relevant Covered Persons" means all officers, directors, employees and contractors responsible for preparing all CFRs, cost reports, claims reports, cost allocation assumptions and reports and the reasonably necessary supporting documentation that are submitted to the Medicaid program for payment for covered Medicaid services.

Notwithstanding the above, "Covered Persons" and "Relevant Covered Persons" do not include part-time or per diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work more than 160 hours per year, except that any such individuals shall become "Covered Persons" or "Relevant Covered Persons" at the point when they work more than 160 hours during the calendar year. Auditors engaged by YAI for issues related to the Covered Conduct shall be considered Covered Persons or Relevant Covered Persons regardless of the number of hours that they work per year.

- C. "Covered Conduct" means conduct of YAI from May 27, 1999 through November 18, 2010 as follows:

YAI knowingly presented, or caused to be presented, false claims for Medicaid funds to OPWDD for operational and vacancy appeals and/or price adjustments it submitted pursuant to 14 N.Y.C.R.R. §§ 635-10.5(b)(16), 681.14(i), and 686.13(i) (hereinafter, "appeals"), to which it was not entitled or to which it was not entitled in full. Specifically, YAI submitted to OPWDD CFRs that purportedly detailed YAI's expenses, which expenses formed the basis of YAI's appeals for additional Medicaid funding. The United States and the State of New York contend that in order to inflate the amount of Medicaid funding YAI received through its appeals and related roll-forward rate adjustments, YAI manipulated expenses on its CFRs in the following manner: (i) improperly shifting the personal-services expenses (*i.e.* salary and fringe benefits) of certain employees on the CFRs from program(s) or service(s) where those employees actually worked to program(s) or service(s) where they did not work in order to create fictitious losses at such facilities or to artificially increase losses at such facilities or to receive reimbursement otherwise not due; (ii) improperly categorizing on the CFRs the cost of the personal-services expenses of certain program administrative employees and other employees lacking the requisite license or certification as personal-services expenses for clinical social workers; and (iii) improperly categorizing on the CFRs the personal-services expenses of those employees who are involved in fund-raising activities.

IV. Compliance Program

- A. Within 30 days of the Effective Date of this CIA, except for specific implementation deadlines set forth herein, YAI shall establish and maintain an effective Compliance Program (Compliance Program) that complies with the requirements of Social Services Law §363-d and 18 NYCRR Part 521. Implementation of the Compliance Program shall include, but not be limited to the following:

1. Written Standards.

a. Code of Conduct. Within 90 days after the Effective Date, YAI shall develop, implement, and distribute to all Covered Persons and Relevant Covered Persons, a written Code of Conduct. YAI shall make the promotion of, and adherence to, the Code of Conduct an element in evaluating the performance of its officers, directors, employees and contractors. The Code of Conduct shall, at a minimum, set forth:

- 1) YAI's commitment to full compliance with the requirements of New York's Medicaid program and all Federal health care program requirements;
- 2) the requirement that all Covered Persons and Relevant Covered Persons comply with the Policies and Procedures implemented pursuant to this CIA;
- 3) the requirement that all Covered Persons and Relevant Covered Persons report to the Compliance Officer (or to another individual with authority to act on such a report) any suspected illegal activity and any violations of the requirements of New York's Medicaid program, any Federal health care program requirements, or the Policies and Procedures implemented pursuant to this CIA;
- 4) the possible consequences for YAI, a Covered Person and a Relevant Covered Person for failure to comply with the requirements of New York's Medicaid program or failure to report such noncompliance; and
- 5) the right of all Covered Persons and Relevant Covered Persons to use the Compliance Reporting Program described below, and YAI's commitment to non-intimidation and non-retaliation and to maintain confidentiality and anonymity, to the extent feasible, with respect to disclosures.

Within 120 days after the Effective Date, each Covered Person and Relevant Covered Person shall certify in writing, that he or she has received, read, understood, and shall abide by YAI's Compliance Program. New Covered Persons and Relevant Covered Persons shall receive the Code of Conduct within 30 days after becoming a Covered Person or Relevant Covered Person.

YAI, Compliance Officer, Chief Executive Officer and governing board shall periodically review the Code of Conduct to determine if revisions are appropriate to make it more effective and shall make any necessary revisions. Any revised Code of Conduct shall be distributed to Covered Persons and Relevant Covered Persons within 30 days of its completion. Within 30 days after its distribution, each Covered

Person and Relevant Covered Person shall certify, in writing, that he or she has received, read, understood, and shall abide by the revised Code of Conduct.

YAI shall also have all Covered Persons and Relevant Covered Persons who are in a governance, management, policy making, billing, auditing or financial position sign a Conflict of Interest disclosure as a condition of employment/affiliation and all other Covered Persons and Relevant Covered Persons shall be trained in YAI's Conflict of Interest policy and procedure and acknowledge that they have been trained and understand its terms and obligations.

- b. Policies and Procedures. Within 90 days after the Effective Date, YAI shall develop and implement written Policies and Procedures regarding the operation of YAI's Compliance Program. At a minimum, the Policies and Procedures shall address:
 - 1) The subjects relating to the Code of Conduct identified in Sections IV. and V. of this CIA.
 - 2) The proper documentation of services provided and preparation of true and accurate CFRs, cost reports and cost allocations as part of YAI's Medicaid program rate applications and appeals.
 - 3) Each of the requirements for provision of services, CFRs, cost accounting, rate applications and reimbursement rate appeals as established by OPWDD and as those requirements may be amended from time to time by OPWDD, the New York State Department of Health, any other relevant agency or instrumentality of the State of New York or the federal Centers for Medicare and Medicaid Services ("CMS") that apply to any service that YAI provides or bills to Medicaid or Medicare.

Within 120 days after the Effective Date, the relevant portions of the Policies and Procedures shall be distributed to all individuals whose job functions relate thereto as determined within the reasonable discretion of the Compliance Office after consultation with the IRO. Knowledgeable staff shall be available to explain the Policies and Procedures. At least annually, YAI shall assess and update, as necessary, its Policies and Procedures. Within 30 days after the effective date of any revisions, the relevant portions of the revised Policies and Procedures shall be distributed to all individuals whose job functions relate thereto.

2. Compliance Officer and Compliance Committees.

- a. Compliance Officer. Within 30 days after the Effective Date, YAI shall appoint an individual to serve as its Compliance Officer and shall maintain a Compliance Officer for the term of the CIA and subsequent to the term of this CIA as may be required by New York State Social Services Law Section 363-d and 18 NYCRR Part 521. OMIG shall have the right to

approve or disapprove YAI's appointment of its Compliance Officer. The Compliance Officer shall be responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the obligations set forth in this CIA and with the requirements of New York's Medicaid program. The Compliance Officer shall be a member of senior management of YAI; shall make periodic (at least quarterly) reports regarding compliance matters directly to the Board of Directors ("Board") of YAI or a duly constituted committee of the Board that reports directly to the Board; shall meet with the full Board in executive session at least twice a year, which sessions shall be prescheduled; and shall be authorized to report on compliance matters and the status of YAI's compliance with the terms of this CIA to the Board at any time. The Compliance Officer shall not be, or be subordinate to, the Chief Financial Officer or legal counsel.

YAI shall report to OMIG and to the IRO, in writing, any change in the identity or position description of the Compliance Officer, or any action or change that would affect the Compliance Officer's ability to perform the duties necessary to meet the obligations in this CIA, within 15 days after such a change.

- b. Staff Compliance Committee. Within 30 days after the Effective Date, YAI shall appoint a Staff Compliance Committee ("Staff Committee"). The Staff Committee shall, at a minimum, include the Compliance Officer and other members of senior management necessary to meet the requirements of this CIA, including members of: finance, human resources, clinical staff oversight (including credentialing and training), information technology, and operations. The Staff Committee shall meet at least monthly and shall assist the Compliance Officer in the development, implementation and maintenance of YAI's Compliance Program, including assessing organizational risk areas; overseeing the monitoring of internal and external audits and/or investigations; and all matters involving development, filing and reporting of cost reports.

YAI shall report to OMIG, in writing, any change in the composition of the Staff Committee, or any action or change that would affect the Staff Committee's ability to perform the duties necessary to meet the obligations in this CIA, within 15 days after such a change.

- c. Board of Directors. The Staff Committee shall report to the Board, which shall be responsible for the review and oversight of matters related to compliance with the obligations set forth in this CIA and with the requirements of New York's Medicaid program, including the performance of the Compliance Officer and the Staff Committee.

Annually, at YAI's annual Board meeting, the Board shall adopt a resolution, signed on behalf of the Board by the Board Chair, the Board Secretary and YAI's Chief Executive Officer, summarizing the Board's review and oversight of YAI's compliance with the requirements of New

York's Medicaid program including the performance of the Compliance Officer and the Staff Committee.

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

The YAI Board has made reasonable and due inquiry into the operations of YAI's Compliance Program, including, but not limited to, the performance of the Compliance Officer and the Staff Compliance Committee and the compliance of YAI with the requirements of the Medicaid program, OPWDD and the Federal health care programs. Based on that inquiry, the Board has concluded that to the best of its knowledge, YAI has implemented an effective Compliance Program to meet the requirements of New York's Medicaid program; the requirements of OPWDD; and the obligations of this CIA.

If the Board is unable to provide such a resolution, it shall provide a written explanation of the reasons for its inability and detail the steps it is taking to address the identified deficiencies. The explanation shall be provided to OMIG with a copy to the IRO within 30 days of the date that the annual resolution would otherwise be due.

3. Training and Education.

- a. General Training. Within 120 days after the Effective Date, YAI shall provide at least one hour of General Training to each Covered Person. This training, at a minimum, shall explain this CIA's requirements and YAI's Compliance Program, including the Code of Conduct.

New Covered Persons shall receive the General Training described above within 30 days after becoming a Covered Person. Each Covered Person shall receive at least one hour of General Training in each subsequent year.

- b. Specific Training. Within 120 days after the Effective Date, each Relevant Covered Person shall receive at least three hours of Specific Training in addition to the required General Training. This Specific Training shall include a discussion of the compliance obligations and Policies and Procedures that relate to their job duties and responsibilities, including how those interact with the Compliance Program.

New Relevant Covered Persons shall receive this training within 60 days of their becoming Relevant Covered Persons. Until a new Relevant Covered Person completes his or her Specific Training, a YAI employee who has completed the Specific Training shall review the Relevant Covered Person's work.

Each Relevant Covered Person shall receive at least three additional hours of Specific Training in each subsequent year.

- c. Governing Board Training. Within 120 days after the Effective Date, YAI shall provide at least one hour of training to each member of the governing board, in addition to the General Training (Board Specific Training). The Board Specific Training shall address the responsibilities of members of the governing board and corporate governance training.
- d. Contractors. Notwithstanding subparagraphs 3.a. and 3.b. of this Section, if YAI uses any contractor or subcontractor to assist it in patient care; submission of claims, cost allocation, cost reports, appeals to the New York Medicaid program; or in any other activity relevant to this CIA, YAI shall take appropriate steps to ensure that the entity is qualified and shares YAI's commitment to full compliance with the requirements of the New York Medicaid program. No such contractor or subcontractor may be utilized unless either (i) it demonstrates to YAI's Compliance Officer's reasonable satisfaction that it has performed compliance training for those individuals whom it intends to engage to provide services for, or on behalf of, YAI, and that it has a compliance reporting program, in both cases comparable to the type of such program required by New York Social Services Law § 363-d and its implementing regulations (18 NYCRR Part 521), (ii) participates in the training described in subparagraphs 3.a. and 3.b. of this section or (iii) OMIG agrees to waive this requirement.
- e. Certification. Each individual who is required to attend training shall certify, in writing or in electronic form, that he or she has received the required training. The certification shall specify the type of training received and the date on which training was received. For general training, the certification shall include a statement that the employee has received, read, understood, and shall abide by the Code of Conduct. The Compliance Officer (or designee) shall retain the certifications, along with all course materials, which shall be made available to OMIG and the IRO upon request.
- f. Qualifications of Trainer. Persons providing the training shall be knowledgeable about the subject area.
- g. Update of Training. YAI shall review and update the training annually to reflect changes in the requirements of New York's Medicaid program, any issues discovered during internal audits or IRO reviews, and any other relevant information.

4. Compliance Reporting Program.

- a. Within 60 days of the Effective Date, YAI shall establish a Compliance Reporting Program to enable individuals to report to the Compliance Officer (or to another individual with authority to act on such a report who is not in the disclosing individual's chain of command) issues or questions associated with YAI's policies, practices, or procedures with respect to the

New York Medicaid program. YAI shall publicize the existence of the reporting program via periodic e-mails to Covered Persons and Relevant Covered Persons and/or by posting the information in prominent common areas.

- b. The Compliance Reporting Program shall emphasize a non-intimidation, non-retribution, non-retaliation policy, and shall include a mechanism for anonymous communications for which confidentiality shall be maintained to the extent feasible. The Compliance Officer (or designee) shall conduct a review of the allegations set forth in the communication and ensure that timely corrective action is taken, if warranted.
- c. The Compliance Officer (or designee) shall maintain a disclosure log, including a summary of each question or allegation received (whether anonymous or not), the status of the internal review, and any corrective action taken. The disclosure log shall be made available to the IRO and to OMIG upon request.

5. Disciplinary Policies

The policies and procedures referred to in Section IV.A.1.b. shall include disciplinary policies that encourage good faith participation in YAI's Compliance Program. The disciplinary policies and procedures must set out the expectations for reporting compliance issues and assisting in their resolution and outline sanctions for:

- a. failure to report suspected problems;
- b. participating in non-compliant behavior; and
- c. encouraging, directing, facilitating or permitting non-compliant behavior.

The disciplinary policies must be fairly and firmly enforced.

6. System for Routine Identification of Compliance Risk Areas

YAI shall establish such policies, procedures, processes, reviews and audits to identify and evaluate actual or potential risk areas to YAI's compliance with the terms of this CIA, the statutory and regulatory requirements of the Medicaid program and the rules, regulations and requirements of OPWDD that apply to YAI and its operations.

7. System for Responding to Compliance Issues as They Arise

YAI shall establish such policies, procedures, processes and action plans as may be required to respond to and address risk areas and compliance failures that are identified from any source that may effect YAI's Compliance Program;

the terms of this CIA; the statutory and regulatory requirements of the Medicaid program; and the rules, regulations and OPWDD Requirements Failures (“OPWDD Requirements Failures” as defined in IV.B.2.c. of this CIA) that apply to YAI and its operations. This shall include, but not be limited to making self-disclosures to OMIG, the IRO and any other appropriate regulatory or governmental body, including OPWDD.

B. Self-Disclosure Program.

Within 60 days of the Effective Date, YAI shall establish a Self-Disclosure program to report Overpayments and Reportable Events.

1. Overpayments.

- a. **Definition of Overpayments.** For purposes of this CIA, an “Overpayment” shall mean any amount not authorized to be paid under the applicable requirements of the Medicaid or Medicare programs, whether as the result of inaccurate or improper CFR, cost reporting, improper claiming, unacceptable practices, fraud, abuse, or mistake.
- b. **Report of Overpayments.** If YAI identifies an Overpayment as defined by applicable laws and regulations, it shall notify OMIG within 60 days and take prompt remedial steps to prevent the Overpayment from recurring. To the extent such Overpayment has been quantified, and the Overpayment is not related to Covered Conduct during the period May 27, 1999 up to and including November 18, 2010, YAI shall repay the Overpayment. If the Overpayment has not been quantified within 60 days of identification, YAI shall notify OMIG of its efforts to quantify along with an estimate of when such work is expected to be completed. Notification and repayment to the Medicare program shall be done in accordance with the OIG’s Self-Disclosure Protocol. Notification and repayment to the Medicaid program shall be done in accordance with OMIG’s Self-Disclosure Protocol. (Notwithstanding the above, notification and repayment of any Overpayment that routinely is reconciled or adjusted pursuant to the administrative processes of the applicable payor may continue to be handled in accordance with such policies.) Nothing in this section shall be deemed to limit the authority or remedies available to any New York State or Federal agency. YAI shall maintain a log of all Overpayments and repayments made and shall retain such log for 6 years from expiration of this CIA.

2. Reportable Events.

- a. **Definition of Reportable Event.** For purposes of this CIA, a “Reportable Event” means:
 - 1) OPWDD Requirements Failures;

- 2) any conduct that would constitute an “unacceptable practice” under 18 NYCRR §515.2;
 - 3) a matter that a reasonable person would consider a probable violation of criminal, civil, or administrative laws applicable to the Medicaid program for which penalties or exclusion may be authorized;
 - 4) the preparation of or actual filing of a bankruptcy petition by YAI;
 - 5) the change of location, closure of a business unit or location, purchase or establishment of a new business unit or location, or proposal to sell any or all of its business units or locations that are subject to this CIA (reportable quarterly); or
 - 6) a substantial overpayment. A substantial overpayment is any overpayment that equals or exceeds \$5,000 per transaction or series of transactions where the same or a similar error causes an overpayment whether due to fraud, abuse, waste or mistake.
- b. Reporting of Reportable Events. If YAI determines that there is a Reportable Event, it shall notify OMIG and the IRO, in writing, within 5 business days after making the determination (unless a different reporting period is indicated in the definition of Reportable Event). The report to OMIG and the IRO shall include all information required in OMIG’s Self-Disclosure process. If the Reportable Event involves the filing of a bankruptcy petition, the report shall include documentation of the filing and a description of any Medicaid program issues implicated.
- c. Definition of OPWDD Requirements Failures. For purposes of this CIA, “OPWDD Requirements Failures” means:
preparation or submission of any Medicaid program CFR, reimbursement rate or reimbursement rate appeals that do not conform with the requirements of OPWDD’s regulations, directives, advice, manuals or other written explanation or directions.

C. Ineligible Persons.

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

- a. an “Ineligible Person” shall include an individual or entity who:
 - 1) is currently excluded, debarred, suspended, or otherwise ineligible to participate in New York’s Medicaid program or in Federal procurement or non-procurement programs; or
 - 2) YAI knows or reasonably should know has pled guilty to, been found guilty or has otherwise 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, debarred, suspended, or otherwise declared ineligible.

b. "Exclusion Lists" include:

- 1) the OMIG list of Restricted, Terminated or Excluded Individuals (available through the internet at www.omig.state.ny.us).
- 2) the HHS/OIG List of Excluded Individuals/Entities (available through the Internet at <http://www.oig.hhs.gov>);
- 3) the General Services Administration's List of Parties Excluded from Federal Programs (available through the Internet at <http://www.epls.gov>); and
- 4) any other similar list that may become applicable to YAI due to its participation in the Medicaid program.

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

- a. YAI shall screen all prospective and current Covered Persons and Relevant Covered Persons against the Exclusion Lists 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. YAI shall screen all Covered Persons and Relevant Covered Persons against the Exclusion Lists within 90 days after the Effective Date of this Agreement and at least every six months thereafter.
- c. YAI shall implement a policy requiring all Covered Persons and Relevant Covered Persons to disclose immediately any debarment, exclusion, suspension, or other event that makes that person an Ineligible Person.

Nothing in this Section affects the responsibility of (or liability for) YAI to refrain from billing Medicaid or Medicare for items or services furnished, ordered, or prescribed by an Ineligible Person or its liability for such billing. YAI understands that items or services furnished by excluded persons are not payable by Medicaid or Medicare programs and that YAI may be liable for overpayments and/or criminal, civil, and administrative sanctions for employing or contracting with an excluded person regardless of whether it has met the requirements of this subsection (IV.C).

3. *Removal Requirement.* If YAI has actual notice that a Covered Person or Relevant Covered Person has become an Ineligible Person, YAI shall remove such Covered Person or Relevant Covered Person from responsibility for, or

involvement with, YAI's business operations related to the Medicaid and Medicare programs and shall remove such Covered Person or Relevant Covered Person from any position for which such person's compensation or the items or services furnished, ordered, or prescribed by such person are paid in whole or part, directly or indirectly, by Medicaid and Medicare or otherwise with Federal funds at least until such time as such person is reinstated into participation in the Medicaid and Medicare programs.

4. *Pending Charges and Proposed Exclusions.* If YAI has actual notice that a Covered Person or Relevant Covered Person is charged with a criminal offense that falls within the scope of 18 NYCRR § 515.7 and/or 42 U.S.C. §§ 1320a-7(a), & 1320a-7(b)(1)-(3), or is proposed for exclusion during such person's employment or contract term or during the term of a physician's or other practitioner's medical staff privileges, YAI shall take all appropriate actions to ensure that the responsibilities of the person have not and shall not adversely affect the quality of care rendered to any beneficiary, or the integrity of any claims submitted to Medicaid and Medicare.

D. Notification of Government Investigation or Legal Proceedings.

Within 30 days after discovery, YAI shall notify OMIG, in writing, of any ongoing investigation or legal proceeding, known to YAI, conducted or brought by a governmental entity or its agents involving an allegation that YAI 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. YAI shall also provide written notice to OMIG within 30 days of YAI's knowledge thereof, and shall provide OMIG with a description of the findings and/or results of the investigation or proceedings, if any.

V. Corporate Integrity Obligations

A. Required Activity.

1. Within 90 days of the Effective Date of this CIA, YAI shall review its policies, procedures, business practices, CFRs and other documentation and reports that are used to develop YAI's Medicaid reimbursement rates against the requirements, directives and rate manuals of the Centers for Medicaid and Medicare Services (CMS), OPWDD and the New York State Department of Health to ensure, among other things that there are no OPWDD Requirements Failures. YAI shall also assess the accuracy of YAI's CFR submissions for the fiscal years ending June 30, 2009 and June 30, 2010 and annually for the period that the CIA is in effect; and the compliance of YAI's rate and rate appeal filings for the fiscal years ending June 30, 2009 and June 30, 2010 and annually for the period that the CIA is in effect with the OPWDD's and New York State Department of Health's requirements to ensure, among other things that there are no OPWDD Requirements Failures.

2. To the extent that YAI's policies, procedures, business practices, CFRs and other documentation and reports that are used to develop YAI's Medicaid program reimbursement rates are inconsistent or contrary to the requirements, directives and rate manuals of the CMS, OPWDD and the New York State Department of Health, YAI shall take immediate action to correct those policies, procedures, business practices, CFRs and other documentation and reports to bring them into compliance with the appropriate requirements.
3. If, subsequent to the period covered by the Settlement Agreement (May 27, 1999 up to and including November 18, 2010), YAI has submitted any CFR or Medicaid program reimbursement rate applications or reimbursement rate appeals to the Medicaid program based upon non-compliant policies, procedures, business practices, CFRs and other documentation and reports, YAI shall immediately revise and correct those CFRs and rate applications or reimbursement rate appeals with the Medicaid program and within 60 days return any Overpayments to the Medicaid program together with an explanation of the reason(s) for the non-compliance. YAI shall at the same time as it makes the return of any Overpayment as required in this paragraph, provide a written report to OMIG and to the IRO that addresses the fact that an Overpayment was received, the reasons for the Overpayment and the plan of correction that YAI will implement to reduce or eliminate the opportunity that the Overpayment will occur in the future.

B. Reports.

1. **Implementation Report.** Within 130 days after the Effective Date, YAI shall submit a written report to OMIG summarizing the status of its implementation of the requirements of this CIA. The Implementation Report shall, at a minimum, include:
 - a. A copy of the Code of Conduct;
 - b. The name, address, telephone number, resume and position description of the Compliance Officer, including any non-compliance job responsibilities he or she may have;
 - c. The names and position of the members of the Staff Committee required by Section IV. A.2.;
 - d. The number of individuals required to complete the Code of Conduct certification required by Section IV. A. 3., the percentage of individuals who have completed such certification, and an explanation of any exception (the documentation supporting this information shall be available to OMIG upon request);

- e. A list of dates for the upcoming year that the Compliance Officer is scheduled to meet with the Board of Directors;
- f. A copy of Policies and Procedures implemented pursuant to this CIA;
- g. A description of the Compliance Reporting Program as required by Section IV.A.4.;
- h. A certification that YAI has reviewed its policies, procedures, business practices, CFRs and other documentation and reports that are used to develop YAI's CFRs and its related Medicaid program reimbursement rates against the requirements, directives and rate manuals of OPWDD and the New York State Department of Health to ensure among other things that there are no OPWDD Requirements Failures. Such certification shall also assess the compliance of YAI's CFR and its related rate and rate appeal filings with the OPWDD and New York State Department of Health requirements. The certification(s) shall cover any rate applications, rate appeals or supporting documentation for the fiscal years commencing after June 30, 2008. The certification shall be reviewed by YAI's IRO prior to submission to OMIG and the IRO must perform an independent assessment of YAI's compliance with OPWDD's and the New York State Department of Health's requirements;
- i. A description of all training provided, including, but not limited to:
 - 1) A summary of the topics covered, length of sessions, and a schedule of training sessions;
 - 2) The number of individuals required to be trained, percentage of individuals actually trained, and an explanation of any exceptions.Documentation supporting this information and a copy of all training materials shall be available to OMIG upon request.
- j. The following information regarding the IRO:
 - 1) Identity, address, and telephone number;
 - 2) A copy of the engagement letter;
 - 3) A summary and description of any and all other current or prior engagements or agreements between YAI and the IRO;
 - 4) A certification from the IRO regarding its professional independence and objectivity with respect to YAI;
 - 5) Information to demonstrate that the IRO has the qualifications outlined in Appendix A to this CIA;

- k. A description of the process by which YAI fulfills the requirements of Section IV.C.;
- l. A list of all of YAI's locations, the corresponding name under which each location is doing business; the corresponding phone numbers and fax numbers; and each location's Medicare and state Medicaid program provider number and/or supplier numbers(s); and the name and address of each Medicare and state Medicaid program contractor to which YAI currently submits claims.

The Implementation Report shall include a certification by the Compliance Officer and its Chief Executive Officer (a) that they have reviewed the report and have made a reasonable inquiry regarding its content and believe the information in the report is accurate; (b) that to the best of their knowledge YAI has complied with its obligations under the CIA; (c) that YAI has disclosed all known instances of non-compliance with the requirements of New York's Medicaid program; and (d) that they have provided a copy of the Implementation Report and their certification to the YAI Board. If the Compliance Officer and/or Chief Executive Officer are unable to provide a complete certification, they shall provide written explanation of the reasons for that inability and identify the steps taken to implement each element that is not certified.

2. Annual Reports. YAI shall submit to OMIG an Annual Report with respect to the status of its compliance efforts and its compliance with the terms of this CIA. The first Annual Report shall be submitted no later than thirteen months after the Effective Date of the CIA. The second, third and fourth Annual Report shall be submitted on the respective annual anniversary date after the Effective Date. The fifth Annual Report, shall be submitted nine (9) months after the fourth annual anniversary of the Effective Date. Each Annual Report shall include, at a minimum:
 - a. Any change in the identity, position description, or other non-compliance job responsibilities of the Compliance Officer and any change in the membership of the Staff Committee described in Section IV.A.2.;
 - b. A summary of any significant changes or amendments to YAI's Code of Conduct or Compliance Program required by Section IV.A.1. and the reason(s) for such changes (a copy of the revised Code of Conduct and compliance plan document shall be provided to OMIG upon request);
 - c. A summary of any significant change or amendment to any policies or procedures and the reasons for such change to the extent that the policies or procedures impact on the subject matter of this CIA;
 - d. A certification that at least once every six months during the period, YAI has reviewed its CFR process and its billing, cost accounting and cost allocation

policies, procedures and practices and has determined that are in compliance with the requirements for rate submissions and rate appeals established for the Medicaid program by OPWDD and the New York State Department of Health to ensure, among other things that there are no OPWDD Requirements Failures;

- e. A description of all training provided during the period including:
 - 1) A summary of the topics covered, length of sessions, and a schedule of training sessions;
 - 2) The number of individuals required to be trained, percentage of individuals actually trained, and an explanation of those exempt from training.

Documents supporting this information and a copy of all training material shall be available to OMIG upon request;

- f. A summary of all reports of Overpayments and Reportable Events identified during the period and the status of any corrective and preventative action relating thereto;
- g. A summary of all communications relating to the Medicaid program that have been made under the Compliance Reporting Program during the period;
- h. A copy of all reports prepared by the IRO during the period;
- i. A summary and description of any engagements or agreements between YAI and the IRO that are different from those previously submitted.
- j. The Board certification described in Section IV.A.2.c. of this CIA.
- k. A summary of the disclosures in the disclosure log that relate to Medicaid and Federal health care programs (the complete disclosure log shall be made available to OMIG upon request);
- l. A summary of Reportable Events identified during the Reporting Period and the status of any corrective action relating to all such Reportable Events;
- m. Any changes to the process by which YAI fulfills the requirements of Section IV.C. regarding Ineligible Persons;
- n. A summary describing any ongoing investigations or legal proceedings required to have been reported under Section IV.D. 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.

C. Communications.

YAI shall submit to OMIG within 5 business days of receipt from the IRO, any reports and/or communications between the IRO and YAI addressing any guidance or recommendations, and any evaluations or progress updates pertaining to YAI's obligations under this CIA.

D. Certifications.

1. The Annual and Implementation Reports shall include a certification by the Compliance Officer and the Chief Executive Officer, based upon a reasonable inquiry, that:
 - a. They have reviewed the report and its content and believe the information in the report is accurate;
 - b. To the best of their knowledge and except as otherwise described in the applicable report, YAI has an effective Compliance Program and is in compliance with Social Services Law §363-b and any regulations promulgated hereunder;
 - c. They have determined, to the best of their knowledge, YAI has complied with its obligations under this CIA and the Settlement Agreements;
 - d. YAI has timely created and appropriately maintained all required documentation for all care, supplies, and services provided;
 - e. YAI has properly and appropriately classified its costs and expenses in any Medicaid program CFR, cost reports, cost allocations and rate filings or reimbursement rate appeals;
 - f. YAI has taken all appropriate steps to ensure that its employees are trained and credentialed as required by law, to include, but not be limited to OPWDD's and the New York State Department of Health's requirements for preparation and submission of CFRs and accounting for YAI's costs and expenses under the Medicaid program and any rate filings or reimbursement rate appeals;
 - g. YAI has screened all current employees and contractors at least once every month to determine whether they have been excluded from participation in the medical assistance program;
 - h. YAI has disclosed all known instances of non-compliance with the requirements of New York's Medicaid program and any Federal health care program; and
 - i. The IRO and its review process are independent and objective.

If the Compliance Officer and/or Chief Executive Officer are unable to provide a complete certification, they shall provide written explanation of the reasons for that inability and identify the steps taken to implement each element that is not certified.

2. YAI shall clearly identify any portion of its submissions that it believes is a trade secret or otherwise potentially exempt from disclosure under the Freedom of Information Law, Public Officers Law §84 et seq., and provide a written explanation therefore.

VI. Independent Review Organization

Engagement of IRO. Within 60 days after the Effective Date, YAI shall engage an entity (or entities), such as an accounting, auditing, or consulting firm IRO, acceptable to the OMIG, to perform reviews to assist YAI in assessing and evaluating its obligations pursuant to this CIA and the Settlement Agreements. The applicable requirements relating to the IRO are set forth below and outlined in Appendix A to this CIA, which is incorporated by reference as if fully set forth herein.

A. Compliance Review

1. The IRO shall evaluate and analyze YAI's compliance with this CIA and compliance with the requirements of the Medicaid program, including, but not limited to:
 - a. whether YAI has adopted and maintains an effective Compliance Program in accordance with New York State Social Services Law § 363-d and 18 NYCRR Part 521;
 - b. whether YAI has met the requirements of this CIA, specifically the requirements set out in Article V. Corporate Integrity Obligations;
 - c. any issue referred to the IRO for investigation and report by the OMIG;
 - d. whether employees are appropriately licensed and trained for their assigned functions, to include but not be limited to the preparation and filing of CFRs, and financial, cost accounting, and reimbursement rate functions;
 - e. whether employees receive the appropriate amount of supervision, specifically as it relates to duties and responsibilities that may have given rise to the Covered Conduct;
 - f. whether YAI has identified and disclosed any instances of non-compliance that might affect its, or another provider's, right to payment, including the inclusion of any item that could be considered an Unallowable Cost;

- g. whether any contractors or subcontractors engaged by YAI to assist in the preparation and filing of YAI's CFRs and its financial, cost accounting, reimbursement rate applications and appeals and other matters associated with this CIA, are qualified and otherwise meet the requirements of Article V above;
- h. whether YAI is fully cooperating with the IRO; and
- i. whether YAI is otherwise complying with the requirements of the Medicaid program, its reimbursement rate procedures and manuals and the reporting obligations.

B. IRO Reports/Periodic Reports.

- 1. The IRO shall make periodic reports to YAI's Board on its senior management at such intervals determined by the Board, but no less frequently than annually;
- 2. The IRO shall make annual written reports to OMIG and the MFCU that assesses YAI's compliance with the requirements of the Medicaid program and this CIA, including the requirements in this Section. The first report shall be due one year from the Effective Date. Subsequent reports shall be due one year from the previous reports' due date.

The IRO shall retain its reports for six years from the expiration of this CIA.

C. Unallowable Cost Review.

- 1. The IRO shall determine whether YAI has complied with its obligations not to charge to, or otherwise seek payment from, federal or state payors for "Unallowable Costs" (defined as "Unallowable Costs" in the Settlement Agreements **and** costs not properly claimed under the requirements, directives and rate manuals of OPWDD and the New York State Department of Health) and its obligation to identify to applicable federal or state payors any Unallowable Costs included in payments previously sought from the United States or from any state Medicaid program ("Unallowable Cost Review"). The Unallowable Cost Review shall include, but not be limited to, accuracy and completeness of the preparation and submission of YAI's CFRs and any payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by YAI or any affiliates for dates of service for CFRs filed for YAI fiscal years listed in Section VI.C.2. To the extent that such CFRs, cost reports, cost statements, information reports, or payment requests, even if already settled, have been adjusted to account for the effect of the inclusion of any Unallowable Costs, the IRO shall determine whether such adjustments were proper. In making this determination, the IRO may need to review CFRs, cost reports and/or financial statements from the year in which the Settlement Agreements were executed, as well as from previous years.

2. **Frequency of Unallowable Cost Review.** The IRO shall perform the Unallowable Cost Review for YAI's fiscal years ending June 30, 2009 and June 30, 2010; and annually for the period that the CIA is in effect. The OMIG shall retain the discretion to extend the IRO's obligation to perform Unallowable Cost Reviews for the remaining two years of the term of the CIA if the IRO determines that YAI did not materially comply with its obligations respecting the removal of Unallowable Costs as set forth in the Settlement Agreements. In the event that OMIG exercises its discretion to extend the IRO retention period, OMIG shall provide notice in writing to YAI no later than 15 business days after the OMIG receives the Unallowable Cost Review Report (as defined below) issued by the IRO for the third year of the term of the CIA.
3. **Unallowable Cost Review Report.** The IRO shall prepare a report based upon each Unallowable Cost Review performed. The Unallowable Cost Review Report shall include the IRO's findings and supporting rationale regarding the Unallowable Cost Review and whether YAI has complied with its obligation not to charge to, or otherwise seek payment from, federal or state payors for Unallowable Costs (as defined in this CIA) and its obligation to identify to applicable federal or state payors any Unallowable Costs included in payments previously sought from such payors. In preparation of the IRO's report, YAI shall provide the IRO with access, if requested by the IRO to any of YAI's CFRs filed for the period that involved the Covered Conduct.
4. **Validation Review.** In the event that OMIG has reason to believe that: (a) YAI's Unallowable Cost Review fails to conform to the requirements of this CIA, or (b) the IRO's findings or Unallowable Cost Review results are inaccurate, OMIG may conduct its own review to determine whether the Unallowable Costs Review complied with the requirements of this CIA and/or the findings or Unallowable Cost Review results are inaccurate (Validation Review). YAI shall pay for the reasonable cost of any such review performed by OMIG or any of its designated agents. Any Validation Review of Reports submitted as part of YAI's final Annual Report shall be initiated no later than one year after YAI's final submission is received by OMIG as required under this CIA.

Prior to initiating a Validation Review, OMIG shall notify YAI of its intent to do so and provide a written explanation of why OMIG believes such a review is necessary. To resolve any concerns raised by OMIG, YAI may request a meeting with OMIG, which may include the IRO at OMIG's option to: (a) discuss the result of any Unallowable Cost Review submissions or findings, (b) present any additional information to clarify the results of the Unallowable Cost Review or to correct the inaccuracy of the Unallowable Cost Review, and/or (c) propose alternatives to the proposed Validation Review. YAI agrees to provide any additional information as may be requested by OMIG under this Section VI.C.4. in an expedited manner. OMIG will attempt in good faith to resolve any Unallowable Cost Review issues with YAI prior to conducting a Validation

Review. However, the final determination as to whether or not to proceed with a Validation Review shall be made at the sole discretion of OMIG.

D. Retention of Records.

The IRO and YAI shall retain and make available to OMIG, upon request, all work papers, supporting documentation, correspondence, and draft reports exchanged between the IRO and YAI related to any CFR and Unallowable Cost Review performed hereunder.

VII. OMIG Inspection, Audit and Review Rights

A. General Rights.

In addition to any other rights it may have by statute, regulation, or contract, OMIG or its duly authorized representative(s) may, without advance notice, examine or request copies of YAI's books, records, and other documents and conduct on-site inspections of any of YAI's locations for the purpose of verifying: (a) YAI's compliance with the terms of this CIA; and (b) YAI's compliance with the requirements of the Medicaid program. The documentation described above shall be made available to OMIG or its duly authorized representative(s) at any reasonable time for inspection, audit, or reproduction. Furthermore, OMIG or its duly authorized representative(s) may interview any of YAI's employees, contractors, or agents who consent to be interviewed either at the individual's place of business during normal business hours or at such other place and time as may be reasonably established by OMIG. YAI shall assist OMIG or its duly authorized representative(s) in arranging such interviews. Employees may be interviewed with a representative present if desired. OMIG may delegate any right or duty under this provision to the IRO or MFCU, or collaborate with such entities in carrying out these functions.

B. Validation Review.

If OMIG has reason to believe that YAI is failing to conform to the requirements of this CIA, it may, in its sole discretion, conduct its own Validation Review. OMIG will attempt to resolve any issues with YAI prior to conducting a Validation Review.

VIII. Breach and Default Provisions

A. Stipulated Penalties for Failure to Comply with Certain Obligations.

1. YAI and OMIG hereby agree that failure to comply with this CIA may lead to the imposition of the monetary penalties ("Stipulated Penalties") set forth below. The Stipulated Penalty shall be in addition to any other remedy available under law and under this CIA and shall be payable without notice by OMIG of the existence of the breach and an opportunity for YAI to cure, unless specifically noted otherwise in this CIA.

2. A Stipulated Penalty of \$1,000 (which shall begin to accrue the day after the obligation becomes due) for each day YAI fails to implement any of the following obligations:
 - a. the Compliance Officer;
 - b. the Staff Compliance Committee;
 - c. a written Code of Conduct;
 - d. written Policies and Procedures;
 - e. the training of Covered Persons and Relevant Covered Persons provided that a failure to train less than 5% of Covered Persons shall not trigger the penalty provisions if YAI undertakes to train such individuals within ten (10) business days after notification by OMIG of the failure to train;
 - f. a Self Disclosure Program;
 - g. obligations set out in Article V., Corporate Integrity Obligations.
3. A Stipulated Penalty of \$1,000 (which shall begin to accrue the day after the obligation becomes due) for each day YAI fails to engage an IRO as required by this CIA.
4. A Stipulated Penalty of \$1,000 (which shall begin to accrue the day after the obligation becomes due) for each day YAI fails to submit to OMIG the Implementation Report or any Annual Report by the deadline for submission.
5. A Stipulated Penalty of \$1,000 for each day YAI fails to grant access as required. (This Stipulated Penalty shall begin to accrue the day YAI fails to grant access.)
6. A Stipulated Penalty of up to \$10,000 for each false certification submitted by or on behalf of YAI as part of its Implementation Report, Annual Report, additional documentation to a report (as requested by the OMIG), or otherwise required by this CIA. This penalty will be imposed only if the senior management of YAI knew or reasonably should have known of the falsity. Before such a penalty is imposed, OMIG shall afford YAI a fair opportunity to be heard as to why its imposition is unwarranted.
7. A Stipulated Penalty of \$1,000 for each day YAI fails to comply with any other obligation of this CIA. OMIG shall provide notice to YAI stating the specific ground for its determination that YAI has failed to comply with such an obligation and the steps that YAI must take to ensure compliance. This Stipulated Penalty shall begin to accrue 10 days after YAI receives OMIG's notice but only if it has not remedied the non-compliance within the 10-day period. The Stipulated Penalty shall be in addition to any other remedy available under law.

B. Timely Written Requests for Extensions.

YAI may 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 OMIG grants the request, the Stipulated Penalties shall not begin to accrue until one (1) day after YAI fails to meet the revised deadline. If OMIG denies the request, the Stipulated Penalties shall not begin to accrue until ten (10) business days after the date OMIG mails the written denial or the original due date, whichever is later. A “timely written request” is a written request received by OMIG at least ten business days prior to the date by which an act is due to be performed or a notification or report is due to be filed.

C. Payment of Stipulated Penalties.

1. **Demand Letter.** Upon a finding that a Stipulated Penalty is appropriate, OMIG shall so notify YAI (the “Demand Letter”).
2. **Response to Demand Letter.** Within 10 days after the receipt of a Demand Letter, YAI shall cure the breach and pay the Stipulated Penalty.
3. **Form of Payment.** Payment of the Stipulated Penalties shall be made by wire transfer pursuant to OMIG’s instructions.

D. Exclusion for Material Breach of this CIA.

1. **Definition of Material Breach.** A Material Breach of this CIA shall mean any of the following:
 - a. any repeated, flagrant or intentional violation of any obligations under this CIA, including, but not limited to Section VIII; or
 - b. any unintentional violation of any of the obligations under this CIA as to which YAI fails to undertake the prescribed corrective actions set forth in this CIA as to such obligations.
2. **Notice of Material Breach and Intent to Exclude:** the parties agree that a Material Breach of this CIA by YAI constitutes an independent basis for YAI’s exclusion from participation in Medicaid and any Federal health care programs. Upon a determination by OMIG that YAI has Materially Breached this CIA and that exclusion is the appropriate remedy, OMIG shall notify YAI of
 - a. YAI’s Material Breach; and
 - b. OMIG’s intent to exercise its contractual right to impose exclusion.
3. Upon a determination that YAI has Materially Breached this CIA, OMIG shall so notify YAI (“Notice of Material Breach”).

4. Opportunity to Cure. YAI shall have 30 days from the date of receipt of a Notice of Material Breach to demonstrate to OMIG's sole satisfaction that:
 - a. the alleged Material Breach has been cured; or
 - b. the alleged Material Breach cannot be cured within the 30-day period, but that YAI
 - 1) has begun to take action to cure the Material Breach;
 - 2) is pursuing such action with due diligence; and
 - 3) has provided OMIG a reasonable timetable for curing the Material Breach.
 - c. providing YAI with the opportunity to cure a Material Breach does not affect OMIG's rights under this CIA to collect Stipulated Penalties as set out in this CIA.
5. Nothing in this section shall be deemed to limit the authority of OMIG or any other State agency to exclude, or seek exclusion, of YAI, or to take other action with respect to any criminal act or other act that endangers the public health, safety, and welfare.
6. Exclusion Notice. If YAI fails to satisfy the requirements of paragraph 4 above, OMIG may exclude YAI from participation in the Medicaid program. OMIG shall notify YAI in writing of its determination to exclude (the "Exclusion Notice"). The exclusion shall go into effect 30 days after the date of YAI's receipt of the Exclusion Notice. Reinstatement to Medicaid program participation is not automatic. After the end of the period of exclusion, YAI may apply for reinstatement by submitting a written request for reinstatement in accordance with the provisions at 18 NYCRR §504.

IX. Contact Information

- A. Unless otherwise stated in writing, all notifications, certifications, disclosures and reports required to be submitted to OMIG under this CIA shall be sent to:

Assistant Medical Inspector General
Bureau of Compliance
NYS Office of the Medicaid Inspector General
800 North Pearl Street
Albany, NY 12204
Telephone: 518-473-3782
Facsimile: 518-474-6773

Notice to YAI shall be provided to:

Young Adult Institute, Inc.
460 West 34th Street
New York, NY 10001
Telephone: (212)272-6100
Attention: Philip H. Levy, Chief Executive Officer
Facsimile: 212-947-7524

With a copy to:

Stephen A. Warnke, Esq.
Ropes & Gray LLP
1211 Avenue of the Americas
New York, NY 10036
Telephone: (212)841-0681
Facsimile : 646-728-1603

- B. Such submission may be made by certified mail, overnight mail, hand delivery, or other means, provided there is proof of service. For purposes of this requirement, internal facsimile confirmation sheets do not constitute proof of service. OMIG may require YAI to provide an electronic copy in a format acceptable to OMIG of each submission, either instead of or in addition to a paper copy.

X. Effective and Binding Agreement

YAI and OMIG agree as follows:

- A. This CIA shall be binding on the successors, assigns, and transferees of YAI;
- B. This CIA shall become final and binding on the Effective Date;
- C. This CIA constitutes the complete agreement between the parties and may not be amended except by written consent of the parties to this CIA;
- D. OMIG may agree to a suspension of YAI's obligations under the CIA in the event of YAI's cessation of participation in the New York State Medicaid program. If YAI is relieved of its CIA obligations by OMIG, YAI shall notify OMIG at least 30 days in advance of YAI's intent to resume participating as a provider or supplier with the New York State Medicaid program. Upon receipt of such notification, OMIG shall evaluate whether the CIA should be reactivated or modified.
- E. The undersigned YAI signatory represent and warrant that he is authorized to execute this CIA. The undersigned OMIG signatory represents that he is signing this CIA in his official capacity and that he is 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. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this CIA.

AGREED TO:

On behalf of **YOUNG ADULT INSTITUTE, INC.:**



Name: PHILIP H LENEY
Title: CEO AND PRESIDENT

1/13/11
Date

On Behalf of the New York State Office of the Medicaid Inspector General:



James G. Sheehan
Medicaid Inspector General

1/19/11
Date

New York State Office of the Medicaid Inspector General

January 14, 2011

APPENDIX A

INDEPENDENT REVIEW ORGANIZATION

This Appendix contains the requirements relating to the Independent Review Organization (IRO) required by Section VI of the Corporate Integrity Agreement (“CIA”) between the parties to which this is attached. The terms of this Appendix A are incorporated into the CIA, as if Appendix A were fully set out within the CIA.

A. IRO Engagement.

YOUNG ADULT INSTITUTE, INC. (“YAI”), shall engage an IRO that possesses the qualifications set forth in Paragraph B, below, to perform the responsibilities in Paragraph C and D, below. The IRO shall conduct the review in a professionally independent and objective fashion, as set forth in Paragraph E.

1. Within 30 days of the Effective Date of the CIA, YAI and the proposed IRO shall submit the following information to OMIG for review:
 - a. The identity and relevant qualifications of the proposed IRO;
 - b. A summary and description of the nature, scope and duration of any prior or existing relationships, engagements and agreements between YAI and the proposed IRO;
 - c. For any period prior to the execution of the CIA, any opinion sought by YAI or provided by the proposed IRO related to YAI’s alleged conduct, YAI’s compliance with Medicaid policies, rules and regulations and any assurances or commitments regarding the provision of the IRO activities under this CIA.
 - d. A detailed description of past engagements in which the IRO has performed high level internal control assessments, managerial evaluations, accounting office/fiscal reviews and fiscal best practice identification and implementation.
 - e. The IRO’s prior work experience in engagements reviewing, assessing and reporting on matters similar to what is required under the terms of the CIA.

- f. Any additional information requested to assist OMIG in its review of the proposed engagement by YAI of the IRO.

Within 30 days after OMIG receives all of the required/requested information, OMIG shall notify YAI if OMIG requires any additional information or if the IRO is unacceptable. OMIG may reject the proposed IRO in its sole discretion. Absent notification from OMIG that the IRO is unacceptable, YAI may engage the IRO. YAI shall supply to OMIG a complete copy of its executed contract with the IRO within 10 days of the commencement of the IRO's engagement for YAI.

2. Any agreement with the IRO shall require it to retain and make available to OMIG, upon request, all work papers, supporting documentation, draft reports and correspondence between it and YAI. The IRO shall have the right to communicate with OMIG, and other state or federal agencies without notice to, or the consent of, YAI. OMIG shall have the right to communicate with the IRO without notice to, or the consent of YAI.
3. YAI shall give the IRO full access, without limitation and at the IRO's sole discretion, to all of its records, facilities and personnel.

B. IRO Qualifications.

The IRO shall:

1. assign individuals to conduct the engagement who have expertise in reviewing cost reporting, the preparation and/or review of consolidated fiscal reports (CFRs) and other regulatory requirements New York State's Medicaid program and the requirements established under that program by the New York State Department of Health and the New York State Office for People With Developmental Disabilities ("OPWDD"). More specifically, the IRO should meet the following requirements:
 - a. A Certified Public Accounting (CPA) firm affiliated with NYSSCPA, has experience on the NYSSCPA non-profit committee,
 - b. CPA firm with management expertise and experience with providers that are regulated by OPWDD,
 - c. several years of experience in preparing and/or certifying CFRs, and
 - d. Demonstrate a high degree of familiarity with OPWDD;
2. assign individuals who have experience in designing, implementing, maintaining and evaluating the effectiveness of compliance programs that comply with the

requirements of New York State Social Services Law Section 363-d and 18 NYCRR Part 521; and

3. assign sufficient staff and resources to conduct the reviews and produce the reports and certifications required under the terms of the CIA on a timely basis.

C. IRO Work Plans.

Within 60 days after OMIG's approval of the IRO (or, absent OMIG notification, within 60 days following the end of the 30 day review period), the IRO shall develop a proposed work plan for the first year and shall deliver it to the OMIG for review. Within 30 days of the beginning of each remaining year, the IRO shall deliver to OMIG a proposed work plan for the upcoming period. Within 30 days after OMIG receives the proposed work plan, it will notify YAI and the IRO whether the work plan is acceptable. Absent notification from OMIG that the work plan is unacceptable, the IRO may conduct the review for the applicable period using the work plan.

D. IRO Responsibilities.

The IRO shall:

1. Conduct the compliance review and the reviews of the CFR and Unallowable Cost Reviews required in accordance with the specific requirements of the CIA. Where the IRO deems it appropriate, the IRO may conduct audits and investigations that are not disclosed to YAI until their completion and ensuing report;
2. Specifically address the following sections/requirements of the CFR manual and as they may be amended or revised from time to time:
 - a. CFR-4 – Personal Services – Section 16 & Appendix R – Position Titles & Codes Section 51;

Both sections instruct YAI to report personal service costs based on the job function being performed. The IRO should ascertain if personal service is being reported on the CFR in the title that matches the job function, regardless of the educational experience, licensing or certification of the staff member. In making this determination, the IRO shall consult with OPWDD.

- b. CFR-2 – Agency Fiscal Summary – Section 14 & CFR-3 – Agency Administration – Section 15.

Both of these sections give guidance on what costs are to be reported as Agency Administration and what costs should be reported on the CFR-2, Column 7 – Other Program Totals (Costs for non-NYS Department of Mental Health/NYS Education Department activities and therefore non-reimbursable by NYS Department of Mental

health or NYS Education Department.) Specific items that should be reported on CFR-2, Column 7 and not on CFR-3 include fund raising & special events.

c. Appendix AA – Audit Guidelines - Section 60

IRO should use this to test the areas to review. Among other things, the IRO should test the items that are listed in Appendix AA for the schedules cited above.

3. Test YAI's compliance with all current and future directives, guidance, clarification provided to YAI by OPWDD. During the term of the IRO's engagement, YAI shall provide IRO with copies of any correspondence, directives, guidance or clarification received by YAI from OPWDD within 10 days of receipt.
4. Assess YAI's system of internal controls. This shall include, but not be limited to identification of specific internal control weaknesses that gave rise to the behavior that was the subject of the Settlement Agreement referred to in the Preamble of the CIA and allowed the behavior to continue unchecked. This includes:
 - a. Control environment – Tone and direction set by management regarding adherence to laws, rules, regulations, reporting requirements, etc.;
 - b. Monitoring conducted by YAI management and supervisors;
 - c. Continuous training of staff on CFR requirements;
 - d. Continuous training of staff on the mandatory compliance program requirements found in NYS Social Services Law Section 363-d and 18 NYCRR Part 521; and
 - e. Review of the qualifications and proficiency of all relevant YAI management and staff to the compliance program and the duties and responsibilities that are required as part of OPWDD's regulatory oversight of YAI.
5. Review and test the adequacy and effectiveness of all corrective action plans that are established for any identified internal control weaknesses, and monitor the implementation of corrective action plans.
6. Conduct reviews and audits for Unallowable Costs. Review should include an assessment that the following **are not** occurring:
 - a. Shifting costs with the intent of increasing revenue and without regard to where the costs should be appropriately charged, which includes, but is not limited to:
 - 1) using year end journal entries to move costs into other categories without adequate documentation and justification to support the entries and without adequate supervisory sign-off/approval.

- 2) allocating costs (including personal service costs) to programs without appropriate documentation and justification to support the allocation (e.g. time studies) and without adequate supervisory sign-off/approval.
 - b. Charging program administrative costs on the CFR as direct care costs.
 - c. Charging fundraising costs as administrative costs.
 - d. Charging Unallowable Costs as described in the CIA at Section VI. C.
7. Use review work plans and methods that meet acceptable professional standards which are reasonably calculated to test YAI's compliance with the applicable Medicaid rules and compliance with the CIA and settlements;
 8. If in doubt of the application of a particular Medicaid policy or regulation, request clarification from the appropriate authority (e.g., fiscal agent or the New York State Department of Health (DOH), Office of Health Insurance Programs (OHIP), OPWDD or OMIG);
 9. Respond to all OMIG inquiries in a prompt, objective, and factual manner; and
 10. Prepare timely, clear, well-written reports that include all the information required by this Appendix and the CIA.

E. IRO Independence and Objectivity.

The IRO must perform the Review in a professional, independent and objective fashion, as appropriate to the nature of the engagement, taking into account any other business relationships or engagements that may exist between the IRO and YAI. Upon engagement and included as part of every submission to OMIG, the IRO shall certify to this independence and objectivity.

F. IRO Removal/Termination.

1. Provider. If YAI desires to terminate its IRO during the course of the engagement, YAI must provide OMIG with 15 days advance notice including a written explanation of why such step is appropriate. If OMIG does not object to YAI's termination of the IRO, YAI shall, within 30 days, engage a new IRO in accordance with Paragraph A of this Appendix. Absent extenuating circumstances, no termination shall be permitted within 60 days of the due date of a scheduled IRO report.
2. OMIG Removal of IRO. In the event OMIG has reason to believe that the IRO does not possess the qualifications described in Paragraph B, is not independent and/or objective as set forth in Paragraph E, or has failed to carry out its responsibilities as described in Paragraph C and D, OMIG may, at its sole discretion, require YAI to engage a new IRO in accordance with Paragraph A of this Appendix.

Prior to requiring YAI to engage a new IRO, OMIG shall notify YAI of its intent to do so and provide a written explanation of why OMIG believes such a step is necessary. To resolve any concerns raised by OMIG, YAI be afforded an opportunity to meet with OMIG to discuss any aspect of the IRO's qualifications, independence or performance of its responsibilities and to present additional information regarding these matters. YAI shall provide any additional information as may be requested by OMIG under this Paragraph in an expedited manner. OMIG will attempt in good faith to resolve any differences regarding the IRO with YAI prior to requiring YAI to terminate the IRO. However, the final determination as to whether or not to require YAI to engage a new IRO shall be made at the sole discretion of OMIG.

Agreed to:

On behalf of **YOUNG ADULT INSTITUTE, INC.:**

[Redacted Signature]

Name: PHILIP H. LEVY
Title: CEO + PRESIDENT

1/13/11
Date

On Behalf of the New York State Office of the Medicaid Inspector General:

[Redacted Signature]

James G. Sheehan
Medicaid Inspector General

1/19/11
Date