

Voluntary Resolution Agreement
Between the United States of America and John Dempsey Hospital
DJ # 204-14-174 - OCR #14-187508

I. Parties to Agreement

1. The Parties to this Voluntary Resolution Agreement (“Agreement”) are:
 - a. the United States of America (“United States”) by and through the U.S. Department of Justice, U.S. Attorney’s Office for the District of Connecticut (“DOJ”), pursuant to its jurisdictional authority under Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, and the U.S. Department of Health and Human Services, Office for Civil Rights (“HHS”), pursuant to its jurisdictional authority under Title II and its implementing regulation and Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794(a), and its implementing regulation, 45 C.F.R. Part 84. In addition, this Agreement is made pursuant to Section 1557 of the Patient Protection and Affordable Care Act, 42 U.S.C. § 18116 (“Section 1557”), to ensure compliance with its implementing regulation, 45 C.F.R. Part 92, which became effective on July 18, 2016, and
 - b. the John Dempsey Hospital (JDH), which is a part of the University of Connecticut Health Center (“UConn Health”) and a component of the University of Connecticut (“UConn”). UConn is an executive branch agency of the State of Connecticut. This Agreement applies to the services provided through UConn Health by JDH.¹ When JDH is used, the reference is to all JDH clinical operations. When UConn Health is used, the reference is to all UConn Health clinical operations, including JDH.

II. Background

2. This matter was initiated when an individual who is deaf and utilizes American Sign Language (“ASL”) as her primary means of communication (the “Complainant”) filed a complaint with DOJ alleging violations of Title II of the ADA and its implementing regulation. The Complainant is an individual with a disability within the meaning of the Title II of the ADA, 42 U.S.C. § 12131, Section 504, 29 U.S.C. § 705(20)(B), and Section 1557, 42 U.S.C. § 18116.
3. Specifically, the Complainant alleged that UConn Health failed to timely provide auxiliary aids and services when necessary to ensure effective communication during an Emergency Department visit to JDH for medical treatment on or about January 27, 2014.
4. As a result of this complaint and in cooperation with DOJ, HHS initiated a compliance review of JDH’s policies and procedures for ensuring effective communication with

¹ Although this agreement applies only to the services provided by John Dempsey Hospital, the other components of UConn Health are also required to comply with Title II, Section 504, and Section 1557.

individuals who are deaf or hard of hearing and JDH's compliance with Section 504 and Title II. Because JDH's interpreter services also provides these services across UConn Health's clinical operations, the DOJ and HHS initiative included a review of information on auxiliary aids and services provided to all UConn Health patients.

5. JDH cooperated fully in the compliance review and investigation, providing the United States with full access to records, witnesses, and employees. JDH posits that it is one of two acute care hospitals in Connecticut with full-time on-site interpreters for individuals who are deaf or hard of hearing. Since the review, JDH's services for individuals who are Deaf or Hard of Hearing have been strengthened, including the addition of VRI technology, as described below. JDH has since provided the United States with information of these enhanced services, some of which were being implemented at the time of Complainant's visit.

III. Jurisdiction

6. Title II of the ADA, 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, prohibit state and local government health and human service agencies (covered entities) from discrimination against qualified individuals with disabilities by excluding such individuals from participation in or denying them the benefits of the services, programs, or activities of a public entity, or subjecting them to discrimination by any public entity. To comply with the non-discrimination mandate of Title II, a public entity must take steps to ensure that communications with individuals with disabilities are as effective as communications with others and shall furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities an equal opportunity to that entity's services, program, and activities. *See* 28 C.F.R. § 35.160(a). DOJ is authorized under 42 U.S.C. § 12133 and 28 C.F.R. Part 35, Subpart F, to investigate the allegations of the complaint in this matter to determine JDH's compliance with Title II of the ADA. DOJ has the authority, where appropriate, to negotiate and secure voluntary compliance agreements, and to bring civil actions enforcing the ADA should it fail to secure voluntary compliance. HHS is the designated agency authorized to conduct compliance reviews of public entities' programs, services, and activities relating to the provision of health care to ascertain whether there has been a failure to comply with the nondiscrimination provisions of Title II. *See* 28 C.F.R. § 35.172; 28 C.F.R. § 35.190(b).
7. JDH is a "public entity" within the meaning of Title II of the ADA, 42 U.S.C. § 12134, and its implementing regulation at 28 C.F.R. § 35.104.
8. Section 504, 42 U.S.C. § 794(a), and its implementing regulation, 45 C.F.R. Part 84, prohibit discrimination on the basis of disability in any program or activity receiving Federal financial assistance. A recipient of HHS financial assistance shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service in question. *See* 45 C.F.R. § 84.52(d). HHS has the authority, where appropriate, to negotiate and secure voluntary compliance agreements, and to bring enforcement actions which may include administrative proceedings to suspend, terminate, or refuse to grant or

continue HHS financial assistance to the covered entity should it fail to secure voluntary compliance.

9. Section 1557, 42 U.S.C. § 18116, and its implementing regulation, 45 C.F.R. Part 92, prohibit discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs and activities. Section 1557 provides that, except as provided in Title I of the Patient Protection and Affordable Care Act (ACA), an individual shall not, on the grounds prohibited under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, or Section 504 of the Rehabilitation Act of 1973, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance or under any program or activity that is administered by an Executive Agency or any entity established under Title I of the ACA. A recipient or State-based Marketplace shall provide appropriate auxiliary aids and services to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service in question. *See* 45 C.F.R. § 92.202(b). The regulation implementing Section 1557 went into effect on July 18, 2016.
10. JDH is a recipient of financial assistance from HHS, including through its participation in the Medicare and Medicaid programs (Titles XVIII and XIX of the Social Security Act).

IV. Purpose of Agreement

11. The Parties have determined that this matter can be resolved promptly and without further burden or the expense of additional investigation, enforcement proceedings or litigation.
12. In consideration of the terms of this Agreement, the United States agrees to refrain from undertaking further investigation or taking steps toward the filing of a civil suit in DJ # 204-14-174 and OCR # 14-187508 against the State of Connecticut, the University of Connecticut, UConn Health, and JDH based on the allegations lodged against JDH, except as provided in this Agreement. Except as related to the above-mentioned complaint, nothing contained in this Agreement is intended or shall be construed as a waiver by the United States of any right to institute proceedings against these entities for violations of any statutes, regulations, or rules administered by the United States or to prevent or limit the right of the United States to obtain relief under the ADA, Section 504, or Section 1557.
13. JDH agrees to the terms stipulated in this Agreement and affirms that it fully intends to comply with all applicable provisions of Title II of the ADA, Section 504, and Section 1557. This Agreement shall not be construed or deemed as an admission of liability or as an admission regarding any of Complainant's factual allegations by the State of Connecticut, the University of Connecticut, UConn Health, or JDH, and nothing in this Agreement shall be construed as a waiver by these entities to defend against any allegation claiming that JDH violated any statutes, regulations, or rules administered by the United States or to prevent or limit the right of these entities to challenge any claim

alleging non-compliance under the ADA, Section 504, or Section 1557.

V. Definitions

For purposes of this Agreement, the terms listed below shall have the following meaning:

14. The term “Auxiliary Aids and Services” includes qualified interpreters on-site or through video remote interpreting (VRI) services; note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing. 28 C.F.R. § 35.104; 45 C.F.R. § 92.4.
15. The term “Companion” includes a person who is deaf or hard of hearing and is a family member, friend, or associate of a Patient who, along with the Patient, is an appropriate person with whom JDH should communicate.
16. The Term “Duration of this Agreement” means the period of time this Agreement remains in effect.
17. The term “Effective Date of this Agreement” means the date the Agreement is signed by all Parties.
18. The term “JDH ED” means the John Dempsey Hospital Emergency Department.
19. The term “Known Patient” as used herein means any Patient who is an active or prior Patient whose status as a Patient who is deaf or hard of hearing is already known to JDH.
20. The term “Patient” as used herein means any individual who is seeking or receiving health care services (whether inpatient or outpatient, including consultations, treatment, scheduling of appointments, discussion of billing issues, attending health education classes, and other health care services) from JDH who, because she or he or her or his Companion is deaf or hard of hearing, may require auxiliary services as a reasonable accommodation in the full and equal enjoyment of the JDH’s clinical services.
21. The term “Qualified Interpreter” means an interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language

interpreters, oral transliterators, and cued-language transliterators.² 28 C.F.R. § 35.104; 45 C.F.R. § 92.4.

22. The term “Non-Scheduled Request” means a situation in which there are less than two (2) hours between the time when a Patient or Companion who is deaf or hard of hearing makes a request for an interpreter and when the services of an interpreter are necessary.
23. The term “JDH personnel” means all employees who have or are reasonably likely to have direct contact with Patients or Companions, as defined herein, and independent contractors with contracts to work for JDH who have or are reasonably likely to have direct contact with Patients or Companions, as defined herein, including, without limitation, nurses, physicians, social workers, technicians, admitting personnel, receptionists, telephone operators, billing staff, security staff, counselors, and therapists, and volunteers. The term also includes all affiliated physicians or other health care professionals who have medical staff privileges that permit them to see and/or treat Patients at JDH.
24. The term “video remote interpreting” (“VRI”) service means an interpreting service that uses video conference technology over dedicated lines or wireless, and provides (1) real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication; (2) a sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of his or her body position; (3) a clear, audible transmission of voices; and (4) adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI. 28 C.F.R. §§ 35.104 & 35.160(d).
25. The term “Primary consideration” means that JDH Personnel will inquire as to the choice of auxiliary aid or service of the Patient or Companion who is deaf or hard of hearing and will honor the request unless based on objective assessment another equally effective means of communication is available or that use of the means chosen would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.

VI. Remedial Actions

A. General Nondiscrimination Obligations

² Not all interpreters are qualified for all situations. For example, an interpreter who is qualified to interpret using American Sign Language is not necessarily qualified to interpret orally. Someone who has only a rudimentary familiarity with sign language or finger spelling is not a "qualified language interpreter" under this Agreement. Likewise, someone who is fluent in sign language but who does not possess the ability to process spoken communication into the proper signs or to observe someone else signing and change his or her signed or finger-spelled communication into spoken words is not a qualified sign language interpreter.

26. Nondiscrimination. Pursuant to Title II of the ADA, Section 504, and Section 1557, UConn Health shall provide Patients and Companions who are deaf or hard of hearing with an equal opportunity to participate in, and enjoy the benefits of a service, program, or activity of UConn Health, including JDH.
27. Discrimination by Association. UConn Health shall not exclude or otherwise deny equal services, programs or activities to any individual because of the known relationship or association with a person who is deaf or hard of hearing, and UConn Health, including JDH, shall take appropriate action to ensure against discrimination by association.
28. Retaliation and Coercion. UConn Health shall not retaliate against or coerce in any way any person who made, or is making, a complaint or exercised, or is exercising, his or her rights under Title II of the ADA, Section 504, or Section 1557 or who has assisted or participated in the investigation of any matter covered by this Agreement.

B. Provision of Effective Communication

29. Appropriate Auxiliary Aids and Services. JDH affirms that: (a) it will provide to deaf or hard of hearing Patients and Companions any appropriate auxiliary aid or service that is necessary for effective communication after making the assessment described in this Agreement so as to ensure no Patient or Companion is excluded from participation in or denied the benefits of the services, programs, or activities of JDH; (b) it will provide appropriate auxiliary aids and services as soon as practicable (without compromising patient care), consistent with this Agreement; and (c) it will provide to Patients and Companions throughout their visit auxiliary aids and services where necessary at no cost consistent with this Agreement, and will ensure that communications advising Patients and Companions state that auxiliary aids or services are available throughout the Patient's stay at no cost.
30. Designation of Civil Rights Compliance Coordinator. JDH has and shall have at least one employee designated as a Civil Rights Compliance Coordinator ("Compliance Coordinator") at all times. The Compliance Coordinator or his/her designee will be the person responsible for ensuring that s/he or members of her/his staff receive and investigate allegations against JDH for any alleged noncompliance issues or any actions that would be prohibited by Title II of the ADA, Section 504, Section 1557, or this Agreement. The Compliance Coordinator, or his/her designee(s), shall be available twenty-four (24) hours a day, seven days a week, to answer questions and provide appropriate assistance regarding immediate access to and proper use of any auxiliary aid or service required by this Agreement, including qualified interpreters. The Compliance Coordinator, or any individual to whom the duties are delegated, will know where auxiliary aids are located, how to obtain the aid or service and how to operate any aid. The Compliance Coordinator or his/her designee(s) will be responsible for the maintenance, repair, replacement, and distribution of any aid. JDH will circulate broadly within the hospital the name and telephone number of the Compliance Coordinator and/or his/her designee, including the telephone number that may be called by JDH Personnel, Patients, and Companions in order to obtain the Compliance Coordinator's or the designee's assistance. For Patients and Companions seeking such assistance while in the JDH ED, JDH ED Personnel will continue to connect the Patient or Companion with the

Compliance Coordinator or designee by contacting the UConn Health Operator who will connect the Patient or Companion through videophone relay service and other such communication technology to either the Compliance Coordinator or designee. The Compliance Coordinator shall be responsible for the complaint resolution procedure, as described in this Agreement.

31. Revised Policies and Procedures. Within sixty (60) calendar days of the Effective Date of this Agreement, JDH shall review and revise its policies and procedures as necessary to ensure effective communication with deaf or hard of hearing Patients or Companions, consistent with the requirements of this Agreement and Title II of the ADA, Section 504, and Section 1557, and submit to the United States for its approval. JDH will adjust or amend these proposed policies and procedures to address any comments and concerns identified by the United States. The policy and procedures shall not be implemented by JDH without the approval of the United States. Within thirty (30) calendar days after approval by the United States, JDH shall implement the policies and procedures and distribute, by mail, email, or other means, the revised policies and procedures, to all JDH personnel.
32. General Assessment Criteria. Through the JDH Patient registration process, by way of the Patient intake form (electronic or otherwise) or by way of interaction or observation, and whether in person or by telephone or TTY, JDH shall inquire whether the Patient and/or the Patient's Companion is deaf or hard of hearing. If the Patient states he/she is deaf or hard of hearing, and/or has a Companion who is deaf or hard of hearing or if through either JDH Personnel's observations or interactions with the Patient or Companion, JDH determines the Patient or Companion may be deaf or hard of hearing, JDH shall ensure that an assessment is conducted by appropriate JDH Personnel consistent with this Agreement, to determine whether an auxiliary aid or service is necessary to provide the Patient or Companion with effective communication, and if so, what type of auxiliary aid or service is needed. JDH will confirm that the determination is appropriately documented in the Patient's medical record or the Patient registration system. JDH further confirms that the determination as to the auxiliary aids and services required to effectively communicate with a Patient and/or Companion is adjusted throughout a Patient's visit based on a wide array of factors and circumstances, pursuant to the terms of this Agreement.
33. Known Patients. To the extent it is already known that the Patient or Companion is deaf or hard of hearing because this information is captured in UConn Health's registration system and/or electronic medical records system (Known Patient), the determination of which appropriate auxiliary aid or service is necessary, will be evaluated and updated, if necessary, at the time of arrival of the Patient or Companion at the JDH, in consideration of all relevant facts and circumstances pursuant to this Agreement.
34. General Determination of Appropriate Aid or Service. The determination of which auxiliary aid or service is necessary to ensure effective communication, and the timing, duration, and frequency with which it will be provided, will be made by JDH Personnel in consultation with the Patient or Companion, wherever possible, giving Primary Consideration to the choice expressed by the Patient or Companion. JDH Personnel will

inquire as to the choice of auxiliary aid or service of the Patient or Companion who is deaf or hard of hearing and will honor the request unless based on objective assessment another equally effective means of communication is available or that use of the means chosen would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.

The determination made by JDH will consider all relevant facts and circumstances, with its assessment including, without limitation, the following:

- a. the aid or service requested by, or on behalf of, the Patient or Companion;
- b. the nature, length, complexity and importance of the communication at issue;
- c. the Patient's or Companion's communication skills and knowledge, including their primary method(s) of communication;
- d. the Patient's health status or changes thereto;
- e. the reasonably foreseeable health care activities of the Patient (e.g., group therapy sessions, medical tests or procedures, rehabilitation services, meetings with health care professionals or social workers, or discussions concerning billing, insurance, self-care, prognoses, diagnoses, history, and discharge); and
- f. any factors relevant to determining whether the specific type of auxiliary aid or service is effective under the circumstances, ensuring the auxiliary aid or service is provided in an accessible format, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

The determination of which auxiliary aid or service to provide will be documented in the Patient's medical chart and/or the Patient registration system, as well as the JDH Personnel making the determination and initiating the request for the aid or service.

35. Determination Not to Provide Requested Auxiliary Aid or Service. If, after conducting an appropriate assessment, JDH denies the Patient's or Companion's choice of auxiliary aid or service or otherwise determines that the circumstances do not warrant provision of a particular auxiliary aid or service, JDH Personnel will so advise the person requesting the aid or service, and, in the Patient's medical record, will: (a) identify the individual making the determination and (b) document (i) the date and time of the denial; (ii) any alternative auxiliary aid or service that was provided; and (iii) the specific reason for denying the requested auxiliary aid or service.

If JDH makes a decision to deny any auxiliary aid or service based on undue financial and administrative burden, that decision must be made by the Compliance Coordinator or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. A copy of the written statement will be provided to the Patient or Companion; will be maintained with the compliance report described in this Agreement; and will be placed in the Patient's medical record. The Patient or Companion will also be provided a copy of the Grievance Procedure.

36. Statement of Refusal of Interpreter Services. If a Patient or Companion does not request an auxiliary aid or service or states that an interpreter is not necessary, JDH Personnel

shall utilize a qualified interpreter or other effective means of communication to explain the risks of proceeding without an auxiliary aid or service. JDH Personnel shall document the auxiliary aid or services used to explain the risks described above. If the Patient and/or Companion continue to refuse interpreter services, JDH Personnel will notate that refusal in the Patient's record and/or in the Patient Registration system and use whatever means are available for effective communication with the Patient and/or Companion subject to the limitations set forth in this Agreement, including the limitations on the use of an adult accompanying a Patient or Companion to interpret or facilitate communication.

37. Reassessment. In the event that a utilized auxiliary aid or service was not effective for communication, JDH Personnel will promptly reassess which appropriate auxiliary aids and services are necessary, in consultation with the Patient or Companion where possible, and provide such aid or service based on the reassessment. JDH will document in the Patient's medical record and, when required by this Agreement, in the compliance report, any instances where a Patient or Companion indicates that JDH failed to provide any auxiliary aid or service or that an aid or service was ineffective.
38. Medical Chart and/or Electronic File and/or Patient Registration System (hereinafter "Medical Record"). Consistent with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, 45 C.F.R. Parts 160 and 164, the Patient's medical record shall be labeled to alert JDH Personnel to the fact that the Patient and/or Companion is deaf or hard of hearing and will take appropriate steps to ensure that all JDH Personnel reasonably likely to have contact with a Patient or a Companion are made aware of the person's need for an auxiliary aid or service so that effective communication will be achieved during the Patient's stay.
39. Prohibition of Surcharges. All appropriate auxiliary aids and/or services required by this Agreement will be provided free of charge to the deaf or hard of hearing Patient and/or Companion.

C. Provision of Qualified Interpreters

40. Circumstances Under Which Interpreters May Be Provided. Depending on the complexity and nature of the communication, a qualified interpreter, via a video remote interpreting (VRI) service or an on-site appearance, may be necessary to ensure effective communication for patients. When JDH determines, following the assessment described above, that an interpreter is needed, JDH shall provide qualified sign language interpreters to Patients and Companions who rely on sign language as a primary means of communication, and qualified oral interpreters to such Patients and Companions who rely primarily on lip reading, as necessary for effective communication. The following is a non-exhaustive list of circumstances when it may be necessary to provide a qualified interpreter:
 - a. Discussing a Patient's symptoms and medical condition, medications, and medical history, including medical, psychiatric, psychosocial, nutritional, and labor and delivery;

- b. Reviewing, explaining or obtaining (i) informed consent or permission for treatment, (ii) Health Care Proxy, (iii) powers of attorney, (iv) living wills, (v) Do Not Resuscitate (DNR)/Do Not Intubate (DNI), (vi) Patient Bill of Rights, and (vii) auxiliary aids and services, including the waiver of auxiliary aids and services;
- c. Determining if a Patient is conscious;
- d. Explaining a Patient's diagnosis or prognosis and recommendation for treatment;
- e. Explaining medical procedures to be selected by the Patient or used, including tests, treatment, treatment options or surgery;
- f. During labor and delivery, in both the labor room and the delivery room;
- g. Explaining medications prescribed (such as dosage, instructions for how and when the medication is to be taken, and side effects or food or drug interactions);
- h. Determining any condition or allergy of a Patient that may affect the Patient's choice of medication;
- i. Explaining follow-up treatments, post-treatment activities, therapies, test results or recovery;
- j. Assisting with communication during routine nursing care (i.e. general routine care involving rapport, comfort and anxiety level of the Patient);
- k. Explaining a change in regimen, environment, condition or unfamiliar treatment;
- l. Explaining and resolving emergency situations that arise;
- m. Providing information about blood donations or apheresis (removal of blood components);
- n. Discussing discharge planning and discharge instructions;
- o. Religious services and spiritual counseling provided by JDH;
- p. Providing mental health services, individual or group therapy, counseling, or other therapeutic activities including, but not limited to grief counseling and crisis intervention;
- q. Explaining complex billing or insurance issues that may arise; or
- r. Providing educational services, such as classes concerning birthing, nutrition, CPR, and weight management.

The foregoing list of circumstances is not exhaustive and does not imply that there are no other circumstances when it may be appropriate to provide auxiliary aids and services for effective communication nor does it imply that auxiliary aids and services are required for effective communication each time one or more of the above circumstances is present. The decision is to be made based on all available facts and circumstances.

41. Video Remote Interpreting (VRI). Where appropriate to provide effective communication, a qualified interpreter may be provided via VRI. In certain circumstances, VRI can be an effective method of providing interpreting services. In determining whether communication using VRI is appropriate and effective, relevant factors include whether:
- a. the Patient or Companion is limited in his or her ability to see the video screen; the Patient or Companion has limited ability to move his or her head, hands, or arms; vision limitations, cognitive or consciousness issues, or pain issues;
 - b. there are multiple people in a room and the information exchanged is highly complex or fast-paced;

- c. the Patient or Companion may move repeatedly to areas of JDH that do not have a designated high speed Internet line;
 - d. the Patient will be treated in a room where there are space restrictions; and
 - e. whether the VRI can be provided in accordance with the performance standards set forth below.
42. Standards for Providing Video Remote Interpreting (VRI). Whenever VRI is provided or used, JDH shall ensure that it provides VRI in accordance with the following performance standards:
- a. real-time, full-motion video and audio over a dedicated, high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;
 - b. a sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of his or her body position;
 - c. a clear, audible transmission of voices;
 - d. ensure that the interpreter providing VRI is a qualified interpreter who is capable of communicating effectively with the Patient or Companion; and
 - e. adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI.
43. Ineffective VRI. Once the VRI system is operating, JDH Personnel shall ask the Patient or Companion whether the VRI is effective and meeting his or her communication needs and document his or her response in the Patient's medical record. In the event that, based on the relevant objective facts and circumstances, the Patient or Companion cannot communicate effectively using VRI, JDH ED Personnel will take the following steps:
- i. provide the most effective auxiliary aid available for ensuring effective communication under the circumstances;
 - ii. make reasonable efforts to locate a qualified on-site interpreter;
 - iii. inform the Compliance Coordinator or her/his designee of the efforts made to locate an on-site interpreter and solicit any additional assistance in obtaining an on-site interpreter;
 - iv. periodically inform the Patient or Companion of the status of efforts taken to secure a qualified on-site interpreter; and
 - v. document all of the above, including any delays or technical problems and efforts to obtain an on-site interpreter in the Patient's Medical Record and, for JDH ED, in the Auxiliary Aid and Service Log as required in this Agreement.
44. Provision of Interpreters in a Timely Manner in the JDH ED. After determining that an interpreter is necessary for effective communication, the JDH ED shall ensure that qualified interpreters, via a video remote interpreting (VRI) service or an on-site appearance, are provided in a timely manner, as set forth herein.. The JDH ED shall make a qualified interpreter available to the Patient or Companion as soon as practicable from the determination that a qualified interpreter is necessary for effective

communication, but no later than (a) two (2) hours when an on-site interpreter will be provided, or (b) within twenty-five (25) minutes when providing an interpreter through VRI, provided that any delay between 10 to 25 minutes from the time the VRI is made available to the time an online interpreter is secured is permissible only when such delay is caused by the VRI provider, not by JDH ED personnel or equipment. Deviations from these response times will be documented in the Patient's Medical Record and then addressed with the interpreting service provider, and reviewed with the United States every six months during the term of this Agreement.

45. Auxiliary Aid and Service Log and Independent Audits. JDH ED will maintain a log of each request for an auxiliary aid or service in the JDH ED. The log will contain the name of the Patient (and Companion, if applicable) and the Patient's unique identifying number, and be available for random audits that will be completed at least quarterly by the Compliance Coordinator or her/his designee or the University of Connecticut Office of Audit, Compliance, and Ethics. These audits will include whether JDH's ED appropriately documented the Patient's Medical Record with the information identified in Section 46 below.

Such logs and audit reports will be maintained by the designated response employee, and the results of the audits will be incorporated into the semi-annual compliance reports as described in this Agreement. JDH ED will establish the Auxiliary Aid and Service Log within thirty (30) days of the Effective Date of this Agreement. These log(s) will be maintained for eighteen (18) months following the Effective Date of this Agreement.

46. Data Collection on Interpreter Response Time and Effectiveness. JDH ED will monitor the performance of each qualified interpreter service it uses to provide communication to deaf or hard of hearing Patients or Companions by monitoring VRI service and the timeliness of on-site interpreters. The Compliance Coordinator or her or his designee shall be responsible for collecting any complaints or concerns regarding response times for each request for an auxiliary aid or service, promptly investigate any such complaint or concern, and provide the report of its investigation to the United States within seven (7) days of a request by the United States and, also, pursuant to this Agreement, as part of the Auxiliary Aid and Service Log described in this Agreement. During the term of this Agreement, the JDH ED personnel will document in the Patient's Medical Record the following:

- a. the type of Auxiliary Aid or Service requested;
- b. the time and date the request was made;
- c. the name of the JDH ED Personnel who performed the communication assessment (or reassessment);
- d. the name of any JDH ED Personnel responsible for determining whether or not to provide the requested auxiliary aid or service;
- e. the type of the auxiliary aid or service provided;
- f. the time and date the auxiliary aid or service was provided, or a statement that the auxiliary aid or service was not provided and the reason for the denial; and
- g. any issues with timely providing the auxiliary aid or service within the permissible time frames described in this Agreement

47. Inform Patients of Efforts to Secure Qualified Interpreter. As soon as JDH Personnel have determined that a qualified interpreter is necessary for effective communication with a deaf or hard of hearing Patient or Companion, JDH will inform the Patient or Companion (or a family member or friend, if the Patient or Companion is not available) of the current status of efforts being taken to secure a qualified interpreter on his or her behalf. JDH Personnel will provide additional updates to the Patient or Companion as necessary until an interpreter is secured. Notification of efforts to secure a qualified interpreter does not lessen JDH's obligation to provide qualified interpreters in a timely manner as required by this Agreement.
48. Restricted Use of Minors to Interpret or Facilitate Communication. JDH shall not rely on a minor accompanying a Patient or Companion to interpret or facilitate communications between JDH Personnel and a Patient or Companion, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available.
49. Limited Use of an Adult Accompanying a Patient or Companion to Interpret or Facilitate Communication. JDH shall not require a Patient or Companion to bring another individual to interpret for him or her. JDH may not rely upon an adult accompanying a Patient or Companion to interpret or facilitate communications between JDH personnel and a Patient or Companion except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available or unless the following four factors are present:
- a. where the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication and such person agrees to provide such assistance;
 - b. such use is necessary or appropriate under the circumstances, giving appropriate consideration to any privacy and confidentiality issues that could arise as well as other relevant issues, such as the proficiency in English and sign language of the accompanying adult, the likelihood that the accompanying adult will be familiar with specialized or technical vocabulary likely to be used in the communication, and other relevant concerns;
 - c. the Patient or Companion has been made aware of JDH's full range of auxiliary aids and services and that these aids and services are available free of charge; and
 - d. the Patient's Medical Record documents that JDH Personnel explained to the Patient or Companion the availability of relevant auxiliary aids and services free of charge and agrees to the use of the adult accompanying the Patient or Companion to interpret or facilitate communication.

This provision in no way lessens JDH's obligation to provide appropriate auxiliary aids and services as required under this Agreement or, where applicable, to appropriately document Exigent Circumstances.

D. Notice.

50. General Notice of Non-Discrimination and Availability of Auxiliary Aids and Services

and Language Access Services. UConn Health shall take appropriate and continuing steps to notify Patients, Companions, UConn Health personnel, and the public, including individuals who are deaf or hard of hearing and individuals who are blind or have low vision, that it does not discriminate on the basis of race, color, national origin, sex, age, or disability in the provision of its services, program or activities and to inform them of the rights and protections afforded by the ADA, Section 504, or Section 1557. Within sixty (60) calendar days of the Effective Date of this Agreement, UConn Health shall provide the Notice of Non-Discrimination for approval by the United States. The Notice of Non-Discrimination shall inform Patients, Companions, UConn Health personnel, and the public of the following:

- a. that it does not discriminate on the basis of race, color, national origin, sex, age, or disability in its health programs and activities;
 - b. that it provides appropriate auxiliary aids and services, including qualified interpreters for individuals with disabilities and information in alternate formats, free of charge and in a timely manner, when such aids and services are necessary to ensure an equal opportunity to participate to individuals with disabilities;
 - c. that it provides language assistance services, including translated documents and oral interpretation, free of charge and in a timely manner, when such services are necessary to provide meaningful access to individuals with limited English proficiency;
 - d. a description of how to obtain the aids and services;
 - e. the identity of, and contact information for, the Compliance Coordinator, an individual in the University of Connecticut Office of Institutional Equity (formerly known as the Office of Diversity and Equity, or ODE);
 - f. the availability of the grievance procedure and how to file a grievance; and
 - g. how to file a discrimination complaint with HHS.
51. Posting of Notice of Non-Discrimination and Availability of Auxiliary Aids and Services and Language Access Services. Within thirty (30) days of approval, UConn Health shall post the Notice of Non-Discrimination in conspicuously-visible font size:
- a. in significant publications and significant communications targeted to Patients and Companions and members of the public, except for significant publications and significant communications that are small-sized, such as postcards and tri-fold brochures;
 - b. in conspicuous physical locations where the entity interacts with the public; and
 - c. in a conspicuous location on the covered entity's Web site accessible from the home page of the covered entity's Web site.
 - d. For significant publications and significant communications that are small-sized, UConn shall post, in a conspicuously-visible font size the statement that UConn Health does not discriminate on the basis of race, color, national origin, sex, age or disability in its health program or activities.
52. Notice to JDH Personnel and Affiliated Physicians. JDH confirms that it has published, in appropriate form, a policy statement regarding JDH's policy to provide auxiliary aids and services at no cost to persons who are deaf or hard of hearing for effective communication. The policy statement has been distributed to all JDH Personnel. JDH

confirms that it includes this Policy and corresponding information in all new JDH Personnel training and that annual employee training also includes information on this written policy statement.

E. Complaint Resolution Procedure

53. Grievance Procedure. Within sixty (60) days of the Effective Date of this Agreement, JDH shall review and revise, if necessary, its Grievance Procedure providing for the prompt and equitable resolution of any complaints alleging discrimination on the basis of disability to ensure it addresses any complaints regarding the failure to provide appropriate auxiliary aids and services pursuant to this Agreement, the ADA, Section 504, and Section 1557. In addition, JDH shall ensure that its Grievance Procedure incorporates appropriate due process standards and provides for the prompt and equitable resolution of complaints.
54. Publication of Grievance Procedure. Within sixty (60) days of the Effective Date of this Agreement, JDH shall take steps to make the Grievance Procedure available to JDH Personnel and, also, to all interested persons on its website, and JDH has included notice of the grievance procedure on the signage which is maintained in the JDH ED lobby and other applicable locations. JDH shall also publish the Grievance Procedure in its Patient handbooks and/or in similar publications. JDH will provide the Grievance Procedure to Patients or Companions upon determination not to provide a requested auxiliary aid or service, along with the written statement of the determination, as described in this Agreement.
55. Records. JDH, through the UConn Health Office of Institutional Equity, will continue to maintain records of all complaints and grievances made regarding effective communication, whether oral or written, and actions taken with respect thereto. Copies of all grievances related to provision of services for deaf or hard of hearing Patients and/or Companions and the responses thereto will be maintained by the Office of Institutional Equity and/or Compliance Coordinator for the duration of the Agreement and will be provided upon request to the United States within seven (7) business days.

F. Training.

56. Training of UConn Health Personnel. Within sixty (60) calendar days after approval by the United States of the policies and procedures in accordance with this Agreement, and annually thereafter, for the duration of this Agreement, JDH shall provide mandatory training for all JDH personnel. JDH shall provide the training to new employees as part of their initial orientation but no later than thirty (30) calendar days of their start date with JDH. The training will address the following:
 - a. the requirements of Title II of the ADA, Section 504, and Section 1557, including the requirement to ensure effective communication with Patients or Companions who are deaf or hard of hearing and the prohibition against retaliation;
 - b. the policies and procedures outlined in this Agreement;
 - c. the importance of promptly identifying the communication needs and preferences of persons who are deaf or hard of hearing;

- d. types of auxiliary aids and services available at JDH;
- e. the degrees of hearing impairment; the differences between American Sign Language and English, and the limitations associated with lip-reading for many people who are deaf or hard of hearing;
- f. proper use and role of qualified interpreters;
- g. proper use and role of VRI;
- h. procedures to schedule a qualified interpreter or to provide another auxiliary aid or service as quickly as possible when necessary;
- i. documentation procedures governing the requests and provision of auxiliary aids and services;
- j. responsibility to communicate JDH's obligation to provide interpreter services free of charge; and
- k. any other applicable requirements of this Agreement.

JDH shall maintain copies of the training material and records which shall specify the date, time, and location of all training conducted and, where applicable, the names and respective job titles of the person(s) conducting training and the attendees.

G. Reporting and Monitoring

57. Unless otherwise provided, all notices, reports or other such documents required by this Agreement shall be submitted to the United States at the following address:

Office of the United States Attorney
 157 Church Street, 25th Floor
 New Haven, CT 06510
 Attn: AUSA Vanessa Avery

58. Records. JDH shall maintain appropriate records to document the information required by this Agreement, and shall make them available, upon request, to the United States, throughout the duration of this Agreement.
59. Compliance Reports. Beginning six months after the Effective Date of this Agreement and every six months thereafter for the entire duration of the Agreement, JDH will provide a written report ("Compliance Report") to the United States regarding the status of its compliance with this Agreement in the JDH ED. This Compliance Report will be based upon the independent quarterly audits conducts (as described in this Agreement), and will be submitted concurrently with the audit results. The Compliance Report will include data relevant to the Agreement, including but not limited to:
- a. the number of requests for an auxiliary aid or service received by JDH ED from a Patient or Companion;
 - b. the number of times, if any, JDH ED denied a request for an auxiliary aid or service and the reason for each denial;
 - c. the number of times a request for a qualified interpreter was granted by JDH ED, but the interpreter failed to appear, and the reason(s) for the failure;
 - d. the number of grievances, if any, received by JDH ED from Patients and Companions regarding any auxiliary aid or service, and the resolution of such

- complaints including any supporting documents;
- e. documentation of compliance with all of the training provisions of this Agreement; and
- f. relevant data or summaries from all other documents referenced for retention in this Agreement.

Should the independent audits described in this Agreement note material deficiencies in JDH ED's compliance with this Agreement, including the documentation required in the Patient's Medical Record, or if complaints made by JDH ED Patients and Companions have not been satisfactorily resolved, the United States may either conduct its review or require that the Compliance Report be revised to include for each JDH ED Patient:

- a. the type of Auxiliary Aid or Service requested;
 - b. the time and date the request was made;
 - c. the name of the JDH ED Personnel who performed any communication assessment or reassessment;
 - d. the name of any JDH ED Personnel responsible for determining whether or not to provide the requested auxiliary aid or service;
 - e. the type of auxiliary aid or service provided and, when the aid or service provided is a qualified interpreter (in person or through VRI) and the interpreter failed to appear, the reason for the failure;
 - f. the time and date the auxiliary aid or service was provided, or a statement that the auxiliary aid or service was not provided and the reason for the denial; and
 - g. any delays in the provision of auxiliary aid or service and an explanation of the reasons for the delay where the response time failed to comply with the permissible time frames described in this Agreement.
60. Complaints. For the duration of this Agreement, JDH shall notify the United States if any person files a lawsuit, written complaint or formal charge against JDH, or with a state or federal agency, alleging that JDH failed to provide auxiliary aids or services to deaf or hard of hearing Patients or Companions or otherwise failed to ensure effective communication with such Patients or Companions. Such notification must be provided in writing via certified mail within twenty (20) calendar days of the date JDH receives notice of the allegation and must include, at a minimum, the nature of the allegation, the name of the person making the allegation, and any documentation possessed by JDH relevant to the allegation. JDH will reference this provision of the Agreement in the notification to the United States.
61. Compensatory Relief for Complainant. Within twenty (20) days after receiving the Complainant's executed release (the form of which is annexed hereto as Exhibit A), signed in consideration of the payment provided herein, JDH, through the appropriate entity within UConn Health or the State of Connecticut, shall mail a check made out to the Complainant in the amount of twenty thousand dollars (\$20,000) as compensation to the Complainant pursuant to 42 U.S.C. § 12133 and 28 C.F.R. § 35.172. The check shall be mailed to:

Office of the United States Attorney
157 Church Street, 25th Floor
New Haven, CT 06510
Attn: AUSA Vanessa Avery

JDH will not withhold taxes from the monetary award, and the Complainant, through the signed release, will accept full responsibility for taxes due and owing, if any, on such funds. JDH will issue to the Complainant an IRS Form 1099 reflecting the amount paid.

H. Enforcement

62. Duration of the Agreement. This Agreement shall be in effect for two (2) years from the Effective Date, upon determination by the United States that JDH is in compliance with Title II of the ADA, Section 504, and Section 1557.
63. Compliance Review and Enforcement. The United States may review compliance with this Agreement at any time. If the United States believes that JDH has failed to comply in a timely manner with any requirement of this Agreement, the United States will notify the State of Connecticut Office of the Attorney General and JDH, through the JDH Chief Executive Officer, in writing, and will attempt to resolve the issue or issues in good faith. If the United States is unable to reach a satisfactory resolution of the issue or issues in thirty (30) calendar days from the date it provides notice to the Office of the Attorney General, the United States may take any action authorized by law to secure compliance under Title II of the ADA, Section 504,, or Section 1557 including instituting a civil action in U.S. District Court to enforce this Agreement, Title II of the ADA, Section 504, or Section 1557.

I. Miscellaneous

64. This Agreement is limited to the facts set forth herein and does not purport to remedy any other potential violations of Title II of the ADA, Section 504, Section 1557, or any other federal law. This Agreement does not affect the continuing obligations of JDH to comply with the provisions of Title II of the ADA, Section 504, and Section 1557.
65. Entire Agreement. This Agreement and the attachments hereto constitute the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written agreement, shall be enforceable.
66. Headings. The headings in this Agreement are for convenience only and shall not affect in any way the language of the provision to which they refer.
67. Binding. This Agreement is final and binding on the parties, including all principals, agents, executors, administrators, representatives, successors in interest, beneficiaries, assigns, heirs and legal representatives thereof. Each party has a duty to so inform any such successor in interest.

68. Non-Waiver. Failure by the United States to seek enforcement of this Agreement pursuant to its terms with respect to any instance or provision shall not be construed as a waiver to such enforcement with regard to other instances or provisions.
69. Signatories Binding Parties. The person signing this Agreement for the State of Connecticut, acting through its JDH Chief Executive Officer, represents that she is authorized to bind the State of Connecticut, University of Connecticut, UConn Health, and JDH to this Agreement.

For the United States of America:

DEIRDRE M. DALY
United States Attorney for the
District of Connecticut

By: / S /

VANESSA ROBERTS AVERY
Assistant United States Attorney
157 Church Street, 25th Floor
New Haven, CT 06510

DATED: December 21, 2016

For the United States Department of Health
and Human Services:

By: / S /

SUSAN PEZZULLO RHODES
Regional Manager, Region I
Office for Civil Rights
JFK Federal Building
Room 1875
Boston, MA 02203

DATED: December 20, 2016

For John Dempsey Hospital

By: / S /

ANNE DIAMOND
Chief Executive Officer
John Dempsey Hospital
UConn Health, LM050
263 Farmington Avenue
Farmington, CT 06030-1093

DATED: December 15, 2016

For the Office of the Attorney General

By: / S /

JEFFREY M. BLUMENTHAL
Assistant Attorney General
Office of the Attorney General
UConn Health
263 Farmington Avenue
Farmington, CT 06030-1093

DATED: December 15, 2016