

**Conciliation Agreement**  
**Between the United States Department of Labor**  
**Office of Federal Contract Compliance Programs**  
**And**  
**Rotech Healthcare Inc.**  
**2600 Technology Drive**  
**Orlando, Florida 32804**

**PART I: General Provisions**

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter OFCCP) and Rotech Healthcare Inc. (hereinafter Rotech).
2. The violation identified in this Agreement were found during a compliance evaluation of Rotech at its Billing Center establishment located at 3600 Vineland Road, Suite 114, Orlando, Florida which began on May 16, 2012, and it was specified in a Notice of Violation issued October 17, 2012. OFCCP alleges that Rotech has violated Executive Order 11246, as amended and its implementing regulations at 41 CFR Chapter 60, due to the specific violation cited in Part II below.
3. This Agreement does not constitute an admission by Rotech of any violation of Executive Order 11246, as amended and its implementing regulations.
4. The provisions of this Agreement will become part of Rotech's affirmative action program (AAP). Subject to the performance by Rotech of all promises and representations contained herein and in its AAP, all named violations in regard to the compliance of Rotech with all OFCCP programs will be deemed resolved. However, Rotech is advised that the commitments contained in this Agreement do not preclude future determinations of non compliance based on a finding that the commitments are not sufficient to achieve compliance.
5. Rotech agrees that OFCCP may review compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents, as may be relevant to the matter under investigation and pertinent to Rotech's compliance. Rotech shall permit access to its premises during normal business hours for these purposes.
6. Nothing herein is intended to relieve Rotech from the obligation to comply with the requirements of Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212) and their implementing regulations, or any other equal employment statute or executive order or its implementing regulations.
7. Rotech agrees that there will be no retaliation of any kind against any beneficiary of this Agreement or against any person who has provided information or assistance, or who files a complaint, or who participates in any manner in any proceedings under Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212).
8. This Agreement will be deemed to have been accepted by the Government on the date of

**Rotech Healthcare Inc.  
Conciliation Agreement**

signature by the District Director for OFCCP, unless the District Director or Director, OFCCP, indicates otherwise within 45 days of the District Director's signature on this Agreement.

9. If, at any time in the future, OFCCP believes that Rotech has violated any portion of this Agreement during the term of this Agreement, Rotech will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide Rotech with 15 days from receipt of the notification to respond in writing, except where OFCCP alleges that such a delay would result in irreparable injury.

Enforcement proceedings for violation of this Agreement may be initiated at any time after the 15-day period has elapsed (or sooner, if irreparable injury is alleged) without issuing a Show Cause Notice.

Where OFCCP believes that Rotech has violated this Conciliation Agreement, OFCCP may seek enforcement of this Agreement itself and shall not be required to present proof of the underlying violation resolved by this Agreement.

Liability for violation of this Agreement may subject Rotech to sanctions set forth in Section 209 of the Executive Order and/or other appropriate relief.

**PART II: Specific Provisions**

**VIOLATION:** Compensation data provided by Rotech for employees as of January 1, 2012, revealed that Rotech provided lower compensation to four minority employees compared to similarly situated nonminority employees in the (6), (7)(C) title. Time with Rotech, time in current job title, experience, education and performance did not explain the disparities in compensation. Accordingly, OFCCP finds that Rotech failed to ensure equal opportunity in compensation to four minority (6), (7)(C), paid less their counterparts because of their race, in violation of 41 CFR 60-1.4(a) (1).

**REMEDY:** Although Rotech affirms that this disparity in pay was unintentional, Rotech will do the following:

Rotech will provide (6), (7)(C) with a salary raise of \$1,996.80 per year. Additionally, Rotech will disburse to (6), (7)(C) \$1,333.93 in back pay and \$16.25 in interest, totaling \$1,350.18. Rotech will disburse the back pay and interest to (6), (7)(C) in a lump sum minus deductions required by law. The back pay will be reduced by withholdings for federal income tax, state, and/or local income tax, and (6), (7)(C) share of FICA. Rotech will provide (6), (7)(C) with an IRS Form W-2 for her backpay and an IRS Form 1099 for the interest amount.

Rotech will provide (6), (7)(C) with a salary raise of \$936.00 per year. Additionally, Rotech will disburse to (6), (7)(C) and \$7.62 in interest, totaling \$632.90. Rotech will disburse the back pay and interest to (6), (7)(C) in a lump sum minus deductions required by law. This back pay will be reduced by withholdings for federal income tax, state, and/or local income tax, and (6), (7)(C) share of FICA. Rotech will provide (6), (7)(C) with an IRS Form W-2 for her backpay and an IRS Form 1099 for the interest amount.

Rotech will provide (6), (7)(C) with a salary raise of \$998.40 per year. Additionally, Rotech will disburse to (6), (7)(C) \$666.97 in back pay and \$8.11 in interest, totaling \$675.08.

**Rotech Healthcare Inc.  
Conciliation Agreement**

Rotech will disburse the back pay and interest to (6), (7)(C) in a lump sum minus deductions required by law. This payment will be reduced by withholdings for federal income tax, state, and/or local income tax, and (6), (7)(C) share of FICA. (6), (7)(C) shall receive an IRS Form W-2 for her share of the back pay and benefits and an IRS Form 1099 for the interest amount.

Rotech will provide (6), (7)(C) with salary raise of \$707.20 per year. Additionally, Rotech will disburse to (6), (7)(C) \$472.43 in back pay and \$5.75 in interest, totaling \$478.18. Rotech will disburse the back pay and interest to (6), (7)(C) in a lump sum minus deductions required by law. This payment will be reduced by withholdings for federal income tax, state, and/or local income tax, and (6), (7)(C) share of FICA. (6), (7)(C) shall receive an IRS Form W-2 for her share of the back pay and benefits and an IRS Form 1099 for the interest amount.

Rotech will not retaliate, harass, or engage in any form of reprisal or other adverse action against (6), (7)(C) and/or (6), (7)(C) based on or in relation to the terms or provisions of this Remedy.

Rotech will complete the process of monetary distribution within 90 days, but no sooner than 45 days, from the date this Agreement is signed by the District Director, OFCCP.

Within 100 days from the date this Agreement is signed by the District Director, OFCCP, Rotech will provide training on its equal employment opportunity programs for all persons involved in determining compensation amounts paid to Rotech's employees. Rotech will update this training as appropriate.

Rotech will immediately review and, as appropriate, revise its compensation system to ensure that this violation ceases. In addition, Rotech will review at least annually and revise, as needed, its compensation system to ensure that this violation does not recur.

**FUTURE CONDUCT:** Rotech will not repeat the above violation.

**PART III: Reporting**

Rotech shall submit **two reports**, as stated below, to Assistant District Director—Orlando, United States Department of Labor, Office of Federal Contract Compliance Programs, 1001 Executive Center Drive, Suite 100, Orlando, Florida 32803.

The **first report** shall be due 120 days after the date on which the District Director, OFCCP signs this agreement. The first report shall consist of the following:

1. Copies of personnel forms confirming salary increases given to (6), (7)(C) and/or (6), (7)(C);
2. Evidence of back pay and interest disbursed to (6), (7)(C) and/or (6), (7)(C) as well as the contributions made to their pension accounts, including copies of the cancelled checks and pay slips showing the gross amount and deductions required by law;
3. Results of Rotech's review of its compensation system, to include findings, additional equity adjustments and back pay; and
4. Cost of training that Rotech provided on its equal employment opportunity programs for all

**Rotech Healthcare Inc.  
Conciliation Agreement**

persons involved in determining compensation amounts paid to Rotech's employees.

The **second report** shall be due on August 16, 2013. The second report shall consist of the following: Results of Rotech's annual review of its compensation system, including findings, additional equity adjustments and back pay, if any.

**TERMINATION DATE:** This Agreement will expire 90 days after OFCCP receives the second and final report required in Part III above or on the date that the District Director gives notice to Rotech that Rotech has satisfied its reporting requirements, whichever occurs earlier, unless OFCCP notifies Rotech in writing prior to the end of the 90-day period that Rotech has not satisfied its reporting requirements pursuant to this Agreement.

**INTEGRATION CLAUSE:** This Agreement represents the full Agreement between Rotech and OFCCP and this Agreement supersedes any other agreements, oral or written. In signing this Agreement, neither Rotech nor OFCCP relies upon any promise, representation of fact or law, or other inducement that is not expressed in this Agreement. This Agreement may be modified only by written agreement of the Parties affected and may not be modified by any oral agreement.

**PART IV: Signatures**

The person signing this Conciliation Agreement on behalf of Rotech Healthcare Inc. personally warrants that he is fully authorized to do so, that Rotech Healthcare Inc. has entered into this Conciliation Agreement voluntarily and with full knowledge of the effect thereof, and that execution of this Agreement is fully binding on Rotech Healthcare Inc. This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Rotech Healthcare Inc.

Date: \_\_\_\_\_

11/7/12

(6), (7)(C)

**Philip L. Carter**  
President  
Rotech Healthcare Inc.  
2600 Technology Drive  
Orlando, Florida

Date: \_\_\_\_\_

11/13/12

(6), (7)(C), (7)(E)

Compliance Officer—Orlando  
Office of Federal Contract Compliance  
Programs

Date: \_\_\_\_\_

11/21/2013

(6), (7)(C)

**Jacqueline Ortiz-Baerga**  
Assistant District Director—Orlando  
Office of Federal Contract Compliance  
Programs

Date: \_\_\_\_\_

11/27/12

(6), (7)(C)

**Miguel A. Rivera, Jr.**  
District Director—Orlando  
Office of Federal Contract Compliance  
Programs