

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General (OIG-HHS) of the Department of Health and Human Services (HHS) (collectively, the “United States”), Vedat Obuz, Ozlem Obuz, and Lotus Clinics, P.C./Family Medicine (“Lotus,” and, together with Vedat Obuz and Ozlem Obuz, the “Lotus Parties”), and Kathleen Menold (collectively, the “Parties”), through their authorized representatives.

### RECITALS

A. Lotus is a medical practice with offices in Delran and Trenton, New Jersey. Vedat Obuz is the primary physician and owner of Lotus. His spouse, Ozlem Obuz, is an employee of the practice.

B. On or about May 1, 2017, Kathleen Menold (“Menold” or “Relator”) filed a *qui tam* action in the United States District Court for the District of New Jersey captioned United States ex rel. *Menold v. Lotus Family Medicine*, No. 17-cv-1728 (PGS), pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”). The Relator alleged, among other things, that the Lotus Parties submitted false claims for payment to the Medicare and Medicaid programs including billing for improper CPT codes.

C. The United States contends that the Lotus Parties submitted or caused to be submitted claims for payment to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll (“Medicare”) and the Medicaid Program, 42 U.S.C. §§ 1396-1396w-5 (“Medicaid”).

D. The United States contends that it has certain civil claims against the Lotus Parties arising from the Lotus Parties improperly billing certain medical procedures to Medicaid and Medicare by representing that the procedures had been performed by a physician when those

procedures had been performed by a nurse practitioner during the period from January 1, 2016 through March 31, 2020. That conduct is referred to below as the “Covered Conduct.”

E. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement and to Relator’s reasonable expenses, attorneys’ fees and costs.

F. The Lotus Parties deny the allegations and contentions of the United States and the Relator. This Settlement Agreement is neither an admission of facts or liability by the Lotus Parties nor a concession by the United States that its claims are not well-founded.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Lotus shall pay to the United States a total of one-hundred six thousand two-hundred fifty-five dollars (\$106,255.00) (“Settlement Amount”), of which fifty-thousand four-hundred seventy-eight dollars (\$50,478) is restitution and five-thousand two-hundred ninety-nine (\$5,299) is a handshake fee, according to the following schedule:

a. Within 7 days after the Effective Date of this Agreement, Lotus shall pay ten-thousand dollars (\$10,000) pursuant to written instructions to be provided by the U.S. Attorney’s Office for the District of New Jersey, and

b. Lotus shall pay the remaining ninety-six thousand two-hundred fifty-five dollars (\$96,255) in monthly payments of eight-thousand twenty-two dollars (\$8,022) per month over a period of 1 year (12 payments of \$8,022 each). If Lotus fails to make any payment owed hereunder on or before the due date thereof, Lotus shall be entitled to cure such default within ten (10) business days after receipt of written notice of such default.

2. Conditioned upon the United States receiving the Settlement Amount payments from the Lotus Parties, the United States agrees that it shall pay to Relator by electronic funds transfer 20 percent of each such payment received under the Settlement Agreement as soon as feasible after receipt of the payment.

3. Subject to the exceptions in Paragraph 5 (concerning excluded claims) below, and conditioned upon Lotus's full payment of the Settlement Amount, the United States releases the Lotus Parties, together with the Lotus Parties' affiliates, and subsidiaries (collectively, the "Released Lotus Parties") from any and all civil or administrative monetary claims, costs, expenses and attorneys' fees that the United States has or may have for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake, unjust enrichment, and fraud.

4. Subject to the exceptions in Paragraph 5 below, and conditioned upon Lotus's full payment of the Settlement Amount, Relator, for herself and for her heirs, executors, transferees, successors, attorneys, agents, and assigns, releases the Released Lotus Parties from any and all civil monetary claims the Relator has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733, the Stark Statute, 42 U.S.C. §§ 1395nn(g)(3), as well as any and all civil monetary claims the Relator has on behalf of the State of New Jersey for the Covered Conduct under the New Jersey False Claims Act, N.J. Stat. Ann. §§ 2A:32C-1 *et seq.* However, Relator does not release the Released Lotus Parties from any costs or reasonable attorneys' fees applicable to Relator's False Claims Act claims. Furthermore, Relator does not release Defendants from any claims asserted in the Civil Action against Defendants under 31 U.S.C. 3730(h) or N.J.S.A. § 2A:32C-10. The release by Relator expressly

excludes any and all employment claims asserted by Relator against the Lotus Parties in the Civil Action.

5. Notwithstanding the releases given in paragraphs 3-4 of this Agreement, or any other term of this Agreement, the following claims of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory or permissive exclusion from Federal health care programs;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability of individuals other than Dr. Vedat Obuz and Ozlem Obuz;
- g. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

6. Relator and her heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). In connection with this Agreement and this Civil Action, Relator and her heirs, successors, attorneys, agents, and assigns agree that neither this Agreement, any intervention by the United States in the Civil Action in order to dismiss the Civil Action, nor any dismissal of the Civil Action, shall waive or otherwise affect the ability of the United States to contend that provisions in the False Claims Act, including 31 U.S.C. §§ 3730(d)(3) and 3730(e), bar Relator from sharing in the proceeds of this Agreement.

7. Lotus waives and shall not assert any defenses Lotus may have to any criminal prosecution relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution.

8. Lotus fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Lotus has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

9. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare contractor (e.g., Medicare Administrative Contractor, fiscal intermediary, carrier) or any state payer, related to the Covered Conduct; and Lotus agrees not to resubmit to any Medicare contractor or any state payer any previously denied claims related to the Covered Conduct, agrees not to appeal any such denials of claims, and agrees to withdraw any such pending appeals.

10. Lotus agrees to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395lll and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Lotus, its present or former officers, directors, employees, shareholders, and agents in connection with:

(1) the matters covered by this Agreement;

- (2) the United States' audit(s) and civil and any criminal investigation(s) of the matters covered by this Agreement;
- (3) Lotus's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement; and
- (5) the payment Lotus makes to the United States pursuant to this Agreement and any payments that Lotus may make to Relator, including costs and attorney's fees,

are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP) (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by Lotus, and Lotus shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement, or payment request submitted by Lotus or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Lotus further agrees that within ninety (90) days of the Effective Date of this Agreement it shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid and FEHBP fiscal agents, any Unallowable Costs (as defined in this Paragraph) included in payments previously sought from the United States, or any State Medicaid program,

including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by Lotus or any of its subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. Lotus agrees that the United States, at a minimum, shall be entitled to recoup from Lotus any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by Lotus or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this Paragraph) on Lotus or any of its subsidiaries or affiliates' cost reports, cost statements, or information reports.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine Lotus's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

11. Lotus agrees to cooperate fully and truthfully with the United States' investigation of individuals and entities not released in this Agreement. Upon reasonable notice, Lotus shall encourage, and agrees not to impair, the cooperation of its directors, officers, and employees, and shall use its best efforts to make available, and encourage, the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. Lotus further agrees to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and

records in its possession, custody, or control concerning any investigation of the Covered Conduct that it has undertaken, or that has been performed by another on its behalf.

12. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity, except to the extent provided for in Paragraph 13 (waiver for beneficiaries paragraph), below.

13. Lotus agrees that it waives and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third party payors based upon the claims defined as Covered Conduct.

14. Upon execution of this agreement, the United States shall file a notice of partial intervention in this action, intervening in this action for purposes of settlement of the Covered Conduct and declining intervention with respect to all other claims alleged against Lotus apart from those based upon the Covered Conduct.

15. Each party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

16. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the District of New Jersey. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

17. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

18. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.



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

20. This Agreement is binding on Lotus's successors, transferees, heirs, and assigns.

21. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

22. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

23. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles and electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

DATED: 3/8/2021

BY:



\_\_\_\_\_  
DANIEL W. MEYLER  
Assistant United States Attorney  
United States Attorney's Office  
District of New Jersey

APPROVED:



\_\_\_\_\_  
LEE M. CORTES, JR.  
Chief, Health Care Fraud Unit  
United States Attorney's Office  
District of New Jersey

DATED: 3/05/2021 BY:




\_\_\_\_\_  
LISA M. RE  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

LOTUS

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
Vedat Obuz, M.D.

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
Ozlem Obuz

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
Vedat Obuz, M.D.  
President  
For Lotus Clinics, P.C.

DATED: 2/16/2021 BY:   
Mohamed H. Nabulsi, Esq.  
(973) 243-7930  
Mandelbaum Salsburg P.C.  
3 Becker Farm Road  
Roseland, NJ 07068

Counsel for Vedat Obuz, Ozlem Obuz, and Lotus Clinics  
P.C./Lotus Family Medicine

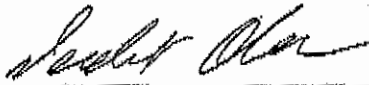
KATHLEEN MENOLD - RELATOR


DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
Kathleen Menold

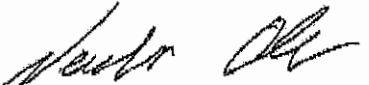
DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
Ross Begelman  
BEGELMAN & ORLOW, P.C.  
411 Route 70 East, Suite 245  
Cherry Hill, NJ 08034  
(856) 428-6020

Counsel for Kathleen Menold

LOTUS

DATED: 2-15-21 BY:   
Vedat Obuz, M.D.

DATED: 2/15/21 BY:   
Ozlem Obuz


DATED: 2-15-21 BY:   
Vedat Obuz, M.D.  
For Lotus Family Medicine

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
Mohamed H. Nablusi, Esq.  
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Counsel for Vedat Obuz, Ozlem Obuz, and Lotus Clinics  
P.A./Lotus Family Medicine

KATHLEEN MENOLD - RELATOR

DATED: 2/19/21 BY:   
Kathleen Menold

DATED: 2/22/21 BY:   
Ross Begelman  
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Counsel for Kathleen Menold