

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

In re:	)	Chapter 11
LAVIE CARE CENTERS, LLC, <i>et al.</i> ,	)	Case No. 24-55507 (PMB)
Debtors. <sup>1</sup>	)	(Jointly Administered)
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LAVIE CARE CENTERS, LLC and BRANDON	)	Adversary Proc. No. 25-[ ] ( )
FACILITY OPERATIONS, LLC,	)	
Plaintiffs,	)	
v.	)	
CREA BRANDON-C LLC and BRANDON	)	
HEALTH OPCO, LLC,	)	
Defendants.	)	

**COMPLAINT**

LaVie Care Centers, LLC (“LaVie”) and Brandon Facility Operations, LLC (“Brandon” and together with LaVie, the “Plaintiffs” or the “Debtor-Plaintiffs”), as debtors and debtors-in-possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (collectively, the “Chapter 11 Cases”), hereby file this adversary complaint (the “Complaint”) pursuant to Rule 7001 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) against CREA Brandon-

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<sup>1</sup> The last four digits of LaVie Care Centers, LLC’s federal tax identification number are 5592. There are 282 Debtors in these chapter 11 cases, which are being jointly administered for procedural purposes only. A complete list of the Debtors and the last four digits of their federal tax identification numbers are not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.veritaglobal.net/LaVie>. The location of LaVie Care Centers, LLC’s corporate headquarters and the Debtors’ service address is 1040 Crown Pointe Parkway, Suite 600, Atlanta, GA 30338.



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C LLC and Brandon Health OpCo, LLC (together, the “Brandon Entities”). As the basis for the Complaint, the Debtor-Plaintiffs state as follows:

### **NATURE OF THE ACTION**<sup>2</sup>

1. Prior to the Chapter 11 Cases, CREA Brandon-C LLC and Brandon Health OpCo, LLC (together, the “Brandon Entities” or the “Defendants”) sued the Debtor-Plaintiffs, for allegations relating to loss of value in a single facility previously divested by the Debtor-Plaintiffs (the “2023 Brandon Action”). The Brandon Entities filed a \$25 million proof of claim against the Debtor-Plaintiffs in their respective Chapter 11 Cases. The 2023 Brandon Action was stayed in June 2024 as a result of the Debtors’ bankruptcy filing, but approximately three months *after* the Petition Date, the Brandon Entities filed a new action in state court (the “2024 Brandon Action”), merely repackaging the breach of contract claims previously alleged against the Plaintiffs as tort claims against two non-Debtors, Pourlessoins, LLC d/b/a Synergy Healthcare Services and Jared Elliott (the former CEO of Brandon’s management company) (together, the “Non-Debtor Defendants”), in a clear attempt to impermissibly circumvent the automatic stay and the bankruptcy process. Accordingly, the Debtor-Plaintiffs hereby seek a limited extension of the automatic stay and/or a preliminary injunction of the claims and causes of action asserted against the Non-Debtor Defendants in the 2024 Brandon Action through the effective date of the Plan for several reasons.

2. ***First***, the Brandon Entities did not opt out of, and are therefore bound by, the Third-Party Release contained in the Debtors’ confirmed chapter 11 plan (the “Plan”). Subject to the Plan going effective, all claims and causes of action asserted in the 2024 Brandon Action have

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them elsewhere in this Complaint. Unless otherwise indicated, citations and quotations are omitted, emphasis is added, and citations to “Ex. \_\_\_” refer to the exhibits being submitted with this Complaint.

been released pursuant to the Third-Party Release, meaning that the Brandon Entities' continued prosecution of such released claims against the Non-Debtor Defendants is a futile and wasteful abuse of process and warrants immediate judicial intervention. In a similar vein, it appears (based upon discovery served to date in the 2024 Brandon Action) that the Brandon Entities may attempt to seek recovery through the Debtors' directors' and officers' insurance, even though these claims will belong to the GUC Trust following the effective date of the Plan. Even if the Brandon Entities could bring such claims in advance of the effective date, such actions would only serve to deplete the universe of D&O Claims that are being assigned to the GUC Trust to the detriment of unsecured creditors (including, ironically, the Brandon Entities on account of their "Class 6B DivestCo General Unsecured Claims" under the Plan).

3. ***Second***, the Plaintiffs are undoubtedly indispensable parties to the 2024 Brandon Action, without which no nexus to the Non-Debtor Defendants exists. The 2024 Brandon Action is a blatant and transparent attempt to merely repurpose breach of contract claims asserted previously against the Debtor-Plaintiffs in the 2023 Brandon Action as tort claims against the Non-Debtor Defendants, in an obvious attempt to circumvent the automatic stay and obtain an alternative recovery. By filing a new complaint that names only non-Debtor entities but relies on identical underlying facts and allegations, the Brandon Entities still seek a judgment or findings against the Debtors, both because such claims depend on adverse findings against the Debtor-Plaintiffs and present—and are inextricably interwoven with—common questions of fact and law. Despite the Brandon Entities' assertions to the contrary, the 2024 Brandon Action, as well as the discovery, depositions, and other litigation workstreams associated therewith, simply cannot proceed without the Debtor-Plaintiffs' involvement, meriting an extension of the automatic stay.

4. ***Finally***, the Debtor-Plaintiffs (and other Debtors) owe broad indemnification obligations to the Non-Debtor Defendants, meaning that the Debtor-Plaintiffs are the “real party defendants” in the 2024 Brandon Action and any judgment against the Non-Debtor Defendants will effectively be a judgment against the Debtor-Plaintiffs, further meriting an extension of the automatic stay.

5. Ultimately, the 2024 Brandon Action should be stayed in the short-term during this post-confirmation, pre-effective date period, to determine whether such actions are released under the Plan. If the Plan goes effective, the 2024 Brandon Action is subject to the release and injunction provisions in the Plan, unless the Court orders otherwise. Even if the Brandon Entities can show that they somehow should not be bound by the third-party release provisions in the Plan, the Court can determine *at that time*, that the action cannot proceed because the Debtors—whose assets will have transferred by that time—are indispensable parties to the 2024 Brandon Action, therefore rendering any action against Synergy (its back-office service provider) and Mr. Elliott (a former CEO of the Debtors’ management company) futile. Accordingly, the Plaintiffs respectfully request that this Court (a) extend the automatic stay to apply to the claims and causes of action asserted against the Non-Debtor Defendants in the 2024 Brandon Action through and including the effective date of the Plan; (b) temporarily enjoin the 2024 Brandon Action through and including the effective date of the Plan; and (c) award all such other and further relief, at law or in equity, that this Court deems just and proper.

#### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b), and the Court may enter a final order consistent with Article III of the United States Constitution. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The legal predicates for the relief requested herein are sections 105(a) and 362(a) of



title 11 of the United States Code (the “Bankruptcy Code”), Bankruptcy Rules 7001(7), 7007, 7019, and 7065 of the Federal Rules of Bankruptcy Procedure, Rule 7007-1 of the Local Rules of Practice for the United States Bankruptcy Court for the Northern District of Georgia (the “Local Rules”), and the *Second Amended and Restated General Order 26-2019, Procedures for Complex Chapter 11 Cases*, dated February 6, 2023 (the “Complex Case Procedures”).

### **PARTIES**<sup>3</sup>

7. Debtor and Plaintiff LaVie Care Centers, LLC is a Delaware limited liability company with its principal address at 1040 Crown Point Parkway, Atlanta, GA 30338.

8. Debtor and Plaintiff Brandon Facility Operations, LLC is an Ohio limited liability company and a licensed former skilled nursing facility operator of the skilled nursing facility known as Brandon Center for Nursing and Rehabilitation (the “Brandon Facility”), located at 701 Victoria Street, Brandon, FL 33510.

9. Upon information and belief, Defendant CREA Brandon-C LLC is a foreign limited liability company with its principal address in New York, NY that is authorized to conduct business in Florida. Since on or about April 1, 2022, upon information and belief, Defendant CREA Brandon-C LLC has been the owner and landlord of the Brandon Facility.

10. Upon information and belief, Defendant Brandon Health OpCo, LLC is a foreign limited liability company with its principal address at 701 Victoria Street, Brandon, FL 33510, that is authorized to conduct business in Florida. Since on or about December 5, 2022, upon information and belief, Defendant Brandon Health OpCo, LLC has been the licensed operator of the Brandon Facility.

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<sup>3</sup> Neither the Plaintiffs nor any Debtors waive any defenses or arguments with respect to the 2023 Brandon Action and the 2024 Brandon Action, and the Plaintiffs and all Debtors reserve all rights, claims, counterclaims, and defenses with respect to the 2023 Brandon Action and the 2024 Brandon Action.

## **FACTUAL BACKGROUND**

### **I. The Chapter 11 Cases**

11. On June 2, 2024 (the “Petition Date”), each Debtor commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code (collectively, the “Chapter 11 Cases”) in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the “Court”). The Debtors continue to operate their business and manage their property as debtors and debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

12. On June 13, 2024, the Office of the United States Trustee for Region 21, Atlanta Division (the “U.S. Trustee”) appointed an official committee of unsecured creditors (the “Committee”). *See* Docket No. 112. To date, no chapter 11 trustee or examiner has been appointed in the Chapter 11 Cases. Additional information regarding the Debtors and these Chapter 11 Cases, including the Debtors’ business operations, capital structure, financial condition, and the reasons for and objectives of these Chapter 11 Cases, is set forth in the *Declaration of M. Benjamin Jones in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 17].

### **II. The 2023 Brandon Action**

13. On May 18, 2023, the Brandon Entities filed a complaint (the “2023 Brandon Complaint”)<sup>4</sup> in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida Business Court, captioned *CREA Brandon-C LLC and Brandon Health OpCo, LLC v. Brandon Facility Operations, LLC and LaVie Care Centers, LLC*, No. 2023-CA-12242-O, commencing the 2023 Brandon Action.

14. On April 19, 2024, the Brandon Entities filed their *Motion for Leave to Amend Complaint* [ECF No. 196615941], seeking to add three additional defendants to the 2023 Brandon

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<sup>4</sup> A true and correct copy of the 2023 Brandon Complaint (without exhibits) is attached hereto as **Exhibit A**. A full version of the 2023 Brandon Complaint, including exhibits, is included in the Brandon POC (as defined below).

Action: Pourlessoins, LLC d/b/a Synergy Healthcare Services, Lidenskab, LLC d/b/a Raydiant Health Care, and Jared Elliott. On May 20, 2024, the Debtor-Plaintiffs filed their *Response in Opposition to Plaintiff's Motion for Leave to Amend* [ECF No. 198736108]. The 2023 Brandon Action, which named both Plaintiffs as defendants, was automatically stayed as a result of the commencement of the Chapter 11 Cases.

15. On June 3, 2024—one day after the Petition Date—the Debtors filed a suggestion of bankruptcy in the 2023 Brandon Action, apprising the Florida Business Court and all parties to the 2023 Brandon Action of the Chapter 11 Cases.

16. On June 6, 2024—four days after the Petition Date—the Brandon Entities filed *Plaintiffs' Reply Memorandum to Defendants' Response in Opposition to Motion for Leave to Amend Complaint* [ECF No. 199989817] (the “Reply”) in the 2023 Brandon Action. The Reply attempted to add the same non-Debtors discussed above to the 2023 Brandon Action.

17. On June 7, 2024, counsel for the Debtors sent a letter to counsel for the Brandon Entities, advising that further action in the 2023 Brandon Action, including filing of the Reply, violated the automatic stay in the Chapter 11 Cases, and demanded that the Reply be withdrawn. The Reply was withdrawn by counsel to the Brandon Entities on June 10, 2024 and no filings have been made in the 2023 Brandon Action since that time.

18. On August 28, 2024, the Brandon Entities filed two proofs of claim, one against Plaintiff Brandon and one against Plaintiff LaVie (together, the “Brandon POC”), asserting a general unsecured claim in the amount of \$25,389,782.52 for claims asserted in the 2023 Brandon Action. *See* Claim Nos. 2590, 2595.<sup>5</sup> Each of the Brandon POC was executed by their counsel at Nelson Mullins Riley & Scarborough LLP.

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<sup>5</sup> A true and correct copy of the Brandon POC is attached hereto as Exhibit B.

### III. The 2024 Brandon Action

19. On September 5, 2024, counsel for the Brandon Entities filed a new complaint (the “2024 Brandon Complaint”) in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida Business Court, captioned *CREA Brandon-C LLC and Brandon Health OpCo, LLC v. Pourlessoins, LLC d/b/a Synergy Healthcare Services and Jared Elliott*, No. 2024-CA-007910-O, commencing the 2024 Brandon Action.<sup>6</sup> The 2024 Brandon Action was filed against two non-Debtor entities, Pourlessoins, LLC d/b/a Synergy Healthcare Services (“Synergy”) and Jared Elliott (“Mr. Elliott”). Synergy provides critical back-office services to the Debtors, including financial, tax, consulting, and other services necessary for the operation of the Debtors’ skilled nursing facilities. Mr. Elliott is a former employee of the Debtors, specifically the chief executive officer of Debtor Lidenskab, LLC d/b/a Raydiant Health Care.

20. The 2024 Brandon Complaint seeks the same relief based on the same alleged facts that the Brandon Entities pursued against the Plaintiffs in the 2023 Brandon Action. Rather than naming the Debtors directly, however, the Brandon Entities improperly recast their contractual claims previously raised against the Plaintiffs in the 2023 Brandon Action as tort claims against one of their affiliates and agents (Synergy) and one of their former employees (Mr. Elliott) in the 2024 Brandon Action, while noticeably avoiding reference to the Debtors, their bankruptcy cases, or the operator of the nursing home at issue.

21. Prior to the filing of this Complaint, the Debtors demanded that the Brandon Entities withdraw the 2024 Brandon Complaint, or they would seek intervention by this Court. To date, the Brandon Entities have refused to withdraw the 2024 Brandon Complaint.

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<sup>6</sup> A true and correct copy of the 2024 Brandon Complaint is attached hereto as Exhibit C.

22. On October 30, 2024, the Non-Debtor Defendants filed their *Motion to Stay Action or, in the Alternative, Motion to Dismiss* [ECF No. 209928834] (the “Motion to Dismiss”). The Motion to Dismiss seeks a stay of the 2024 Brandon Action to prevent further violations of the automatic stay, or, in the alternative, dismissal of the 2024 Brandon Action.

23. On December 3, 2024, the Brandon Entities filed their *Memorandum in Opposition to Defendants’ Motion to Stay/Dismiss* [ECF No. 212068868]. As ordered by the Florida Business Court on December 17, 2024, the Non-Debtor Defendants have until January 7, 2025 to file their reply. *See* ECF No. 213037746.

24. On December 13, 2024, the Brandon Entities filed a *Motion to Compel Production of Documents from Defendant Synergy* [ECF No. 212798962] (the “Motion to Compel”). Nearly all of the document requests referenced in the Motion to Compel refer to discovery in connection with the Debtors’ operation of the facility, including as it relates to four individuals—Kimberly Lucadano, Leshana Clark, Catherine Anyon, and Barbara Monaco—all of whom were former employees of Debtor entities.

#### **IV. The Third-Party Release**

25. On October 1, 2024, the Court entered the *Order (I) Conditionally Approving Disclosure Statement, (II) Scheduling Combined Hearing for November 14, 2024 at 9:30 a.m. (Prevailing Eastern Time), (III) Establishing Procedures for Solicitation and Tabulation of Votes on Plan, (IV) Approving Certain Forms and Notices, and (V) Granting Related Relief* [Docket No. 480] (the “Solicitation Procedures Order”). On October 1, 2024, the Debtors filed the *Notice of (I) Combined Hearing with Respect to the Debtors’ Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Reorganization and (II) Related Objection Deadline* [Docket No. 483] (the “Combined Hearing Notice”).

26. Pursuant to the Solicitation Procedures Order, on or about October 7, 2024, the Debtors commenced solicitation of votes on their proposed chapter 11 plan of reorganization by distributing, among other things, the appropriate ballot or notice of non-voting status, as applicable, on voting and non-voting creditors and the Combined Hearing Notice on all creditors. As reflected in the exhibits attached to and approved by the Solicitation Procedures Order, each ballot contained an opt-out election through which each voting creditor could “opt-out” of the third-party release (the “Third-Party Release”) contained in Article X.D.2 of the Plan, along with a plain language disclaimer explaining the importance and implication of the Third-Party Release. The Combined Hearing Notice, which was distributed to all of the Debtors’ creditors, contained the same plain language disclaimer regarding the importance of the Third-Party Release, and stated:

**YOU HAVE THE CHOICE AS TO WHETHER YOU WILL BE BOUND BY THE THIRD-PARTY RELEASE, AND THE CHOICE IS YOURS ALONE. YOU WILL BE A RELEASING PARTY AND YOUR RIGHTS MAY BE COMPROMISED UNLESS YOU TAKE CERTAIN ACTIONS. IF YOU HOLD A CLAIM AGAINST THE DEBTORS AND WOULD LIKE TO OPT OUT OF THE THIRD-PARTY RELEASE, YOU MUST ELECT TO OPT OUT OF THE THIRD-PARTY RELEASE BY CHECKING THE OPT-OUT BOX ON THE BALLOT OR THE OPT-OUT NOTICE FORM THAT YOU RECEIVE. YOU MUST ALSO VOTE TO REJECT THE PLAN OR ABSTAIN FROM VOTING. IF YOU VOTE TO ACCEPT THE PLAN YOU WILL BE A RELEASING PARTY. IF YOU DO NOT RECEIVE EITHER A BALLOT OR OPT OUT NOTICE FORM YOU MUST OBJECT TO THE THIRD-PARTY RELEASE OR YOU WILL BE A RELEASING PARTY. OPTING OUT OF THE THIRD-PARTY RELEASE WILL NOT OTHERWISE MODIFY YOUR TREATMENT OR RECOVERY UNDER THE PLAN.**

27. Given that their claim was filed against a previously divested facility, the Brandon Entities were entitled to vote in Class 6B (DivestCo General Unsecured Claims). The Brandon Entities were served with the solicitation materials for holders of claims in Class 6B (DivestCo General Unsecured Claims) at the following address:<sup>7</sup>

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<sup>7</sup> As noted in footnote 4 of the *Certificate of Service* filed at Docket No. 619, Verita redacted all litigation parties listed therein out of an abundance of caution to preserve confidentiality. An unredacted copy of the *Certificate of Service* is available from Verita upon request.

CREA Brandon-C LLC and Brandon Health OpCo, LLC  
Shane G. Ramsey  
Nelson Mullins Riley and Scarborough LLP  
1222 Demonbreun Street, Suite 1700  
Nashville, TN 37203

The foregoing address was listed on the Brandon POC and above counsel filed a notice of appearance in the Chapter 11 Cases [Docket No. 335] listing the same address and contact information. As such, the Combined Hearing Notice was also sent to the above counsel via email as part of the Limited Service List. *See Certificate of Service*, Docket No. 619, Ex. L. Finally, the Combined Hearing Notice was also sent to the address listed for the Brandon Entities in the Debtors' schedules and statements: 330 Madison Ave., 27th Floor, New York, NY 10017. *See id.*, Ex. N.

28. Notwithstanding service on the Brandon Entities and their counsel, no ballots, opt-out elections, objections, or responses of any kind were received by the Debtors' claims and noticing agent from the Brandon Entities or from their counsel on the Brandon Entities' behalf. *See Declaration of Jennifer Westwood, on Behalf of Kurtzman Carson Consultants LLC d/b/a Verita Global Regarding Solicitation and Tabulation of Ballots Cast on Debtors' Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Reorganization* [Docket No. 647]. As a result, the Brandon Entities are bound by the terms of the Third-Party Release, which provides, among other things:

each Releasing Party (other than the Debtors or the Reorganized Debtors), in each case on behalf of itself and its respective successors, assigns, and representatives, and any and all other entities who may purport to assert any Claim, Cause of Action, directly or derivatively, by, through, for, or because of a Releasing Party, is **deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each Debtor, Reorganized Debtor, and each other Released Party from any and all claims, interests, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, including any derivative claims,** asserted or assertable

on behalf of any of the Debtors, their Estates or their Affiliates, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to (including the formulation, preparation, dissemination, negotiation, entry into, or filing of, as applicable), or **in any manner arising from, in whole or in part, the Debtors (including the management, ownership or operation thereof)**, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Debtors' in- or out-of-court restructuring efforts, the decision to file the Chapter 11 Cases, any intercompany transactions, the Chapter 11 Cases, the Plan (including the Plan Supplement), the Disclosure Statement, the DIP Facility, the DIP Documents, the Disclosure Statement, the DIP Facility, the DIP Documents, the ABL Credit Agreement, the Omega Term Loan Credit Agreement, the Omega Master Lease, the Omega Note Agreement, the ABL Exit Facility, the ABL Exit Facility Credit Agreement, the pursuit of Confirmation and Consummation, the administration and implementation of the Plan, including the issuance or distribution of Securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, but not, for the avoidance of doubt, any legal opinion effective as of the Effective Date requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan, or upon any other act, omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct, fraud or gross negligence.

Plan, Art. X.D.2 (emphasis added). As such, the Third-Party Release released all of the Brandon Entities' claims and causes of action against the following "Released Parties":

(a) the Debtors and the Reorganized Debtors; (b) the UCC and each of its members (solely in their respective capacities as such); (c) Omega; (d) the ABL Secured Parties; (e) OHI DIP Lender, LLC; (f) TIX 33433 LLC; (g) the CRO; (h) the Independent Manager; and (i) with respect to each of the foregoing Entities, each such Entity's **current and former affiliates**, subsidiaries, officers, directors, managers, principals, members, equity investors, **employees**, **agents**, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, **consultants**, representatives, and **other professionals**, each in their capacity as such . . .

Plan, § 1.243 (emphasis added). Both of the Non-Debtor Defendants are "Released Parties" under the Plan, given Synergy's status as a current affiliate, agent, and consultant of the Debtors, and Mr. Elliott's former employment with the Debtors.



29. On November 14, 2024, the Court held a hearing (the “Combined Hearing”) on, among other things, confirmation of the Plan filed at Docket No. 680. On December 4, 2024, the Debtors filed a revised version of the Plan. *See* Docket No. 730. On December 5, 2024, the Court entered its order confirming the Plan [Docket No. 735] (the “Confirmation Order”) and issued its memorandum opinion regarding the Third-Party Release [Docket No. 736].

30. The Debtors are currently in the process of preparing to “go effective” on the confirmed Plan, with the goal of consummating the transactions set forth therein and emerging from chapter 11 by April 2025.

## **V. The D&O Claims**

31. As set forth in the Plan, any and all claims or causes of action that are or may be covered claims under a current insurance policy of the Debtors or FC XXI against the current and former officers of the Debtors, among others (the “D&O Claims”) are being assigned to the GUC Trust for the benefit of unsecured creditors. *See* Plan, Art. VI.H. Among other things, the 2024 Brandon Complaint states that Mr. Elliott and Synergy “breached their duty of care” in their management of the Brandon skilled nursing facility. *See* 2024 Brandon Compl., ¶ 16.

32. In connection with the 2023 Brandon Action, the Brandon Entities sought to make a claim on the Debtors’ D&O policy.<sup>8</sup> In addition, in connection with discovery requests propounded in the 2024 Brandon Action, the Brandon Entities sought information relating to the Debtor-Plaintiffs directors’ and officers’ insurance coverage. Given that the Brandon Entities are attempting to seek recoveries on the Debtors’ D&O coverage, they are effectively trying to “end-run” around all other Class 6.B creditors and obtain enhanced recoveries in a manner that would unjustly enrich the Brandon Entities to the detriment of all other unsecured creditors.

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<sup>8</sup> A true and correct copy of the Brandon Entities’ letter regarding D&O coverage is attached hereto as Exhibit D.

## VI. The Indemnification Obligations

33. Pursuant to various operating agreements and administrative services agreements, the Debtor-Plaintiffs and certain other Debtors are contractually obligated to indemnify the Non-Debtor Defendants for any damages and reasonable attorneys' fees incurred in connection with the claims asserted in the 2024 Brandon Action, creating an identity of interest and meriting an extension of the automatic stay.

### A. The Operating Agreements

34. Pursuant to their limited liability company operating agreements (each, an "Operating Agreement" and together, the "Operating Agreements"),<sup>9</sup> both LaVie and Brandon must indemnify the Non-Debtor Defendants for any liability under the 2024 Brandon Action. Sections 17(b)(i)-(ii) of the Operating Agreements provide:

[A]n Indemnified Representative who has been successful, on the merits or otherwise, in the defense of any Proceeding, or in the defense of any claim, issue, or matter in the Proceeding, **shall be indemnified** against reasonable expenses incurred by the Indemnified Representative in connection with the Proceeding, claim, issue or matter in which the Indemnified Representative was successful.

**The Company shall indemnify an Indemnified Representative against any Liability incurred in connection with any Proceeding in which the Indemnified Representative may be involved as a party or otherwise by reason of the fact that such person is or was serving in an Indemnified Capacity**, including, without limitation, any Liability resulting from any actual or alleged breach or neglect of duty, error, misstatement or misleading statement, negligence, gross negligence or act giving rise to strict or products liability. . . .

See Exs. E-1, E-2 at § 17(b)(i)-(ii) (emphasis added).

35. The Operating Agreements define "Indemnified Representative" as:

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<sup>9</sup> A true and correct copy of the Operating Agreement for LaVie is attached hereto as **Exhibit E-1** and a true and correct copy of the Operating Agreement for Brandon is attached hereto as **Exhibit E-2**.

[A]ny and all **members, managers, officers, employees and agents of the Company and any other person designated as an Indemnified Representative** by the Member (which may, but need not, include any person serving at the request of the Company, as a **member, manager, officer, employee, agent, fiduciary or trustee of another limited liability company, corporation, partnership, joint venture, trust, employee benefit plan or other entity or enterprise**).

*See id.* at § 17(a)(ii) (emphasis added). Based on the foregoing, Synergy and Mr. Elliott each constitute an “Indemnified Representative” due to their roles as agent and/or employee of LaVie and/or Brandon, as applicable.

36. The Operating Agreements define “Indemnified Capacity” as:

[A]ny and all **past, present and future service by an Indemnified Representative in one or more capacities** as a member, manager, officer, employee or agent of the Company, or, at the request of the Company, as a member, manager, officer, employee, agent, fiduciary or trustee of another limited liability company, corporation, partnership, joint venture, trust, employee benefit plan or other entity or enterprise.

*See id.* at § 17(a)(i) (emphasis added). The services provided by Synergy and Mr. Elliott, each as Indemnified Representatives, were provided in an “Indemnified Capacity”, with the expectation of indemnification obligations from the Plaintiffs.

37. Finally, the Operating Agreements defines “Proceeding” as:

[A]ny threatened, **pending** or completed **action, suit, appeal or other proceeding of any nature**, whether civil, criminal, administrative or investigative, whether formal or informal, and whether brought by or in the right of the Company, a class of its members, or security holders or otherwise.

*See id.* at § 17(a)(iv) (emphasis added). As a pending action, the 2024 Brandon Action easily fits within the definition of “Proceeding.”

38. Accordingly, the Debtor-Plaintiffs’ indemnification obligations under their Operating Agreements are clearly implicated for both of the Non-Debtor Defendants.

**B. The Administrative Services Agreement**

39. Debtor Lidenskab, LLC d/b/a Raydiant Health Care (“Raydiant”) is party to an administrative services agreement with Non-Debtor Defendant Synergy dated as of December 1, 2021 (as amended, supplemented, or otherwise modified from time to time, the “Administrative Services Agreement”).<sup>10</sup> Pursuant to Article VIII of the Administrative Services Agreement, Raydiant and Synergy are contractually obligated to broadly indemnify each other for, among other things, “third-party claims” which are caused in whole or in part by any negligent act or omission of the other party in connection with performance of their duties. Specifically, section 8.1 of the Administrative Services Agreement provides as follows:

[Synergy] and [Raydiant] shall **indemnify and hold each other and their respective officers, directors, members, employees and affiliates** (each, an “Protected Party”) harmless from any and all claims, losses, judgments, actions, proceedings, damages, expenses and liabilities whatsoever incurred by a Protected Party, including reasonable attorneys’ fees, arising out of a material breach of this Agreement or **any third-party claims which are caused in whole or in part by any negligent act or omission of the other party in connection with the performance of its duties under this Agreement.** . . .

*See* Ex. F at § 8.1 (emphasis added). Accordingly, pursuant to the Administrative Services Agreement, Debtor Raydiant is obligated to indemnify Non-Debtor Defendant Synergy for “third-party claims” caused in whole or in part by any negligent act or omission in connection with the performance of its duties, including potentially the “third-party claims” alleged in the 2024 Brandon Action. Importantly, the indemnification provisions in the Administrative Services Agreement expressly survive termination. *See id.* at § 8.1 (“The obligations under this Section 8.1 shall survive termination or expiration of this Agreement.”).

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<sup>10</sup> A true and correct copy of the Administrative Services Agreement is attached hereto as **Exhibit F**.

**COUNT ONE**

**(Extension of Automatic Stay Pursuant to Bankruptcy Code Section 362)**

40. The allegations set forth above are incorporated herein by reference.

41. Upon the commencement of a bankruptcy case, Bankruptcy Code section 362(a) operates to stay:

- (1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;
- (2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;
- (3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;
- ...
- (6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title . . .

11 U.S.C. § 362(a)(1), (2), (3), (6).

42. As set forth above, bankruptcy courts may extend the automatic stay to prevent any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case. Due to their election to not opt out or object to the Third-Party Release, the Brandon Entities are bound by the Third-Party Release contained in the confirmed Plan, meaning that all of their claims against the Non-Debtor Defendants have been released by the Brandon Entities and are no longer viable. As such, continued prosecution of these released claims against the Non-Debtor Defendants in the 2024 Brandon Action is a futile and wasteful abuse of process and warrants intervention by this Court. If permitted to continue, the Brandon Entities could

theoretically (and impermissibly) recover twice for the same claims, both in the Chapter 11 Cases via the Brandon POC and in the 2024 Brandon Action.

43. Additionally, bankruptcy courts may also extend the automatic stay to non-debtor third parties where a debtor is an “indispensable party” to the third-party litigation. Here, the Plaintiffs are indispensable parties to the 2024 Brandon Action, as the same factual allegations asserted against the Plaintiffs in the 2023 Brandon Action are asserted in the 2024 Brandon Action and any discovery, depositions, or related litigation involving former employees of the Plaintiffs necessarily require the Plaintiffs’ involvement.

44. Finally, bankruptcy courts in the Eleventh Circuit may also extend the automatic stay to non-debtor third parties when there is an identity of interest between the debtor and another defendant. Here, there is an identity of interest between the Plaintiffs and the Non-Debtor Defendants in the 2024 Brandon Action because, pursuant to the indemnification obligations, the Plaintiffs are obligated to defend and indemnify the Non-Debtor Defendants, implicating the Plaintiffs as the “real party defendant” and meaning that a judgment against the Non-Debtor Defendants would essentially be a judgment against the Plaintiffs. Moreover, there is an identity of interest because, as noted above, the Plaintiffs are inextricably interwoven into the facts, claims, and defenses in the 2024 Brandon Action necessitating their involvement.

45. Given the foregoing, this Court should grant a limited extension of the automatic stay to the Non-Debtor Defendants in the 2024 Brandon Action through and including the effective date of the Plan.

**COUNT TWO**  
**(Preliminary Injunction Pursuant to Bankruptcy Code Section 105)**

46. The allegations set forth above are incorporated herein by reference.

47. Bankruptcy Code section 105(a) permits the bankruptcy court to issue any order “necessary or appropriate” to assure the administration of the debtor’s bankruptcy estate, including issuing injunctions to enjoin actions against non-debtors. *See* 11 U.S.C. § 105(a).

48. As discussed in the Brief filed contemporaneously herewith, the Plaintiffs have shown (a) a reasonable likelihood of a successful reorganization and success on the merits (as evidenced by the confirmed Plan); (b) a danger of imminent, irreparable harm to their estates in absence of an injunction; (c) the balance of equities tips in favor of the Plaintiffs as opposed to the Brandon Entities who would be temporarily enjoined; and (d) the public interest in successful bankruptcy reorganization outweighs other competing societal interests that may be implicated here. In contrast to the immediate and irreparable harm the Debtors and their estates would face if injunctive relief were denied, the only potential harm faced by the Brandon Entities is mere delay in prosecuting an action that is a blatant “end-run” around the automatic stay. Finally, public interest favors an injunction, which would enable the Debtors to focus on successfully emerging from chapter 11 pursuant to the value-maximizing Plan that was previously confirmed by this Court.

49. Accordingly, a temporary preliminary injunction barring the Brandon Entities from prosecuting the claims and causes of action enumerated in the 2024 Brandon Action against the Non-Debtor Defendants until the effective date of the Plan is appropriate and essential to the orderly and effective administration of the Debtors’ estates.

### **PRAYER FOR RELIEF**

WHEREFORE, the Debtor-Plaintiffs respectfully request that this Court enter an order:

- (a) extending the automatic stay to apply to the claims and causes of action against the Non-Debtor Defendants in the 2024 Brandon Action through and including the effective date of the Plan;

- (b) enjoining the 2024 Brandon Action under Bankruptcy Code section 105 through and including the effective date of the Plan; and
- (c) awarding all such other and further relief, at law or in equity, that this Court deems just and proper.

Dated: Atlanta, Georgia  
January 6, 2025

**MCDERMOTT WILL & EMERY LLP**

/s/ Daniel M. Simon

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*Counsel for the Debtors and Debtors-in-Possession*



**CERTIFICATE OF SERVICE**

I hereby certify that on this date a true and correct copy of the foregoing document was served by the Court's CM/ECF system on all counsel of record registered in these Chapter 11 Cases through CM/ECF. The Debtors' claims and noticing agent will be filing a supplemental certificate of service on the docket to reflect any additional service of the foregoing document, including on the Brandon Entities and the Limited Service List.

Dated: Atlanta, Georgia  
January 6, 2025

**MCDERMOTT WILL & EMERY LLP**

/s/ Daniel M. Simon

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**EXHIBIT A**

**2023 Brandon Complaint**

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,  
IN AND FOR ORANGE COUNTY, FLORIDA**

CREA BRANDON-C LLC and  
BRANDON HEALTH OPCO, LLC,

Plaintiffs,

vs.

CASE NO.

DIVISION:

BRANDON FACILITY OPERATIONS, LLC  
and LAVIE CARE CENTERS, LLC,

Defendants.

\_\_\_\_\_ /

**COMPLAINT FOR DAMAGES**

Plaintiffs, CREA Brandon-C LLC and Brandon Health OpCo, LLC, sue Defendants  
Brandon Facility Operations, LLC and LaVie Care Centers, LLC, and state:

1. This complaint arises from the purchase of a skilled nursing facility located at 701 Victoria Street, Brandon, FL 33510. Plaintiff CREA Brandon-C LLC through its affiliate purchased the Brandon facility for \$17,400,000. Prior to the purchase. Defendants or their affiliates operated and managed the Brandon facility. The Defendants breached multiple agreements by failing to disclose significant legal and regulatory violations and survey deficiencies. Following the sale and turnover of operations, Plaintiffs discovered that Defendants ran the Brandon facility into the ground resulting in the government-mandated removal and relocation of most facility residents around the end of June 2022. For many months continuing to the present, the Brandon facility has had few residents or revenues. The damages, losses and diminution in value suffered by Plaintiffs amount to many millions of dollars for which recovery is sought.

**PARTIES**

2. Plaintiff CREA Brandon-C LLC is a foreign limited liability company with its principal address in New York, NY, that is authorized to conduct business in Florida. Since on or about April 1, 2022, CREA Brandon-C LLC has been the owner and landlord of the Brandon facility now known as Brandon Center for Nursing and Rehabilitation, 701 Victoria Street, Brandon, FL 33510.

3. Plaintiff Brandon Health OpCo, LLC is a foreign limited liability company with its principal address at 701 Victoria Street, Brandon, FL 33510, that is authorized to conduct business in Florida. Due to licensure violations caused by Defendants as more fully described below, Plaintiff Brandon Health OpCo, LLC did not become the licensee of Brandon Center for Nursing and Rehabilitation legally responsible for its operations until December 5, 2022. Since December 5, 2022, Plaintiff Brandon Health OpCo, LLC has operated Brandon Center for Nursing and Rehabilitation under a lease with Plaintiff CREA Brandon-C LLC.

4. Defendant Brandon Facility Operations, LLC is a foreign limited liability company with its principal address at 850 Concourse Parkway South, Maitland, FL 32751, that is authorized to conduct business in Florida. Before December 5, 2022, Defendant Brandon Facility Operations, LLC was the licensee of the facility located at 701 Victoria Street, Brandon, FL 33510, and legally responsible for its operations. Before December 15, 2021, Defendant Brandon Facility Operations, LLC operated the facility under the name Consulate Health Care of Brandon, and from December 15, 2021 through December 5, 2022 under the name Raydiant Health Care of Brandon.

5. Defendant LaVie Care Centers, LLC is a foreign limited liability company with its principal address at 850 Concourse Parkway South, Maitland, FL 32751, that is authorized to conduct business in Florida.

### **JURISDICTION AND VENUE**

6. This is an action for damages in excess of \$50,000, exclusive of interest, costs, and attorneys' fees.

7. Venue is proper in Orange County, Florida, as that is where Defendants Brandon Facility Operations, LLC and LaVie Care Centers, LLC reside, where Defendant Pourlessoins, LLC has an office, and where the causes of action accrued.

### **FACTUAL BACKGROUND**

8. In 2021, the largest nursing home chain in Florida, Consulate Health Care, including Brandon Facility Operations, LLC, d/b/a Consulate Health Care of Brandon, experienced financial difficulties. Those difficulties resulted from a \$258 million federal False Claims Act judgment and the COVID-19 pandemic. In March 2021, a unit of Consulate Health Care filed for Chapter 11 bankruptcy protections. As part of Consulate Health Care's rebranding effort, on December 15, 2021, Defendant Brandon Facility Operations changed Consulate Health Care of Brandon's name to Raydiant Health Care of Brandon. The Defendants assisted Raydiant Health Care of Brandon's owner in selling the facility.

9. Plaintiff CREA Brandon-C through its affiliate purchased Raydiant Health Care of Brandon for \$17,400,000 on January 31, 2022. On that same day, CREA Brandon-C entered into a Lease Agreement of Raydiant Health Care of Brandon with the then-current licensee and operator, Defendant Brandon Facility Operations, which purportedly had skill and expertise in operating Florida nursing homes.

10. Plaintiff Brandon Health OpCo applied to the Florida Agency for Health Care Administration ("AHCA") for a license to operate Raydiant Health Care of Brandon, but AHCA delayed action on the application due to pending administrative proceedings against Defendant Brandon Facility Operations. In those administrative proceedings, AHCA alleged that Defendant

Brandon Facility Operations committed numerous legal violations in operating Consulate Health Care of Brandon and Raydiant Health Care of Brandon, and AHCA sought imposition of administrative fines, revocation of Defendant Brandon Facility Operations' nursing home license, and other remedies.

11. Since Brandon Health OpCo did not have a license legally required to lease or operate Raydiant Health Care of Brandon, it entered into an Operations Transfer Agreement with Defendant Brandon Facility Operations, to facilitate an orderly transition of facility operations.

12. Defendant Brandon Facility Operations operated Raydiant Health Care of Brandon for the Plaintiffs pursuant to the lease agreement and operations transfer agreement from February 1, 2022 through at least March 31, 2022. Although Defendant Brandon Facility Operations ceased paying rent after March 31, 2022, as licensee of Raydiant Health Care of Brandon it remained legally responsible for operations until December 5, 2022, when AHCA approved Brandon Health OpCo's license application.

13. Government regulatory agencies frequently cited Defendant Brandon Facility Operations for non-compliance with legal standards. The May 14, 2021 federal survey resulted in ten (10) deficiencies. Six months later, AHCA conducted a complaint survey, found additional deficiencies, and determined Consulate Health Care of Brandon to be out of compliance with federal law. The non-compliance continued for several months. Shortly thereafter, a Raydiant Health Care of Brandon resident eloped and Defendant Brandon Facility Operations misreported the incident to AHCA.

14. On AHCA's resurvey in February 2022, Raydiant Health Care of Brandon remained out of compliance with legal requirements.

15. On or about March 10, 2022, Defendant Brandon Facility Operations received notice of denial of payment for new admissions to Raydiant Health Care of Brandon. Defendant

Brandon Facility Operations failed to notify the Plaintiffs of this notice despite its obligation to do so under the Lease Agreement and Operations Transfer Agreement.

16. In April 2022, AHCA conducted additional surveys and investigated the resident elopement. Defendant Brandon Facility Operations was again found to be out of compliance. On April 21, 2022, Defendant Brandon Facility Operations was informed of an immediate jeopardy citation, but immediate jeopardy was removed the next day. In June, AHCA investigated additional complaints and found numerous deficiencies that arose before April 1, 2022.

17. Based on the June 2022 survey, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (“CMS”), imposed several remedies upon Defendant Brandon Facility Operations, including:

- a. Medicare provider agreement will be involuntary terminated on July 6, 2022;
- b. Denial of payment for new admissions remains in effect as of March 10, 2022;
- c. Civil money penalty of \$1,630 per day effective June 8, 2022 until termination of Medicare provider agreement on July 6, 2022; and
- d. Keeping previously imposed civil monetary penalties in effect, specifically:
  - i. \$19,530 effective February 10, 2022
  - ii. \$22,320 effective April 22, 2022

18. CMS terminated Defendant Brandon Facility Operations’ Medicare provider agreement on July 6, 2022, triggering termination of its Medicaid provider agreement. Termination of these agreements eliminated the major sources of residents and income for Raydiant Health Care of Brandon, and those losses have continued to the present.

19. On July 19, 2022, AHCA filed a 109-page administrative complaint against Brandon Facility Operations seeking, among other remedies, revocation of its nursing home license to operate Raydiant Health Care of Brandon.

20. Defendant Brandon Facility Operations settled AHCA's administrative complaint in November 2022, by agreeing to pay \$35,000 in administrative fines and imposition of conditional license retroactive to December 21, 2021.

21. All conditions precedent to the initiation and maintenance of this complaint have been performed, have occurred, are futile, are excused, or have been waived.

**COUNT I – BREACH OF LEASE AGREEMENT**

***(CREA Brandon-C LLC Against Brandon Facility Operations, LLC)***

22. Plaintiff, CREA Brandon-C LLC realleges and reincorporates paragraphs 1 through 21 as if fully stated here.

23. On January 31, 2022, Plaintiff CREA Brandon-C and Defendant Brandon Facility Operations entered into a Lease Agreement ("Lease"), pursuant to which Brandon Facility Operations operated Raydiant Health Care of Brandon. The Lease is attached as **Exhibit A**. Plaintiff CREA Brandon-C performed all obligations due and owing to Defendant Brandon Facility Operations with respect to the Lease.

24. Defendant Brandon Facility Operations breached the Lease in several respects:

- a. Occupancy provisions in sections 6.1, 6.2., and 6.3, by:
  - i. Failing to maintain in good standing the license permitting the operation of the premises as a skilled nursing facility;
  - ii. Allowing acts to be done or conditions to exist on the premises which may be dangerous; and



- iii. Upon termination, failing to return to Lessor, i.e., CREA Brandon-C, the premises in no worse condition as it existed on the effective date, and with an unrestricted license in full force and good standing.
- b. Repairs and maintenance provision in section 10.1(a) by failing to keep and maintain the premises in good order and condition and in a suitable state of repair;
- c. Legal compliance provisions in sections 12.1, 12.3, and 12.4, by:
  - i. Failing to obey, observe and promptly comply with all present and future laws, rules, regulations and requirements of any governmental agency or authority having jurisdiction over the premises and the operation of the skilled nursing facility;
  - ii. Failing to keep in good standing and in full force and effect all necessary licenses, permits and certifications required by any governmental authority for maintaining and operating on the premises a skilled nursing facility, and the facility shall at all times continue to be qualified to participate in the Medicare and Medicaid reimbursement programs; and
  - iii. Failing to deliver or send to Lessor within 7 days following receipt, copies of any notices from CMS or any agency terminating, disqualifying or suspending, or reasonably likely to result in the termination, disqualification or suspension of the Medicaid or Medicare provider agreements, the license or any other certification relating to facility operations or participation in any governmental or non-governmental reimbursement or third party payor program, including Medicare or Medicaid.

- d. Default provisions in sections 18.1(b), (h), (j), and (k), by:
  - i. Failing to perform, or violation of, any of the covenants, terms, conditions or provision of the Lease;
  - ii. Any material suspension, termination or restriction placed upon Lessee, i.e., Brandon Facility Operations, or the facilities, or the ability to admit residents or patients (e.g., an admissions ban or non-payment for new admissions by Medicare or Medicaid), and such suspension, termination or restriction continues for more than 30 days after imposition;
  - iii. Termination or revocation of the license or any material provider agreement; and
  - iv. Cessation of operations and relocation of patients.
- e. Lessee's representations in sections 29.2(c) and (d), by:
  - i. Failing to keep and maintain the facilities at all times in good order and repair in full compliance with all material laws; and
  - ii. Misrepresenting the absence of pending or threatened claims, lawsuits, governmental actions or other proceeding involving Lessee's operation of the facilities before any court, agency or other judicial, administrative or other governmental body. Lessee covenants to give notice to Lessor of any pending or threatened claims, lawsuits, governmental or other proceedings involving Lessee's operation of any individual facility in an actual amount of \$300,000 or more, such notice to be delivered with 10 days of Lessee's knowledge.
- f. Termination provision in section 32.1(a) by failing to return to Lessor the premises and personal property in a condition no worse other than that

which existed on the effective date, licensed by any governmental agencies having jurisdiction over the premises.

25. The breaches of Lease by Defendant Brandon Facility Operations have injured Plaintiff CREA Brandon-C in the form of compensatory damages amounting to millions of dollars, lost revenue and lost profits, diminution of property value, loss of professional standing and position, and damage to reputation, all of which are continuing and permanent.

26. Section 35.6 of the Lease provides, “If an action shall be brought ... on account of any breach of or to enforce ... this Lease .... the prevailing party shall be entitled to recover from the other party, as part of the prevailing party’s costs, reasonable attorneys’ fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered.” Ex. A at 29. CREA Brandon-C seeks its fees, costs, and expenses incurred in prosecuting this complaint under this provision.

WHEREFORE, Plaintiff, CREA Brandon-C LLC, demands judgment in its favor and against Defendant Brandon Facility Operations, LLC for damages in excess of \$50,000, together with prejudgment interest, costs, attorneys’ fees, and any other relief the Court deems just and proper.

## **COUNT II – BREACH OF CORPORATE LEASE GUARANTY**

### ***(CREA Brandon-C LLC Against LaVie Care Centers, LLC)***

27. Plaintiff, CREA Brandon-C LLC, realleges and reincorporates paragraphs 1 through 26 above as if fully stated here.

28. On January 31, 2022, Defendant LaVie Care Centers, LLC executed and delivered a Corporate Lease Guaranty to Plaintiff CREA Brandon-C, a copy of which is attached and incorporated by reference as **Exhibit B**.

29. Plaintiff CREA Brandon-C performed all conditions precedent to be performed by plaintiff or the conditions have occurred.

30. Defendant LaVie Care Centers guaranteed all Defendant Brandon Facility Operations' obligations under the Lease.

31. On or about April 5, 2023, Plaintiff CREA Brandon-C sent Defendant LaVie Care Centers a written demand regarding Defendant Brandon Facility Operations' breaches of the Lease and the resulting damages, losses and diminution in value amounting to \$25,000,000.

32. Defendant LaVie Care Centers has refused to pay the demand for \$25,000,000 or any part of it.

33. Defendant LaVie Care Centers owes Plaintiff CREA Brandon-C \$25,000,000 with interest at a rate per annum of 5% due monthly from April 5, 2023. Exhibit B at 1.

34. Section 7 of the Corporate Lease Guaranty provides, "In the event that Lessor prevails on the merits of its claim, Guarantor shall additionally pay to Lessor upon demand all reasonable out of pocket costs, costs and expenses incurred by Lessor in connection with placing this Guaranty in the hands of one attorney for collection or any other legal proceeding with respect to Guarantor ...." Exhibit B at 2. CREA Brandon-C seeks its fees, costs, and expenses incurred in prosecuting this complaint under this provision.

WHEREFORE, Plaintiff, CREA Brandon-C LLC, demands judgment in its favor and against Defendant LaVie Care Centers, LLC for damages in excess of \$50,000, together with prejudgment interest, costs, attorneys' fees, and any other relief the Court deems just and proper.

**COUNT III – BREACH OF OPERATIONS TRANSFER AGREEMENT**

***(Brandon Health OpCo, LLC and CREA Brandon-C LLC Against Brandon Facility Operations, LLC and LaVie Care Centers, LLC)***

35. Plaintiffs, Brandon Health OpCo, LLC and CREA Brandon-C LLC, reallege and reincorporate paragraphs 1 through 21 above as if fully stated here.

36. On January 31, 2022, Plaintiff Brandon Health OpCo and Defendant Brandon Facility Operations entered into an Operations Transfer Agreement (“OTA”), pursuant to which Brandon Facility Operations operated Raydiant Health Care of Brandon until Brandon Health OpCo obtained its license to operate the facility from AHCA. Moreover, Defendant LaVie Care Centers, LLC guaranteed certain obligations of Defendant Brandon Facility Operations under the OTA. The OTA is attached as **Exhibit C**.

37. Plaintiff Brandon Health OpCo performed all obligations due and owing to Defendants Brandon Facility Operations and LaVie Care Centers with respect to the OTA.

38. The OTA was expressly intended for Plaintiff CREA Brandon-C’s benefit by ensuring continued business operations of Raydiant Health Care of Brandon and transition of those operations from Defendant Brandon Facility Operations to Plaintiff Brandon Health OpCo.

39. Plaintiff CREA Brandon-C is an intended third-party beneficiary of the OTA entitled to enforce its provisions against Defendants Brandon Facility Operations and LaVie Care Centers.

40. Defendant Brandon Facility Operations breached the OTA in the following respects:

- a. By failing to comply in all material respects with all applicable laws in connection with performance of the OTA as required by section 2.12;
- b. By failing to promptly notify New Operator, i.e., Brandon Health OpCo, of events which could reasonably expected to have a material adverse effect as required by section 2.19;

- c. Failing to comply with health care representations in section 4.7(a), (b), (c), (d), (f), and (i), by:
  - i. Misrepresenting that Current Operator, i.e., Brandon Facility Operations, has not received any notice from any Governmental Entity or other applicable authority of ... any violation, non-renewal, suspension or revocation of any such licenses that has not been dismissed or cured;
  - ii. Misrepresenting that Raydiant Health Care of Brandon's license on the closing date shall be unrestricted, unconditional, in good standing and in full force and subject to no limitations;
  - iii. Misrepresenting that Current Operator has operated Raydiant Health Care of Brandon in compliance with all laws necessary to operate the facility as licensed by the applicable Governmental Entity;
  - iv. Misrepresenting that, except as disclosed on schedule 4.7(c), there are no outstanding inspections, surveys, or plans of correction, and no deficiencies exist in respect of any such inspections, surveys or plans of correction, nor has Current Operator been cited for substandard quality of care;
  - v. Misrepresenting that there are no implemented bans, remedies, sanctions, prohibitions on payment, or limitations in effect with respect to Raydiant Health Care of Brandon, and no action has been taken or recommended, nor, to Current Operator's knowledge, is there any basis for any action, by any Governmental Entity, either to revoke, withdraw

- or suspend its license to operate the facility or to terminate or decertify any participation of the facility in the Medicare or Medicaid programs;
- vi. Misrepresenting that Raydiant Health Care of Brandon has not been cited for any material deficiency that has not been cured that would result in a denial of payment for new admissions, civil monetary penalties, termination, final revocation or cancellation of any license, or termination or other restriction of a provider agreement within the three (3) year period immediately preceding the Effective Date;
- vii. Misrepresenting that Current Operator does not have any knowledge of any fact or circumstance that would cause any provider agreement not to remain in force or be renewed on and after closing;
- viii. Misrepresenting that there is no investigation or survey pending or, to Current Operator's knowledge, threatened, involving any of the government reimbursement programs and Current Operator has no reason to believe that any such investigations or surveys are pending, threatened, or imminent;
- ix. Misrepresenting that Current Operator has not received written notice, and Current Operator does not have any knowledge,
- a. that any actions will or may be taken with respect to any of the foregoing representations and warranties that could result in a violation of, or action described under, any of the foregoing representations and warranties in section 4.7;
- b. that Current Operator or Raydiant Health Care of Brandon is under investigation or review with respect to any of the subjects

described in the foregoing representations and warranties in section 4.7; and

c. of the existence of any circumstances or occurrences that could be reasonably believed to lead to a violation of, or action described under, any of the foregoing representations and warranties in section 4.7; and

d. Failing to comply with legal representations in section 4.10 by misrepresenting that to Current Operator's knowledge, Raydiant Health Care of Brandon is being used and operated by Current Operator in compliance in all material respects with applicable and material statutes, laws, regulations, rules, licensing requirements, ordinances, orders or permits of any kind whatsoever affecting the facility or any part thereof, and any rules or regulations promulgated thereunder.

41. Defendant LaVie Care Centers guaranteed obligations of Defendant Brandon Facility Operations under OTA sections 2.5, 2.9, and 5, and is liable under the OTA for Defendant Brandon Facility Operations' breaches specified above.

42. The breaches of OTA by Defendants Brandon Facility Operations and LaVie Care Centers have injured Plaintiffs Brandon Health OpCo and CREA Brandon-C in the form of compensatory damages amounting to millions of dollars, lost revenue and lost profits, diminution of property and leasehold value, loss of professional standing and position, and damage to reputation, all of which are continuing and permanent.

43. Section 6.3 of the OTA provides, "In the event of any dispute or controversy arising out of this Agreement, including in connection with the interpretation of any term or condition of this Agreement, the prevailing party shall recover from the non-prevailing party all



reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party." Exhibit C at 30. Brandon Health OpCo and CREA Brandon-C seek their fees, costs, and expenses incurred in prosecuting this complaint under this provision.

WHEREFORE, Plaintiffs, Brandon Health OpCo, LLC and CREA Brandon-C LLC, demand judgment in their favor and against Defendants Brandon Facility Operations, LLC and LaVie Care Centers, LLC for damages in excess of \$50,000, together with prejudgment interest, costs, attorneys fees, and any other relief the Court deems just and proper.

DATED: May 17, 2023

Respectfully submitted,

**NELSON MULLINS RILEY &  
SCARBOROUGH LLP**

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*Attorneys for Plaintiffs CREA Brandon-C LLC  
and Brandon Health OpCo, LLC.*

Exhibits:

- A: Lease Agreement
- B: Corporate Lease Guarantee
- C: Operations Transfer Agreement

**EXHIBIT B**

**Brandon POC**

Fill in this information to identify the case:

Debtor Brandon Facility Operations, LLC

United States Bankruptcy Court for the: Northern District of Georgia  
(State)

Case number 24-55563

Official Form 410  
Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>CREA Brandon-C LLC and Brandon Health OpCo, LLC</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? See summary page	Where should payments to the creditor be sent? (if different)
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Contact phone <u>615-664-5355</u> Contact email <u>shane.ramsey@nelsonmullins.com</u>	Contact phone _____ Contact email _____
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6.	<b>Do you have any number you use to identify the debtor?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____
7.	<b>How much is the claim?</b> \$ <u>25,389,782.52</u>	<b>Does this amount include interest or other charges?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8.	<b>What is the basis of the claim?</b> Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.  <u>Breach of Contract</u>	
9.	<b>Is all or part of the claim secured?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. <div style="margin-left: 40px;"> <b>Nature or property:</b>  <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i>.  <input type="checkbox"/> Motor vehicle  <input type="checkbox"/> Other. Describe: _____         </div> <div style="margin-left: 40px; margin-top: 20px;"> <b>Basis for perfection:</b> _____          Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)         </div> <div style="margin-left: 40px; margin-top: 20px;"> <b>Value of property:</b> \$ _____  <b>Amount of the claim that is secured:</b> \$ _____  <b>Amount of the claim that is unsecured:</b> \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)         </div> <div style="margin-left: 40px; margin-top: 20px;"> <b>Amount necessary to cure any default as of the date of the petition:</b> \$ _____         </div> <div style="margin-left: 40px; margin-top: 20px;"> <b>Annual Interest Rate</b> (when case was filed) _____ %  <input type="checkbox"/> Fixed  <input type="checkbox"/> Variable         </div>	
10.	<b>Is this claim based on a lease?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. <b>Amount necessary to cure any default as of the date of the petition.</b> \$ _____	
11.	<b>Is this claim subject to a right of setoff?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____	



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. Check all that apply:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☐ Up to \$3,350\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

☐ Wages, salaries, or commissions (up to \$15,150\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

☐ Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.

Amount entitled to priority

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. 503(b)(9)?

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ \_\_\_\_\_

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 08/28/2024  
MM / DD / YYYY

/s/Shane G. Ramsey  
Signature

Print the name of the person who is completing and signing this claim:

Name Shane G. Ramsey  
First name Middle name Last name

Title Attorney

Company Nelson Mullins Riley and Scarborough LLP  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address

Contact phone \_\_\_\_\_ Email \_\_\_\_\_



For phone assistance: Domestic (877) 709-4750 | International (424) 236-7230

<b>Debtor:</b> 24-55563 - Brandon Facility Operations, LLC <b>District:</b> Northern District of Georgia, Atlanta Division		
<b>Creditor:</b> CREA Brandon-C LLC and Brandon Health OpCo, LLC Shane G. Ramsey Nelson Mullins Riley and Scarborough LLP 1222 Demonbreun Street, Suite 1700 Nashville, TN, 37203 <b>Phone:</b> 615-664-5355 <b>Phone 2:</b> <b>Fax:</b> <b>Email:</b> shane.ramsey@nelsonmullins.com	<b>Has Supporting Documentation:</b> Yes, supporting documentation successfully uploaded <b>Related Document Statement:</b>	
	<b>Has Related Claim:</b> No <b>Related Claim Filed By:</b>	
	<b>Filing Party:</b> Authorized agent	
<b>Other Names Used with Debtor:</b>	<b>Amends Claim:</b> No <b>Acquired Claim:</b> No	
<b>Basis of Claim:</b> Breach of Contract	<b>Last 4 Digits:</b> No	<b>Uniform Claim Identifier:</b>
<b>Total Amount of Claim:</b> 25,389,782.52	<b>Includes Interest or Charges:</b> No	
<b>Has Priority Claim:</b> No	<b>Priority Under:</b>	
<b>Has Secured Claim:</b> No <b>Amount of 503(b)(9):</b> No <b>Based on Lease:</b> No <b>Subject to Right of Setoff:</b> No	<b>Nature of Secured Amount:</b> <b>Value of Property:</b> <b>Annual Interest Rate:</b> <b>Arrearage Amount:</b> <b>Basis for Perfection:</b> <b>Amount Unsecured:</b>	
<b>Submitted By:</b> Shane G. Ramsey on 28-Aug-2024 4:59:54 p.m. Eastern Time <b>Title:</b> Attorney <b>Company:</b> Nelson Mullins Riley and Scarborough LLP		

In re: Brandon Facility Operations, LLC

Case No.: 24-55563

**Exhibit to Proof of Claim**

**Itemized Statement of Claim**

Damages sought for Breach of Lease, Guaranty and Transfer Agreement, including Attorneys Fees and Costs	\$25,000,000.00
Undelivered Receivables:	\$389,782.52
<b>TOTAL:</b>	<b>\$25,389,782.52</b>

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,  
IN AND FOR ORANGE COUNTY, FLORIDA**

CREA BRANDON-C LLC and  
BRANDON HEALTH OPco, LLC,

Plaintiffs,

vs.

CASE NO.  
DIVISION:

BRANDON FACILITY OPERATIONS, LLC  
and LAVIE CARE CENTERS, LLC,

Defendants.

**COMPLAINT FOR DAMAGES**

Plaintiffs, CREA Brandon-C LLC and Brandon Health OpCo, LLC, sue Defendants  
Brandon Facility Operations, LLC and LaVie Care Centers, LLC, and state:

1. This complaint arises from the purchase of a skilled nursing facility located at 701  
Victoria Street, Brandon, FL 33510. Plaintiff CREA Brandon-C LLC through its affiliate  
purchased the Brandon facility for \$17,400,000. Prior to the purchase, Defendants or their affiliates  
operated and managed the Brandon facility. The Defendants breached multiple agreements by  
failing to disclose significant legal and regulatory violations and survey deficiencies. Following  
the sale and turnover of operations, Plaintiffs discovered that Defendants ran the Brandon facility  
into the ground resulting in the government-mandated removal and relocation of most facility  
residents around the end of June 2022. For many months continuing to the present, the Brandon  
facility has had few residents or revenues. The damages, losses and diminution in value suffered  
by Plaintiffs amount to many millions of dollars for which recovery is sought.

**PARTIES**

2. Plaintiff CREA Brandon-C LLC is a foreign limited liability company with its  
principal address in New York, NY, that is authorized to conduct business in Florida. Since on or  
about April 1, 2022, CREA Brandon-C LLC has been the owner and landlord of the Brandon  
facility now known as Brandon Center for Nursing and Rehabilitation, 701 Victoria Street,  
Brandon, FL 33510.

3. Plaintiff Brandon Health OpCo, LLC is a foreign limited liability company with its  
principal address at 701 Victoria Street, Brandon, FL 33510, that is authorized to conduct business  
in Florida. Due to licensure violations caused by Defendants as more fully described below,  
Plaintiff Brandon Health OpCo, LLC did not become the licensee of Brandon Center for Nursing  
and Rehabilitation legally responsible for its operations until December 5, 2022. Since December  
5, 2022, Plaintiff Brandon Health OpCo, LLC has operated Brandon Center for Nursing and  
Rehabilitation under a lease with Plaintiff CREA Brandon-C LLC.

4. Defendant Brandon Facility Operations, LLC is a foreign limited liability company  
with its principal address at 850 Concourse Parkway South, Maitland, FL 32751, that is authorized  
to conduct business in Florida. Before December 5, 2022, Defendant Brandon Facility Operations,  
LLC was the licensee of the facility located at 701 Victoria Street, Brandon, FL 33510, and legally  
responsible for its operations. Before December 15, 2021, Defendant Brandon Facility Operations,  
LLC operated the facility under the name Consulate Health Care of Brandon, and from December  
15, 2021 through December 5, 2022 under the name Raydiant Health Care of Brandon.

5. Defendant LaVie Care Centers, LLC is a foreign limited liability company with its  
principal address at 850 Concourse Parkway South, Maitland, FL 32751, that is authorized to  
conduct business in Florida.



### JURISDICTION AND VENUE

6. This is an action for damages in excess of \$50,000, exclusive of interest, costs, and attorneys' fees.
7. Venue is proper in Orange County, Florida, as that is where Defendants Brandon Facility Operations, LLC and LaVie Care Centers, LLC reside, where Defendant Pourtessons, LLC has an office, and where the causes of action accrued.

### FACTUAL BACKGROUND

8. In 2021, the largest nursing home chain in Florida, Consulate Health Care, including Brandon Facility Operations, LLC, d/b/a Consulate Health Care of Brandon, experienced financial difficulties. Those difficulties resulted from a \$258 million federal False Claims Act judgment and the COVID-19 pandemic. In March 2021, a unit of Consulate Health Care filed for Chapter 11 bankruptcy protections. As part of Consulate Health Care's rebranding effort, on December 15, 2021, Defendant Brandon Facility Operations changed Consulate Health Care of Brandon's name to Raydiant Health Care of Brandon. The Defendants assisted Raydiant Health Care of Brandon's owner in selling the facility.

9. Plaintiff CREA Brandon-C through its affiliate purchased Raydiant Health Care of Brandon for \$17,400,000 on January 31, 2022. On that same day, CREA Brandon-C entered into a Lease Agreement of Raydiant Health Care of Brandon with the then-current licensee and operator, Defendant Brandon Facility Operations, which purportedly had skill and expertise in operating Florida nursing homes.

10. Plaintiff Brandon Health OpCo applied to the Florida Agency for Health Care Administration ("AHCA") for a license to operate Raydiant Health Care of Brandon, but AHCA delayed action on the application due to pending administrative proceedings against Defendant Brandon Facility Operations. In those administrative proceedings, AHCA alleged that Defendant

Brandon Facility Operations committed numerous legal violations in operating Consulate Health Care of Brandon and Raydiant Health Care of Brandon, and AHCA sought imposition of administrative fines, revocation of Defendant Brandon Facility Operations' nursing home license, and other remedies.

11. Since Brandon Health OpCo did not have a license legally required to lease or operate Raydiant Health Care of Brandon, it entered into an Operations Transfer Agreement with Defendant Brandon Facility Operations, to facilitate an orderly transition of facility operations.

12. Defendant Brandon Facility Operations operated Raydiant Health Care of Brandon for the Plaintiffs pursuant to the lease agreement and operations transfer agreement from February 1, 2022 through at least March 31, 2022. Although Defendant Brandon Facility Operations ceased paying rent after March 31, 2022, as licensee of Raydiant Health Care of Brandon it remained legally responsible for operations until December 5, 2022, when AHCA approved Brandon Health OpCo's license application.

13. Government regulatory agencies frequently cited Defendant Brandon Facility Operations for non-compliance with legal standards. The May 14, 2021 federal survey resulted in ten (10) deficiencies. Six months later, AHCA conducted a complaint survey, found additional deficiencies, and determined Consulate Health Care of Brandon to be out of compliance with federal law. The non-compliance continued for several months. Shortly thereafter, a Raydiant Health Care of Brandon resident eloped and Defendant Brandon Facility Operations misreported the incident to AHCA.

14. On AHCA's resurvey in February 2022, Raydiant Health Care of Brandon remained out of compliance with legal requirements.

15. On or about March 10, 2022, Defendant Brandon Facility Operations received notice of denial of payment for new admissions to Raydiant Health Care of Brandon. Defendant

Brandon Facility Operations failed to notify the Plaintiffs of this notice despite its obligation to do so under the Lease Agreement and Operations Transfer Agreement.

16. In April 2022, AHCA conducted additional surveys and investigated the resident elopement. Defendant Brandon Facility Operations was again found to be out of compliance. On April 21, 2022, Defendant Brandon Facility Operations was informed of an immediate jeopardy citation, but immediate jeopardy was removed the next day. In June, AHCA investigated additional complaints and found numerous deficiencies that arose before April 1, 2022.

17. Based on the June 2022 survey, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services ("CMS"), imposed several remedies upon Defendant Brandon Facility Operations, including:

- a. Medicare provider agreement will be involuntary terminated on July 6, 2022;
- b. Denial of payment for new admissions remains in effect as of March 10, 2022;
- c. Civil money penalty of \$1,630 per day effective June 8, 2022 until termination of Medicare provider agreement on July 6, 2022; and
- d. Keeping previously imposed civil monetary penalties in effect, specifically:
  - i. \$19,530 effective February 10, 2022
  - ii. \$22,320 effective April 22, 2022
18. CMS terminated Defendant Brandon Facility Operations' Medicare provider agreement on July 6, 2022, triggering termination of its Medicaid provider agreement. Termination of these agreements eliminated the major sources of residents and income for Raydiant Health Care of Brandon, and those losses have continued to the present.

19. On July 19, 2022, AHCA filed a 109-page administrative complaint against Brandon Facility Operations seeking, among other remedies, revocation of its nursing home license to operate Raydiant Health Care of Brandon.

20. Defendant Brandon Facility Operations settled AHCA's administrative complaint in November 2022, by agreeing to pay \$35,000 in administrative fines and imposition of conditional license retroactive to December 21, 2021.

21. All conditions precedent to the initiation and maintenance of this complaint have been performed, have occurred, are futile, are excused, or have been waived.

#### **COUNT I – BREACH OF LEASE AGREEMENT** ***(CREA Brandon-C LLC Against Brandon Facility Operations, LLC)***

22. Plaintiff, CREA Brandon-C LLC realleges and reincorporates paragraphs 1 through 21 as if fully stated here.

23. On January 31, 2022, Plaintiff CREA Brandon-C and Defendant Brandon Facility Operations entered into a Lease Agreement ("Lease"), pursuant to which Brandon Facility Operations operated Raydiant Health Care of Brandon. The Lease is attached as **Exhibit A**. Plaintiff CREA Brandon-C performed all obligations due and owing to Defendant Brandon Facility Operations with respect to the Lease.

24. Defendant Brandon Facility Operations breached the Lease in several respects:
  - a. Occupancy provisions in sections 6.1, 6.2, and 6.3, by:
    - i. Failing to maintain in good standing the license permitting the operation of the premises as a skilled nursing facility;
    - ii. Allowing acts to be done or conditions to exist on the premises which may be dangerous; and

- iii. Upon termination, failing to return to Lessor, i.e., CREA Brandon-C, the premises in no worse condition as it existed on the effective date, and with an unrestricted license in full force and good standing.
- b. Repairs and maintenance provision in section 10.1(a) by failing to keep and maintain the premises in good order and condition and in a suitable state of repair.
- c. Legal compliance provisions in sections 12.1, 12.3, and 12.4, by:
  - i. Failing to obey, observe and promptly comply with all present and future laws, rules, regulations and requirements of any governmental agency or authority having jurisdiction over the premises and the operation of the skilled nursing facility;
  - ii. Failing to keep in good standing and in full force and effect all necessary licenses, permits and certifications required by any governmental authority for maintaining and operating on the premises a skilled nursing facility, and the facility shall at all times continue to be qualified to participate in the Medicare and Medicaid reimbursement programs; and
  - iii. Failing to deliver or send to Lessor within 7 days following receipt, copies of any notices from CMS or any agency terminating, disqualifying or suspending, or reasonably likely to result in the termination, disqualification or suspension of the Medicaid or Medicare provider agreements, the license or any other certification relating to facility operations or participation in any governmental or non-governmental reimbursement or third party payor program, including Medicare or Medicaid.
- d. Default provisions in sections 18.1(b), (h), (j), and (k), by:
  - i. Failing to perform, or violation of, any of the covenants, terms, conditions or provision of the Lease;
  - ii. Any material suspension, termination or restriction placed upon Lessee, i.e., Brandon Facility Operations, or the facilities, or the ability to admit residents or patients (e.g., an admissions ban or non-payment for new admissions by Medicare or Medicaid), and such suspension, termination or restriction continues for more than 30 days after imposition;
  - iii. Termination or revocation of the license or any material provider agreement; and
  - iv. Cessation of operations and relocation of patients.
- e. Lessee's representations in sections 29.2(c) and (d), by:
  - i. Failing to keep and maintain the facilities at all times in good order and repair in full compliance with all material laws; and
  - ii. Misrepresenting the absence of pending or threatened claims, lawsuits, governmental actions or other proceeding involving Lessee's operation of the facilities before any court, agency or other judicial, administrative or other governmental body. Lessee covenants to give notice to Lessor of any pending or threatened claims, lawsuits, governmental or other proceedings involving Lessee's operation of any individual facility in an actual amount of \$300,000 or more, such notice to be delivered with 10 days of Lessee's knowledge.
- f. Termination provision in section 32.1(a) by failing to return to Lessor the premises and personal property in a condition no worse other than that

which existed on the effective date, licensed by any governmental agencies having jurisdiction over the premises.

25. The breaches of Lease by Defendant Brandon Facility Operations have injured Plaintiff CREA Brandon-C in the form of compensatory damages amounting to millions of dollars, lost revenue and lost profits, diminution of property value, loss of professional standing and position, and damage to reputation, all of which are continuing and permanent.

26. Section 35.6 of the Lease provides, "If an action shall be brought ... on account of any breach of or to enforce ... this Lease .... the prevailing party shall be entitled to recover from the other party, as part of the prevailing party's costs, reasonable attorneys' fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered." Ex. A at 29. CREA Brandon-C seeks its fees, costs, and expenses incurred in prosecuting this complaint under this provision.

WHEREFORE, Plaintiff, CREA Brandon-C LLC, demands judgment in its favor and against Defendant Brandon Facility Operations, LLC for damages in excess of \$50,000, together with prejudgment interest, costs, attorneys' fees, and any other relief the Court deems just and proper.

#### **COUNT II – BREACH OF CORPORATE LEASE GUARANTY**

*(CREA Brandon-C LLC Against LaVie Care Centers, LLC)*

27. Plaintiff, CREA Brandon-C LLC, realleges and reincorporates paragraphs 1 through 26 above as if fully stated here.

28. On January 31, 2022, Defendant LaVie Care Centers, LLC executed and delivered a Corporate Lease Guaranty to Plaintiff CREA Brandon-C, a copy of which is attached and incorporated by reference as **Exhibit B**.

29. Plaintiff CREA Brandon-C performed all conditions precedent to be performed by plaintiff or the conditions have occurred.

30. Defendant LaVie Care Centers guaranteed all Defendant Brandon Facility Operations' obligations under the Lease.

31. On or about April 5, 2023, Plaintiff CREA Brandon-C sent Defendant LaVie Care Centers a written demand regarding Defendant Brandon Facility Operations' breaches of the Lease and the resulting damages, losses and diminution in value amounting to \$25,000,000.

32. Defendant LaVie Care Centers has refused to pay the demand for \$25,000,000 or any part of it.

33. Defendant LaVie Care Centers owes Plaintiff CREA Brandon-C \$25,000,000 with interest at a rate per annum of 5% due monthly from April 5, 2023. Exhibit B at 1.

34. Section 7 of the Corporate Lease Guaranty provides, "In the event that Lessor prevails on the merits of its claim, Guarantor shall additionally pay to Lessor upon demand all reasonable out of pocket costs, costs and expenses incurred by Lessor in connection with placing this Guaranty in the hands of one attorney for collection or any other legal proceeding with respect to Guarantor ...." Exhibit B at 2. CREA Brandon-C seeks its fees, costs, and expenses incurred in prosecuting this complaint under this provision.

WHEREFORE, Plaintiff, CREA Brandon-C LLC, demands judgment in its favor and against Defendant LaVie Care Centers, LLC for damages in excess of \$50,000, together with prejudgment interest, costs, attorneys' fees, and any other relief the Court deems just and proper.

#### **COUNT III – BREACH OF OPERATIONS TRANSFER AGREEMENT**

*(Brandon Health OpCo, LLC and CREA Brandon-C LLC Against Brandon Facility Operations, LLC and LaVie Care Centers, LLC)*

35. Plaintiffs, Brandon Health OpCo, LLC and CREA Brandon-C LLC, reallege and reincorporate paragraphs 1 through 21 above as if fully stated here.

36. On January 31, 2022, Plaintiff Brandon Health OpCo and Defendant Brandon Facility Operations entered into an Operations Transfer Agreement (“OTA”), pursuant to which Brandon Facility Operations operated Raydiant Health Care of Brandon until Brandon Health OpCo obtained its license to operate the facility from AHCA. Moreover, Defendant LaVie Care Centers, LLC guaranteed certain obligations of Defendant Brandon Facility Operations under the OTA. The OTA is attached as Exhibit C.

37. Plaintiff Brandon Health OpCo performed all obligations due and owing to Defendants Brandon Facility Operations and LaVie Care Centers with respect to the OTA.

38. The OTA was expressly intended for Plaintiff CREA Brandon-C’s benefit by ensuring continued business operations of Raydiant Health Care of Brandon and transition of those operations from Defendant Brandon Facility Operations to Plaintiff Brandon Health OpCo.

39. Plaintiff CREA Brandon-C is an intended third-party beneficiary of the OTA entitled to enforce its provisions against Defendants Brandon Facility Operations and LaVie Care Centers.

40. Defendant Brandon Facility Operations breached the OTA in the following respects:

- a. By failing to comply in all material respects with all applicable laws in connection with performance of the OTA as required by section 2.12;
- b. By failing to promptly notify New Operator, i.e., Brandon Health OpCo, of events which could reasonably expected to have a material adverse effect as required by section 2.19;

c. Failing to comply with health care representations in section 4.7(a), (b), (c), (d), (f), and (i), by:

- i. Misrepresenting that Current Operator, i.e., Brandon Facility Operations, has not received any notice from any Governmental Entity or other applicable authority of ... any violation, non-renewal, suspension or revocation of any such licenses that has not been dismissed or cured;
- ii. Misrepresenting that Raydiant Health Care of Brandon’s license on the closing date shall be unrestricted, unconditional, in good standing and in full force and subject to no limitations;
- iii. Misrepresenting that Current Operator has operated Raydiant Health Care of Brandon in compliance with all laws necessary to operate the facility as licensed by the applicable Governmental Entity;
- iv. Misrepresenting that, except as disclosed on schedule 4.7(c), there are no outstanding inspections, surveys, or plans of correction, and no deficiencies exist in respect of any such inspections, surveys or plans of correction, nor has Current Operator been cited for substandard quality of care;
- v. Misrepresenting that there are no implemented bans, remedies, sanctions, prohibitions on payment, or limitations in effect with respect to Raydiant Health Care of Brandon, and no action has been taken or recommended, nor, to Current Operator’s knowledge, is there any basis for any action, by any Governmental Entity, either to revoke, withdraw



- or suspend its license to operate the facility or to terminate or decertify any participation of the facility in the Medicare or Medicaid programs;
- vi. Misrepresenting that Raydiant Health Care of Brandon has not been cited for any material deficiency that has not been cured that would result in a denial of payment for new admissions, civil monetary penalties, termination, final revocation or cancellation of any license, or termination or other restriction of a provider agreement within the three (3) year period immediately preceding the Effective Date;
- vii. Misrepresenting that Current Operator does not have any knowledge of any fact or circumstance that would cause any provider agreement not to remain in force or be renewed on and after closing;
- viii. Misrepresenting that there is no investigation or survey pending or, to Current Operator's knowledge, threatened, involving any of the government reimbursement programs and Current Operator has no reason to believe that any such investigations or surveys are pending, threatened, or imminent;
- ix. Misrepresenting that Current Operator has not received written notice, and Current Operator does not have any knowledge,
- a. that any actions will or may be taken with respect to any of the foregoing representations and warranties that could result in a violation of, or action described under, any of the foregoing representations and warranties in section 4.7;
- b. that Current Operator or Raydiant Health Care of Brandon is under investigation or review with respect to any of the subjects

- described in the foregoing representations and warranties in section 4.7; and
- c. of the existence of any circumstances or occurrences that could be reasonably believed to lead to a violation of, or action described under, any of the foregoing representations and warranties in section 4.7; and
- d. Failing to comply with legal representations in section 4.10 by misrepresenting that to Current Operator's knowledge, Raydiant Health Care of Brandon is being used and operated by Current Operator in compliance in all material respects with applicable and material statutes, laws, regulations, rules, licensing requirements, ordinances, orders or permits of any kind whatsoever affecting the facility or any part thereof, and any rules or regulations promulgated thereunder.
41. Defendant LaVie Care Centers guaranteed obligations of Defendant Brandon Facility Operations under OTA sections 2.5, 2.9, and 5, and is liable under the OTA for Defendant Brandon Facility Operations' breaches specified above.
42. The breaches of OTA by Defendants Brandon Facility Operations and LaVie Care Centers have injured Plaintiffs Brandon Health OpCo and CREA Brandon-C in the form of compensatory damages amounting to millions of dollars, lost revenue and lost profits, diminution of property and leasehold value, loss of professional standing and position, and damage to reputation, all of which are continuing and permanent.
43. Section 6.3 of the OTA provides, "In the event of any dispute or controversy arising out of this Agreement, including in connection with the interpretation of any term or condition of this Agreement, the prevailing party shall recover from the non-prevailing party all

reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party." Exhibit C at 30. Brandon Health OpCo and CREA Brandon-C seek their fees, costs, and expenses incurred in prosecuting this complaint under this provision.

WHEREFORE, Plaintiffs, Brandon Health OpCo, LLC and CREA Brandon-C LLC, demand judgment in their favor and against Defendants Brandon Facility Operations, LLC and LaVie Care Centers, LLC for damages in excess of \$50,000, together with prejudgment interest, costs, attorneys fees, and any other relief the Court deems just and proper.

DATED: May 17, 2023

Respectfully submitted,

**NELSON MULLINS RILEY &  
SCARBOROUGH LLP**

By: /s/Michael J. Bitman

MICHAEL J. BITTMAN  
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*Attorneys for Plaintiffs CREA Brandon-C LLC  
and Brandon Health OpCo, LLC.*

Exhibits:

- A: Lease Agreement
- B: Corporate Lease Guarantee
- C: Operations Transfer Agreement

**EXHIBIT A**

**LEASE AGREEMENT**

by and among

**CREA New Port Richey LLC**  
**CREA Bayonet LLC**  
**CREA Sarasota LLC**  
**CREA Melbourne**  
**CREA Kissimmee LLC**  
**CREA Pensacola LLC**  
**CREA Brandon-C LLC**

as Lessor

and

**New Port Richey Facility Operations, LLC**  
**Brandon Facility Operations, LLC**  
**Melbourne Facility Operations, LLC**  
**Pensacola Facility Operations, LLC**  
**Bayonet Point Facility Operations, LLC**  
**Kissimmee Facility Operations, LLC**  
**Sarasota Facility Operations, LLC**

as Lessee

Dated as of January 31, 2022

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## LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is made and entered into as of this 31st day of January, 2022 (the "Effective Date") by and among the entities listed on the signature page to this Lease and set forth on Exhibit A, each a Delaware limited liability company (individually and collectively, "Lessor"), and the entities listed on the signature page to this Lease and set forth on Exhibit A, each an Ohio limited liability company (individually and collectively, "Lessee").

### RECITALS:

Effective as of the date hereof Lessor is the owner of those certain tracts of land listed on Exhibit A and more particularly described in Exhibit A-1-A7, attached hereto and made a part hereof (the "Demised Premises"), the furnishings, furniture, equipment and fixtures used in or about the Demised Premises (the "Personal Property").

Concurrently with the execution hereof, Lessor's affiliates and Lessee have entered into those certain Operations Transfer Agreements (collectively "OTA"), to be made effective as of the Commencement Date, for Lessor's affiliates to become the licensed operators of the Demised Premises, all on the terms and conditions more particularly set forth therein.

Lessor desires to lease the Demised Premises and Personal Property to Lessee and Lessee desires to lease the Demised Premises and Personal Property from Lessor.

The parties hereto have agreed to the terms and conditions of this Lease.

NOW THEREFORE, in consideration of the above Recitals which are incorporated herein by this reference and of the mutual covenants, agreements and undertakings hereinafter set forth, it is agreed that the use and occupancy of the Demised Premises, and the use of the Personal Property shall be subject to and in accordance with the terms, conditions and provisions of this Lease.

### ARTICLE I - DEMISED PREMISES AND PERSONAL PROPERTY

1.1. Lessor, for and in consideration of the rents, covenants and agreements hereinafter reserved, mentioned and contained on the part of the Lessee, its successors and assigns, to be paid, kept and performed, does hereby lease unto Lessee the Demised Premises together with the Personal Property to be used in and upon the Demised Premises for the term hereinafter specified, for use and operation therein and thereon of skilled nursing facilities or similarly licensed facilities, in substantial compliance with all the rules and regulations and minimum standards applicable thereto, as prescribed by the State of Florida and such other governmental authorities having jurisdiction thereof.

1.2. The "Facilities" (each individually referred to herein as a "Facility") shall mean the skilled nursing facilities located on the Demised Premises.

### ARTICLE II - TERM OF LEASE:

Subject to requirements of Article XXXIII (Conditions Precedent and Concurrent to Lease Commencement), the term of this Lease (the "Initial Term") shall begin and be effective as 12:00 a.m. on the first calendar day following the Effective Date (the "Commencement Date") and shall automatically expire upon the earliest to occur of (i) 12:00 a.m. on the Closing Date as defined in the OTA, (ii) the date that is ninety (90) days following the Commencement Date and (iii) the earlier termination of this of this Lease pursuant to its terms. Provided that Lessor may extend the Initial Term for an additional ninety (90) days provided that written notice is sent to Lessee no later than sixty (60) days from the Commencement Date.

### ARTICLE III - RENT

3.1. Lessee shall pay to Lessor, or as Lessor shall direct, without demand, deduction or offset for any reason whatsoever except as herein specifically provided, fixed monthly base rent in the amount of Six Hundred Eighty-Five Thousand Nine Hundred Eighty-One Dollars (\$685,981) ("Base Rent") for the Demised Premises and the Personal Property over and above all other and additional payments to be made by Lessee as provided in this Lease.

a) All rental payments shall be paid in advance on the first day of each month. If the date for payment of any installment of Base Rent falls on a day other than a business day, such installment shall be due on the first business day immediately following such payment date.

b) All Rent payments shall be sent or wire transferred as directed by Lessor in writing.

3.2. This Lease is and shall be deemed and construed to be a triple net lease and the Base Rent specified herein shall be net to Lessor in each year during the Term of this Lease. The Lessee shall pay all reasonable costs, expenses and obligations of every kind and nature necessary and relating to the use, occupancy and maintenance of the Demised Premises by Lessee which may arise during the Term of this Lease (but not prior to the Commencement Date or after the termination of this Lease, unless arising from events prior to such termination) and which Lessee has agreed to pay under this Lease (the "Additional Rent" and together with Base Rent, collectively, the "Rent"), including, but not limited to, the payment of property taxes as provided in Article V of this Lease, the maintenance of insurance policies as provided in Article VII of this Lease, utility charges, maintenance and repairs to the Demised Premises and the Facilities to maintain the same in no worse condition as of the Effective Date excepting reasonable wear and tear as provided in Article X of this Lease. Lessee does hereby agree to indemnify, defend and hold harmless Lessor against any such costs, expenses and obligations.

### ARTICLE IV - LATE CHARGES

4.1. If (a) payment of any sums required to be paid or deposited by Lessee to Lessor under this Lease, or (b) payments made by Lessor under any provision hereof for which Lessor is entitled to reimbursement by Lessee, shall become overdue beyond ten (10) calendar days after the date on which they are due and payable as set forth in this Lease, a late charge equal to five percent (5%) per month shall be payable on the first day of the month next succeeding the month during which Lessor gives notice of the incurrence of a late charge to Lessee. In the event Lessor fails to notify Lessee of the incurrence of a late charge within sixty (60) days after Lessor's receipt of the overdue payment which gave rise to such late charge, Lessor shall be deemed to waive payment of said late charge. Lessee agrees that any such late charges shall not be deemed to be a penalty but shall be deemed to be liquidated damages because of the impossibility of computing the actual amount of damages in advance. If nonpayment of any late charges shall occur, Lessor shall have, in addition to all other rights and remedies, all the rights and remedies provided for herein and by law in the case of nonpayment of Rent. Except as otherwise provided in this Article IV, no failure by Lessor to insist upon the strict performance by Lessee of Lessee's obligations to pay late charges shall constitute a waiver by Lessor of its rights to enforce the provisions of this Article in any instance thereafter occurring, and nothing contained herein shall be deemed to be a waiver of or limitation on the right of Lessor from declaring an Event of Default, as defined herein because of Lessee's failure to make any payment due hereunder when such payment was due.

### ARTICLE V - PAYMENT OF TAXES AND ASSESSMENTS; RESERVES

5.1. "Taxes and Assessments" means, collectively, (a) all real estate and personal property taxes, ad valorem taxes, sales and use taxes arising from the operation of a Facility, or business or occupation taxes of Lessee or a Facility; (b) assessments (including, without limitation, all assessments for public improvements or benefits, whether or not commenced or completed prior to the date hereof and whether or not to be completed within the Term); (c) ground rents, water, sewer or other rents and charges, excises, tax levies, and fees (including, without limitation, license, permit, inspection, authorization and similar fees); (d) all taxes imposed on Lessee's operations of the Demised Premises, including, without limitation, employee withholding

taxes, income taxes and intangible taxes; (c) all taxes imposed by any governmental entity in the State of Florida with respect to the conveyance of the Demised Premises by Lessor to Lessee or Lessee's designee, including, without limitation, conveyance taxes and capital gains taxes; and (f) all other governmental charges, in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen, of every character in respect of the Demised Premises or any part thereof and/or the Rent (including all interest and penalties thereon due to any failure in payment by Lessee), which at any time during the Term hereof may be assessed or imposed on or in respect of or be a lien upon (aa) Lessor or Lessor's interest in the Demised Premises or any part thereof; (bb) the Demised Premises or any part thereof or any rent therefrom or any estate, right, title or interest therein; or (cc) any occupancy, operation, use or possession of, or sales from, or activity conducted on, or in connection with the Demised Premises or the leasing or use of the Demised Premises or any part thereof.

5.2. Any Taxes and Assessments relating to a fiscal period of any authority, a part of which is included within the Term of this Lease and a part of which is included in a period of time before or after the Term of this Lease, shall be adjusted pro rata between Lessor and Lessee as of the commencement and termination of the Term and each party shall be responsible for its pro rata share of any such Taxes and Assessments.

5.3. Notwithstanding anything to the contrary contained herein, in no event shall Lessee be required to pay any tax imposed by any governmental entity on Lessor or its beneficiary, on income, or capital levy, franchise, estate, succession or inheritance taxes of Lessor or its beneficiary. Further, notwithstanding anything to the contrary set forth above, "Taxes and Assessments" shall in no event include any indebtedness or other obligation created by Lessor or any Lessor Affiliate (any person, corporation, partnership, limited liability company, trust or other legal entity that, directly or indirectly, is owned or controlled by Lessor) which is secured by a lien or other encumbrance on the Demised Premises and all interest penalties or other amount which may be owed by Lessor or a Lessor Affiliate with respect thereto.

5.4. Lessee shall pay, as Additional Rent, all Taxes and Assessments that may be levied or become a lien on the Demised Premises or any part thereof that are attributable to a period of time during the Term, before any fine, penalty, interest, or cost is incurred, provided, however, Lessee may contest any Taxes and Assessments in accordance with Section 5.6. If any Taxes and Assessments, at the option of the taxpayer, be paid in installments, Lessee may exercise such option to pay the same in installments (whether or not interest shall accrue on the unpaid balance) as the same respectively become due and before any delinquency, fine, penalty, or further interest or costs may be added thereto.

5.5. Not later than fifteen (15) business days following its receipt thereof, Lessor shall provide to Lessee copies of any bills received by it for Taxes and Assessments.

5.6. Lessee shall have the right to contest the amount or validity, in whole or in part, of any Taxes and Assessments by appropriate proceedings diligently conducted in good faith, but only after payment of such Taxes and Assessments, unless such payment would operate as a bar to such contest or interfere materially with the prosecution thereof, in which event, Lessee may postpone or defer such payment only if (a) neither the Demised Premises, the Personal Property nor any material license or certification, nor any part thereof, would by reason of such postponement or deferment be in material danger of being sold, terminated, forfeited, canceled or lost; and (b) Lessee shall have furnished such security as may be required in the proceeding, or as may be requested by Lessor, to insure the payment of any such Taxes and Assessments or other charges, together with all interest and penalties thereon, which shall not be less than the Taxes and Assessments and other charges being contested.

5.7. Upon the termination of any such proceedings, Lessee shall pay the amount of such Taxes and Assessments or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees, interest, penalties, or other liabilities in connection therewith.

5.8. Lessor shall not be required to join in any proceedings for unpaid Taxes and Assessments, unless the provisions of any law, rule or regulation at the time in effect shall require that such proceedings be brought by or in the name of Lessor, in which event Lessor shall join in such proceedings or permit the same

to be brought in its name, and Lessee shall pay for all costs in connection therewith. Lessor shall not ultimately be subjected to any liability for the payment of any costs or expenses in connection with any such proceedings, and Lessee will indemnify, defend and save harmless Lessor from any such costs and expenses, including, without limitation, reasonable attorneys' fees, as a result of such proceedings. Lessee shall be entitled to any refund of any real estate taxes and penalties or interest thereon received by Lessor but previously paid by Lessee.

5.9. Provided that Lessor's lender (the "Lender") requires monthly real estate tax reserves, at any time, under the terms of the documents entered into between Lessor and Lender (the "Loan Documents"), Lessee will make an initial (on the Commencement Date or such later date) and monthly real estate tax deposits with Lender, in an amount as required by Lender. Said deposits shall be due and payable on the first (1st) day of each month as Additional Rent. Such deposits as are held by Lender shall not bear interest unless interest on the deposits is paid to Lessors by Lender in which event such interest shall be for the benefit of Lessee. The deposits shall be held by Lender to pay the real estate taxes as they become due and payable. If the amount of Lessee's payments as made under this Article shall be less than the total amount due of the real estate taxes, then Lessee shall pay to Lessors the amount necessary to make up the deficiency no later than ten (10) days prior to the due date of such tax bill. Not later than five (5) days following their receipt thereof, Lessee shall provide to Lessors copies of any bills received by it for Taxes and Assessments. Within five (5) days of any direct payment by Lessee of the Taxes and Assessments, a copy of the paid tax bill shall be delivered to Lessors.

5.10. Notwithstanding anything to the contrary contained herein, if Lessor is required under the Loan Document to make, with Lender thereunder, monthly deposits for insurance premiums, then commencing May 1, 2022 Lessee will make monthly deposits for insurance premiums with Lessors, in an amount equal one twelfth (1/12th) of the insurance premiums, or such applicable amount required by a Lender. The deposits, if applicable, for insurance deposits, shall be due and payable on the first (1st) day of each month as Additional Rent. Not later than five (5) days following their receipt thereof, Lessors shall provide to Lessee's copies of any insurance bills received by it, if not paid by directly by Lessee. At the request of Lessee, within five (5) days of any payment by Lessors of insurance premiums, a copy of the paid insurance bill or evidence of payment of the insurance premiums shall be delivered to Lessee.

5.11. If Lessors are required under the Loan Documents to make, with the Lender thereunder, monthly deposits for replacement reserves, then commencing May 1, 2022 Lessee will make monthly deposits for replacement reserves with Lessors, in an amount equal to the amount Lessors is required to make under the Loan Documents. The deposits, if applicable, for replacement reserves, shall be due and payable on the first (1st) day of each month as Additional Rent. Lessee shall also make any replacement reserve deposits required to be made by a Lender at the closing of its loan to Lessors.

#### ARTICLE VI - OCCUPANCY

6.1. During the Term of this Lease, the Demised Premises shall be used and occupied by Lessee for and as a skilled nursing facility and for no other purpose, except as provided herein. Subject to the terms of Article XIX hereof, Lessee shall at all times during the Term maintain in good standing and full force a probationary or non-probationary license issued by the relevant licensing agency of the State of Florida (collectively the "License"), and any other governmental agencies permitting the operation on the Demised Premises of a skilled nursing facility, except as otherwise provided herein.

6.2. Lessee will not suffer any act to be done or any condition to exist on the Demised Premises which may be dangerous or which may, in law, constitute a public or private nuisance or which may void or make voidable any insurance then in force on the Demised Premises.

6.3. Upon termination of this Lease for any reason, Lessee will return to Lessor the Demised Premises in no worse condition as existed on the Effective Date, reasonable wear and tear excepted, and licensed by the State of Florida and by any governmental agencies having jurisdiction over the Demised Premises, with an unrestricted license in full force and good standing. Lessee shall, within seven (7) days following its receipt thereof, provide Lessor with a copy of any notice from the State of Florida or any federal, state or municipal governmental agency or authority regarding any reduction in the number of licensed beds



and Lessor shall have the right to contest, at its sole expense, by appropriate legal or administrative proceedings, any such reduction.

6.4. During the Term of this Lease, Lessee shall only use the Demised Premises in accordance with Environmental Laws (as hereinafter defined) and shall not use nor permit the Demised Premises to be used for the treatment, storage or disposal of any Hazardous Substances (as hereinafter defined) nor for any purpose involving the use of Hazardous Substances; provided, however, that Lessee may use in and store at the Facilities such materials and substances as are customarily used in nursing homes but only in such quantities as are reasonably necessary for the routine business operation of the Facilities. For purposes hereto: "Hazardous Substances" shall mean any toxic or hazardous waste or pollutants, or substances, including, without limitation, asbestos, PCB's, petroleum products and by products, substances defined or listed as: "Hazardous Substances" or "toxic Substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*, "Hazardous Materials" in the Hazardous Materials Transportation Act, 49 U.S.C. § 1802, *et seq.*, "Hazardous Waste" in The Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. § 2061, *et seq.*, any "Toxic Pollutant" under the Clean Water Act, 33 U.S.C. § 1251, *et seq.*, as amended, any "Hazardous Air Pollutant" under the Clean Air Act, 42 U.S.C. § 7401, *et seq.*, and any hazardous or toxic substance or pollutant regulated under any other applicable federal, state or local Environmental Laws. "Environmental Laws" as used in this Lease means all federal, state and local environmental, health, or safety laws or regulations applicable to the Demised Premises or the Facilities, now or hereafter enacted. Lessee hereby agrees to indemnify, defend and hold Lessor harmless from and against, and shall reimburse Lessor for, any loss, claim, liability, damages, injunctive relief, injuries to persons, property or natural resources, costs, expense, action and causes of action in connection with the use, generation, treatment, storage, release or disposal of Hazardous Substances at or from the Demised Premises during the Term hereof, including, without limitation, the cost of any required or necessary repair, cleanup or detoxification and the preparation of any closure or other required work to be performed, to the full extent that such action is attributable, directly or indirectly, to the use, generation, treatment, storage, release or disposal of Hazardous Substances on the Demised Premises during the Term hereof. Lessee, its agents, and employees, will not be liable for any loss, injury, death, or damage (including consequential damages) to persons or property occasioned by any Hazardous Substances in existence on the Demised Premises on the Effective Date.

6.5. In the event the number of licensed beds permitted at any Facility increases during the Term, such additional beds shall become part of the Demised Premises and may not be subsequently removed or transferred by Lessee.

## ARTICLE VII - INSURANCE

7.1. Lessee shall, at its sole cost and expense, as of the Effective Date or Commencement Date, as applicable, and during the Term, maintain insurance as detailed in this Article VII and in any case insurance sufficient to satisfy Lender requirements. In the event that Lender requires insurance policies at coverage levels in excess of or different from Lessee's current insurance coverage, Lessee shall obtain such additional insurance coverage at Lessor's expense.

### 7.2. Insurance Requirements

a) Coverage. Lessee, at its sole cost, for the mutual benefit of Lessor, Lessee and to the extent applicable, Lender, shall obtain and maintain during the Term of the Lease the following policies of insurance:

i) Property insurance insuring against loss or damage customarily included under so called "all risk" or "special form" policies including fire, lightning, vandalism, and malicious mischief, boiler and machinery and, if required by Lessor, flood and/or earthquake coverage and subject to subsection (x) below, coverage for damage or destruction caused by the acts of "terrorists" (or such policies shall have no exclusion from coverage with respect thereto) and such other insurable hazards as, under good insurance practices, from time to time are insured against for other property and buildings similar to the premises in nature, use, location, height, and type of construction. Such insurance policy shall also insure for ordinance of law coverage, costs of

demolition and increased cost of construction in amounts satisfactory to Lessor. Each such insurance policy shall (a) be in an amount equal to 100% of the then replacement cost of the improvements located on the Demised Premises without deduction for physical depreciation, (b) have deductibles no greater than \$100,000 per occurrence, with exception of deductibles for flood and named storms.

ii) Flood insurance if any part of the Demised Premises is located in an area now or hereafter designated by the Federal Emergency Management Agency as a Zone "A" & "V" Special Hazard Area, or such other Special Hazard Area if Lessor so require in their sole discretion.

iii) Public liability insurance, including (a) "Commercial General Liability Insurance", (b) "Owned", "Hired", and "Non Owned Auto Liability", and (c) umbrella liability coverage for personal injury, bodily injury, death, accident and property damage, such insurance containing minimum limits per occurrence of \$1,000,000 and \$3,000,000 in the aggregate for any policy year. The policies described in this subsection shall also include coverage for elevators, escalators, independent contractors, "Contractual Liability", "Products" and "Completed Operations Liability" coverage.

iv) Professional liability insurance in such amounts covering such insurable risks as are at all times consistent with coverage amounts covering similar facilities operated by Lessee's affiliates.

v) Rental loss and/or business interruption insurance (a) with Lender being named as "Lender Loss Payee", (b) in an amount equal to one hundred percent (100%) of the projected Rent from the Demised Premises during the event that caused the loss of income; and (c) containing an extended period of indemnity endorsement which provides that after the physical loss to the Demised Premises has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of twelve (12) months from the date that the Demised Premises is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period. The amount of such insurance shall be increased from time to time during the Term of the Lease as and when the estimated or actual Rent increases.

vi) Comprehensive boiler and machinery insurance covering all mechanical and electrical equipment against physical damage, rent loss and improvements loss and covering, including, without limitation, all Lessee improvements and betterments that Lessee is required to insure pursuant to the Lease on a replacement cost basis and in an amount equal to the lesser of (a) \$2,000,000 and (b) 100% of the full replacement cost of the improvements located on the Demised Premises (without any deduction for depreciation).

vii) Worker's compensation and disability insurance with respect to any employees of Lessee, as required by applicable law.

viii) During any period of repair or restoration, builder's "all-risk" insurance on the so called completed value basis in an amount equal to not less than the full insurable value of the Demised Premises, against such risks (including fire and extended coverage and collapse of the improvements located on the Demised Premises to agreed limits) as Lessor may request, in form and substance acceptable to Lessor.

ix) Coverage to compensate for ordinance of law the cost of demolition and the increased cost of construction in an amount satisfactory to Lessor.

b) Policies. All Policies of insurance required pursuant to Section 7.2(a) shall (i) be issued by companies licensed to do business in the State of Florida, and having (A) a claims paying ability rating of B+ or better by S&P (and the equivalent by any other Rating Agency), and a rating of B+ or better in the current Best's Insurance Reports; or (B) a Financial Stability Rating of "A" by Demotech, Inc.; (ii) name Lessor and their successors and/or assigns as their interest may appear as the mortgagee/owner (in the case of property insurance), loss payee (in the case of business interruption/loss of rents coverage) and an additional insured (in the case of liability insurance); (iii) contain (in the case of property insurance) a Non-Contributory Standard Mortgage Clause and a Lender's Loss Payable Endorsement, or their equivalents, naming Lender as the person to which all payments made by such insurance company shall be paid; (iv) contain a waiver of subrogation against Lessor; (v) be assigned and the originals thereof delivered to Lender; (vi) contain provisions providing

that Lessor will receive at least thirty (30) days prior written notice of any modification, reduction cancellation of any of the Policies, (c) an agreement whereby the insurer waives any right to claim any premiums and commissions against Lessor, provided that the policy need not waive the requirement that the premium be paid in order for a claim to be paid to the insured and (d) providing that Lessor is permitted to make payments to effect the continuation of such policy upon notice of cancellation due to non-payment of premiums; (vii) in the event any insurance policy (except for general public and other liability and workers compensation insurance) shall contain breach of warranty provisions, such policy shall provide that with respect to the interest of Lessor, such insurance policy shall not be invalidated by and shall insure Lessor regardless of (A) any act, failure to act or negligence of or violation of warranties, declarations or conditions contained in such policy by any named insured, (B) the occupancy or use of the premises for purposes more hazardous than permitted by the terms thereof, or (C) any foreclosure or other action or proceeding taken by Lessor; and (viii) be satisfactory in form and substance to Lessor and approved by Lessor as to amounts, form, risk coverage, deductibles, loss payers and insureds. Lessee shall pay the Insurance Premiums for such Policies as the same become due and payable and furnish to Lessor evidence of the renewal of each of the Policies. Lessee acknowledges that Lessor shall be permitted, but not obligated, to finance any or all of the Insurance Premiums and such financing shall be considered evidence of payment. If requested, Lessee shall deliver to Lessor a certified copy of each Policy within thirty (30) days after its effective date. Within thirty (30) days after request by Lessor, Lessee shall obtain such increases in the amounts of coverage required hereunder as may be requested by Lessor, taking into consideration changes in the value of money over time, changes in liability laws, changes in prudent customs and practices, and the like.

e) Casualty.

i) Settlement of Claims. If the Demised Premises shall be destroyed, in whole or in part, or damaged by fire, flood, windstorm or other casualty covered by any of the Policies (an "Insured Casualty") and such loss does not exceed \$500,000 (a "Minor Casualty"), provided no Event of Default has occurred and is continuing, Lessor may settle and adjust any claim without the prior consent of Lessor (provided, that Lessee shall keep Lessor apprised of all developments in connection therewith); provided such adjustment is carried out in a competent and timely manner, and Lessee is hereby authorized to collect and receive the insurance proceeds (the "Proceeds") as provided below with respect to such Minor Casualty. In the event of an Insured Casualty where the loss equals or exceeds \$500,000 (a "Significant Casualty"), Lessee shall consult with Lessor and obtain Lessor's consent to settle and adjust any claim, provided that Lessor's consent shall not be unreasonably conditioned, delayed or withheld.

ii) Proceeds upon Minor Casualty. If there are any checks or payments that are Proceeds paid for a Minor Casualty that are not payable to Lessee, Lessor shall immediately endorse, and cause all such third parties to endorse, such check payable to the order of Lessee.

iii) Administration of Proceeds upon Significant Casualty. Any Proceeds received upon a Significant Casualty shall be due and payable to Lender or Lessor and held by Lender or Lessor and disbursed for the purpose of remediate the Significant Casualty for the benefit of the Demised Premises. If there are any checks or payments that are Proceeds that are not payable to Lender or Lessor, Lessee shall immediately endorse, and cause all such third parties to endorse, such check payable to the order of Lender or Lessor. Lender or Lessor shall promptly release to Lessee all Proceeds that are required by Lessee to remediate Significant Casualty in accordance with Lessee's obligations under the Lease, provided Lessee has delivered a written request for such funding together with an AIA certification of the completion of the work that is the subject of such funding request. If Proceeds are available but Lender or Lessor fail to promptly release such Proceeds to Lessee, then, in addition to all other remedies available to Lessee, (A) Lessee shall not be entitled to pre-fund any expenses of the remediation, and (B) at Lessee's election, Lessee shall be entitled to terminate the Lease with respect to the Demised Premises that sustained the Significant Casualty.

7.3. All policies of insurance shall provide, to the extent available at a commercially reasonable price:

a) They are carried in favor of Lessor, Lessee, and any mortgagee, as their respective interests may appear, and any loss shall be payable as therein provided, notwithstanding any act or negligence of Lessor or Lessee, which might otherwise result in forfeiture of insurance; and

i) Once required to be effective under the provisions of this Lease, they shall not be canceled, terminated, reduced or materially modified without at least thirty (30) days prior written notice to Lessor; and

ii) A standard mortgagee clause in favor of any mortgagee, and shall contain, if obtainable, a waiver of the insurer's right of subrogation against funds paid under the standard mortgagee endorsement which are to be used to pay the cost of any repairing, rebuilding, restoring or replacing.

7.4. Certificates of insurance policies required by this Article shall be delivered to Lessor and mortgagee prior to or on the Effective Date or Commencement Date, as applicable. Upon receipt thereof, Lessee shall deliver copies of the actual policies to Lessor, which certificates and policies shall be updated annually prior to the expiration thereof.

7.5. Lessee shall, during the Term, keep in effect business interruption insurance with loss of rents endorsement naming Lessor as an insured. All proceeds of any business interruption insurance or loss of rents coverage made available to Lessor shall be applied, first, to the payment of any Rent payments for the next succeeding twelve (12) months to the extent that such payments are due and owing under this Lease; and, thereafter, after all necessary repairing, rebuilding, restoring or replacing has been completed as required by the pertinent Articles of this Lease, any remaining balance of such proceeds shall be paid over to the Lessee.

7.6. Insurance to be maintained by Lessee pursuant to this Lease may be provided by an off-shore insurance company wholly-owned by Lessee or an Affiliate of Lessee or under self-insurance programs maintained by Lessee or an Affiliate of Lessee. Any such insurers shall maintain good standing in accordance with applicable statutory requirements and comply with statutory capital requirements.

ARTICLE VIII - DAMAGE AND DESTRUCTION

8.1. If the any of the Demised Premises shall be destroyed, in whole or in part, or damaged by fire, flood, windstorm or other casualty in excess of \$250,000.00 for any single Facility (a "Casualty"), Lessee shall give written notice thereof to Lessor within sixty (60) days after the occurrence of the Casualty (the "Casualty Notice"). Within sixty (60) days after the occurrence of the Casualty or as soon thereafter as such information is reasonably available to Lessee, Lessee shall provide the following information to Lessor: [i] the date of the Casualty; [ii] the nature of the Casualty; [iii] a description of the damage or destruction caused by the Casualty, including the type of Demised Premises damaged and the area of the Demised Premises damaged; [iv] a description of the anticipated property insurance claim, including the name of the insurer, the insurance coverage limits, the deductible amount. Within ten (10) days after request from Lessor, Lessee will provide Lessor with copies of all correspondence to the insurer and any other information reasonably requested by Lessor

8.2. If all or any portion of a Facility is Substantially Destroyed (as defined below), at its option, Lessee shall, within thirty (30) days of the Casualty, notify Lessor of its election to rebuild and restore such improvements or to terminate the Lease with respect to such Facility. The term "Substantially Destroyed" means any casualty resulting in the loss of use of fifty percent (50%) or more of the licensed beds at a Facility.

a) In the event Lessee elects to rebuild and restore such improvements ("Lessee's Substantial Destruction Election to Restore"), then Lessee shall comply with the provisions of Section 8.4 and Lessor shall promptly make or shall cause its lender to make the insurance proceeds available to Lessee for such restoration.

b) In the event Lessee elects to terminate the Lease with respect to a Substantially Destroyed Facility, this Lease shall terminate with respect to such Facility upon Lessee's delivery to Lessor of its notice



of termination. If this Lease is so terminated, Lessee shall be liable to Lessor for all Rent and all other obligations accrued through the effective date of termination and Lessor shall be entitled to any insurance proceeds paid in connection with such Casualty (including business interruption but only to the extent of Rent due through the date of termination) that are attributable to the period after such effective date of termination. Notwithstanding the foregoing, Lessor shall be entitled to any insurance proceeds that reimburse a direct cost or loss to it related to the operation of the Facility or emergency remediation efforts that benefited the property.

8.3. If any portion of a Facility is not Substantially Destroyed, then Lessee shall comply with the provisions of Section 8.4 and Lessor shall promptly make or shall cause its lender to make the insurance proceeds available to Lessee for such restoration, to the extent such proceeds have been paid to Lessor or its lender, as applicable.

8.4. In the event required under this Lease or elected by Lessee, Lessee shall promptly repair, rebuild or restore the damaged Demised Premises, at Lessee's expense, so as to make the Demised Premises at least equal in value to the Demised Premises existing immediately prior to such occurrence and as nearly similar to it in character as is practicable and reasonable (the "Pre-Casualty Condition"). Lessee will provide to Lessor copies of its repair, rebuilding or restoration plans (the "Plans") and Lessor may, at Lessor's sole cost and expense and provided the same is completed within ten (10) business days from the date of Lessor's receipt of the Plans, review or cause an independent third party consultant to review, the Plans and confirm that the Plans to restore the Demised Premises are substantially consistent with the Pre-Closing Condition. Lessee will reasonably cooperate with such review and will reasonably modify the Plans to substantially conform to the Pre-Closing Condition if such modification is found to be required (a) as a result of the independent review and (b) to restore the Demised Premises so that it is at least as valuable as the Demised Premises was immediately prior to the Casualty.

8.5. In the event required under this Lease or elected by Lessee, if the proceeds of any insurance settlement are not sufficient to pay the costs of Lessee's repair, rebuilding or restoration under Section 8.4 in full, Lessee shall nonetheless be responsible for the completion of such repair, rebuilding or restoration in accordance with the provisions of this Lease, and any plans and specifications submitted in connection herewith, free from any liens or encumbrances of any kind whatsoever.

8.6. Any insurance proceeds paid in connection with the Demised Premises shall be deemed trust funds to be held for, and promptly made available to, the Lessee, except as provided in Section 8.2(b).

8.7. During the progress of any repairs or rebuilding, Lessor, its lender, and its architects and engineers may, from time to time, upon reasonable notice to Lessee and at reasonable intervals, inspect the Demised Premises and will be furnished, if required by them, at Lessor's sole cost and expense, with copies of all plans, shop drawings, and specifications relating to such repairs or rebuilding. Lessee will keep all plans, shop drawings, and specifications at the building, and Lessor and its architects and engineers may examine them at all reasonable times.

8.8. Rent will not abate pending any repairs or rebuilding of the Demised Premises; provided, however, that Lessee shall receive a credit against the rent and other sums due hereunder in an amount equal to the proceeds of any rental value and/or business interruption insurance carried by Lessee, which are paid to Lessor or any lender to Lessor.

#### ARTICLE IX - LESSOR'S RIGHT TO PERFORM

9.1. Should Lessee fail to perform any of its covenants herein agreed to be performed, Lessor may, upon fifteen (15) days prior notice specifying the work to be done or covenants to be performed and the approximate amount to be expended, but shall not be required to, make such payment or perform such covenants, and all sums so expended by Lessor thereon shall upon notice of payment by Lessor be immediately payable by Lessee to Lessor, but in no event in excess of the maximum interest rate permitted by law from date expended until paid, and in addition, Lessee shall reimburse Lessor for Lessor's reasonable expenses in enforcing or performing such covenants, including reasonable attorneys' fees. Any

such costs or expenses incurred or payments made by Lessor shall be deemed to be Additional Rent payable by Lessee and collectible as such by Lessor.

9.2. Performance of or payment to discharge said Lessee's obligations shall be optional by Lessor and such performance and payment shall in no way constitute a waiver of, or a limitation upon, Lessor's other rights and remedies hereunder, including, without limitation, Lessor's right to declare an Event of Default for such failure.

#### ARTICLE X - REPAIRS AND MAINTENANCE

10.1. Throughout the Term of this Lease, Lessee will keep and maintain, or cause to be kept and maintained, the Demised Premises (including the grounds, sidewalks, roof, parking lots and curbs abutting the same) and the Personal Property in good order and condition without waste and in a suitable state of repair (ordinary wear and tear excepted), and will make or cause to be made, as and when the same shall become necessary, all structural and nonstructural, ordinary and extraordinary, exterior and interior, replacing, repairing and restoring necessary to that end including without limitation any repairs required by Lessor (the "Lessee's Work"). All replacing, repairing and restoring required of Lessee shall be (in the reasonable opinion of Lessor) of comparable quality equal to the original work and shall be in compliance with all standards and requirements of law, licenses and municipal ordinances necessary to operate the Demised Premises.

a) Lessee shall make Capital Expenditures (as defined herein) each Lease Year in an amount equal to or exceeding the Capital Expenditure Amount, as Lessor may verify by review of Lessee's books and records or other information available to Lessor pursuant to this Lease. The term "Capital Expenditures" shall mean, for any period, the aggregate of all expenditures made in respect of the purchase, construction, or acquisition of fixed or capital assets for the benefit of the Demised Premises, determined in accordance with generally accepted accounting principles in the United States of America ("GAAP"). The term "Capital Expenditure Amount" shall mean a sum equal to \$650,000 per licensed bed; provided that amounts escrowed pursuant to Section 5.11 hereof shall count towards the Capital Expenditure Amount.

#### 10.2. [RESERVED]

10.3. Provided that there is no uncurbed Event of Default by Lessee under this Lease, Lessee shall have the right, at any time and from time to time, to remove and dispose of any Personal Property which may have become obsolete or unfit for use, or which is no longer useful in the operation of the Demised Premises, provided Lessee promptly replaces any such Personal Property so removed or disposed of with other personal property free of any security interest, liens or encumbrances, and the replacement personal property shall be of the same character, and at least equal usefulness and quality to any such Personal Property so removed or disposed of and such replacement property shall automatically become the property of and shall belong to Lessor at the end of the Term and at such time Lessee shall execute and deliver such bills of sale or other documents reasonably requested by Lessor to vest ownership of such replacement personal property in Lessor. Notwithstanding anything to the contrary herein, in no event shall any of the following be deemed to be, or become, property of the Lessor: (a) any IT infrastructure assets used at or in connection with the operations of the Facilities including without limitation any owned or leased computers or software or similar assets; (b) proprietary operational documentation used at or in connection with the operations of the Facilities, including without limitation any compliance plans, policy manuals, employee handbooks or similar documentation; or (c) any property owned or leased by any third party manager of the Facilities.

#### ARTICLE XI - ALTERATIONS AND DEMOLITION

11.1. Lessee will not remove or demolish the Demised Premises or any portion thereof or allow it to be removed or demolished, without the prior written consent of Lessor. Lessee further agrees that it will not make, authorize or permit to be made any changes or alterations in or to the Demised Premises, the cost of which in any twelve (12) month period exceeds \$350,000.00 per Facility, without first obtaining Lessor's written consent thereto. At the request of Lessor, prior to the commencement of any such changes or alterations which cost in excess of \$350,000.00 per Facility, Lessee shall do the following or provide to Lessor the following documentation:

(a) submit complete plans and specifications for such repairs prepared by an architect or general contractor whose qualifications shall be reasonably satisfactory to Lessor; (b) submit a stipulated sum construction contract made with a reputable and responsible builder or contractor, providing for the completion and payment for all work, labor and materials necessary to complete such repairs; (c) establish, at Lessee's sole cost and expense, the disbursement of such funds as may be required to complete said repairs by a national title insurance company or other responsible escrow to the contractor or contractors making such repairs in installments as such work progresses and upon presentation of such certificates, waivers of lien, sworn statements and other documents as may be required by such escrow; and (d) take such other actions or provide such other documentation to Lessor as Lessor may reasonably require to protect its interest in the Demised Premises and Personal Property. All alterations, improvements and additions to the Demised Premises shall be in quality and class at least equal to the that which existed as of the Effective Date and shall become the property of Lessor and shall comply with all building and fire codes, and all other applicable codes, rules, regulations, laws and ordinances. Any plans and specifications required pursuant to clause (d) of this Section shall include detailed architectural, mechanical, electrical and plumbing working drawings. The plans and drawings will be subject to Lessor's approval with respect to design, aesthetics, building code compliance and such other matters as Lessor deems relevant. Notwithstanding the provisions of the preceding sentence to the contrary, the review and approval by Lessor shall not be relied upon by Lessee that any such plans or drawings are in compliance with applicable laws or represent a sound design.

#### ARTICLE XII - COMPLIANCE WITH LAWS AND ORDINANCES

12.1. Throughout the Term of this Lease, Lessee, at its sole cost and expense, will obey, observe and promptly comply with all present and future laws, ordinances, orders, rules, regulations and requirements of any federal, state and municipal governmental agency or authority having jurisdiction over the Demised Premises and the operation thereof as skilled nursing facilities, which may be applicable to the Demised Premises, the Personal Property and the nursing homes located therein and including, but not limited to, the sidewalks, alleyways, passageways, vacant land, parking spaces, curb cuts, curbs adjoining the Demised Premises, whether or not such law, ordinance, order, rules, regulation or requirement shall necessitate structural changes or improvements.

12.2. Lessee shall likewise observe and comply with the requirements of all of Lessee's policies of public liability and fire insurance and all other policies of insurance at any time in force with respect to the Demised Premises, including any recommendations made by any of Lessee's insurers.

12.3. Prior to the Commencement Date, Lessee shall obtain, at its sole cost and expense, all necessary approvals, certifications and licenses from all appropriate governmental agencies necessary to permit Lessee to operate the Facilities as skilled nursing facilities, including, without limitation, the receipt of the Licenses permitting Lessee to operate the Facilities as skilled nursing facilities. Lessee shall, subject to the terms of Article XIX hereof, keep in good standing and in full force and effect all necessary licenses, permits and certifications required by any governmental authority for the purpose of maintaining and operating on the Demised Premises skilled nursing facilities and the Facilities shall at all times, subject to the terms of Article XIX hereof, continue to be qualified to and shall participate in the Medicare and Medicaid reimbursement programs.

12.4. Lessee will deliver or mail and send by email to Lessor within seven (7) days following receipt thereof, copies of any notices from HHS, CMS or any governmental, quasi-governmental or other agency terminating, disqualifying or suspending, or reasonably likely to result in the termination, disqualification or suspension, of the Medicaid or Medicare provider agreements (the "Provider Agreements"), the license or any other license or certification relating to the operations of the Facilities or participation in any governmental or non-governmental reimbursement or third party payor program, including the Medicare or Medicaid reimbursement program, or otherwise related to the Demised Premises.

#### ARTICLE XIII - DISCHARGE OF LIENS

13.1. Subject to the right to contest provided herein, Lessee will not create or permit to be created or to remain, and Lessee will discharge, any lien, encumbrance or charge levied on account of any mechanic's, laborer's or materialman's lien or any conditional sale, security agreement or chattel mortgage, or otherwise, which might be or become a lien, encumbrance or charge upon the Demised Premises or any part thereof or the Personal Property, for work or materials or personal property furnished or supplied to Lessee. Notwithstanding the foregoing, Lessee shall have the right to purchase equipment, furniture, or furnishings (other than as a replacement for any personal property owned by Lessor and leased to Lessee hereunder) which may be subject to a security agreement or chattel mortgage provided that all payments for any such equipment, furniture or furnishings shall be paid on or prior to the due dates thereof and Lessee shall indemnify Lessor against all charges, costs and expenses that may be incurred by Lessor with respect to such security agreement or chattel mortgage.

13.2. If any mechanic's, laborer's or materialman's lien caused or charged to Lessee shall at any time be filed against any portion of the Demised Premises or Personal Property, Lessee shall have the right to contest such lien or charge provided that such lien is discharged or bonded over in a commercially reasonable manner within sixty (60) days of the filing of the lien. If Lessee shall fail to cause such lien to be discharged within the period aforesaid, then in addition to any other right or remedy, Lessor may, upon twenty (20) days prior notice, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by processing the discharge of such lien by deposit, title endorsement or by bonding proceedings. Any amount so paid by Lessor and all costs and expenses incurred by Lessor in connection therewith.

13.3. Notwithstanding anything to the contrary herein, Lessee shall have the right to create, incur or permit to exist any of the following (a) liens granted to Lessor or any Affiliate of Lessor; (b) liens customarily incurred by Lessee in the ordinary course of business for items not delinquent, including mechanic's liens and deposits and charges under workers' compensation laws; (c) liens for taxes and assessments not yet due and payable; (d) any lien, charge, or encumbrance which is being contested in good faith pursuant to this Lease; (e) all easements, liens, encumbrances, restrictions, agreements and other title matters existing as of the Commencement Date, and any sublease of any portion of the Demised Premises made in accordance with this Lease; (f) purchase money financing and capitalized equipment leases for the acquisition of personal property; (g) with Lessor's consent, which consent shall not be unreasonably conditioned, delayed or denied, any easement which is necessary to (i) obtain utilities or other services for the Demised Premises in the ordinary course of Lessee's business or (ii) satisfy requests from local authorities in respect of, without limitation, township projects; (h) liens granted on property in respect of any working capital facilities of Lessee, including, without limitation, liens on Lessee's accounts receivable; and (i) pledges of equity interests in Lessee to institutional lenders provided that the terms of which provide that any change of control resulting from a foreclosure on any such pledges, shall be subject to the terms of any loan agreement entered into by Lessor.

#### ARTICLE XIV - INSPECTION OF PREMISES AND RECORDS BY LESSOR

14.1. At any time, during reasonable business hours and upon reasonable prior notice to Lessee, Lessor and Lender or their respective authorized representatives shall have the right to enter and inspect the Demised Premises and Personal Property provided Lessor shall not disturb the operation of the Demised Premises by Lessee.

14.2. If an Event of Default shall have occurred and for such period until the same shall have been cured, at any time, during reasonable business hours and upon reasonable prior notice to Lessee, Lessor and Lender or their respective authorized representatives shall have the right to inspect, and, at Lessee's expense, make copies of, the books and records relating to the Demised Premises and the applicable Facilities, including, without limitation, to the extent permitted by applicable law all patient records, employment records, surveys and inspections reasonably required by Lessor.

14.3. Lessor agrees that upon entering and inspecting the Demised Premises, Personal Property and books and records Lessor shall take all reasonable measures to avoid disruption to Lessee's routine business operation during any such entries and the person or persons will cause as little inconvenience to the Lessee, its employees and residents of the Facilities as may reasonably be possible under the circumstances.



#### ARTICLE XV - CONDEMNATION

15.1. If all of the Demised Premises are taken by the exercise of the power of eminent domain, or sold under eminent domain proceedings, this Lease shall terminate as of the date possession is taken by the condemnor.

15.2. If less than all of the Demised Premises are taken by the exercise of the power of eminent domain or sold under eminent domain proceedings and in light of such exercise of eminent domain or sale pursuant to eminent domain proceedings, Lessee can no longer operate one or more Facilities in materially the same manner as prior to the exercise of eminent domain, then Lessee may either (a) terminate this Lease with respect to such Facilities or (b) subject to the consent and approval of Lessor, with reasonable diligence, restore or rebuild to the extent reasonably practicable any improvements upon the Demised Premises affected by the taking with the proceeds from the condemnation award. In the event the amount awarded shall be insufficient to repair and restore the Demised Premises, Lessee shall contribute the amount of any such deficiency.

15.3. In the event that all or less than all of the Demised Premises are taken or so sold, and this Lease shall terminate as provided herein, then Lessor shall be entitled to the entire award for the real estate and improvements. Lessee shall be entitled to any award that it can prove for damage to its leasehold interest, provided that such award is separately allocated to Lessee by the condemning authorities and does not diminish or reduce the award to be paid to Lessor. Notwithstanding anything to the contrary herein, if less than all of the Demised Premises are taken by the exercise of the power of eminent domain or sold under eminent domain proceedings and this Lease is not terminated, the Base Rent shall be equitably reduced based on the number of beds no longer in service as a result of such condemnation or eminent domain.

#### ARTICLE XVI - RENT ABSOLUTE

16.1. Except as herein provided, damage to or destruction of any portion of the buildings, structures and fixtures upon the Demised Premises, by fire, the elements or any other cause whatsoever, whether with or without fault on the part of Lessee, shall not terminate this Lease or entitle Lessee to surrender the Demised Premises or entitle Lessee to any abatement of or reduction in the Rent payable, or otherwise affect the respective obligations of the parties hereto, any present or future law to the contrary notwithstanding.

#### ARTICLE XVII - ASSIGNMENT AND SUBLETTING

17.1. During the Term of this Lease, Lessee shall not assign this or in any manner whatsoever sublet, assign, encumber or transfer all or any part of the Demised Premises or in any manner whatsoever assign or encumber any interest in the Demised Premises or any interest in this Lease to any Person (an "Assignment") without the prior written consent of Lessor, which consent shall be in Lessor's sole discretion. As a condition of granting its consent, Lessor may request, and Lessee shall provide to Lessor, resumes and financial statements for any proposed transferee. Lessee acknowledges and agrees that Lessor has specifically chosen Lessee to operate the Facilities based upon the skill and expertise of Lessee and its principals in operating nursing homes in the State of Florida and upon the character and reputation of such principals. Prior to any transfer of possession of the Demised Premises to such transferee, any proposed transferee shall assume all the obligations of Lessee transferred hereunder. In the event any transferee commits an Event of Default, such act or omission shall be deemed an Event of Default hereunder on behalf of the Lessee. Any violation or breach or attempted violation or breach of the provisions of this Article by Lessee, or any acts inconsistent herewith shall vest no right, title or interest herein or hereunder or in the Demised Premises in any such transferee or assignee, and Lessor may, at its exclusive option, invoke the provisions of this Lease relating to default. As a condition of granting its consent to any sublease or assignment which requires Lessor's consent, Lessee shall pay, and Lessee hereby agrees to pay, any reasonable out of pocket third party costs and expenses of Lessor incurred in connection with such sublease or assignment, including without limitation, all due diligence costs and reasonable attorneys' fees. "Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, trustee, estate, limited liability company, unincorporated organization, real estate investment trust or other legal entity.

17.2. For purposes of this Article and Article XVIII:

a) Any transfer or transfers of the membership interests in Lessee (or stock in a corporate lessee, partnership interests in a partnership lessee or stock in a corporate general partner of a partnership lessee, as the case may be) however accomplished, which result in a change in ownership of such membership interests in Lessee (or stock in a corporate lessee, partnership interests in a partnership lessee or stock in a corporate general partner of a partnership lessee, as the case may be) shall be deemed an assignment of this Lease. Additionally, the sale of the interest of Lessee in the Demised Premises under execution or other legal process shall also be deemed an assignment of this Lease.

b) Any person, corporation, limited liability company or other entity to whom Lessee's interest under this Lease passes by operation of law, or otherwise, shall be bound by the provisions of this entire Lease and this Article, and except for subsequent subleases, assignments or transfers permitted by this Article, shall obtain the consent of Lessor to any subsequent sublease, assignment, encumbrance or transfer or such event shall be deemed an Event of Default hereunder.

c) An agreement made directly or indirectly, to assume Lessee's obligations under this Lease shall be an assignment.

#### ARTICLE XVIII - EVENTS OF DEFAULT

18.1. The occurrence of any of the following acts or events shall be deemed to be a default ("Event of Default") on the part of the Lessee:

a) The failure of Lessee to pay when due any Rent payment, or any part thereof, or any other sum or sums of money due or payable to Lessor under the provisions of this Lease when such failure shall continue for a period of five (5) calendar days after the date Rent is due, or with respect to other payments, five (5) calendar days after the date of notice of such failure has been delivered by Lessor to Lessee;

b) The failure of Lessee to perform, or the violation by Lessee of, any of the covenants, terms, conditions or provisions of this Lease, if such failure or violation shall not be cured within thirty (30) days after notice of such failure has been delivered by Lessor to Lessee unless such failure or violation cannot with due diligence be cured within a period of thirty (30) days because of the nature of the default or delays beyond the control of Lessee, and cure after such thirty (30) day period will not have a material and adverse effect upon the Demised Premises, in which case such failure or violation shall not constitute an Event of Default if Lessee diligently and continuously pursues cure of the same; provided, however, no cure period for such default shall continue for more than sixty (60) days from Lessee's receipt of a written notice of Lessee's failure or violation from Lessor.

c) The voluntary making by Lessee of an assignment for the benefit of creditors or any unauthorized assignment, or the appointment for Lessee of any receiver, liquidator or trustee; or the adjudication of Lessee as bankrupt or insolvent; or the filing by or against, the consent to, or the acquiescence in by Lessee of any insolvency proceeding, provided, however, if such appointment, adjudication, or Insolvency Proceeding was involuntary and not consented to by Lessee, only upon the same not being discharged, stayed or dismissed within ninety (90) days;

d) If proceedings are instituted in a court of competent jurisdiction for the reorganization, liquidation or involuntary dissolution of the Lessee for its adjudication as a bankrupt or insolvent, or for the appointment of a receiver of the property of Lessee, and said proceedings are not dismissed and any receiver, trustee or liquidator appointed therein discharged within ninety (90) days after the institution of said proceedings;

e) Any assignment in violation of Article XVII hereof;

f) An "Event of Default" under the Guaranty as defined therein;

g) INTENTIONALLY OMITTED

b) Any material suspension, termination or restriction placed upon Lessee, or the Facilities, or the ability to admit residents or patients (e.g., an admissions ban or non-payment for new admissions by Medicare or Medicaid), and such suspension, termination or restriction continues for more than thirty (30) calendar days after imposition thereof.

j) A Facility shall have been placed on the CMS Special Focus Facility list.

j) The License or any material provider agreement for a Facility has been terminated or revoked.

k) A Facility has ceased operations and the patients have been relocated.

#### ARTICLE XIX - RIGHT TO CONTEST/CURE

19.1. Anything to the contrary stated herein notwithstanding, Lessee shall have the right to contest by appropriate administrative or legal proceedings, diligently conducted in good faith, the validity or application of any law, ordinance, regulation or rule mentioned herein, and to delay compliance therewith pending the prosecution of such proceedings, including without limitation any proceeding for any matter that would otherwise give rise to an Event of Default pursuant to Article XVIII, provided that Lessee shall obtain Lessor's prior consent, not to be unreasonably withheld, conditioned or delayed, if such contest could be reasonably expected to result in the termination of the License. Notwithstanding anything to the contrary contained herein, despite the existence and continuance of an Event of Default hereunder, Lessor shall not pursue and shall not be entitled to pursue any remedies arising solely from the occurrence of such Event of Default hereunder relating to the subject matter of Lessee's contest, including without limitation the termination of this Lease; provided, that during said contest: (a) no civil or criminal liability would thereby be incurred by Lessor and no lien or charge would thereby be imposed upon or satisfied out of the Demised Premises; (b) there continues during the course of such contest authority to continue operations of the Demised Premises as a nursing home (which may be temporary or provisional); (c) such situation does not cause Lessor to be in default pursuant to the terms of any mortgage encumbering the Demised Premises and (d) such Event of Default does not jeopardize the License or the Provider Agreements, or the operations, certifications or value of the Demised Premises and the Personal Property.

19.2. Except for an Event of Default of Lessee in the payment of Rent or any additional payment required hereunder, in any case where Lessor shall have given to Lessee a written notice specifying a situation which, as hereinafter provided, must be remedied by Lessee within a certain time period, and, if for causes beyond Lessee's control, it would not reasonably be possible for Lessee to remedy such situation within such period, then, provided Lessee, immediately upon receipt of such notice, shall advise Lessor in writing of Lessee's intention to institute and Lessor's written consent thereto, as determined in its sole discretion, and shall, as soon as reasonably possible thereafter, duly institute, and thereafter diligently prosecute to completion, all steps necessary to remedy such situation and shall remedy the same, during the period necessary to remedy such situation, (but not exceeding a total of ninety (90) days following the initial delivery by Lessor to Lessee of the written notice of default), notwithstanding anything to the contrary contained herein, although such situation shall be deemed an Event of Default hereunder, Lessor shall not pursue and shall not be entitled to pursue any remedies arising solely from the occurrence of such Event of Default hereunder; provided, however, that: (a) no civil or criminal liability would thereby be incurred by Lessor and no lien or charge would thereby be imposed upon or satisfied out of all or any part of the Demised Premises; and (b) there continues during such remedy authority to continue to operate the Facilities as nursing homes (which may be temporary or provisional); (c) such situation does not cause Lessor to be in default pursuant to the terms of any mortgage; and (d) such Event of Default does not jeopardize the License or the Provider Agreements, or the operations, certifications or value of the Demised Premises and the Personal Property.

19.3. Lessee shall promptly provide Lessor with a copy of any notice from any governmental authority or agency threatening or requesting a reduction in the number of licensed beds at the Facilities. Lessee shall have the right to contest any such reduction and shall notify Lessor within fifteen (15) days following the date of such notice (or such shorter period as required to provide notice to Lessor not later than ten (10) days prior to the cutoff date for any such contest) whether or not Lessee shall undertake such

contest. If Lessee fails to contest any such reduction, Lessor may, following written notice to Lessee of its intent to do so, contest any such reduction. Lessor shall additionally have the right to intervene in any such contest dealing with a reduction in the number of beds at the Facilities.

19.4. The cost for any contest permitted under this Article XIX shall be borne by the Lessee. At Lessor's reasonable request, Lessee shall consult with Lessor regarding the pursuit of any contest.

#### ARTICLE XX - LESSOR'S REMEDIES UPON DEFAULT

20.1. Subject to the limitations on Lessor's right to terminate this Lease pursuant to Section 19.1, in the event of any Event of Default by Lessee, Lessor may, if it so elects, and with notice of such election to Lessee, and upon demand upon Lessee, forthwith terminate this Lease and Lessee's right to possession of the Demised Premises. Upon any such termination of this Lease, Lessee shall vacate the Demised Premises as promptly as is reasonably practicable taking into account legal and regulatory requirements and shall quietly and peaceably deliver possession thereof to Lessor, and Lessee hereby grants to Lessor full and free license to enter into and upon the Demised Premises in such event with process of law and to repossess the Demised Premises and Personal Property as Lessor's former estate. In the event of any such termination of this Lease, Lessor shall again have possession and enjoyment of the Demised Premises and Personal Property to the extent as if this Lease had not been made, and thereupon this Lease and everything herein contained on the part of Lessee to be done and performed shall cease and terminate, all, however, without prejudice to and without relinquishing the rights of Lessor to Rent (which, upon such termination of this Lease and entry of Lessor upon the Demised Premises, shall, in any event, be the right to receive Rent due up to the time of such entry) or any other right given to Lessor hereunder or by operation of law.

20.2. In the event of an Event of Default and Lessor elects to terminate this Lease, then all licenses, certifications, permits, authorizations and provider agreements issued by any governmental agency, body or authority in connection with or relating to the Demised Premises and the Facilities thereon shall be deemed as being assigned to Lessor to the extent the same are legally assignable. Lessor shall also have the right to continue to utilize the telephone numbers used by Lessee in connection with the operation of the Facilities. In connection with the foregoing clauses of this Section 20.2, this Lease shall be deemed and construed as an assignment for purposes of vesting in Lessor all right, title and interest in and to (a) all licenses, certifications, permits, authorizations and provider agreements obtained in connection with the operation of the Facilities and (b) the telephone numbers used in connection with the operation of the Facilities. Lessee hereby agrees to take such other action and execute such other documents as may be reasonably necessary in order to vest in Lessor all right, title and interest to the items specified herein.

#### 20.3. [RESERVED]

20.4. Lessee's liability to Lessor for damages upon the occurrence of an Event of Default shall in all events survive the termination by Lessor of this Lease.

20.5. No receipt of funds by Lessor from Lessee after service of any notice of an Event of Default, termination of this Lease or after commencement of any suit or proceeding of Lessee shall in any way terminate, continue or extend this Lease or in any way affect the notice of the Event of Default or demand or in any way be deemed a waiver by Lessor of any of its rights unless consented to in writing by Lessor.

#### ARTICLE XXI - LIABILITY OF LESSOR

Lessor, its agents, and employees, will not be liable for any loss, injury, death, or damage (including consequential damages) to persons, property, or Lessee's business occasioned by theft, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, order of governmental body or authority, fire, explosion, falling objects, steam, water, rain or snow, leak or flow of water, rain or snow from the Demised Premises or into the Demised Premises or from the roof, street, subsurface or from any other place, or by



damages or from the breakage, leakage, obstruction, or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures of the Demised Premises, or from construction, repair, or alteration of the Demised Premises or from any acts or omissions of any other occupant or visitor of the Demised Premises, or from any other cause beyond Lessor's control, except as caused by (a) the fraud, negligence or misconduct of Lessor or its agents or employees, or (b) Lessor's breach of its obligations under this Lease.

#### ARTICLE XXII - CUMULATIVE REMEDIES OF LESSOR

The specific remedies to which Lessor may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Lessor may be lawfully entitled in case of any breach or threatened breach by Lessee of any provision or provisions of this Lease. The failure of Lessor to insist, in any one or more cases, upon the strict performance of any of the terms, covenants, conditions, provisions or agreements of this Lease, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment for the future of any such term, covenant, condition, provisions, agreement or option.

#### ARTICLE XXIII - SECURITY FOR RENT; LESSEE'S WORKING CAPITAL FINANCING

23.1. Lessor shall have a lien on every right and interest of Lessee in and to this Lease, and on any of Lessee's accounts receivable, furnishings, equipment, or fixtures or property of any kind belonging to Lessee and located at or used in connection with the Facilities ("Lessor's Lien"). Notwithstanding the foregoing, during any period in which Lessor's Lien shall be subject and subordinate to any lien thereon granted by Lessee from time to time to any institutional lender or lenders providing working capital to Lessee or to Lessee's affiliates in connection with any enterprise financing secured in part by the Facilities or Lessee's assets (any of the foregoing is "Working Capital Financing"), and to all renewals, modifications, extensions and replacements thereof, if the Working Capital Financing lenders consent to such subordinate lien, Lessor agrees to prepare and file, or consent to the filing of, within five (5) days following Lessee's request therefor, such financing statements or other instruments as may be reasonably requested by Lessee to evidence or effect subordination of Lessor's Lien to the lien of the institutional lenders described above. Any financing statement evidencing or perfecting Lessor's Lien shall expressly provide for such subordination with respect to Lessee's accounts receivable, furnishings, equipment, fixtures or property of any kind. The subordination to Lessee's institutional lender shall be on such lender's form of subordination agreement, which shall be reasonably agreed by Lessor. Such lien is granted for the purpose of securing the payments of Rent, charges, penalties, and damages herein covenanted to be paid by Lessee, and for the purpose of securing the performance of all of Lessee's obligations under this Lease. Such lien shall be in addition to all rights to Lessor given and provided by law. This Lease shall constitute a security agreement under the Uniform Commercial Code granting Lessor a security interest in such furnishings, equipment, fixtures or property of any kind and accounts receivable, and upon the request by Lessor, Lessee shall prepare and file, or consent to the filing of, such financing statements and other documents reasonably required to perfect such security interest, which documents shall be filed or recorded at the expense of Lessee. Notwithstanding the foregoing, Lessor's Lien shall be suspended and waived during any period in which MidCap Funding IV Trust is providing Working Capital Financing to Lessee with respect to the Facilities.

#### 23.2. INTENTIONALLY OMITTED

#### 23.3. INTENTIONALLY OMITTED

#### ARTICLE XXIV - INDEMNIFICATION

24.1. Lessee agrees to protect, indemnify and save harmless Lessor with respect to the Demised Premises from and against any claims, demands, losses, and causes of action of any nature whatsoever asserted against or incurred by Lessor on account of: (a) any failure on the part of Lessee during the Term of this Lease to perform or comply with any of the terms of this Lease; or (b) injury to or death of persons or loss of or damage to property, occurring on the Demised Premises or any adjoining sidewalks, streets or ways or in any manner growing out of or connected with the use or occupation of the Demised Premises or the condition

thereof, or the use of any existing or future sewer system, or the use of any adjoining sidewalks, streets or ways occurring after the Effective Date; or (c) any claims, penalties, recoveries, interest, monetary sanctions, fees, or other liabilities imposed by a governmental agency or by a third party insurance company related to the operations of and payments made to the Facilities while Lessee was providing skilled nursing services. Lessee further agrees to pay any reasonable attorneys' fees and expenses incident to the defense by Lessor of any such claims, demands or causes of action. Notwithstanding anything in this Lease to the contrary, in no event shall Lessee have any indemnification obligations to Lessor for any claims, demands, losses, and causes of action arising out of the fraud, gross negligence or willful misconduct of Lessor or any of its officers, directors, shareholders, managers, principals, employees or affiliates.

24.2. Lessor agrees to indemnify, defend and save harmless Lessee from and against any liabilities, losses, claims, demands and causes of action whatsoever asserted against or incurred by Lessee on account of: (a) any failure on the part of Lessor during the Term of this Lease to perform or comply with any of the terms of this Lease; and (b) any failure on the part of Lessor to perform or comply with the terms of any mortgage (except to the extent that such failure is caused in whole or in part by acts or omissions of Lessee). Lessor further agrees to pay any reasonable attorneys' fees and expenses incident to the defense by Lessee of any such claims, demands or causes of action. There is expressly excluded from Lessor's indemnity hereunder any claim or proceeding by Lessee (i) which is based upon the physical condition of the Demised Premises or Personal Property prior to the Effective Date, or (ii) any form of relief not satisfied by the payment of money. Furthermore, and notwithstanding anything in this Lease to the contrary, in no event shall Lessor have any indemnification obligations to Lessee for any claims, demands, losses, and causes of action arising out of the fraud, gross negligence or willful misconduct of Lessee or any of its officers, directors, shareholders, managers, principals, employees or affiliates.

24.3. In the event that any liability, claim, demand or cause of action which is indemnified against by or under any term, provision, section or paragraph of this Lease ("Indemnitee's Claim") is made against or received by any indemnified party (hereinafter "Indemnitee") hereunder, said Indemnitee shall notify the indemnifying party (hereinafter "Indemnitor") in writing within fifteen (15) calendar days of Indemnitee's receipt of written notice of said Indemnitee's Claim, provided, however, that Indemnitee's failure to timely notify Indemnitee of Indemnitee's receipt of an Indemnitee's Claim shall not impair, void, vitiate or invalidate Indemnitee's indemnity hereunder nor release Indemnitor from the same, which duty, obligation and indemnity shall remain valid, binding, enforceable and in full force and effect so long as Indemnitee's delay in notifying Indemnitor does not, solely by itself, directly and materially prejudice Indemnitor's right or ability to defend the Indemnified Claim. Upon its receipt of any or all Indemnitee's Claim(s), Indemnitor shall, in its sole, absolute and unreviewable discretion, diligently and vigorously defend, compromise or settle said Indemnitee's Claim at Indemnitor's sole and exclusive cost and expense to the extent funds are available ("Available Funds") to fully indemnify such claims. Upon the receipt of the written request of Indemnitee, Indemnitor shall within ten (10) business days provide Indemnitee a true, correct, accurate and complete written status report regarding the then current status of said Indemnitee's Claim. Prior to an Indemnification Default (as defined herein), Indemnitor may not settle or compromise an Indemnitee's Claim without Indemnitor's prior written consent. Failure to obtain such consent shall be deemed a forfeiture by Indemnitee of its indemnification rights hereunder. In the event that Indemnitor fails or refuses to indemnify, save, defend, protect or hold Indemnitee harmless from and against an Indemnitee's Claim and/or to diligently pursue the same to its conclusion, or in the event that Indemnitor fails to timely report to Indemnitee the status of its efforts to reach a final resolution of an Indemnitee's Claim, which failure to report causes Indemnitee material harm, or in the event that Indemnitor does not have the Available Funds, on thirty (30) calendar days prior written notice to Indemnitor during which time Indemnitor may cure any alleged default hereunder, the foregoing shall immediately, automatically and without further notice be an event of default hereunder (an "Indemnification Default") and thereafter Indemnitee may, but shall not be obligated to, immediately and without notice to Indemnitor, except such notice as may be required by law and/or rule of Court, intervene in and defend, settle and/or compromise said Indemnitee's Claim at Indemnitor's sole and exclusive cost and expense, including but not limited to attorneys' fees, and, thereafter, within thirty (30) calendar days of written demand for the same Indemnitor shall promptly reimburse Indemnitee all said Indemnitee's Claims and the reasonable costs, expenses and attorneys' fees incurred by Indemnitee to defend, settle or compromise said Indemnitee's Claims.

#### ARTICLE XXV - SUBORDINATION PROVISIONS

25.1. Subject to the provisions of this Section, this Lease (and Lessee's interest in the Demised Premises and Personal Property) shall be subordinate to any existing mortgage and to any mortgage given by Lessor to any lender which may affect the Demised Premises or Personal Property, and to all renewals, modifications, consolidations, replacements refinancings and extensions thereof, in each case subject to Section 26.2. However, if requested by Lessor or its mortgagee, or if requested by Lessee, then Lessee, Lessor and such Lessor's mortgagee shall execute and deliver such documents as may be required in order to evidence such subordination, provided that such documents shall not affect any of the provisions of this Lease relating to the amount of Rent, the purposes for which the Demised Premises may be used, the size or location of the Demised Premises, or the duration or Commencement Date of the Term, and shall include a nondisturbance provision as set forth in this Section reasonably satisfactory to Lessee.

25.2. It is understood, agreed and acknowledged that Lessor shall have the right, subject to Section 26.2, to finance, refinance and guaranty such financing or refinancing, from time to time, the Demised Premises and Personal Property, and grant a mortgage, deed of trust or security interest thereon, to assign or pledge any or all of its interest in this Lease and to assign or pledge the revenues and receipts to be received by Lessor hereunder to a third party.

#### ARTICLE XXVI - LESSOR'S LOAN DOCUMENT REQUIREMENTS

26.1. Anything in this Lease contained to the contrary notwithstanding, Lessee shall at all times and in all respects fully, timely and faithfully comply with and observe each and all of the conditions, covenants, and provisions required on the part of Lessor under the Loan Documents, including, without limitation, any Lender notice requirements under the Loan Documents, such conditions, covenants and provisions thereof as related to the financial covenants and financial reporting, related to operations, related to the care, maintenance, repair, insurance, restoration, preservation and condemnation of the Demised Premises, notwithstanding that such conditions, covenants and provisions may require compliance and observance to a standard or degree in excess of that required by the provisions of this Lease, or may require performance not required by the provisions of this Lease; provided, however, Lessor shall provide Lessee notice of any such failure to comply with or observe the terms of the Loan Documents and Lessee shall have five (5) days following receipt of such notice to cure such failure. If any Loan Document entered into following the Commencement Date requires compliance, observance or performance to a standard or degree in excess of that required by the terms of any existing Loan Document and this Lease, Lessee shall comply with such standard, degree or additional performance. Lessee further agrees that it shall not do or permit to be done anything which would constitute a breach of or default under any obligation of Lessor under the Loan Documents, it being the intention hereof that Lessee shall so comply with and observe each and all of such covenants, conditions and provisions of any Loan Document affecting the Demised Premises so that they will at all times be in good standing and there will not be any default on the part of Lessor thereunder; provided, however, Lessor shall provide Lessee notice of any such breach or default and Lessee shall have five (5) days following receipt of such notice to cure such breach or default. Notwithstanding anything in this Lease to the contrary, in the event that Lessee is required to take any action pursuant to this Section 26.1 to comply with the Loan Documents, provided that the underlying event to be remedied did not also constitute a breach of Lessee's obligations under this Lease, the cost of any such remedial action by Lessee shall be paid by Lessor. Other than as specifically provided herein, Lessee specifically acknowledges and agrees that they may not sublet or assign all or any portion of the Demised Premises or their interests under this Lease without Lessor first obtaining the written consent of Lender.

26.2. Lessee agrees to reasonably cooperate with Lessor (a) to allow the granting to an FHA mortgagee of a subordinate security interest in Lessee's accounts and other assets, and to execute HUD loan and bank documents in form and substance acceptable to Lessee and (b) in connection with any amendment or modification of this Lease requested in connection with the amendment, modification or replacement of Lessor's financing terms, including by amending this Lease, entering into an intercreditor agreement in a form that is customary and reasonably acceptable to the applicable parties, and setting up and maintaining lockboxes to effectuate the same, provided in each case that (i) any obligations imposed upon Lessee or any restrictions of Lessee's rights in connection with the same will not increase Lessee's obligations or reduce Lessee's rights under this Lease except to a *de minimis* extent; (ii) Lessee shall not be required to grant any security interest on

its assets other than as contemplated by this Lease, and any security interest granted by Lessee shall be subordinate to any liens granted in connection with Working Capital Financing, and (iii) Lessor shall be responsible for payment of any and all costs incurred by Lessee in connection with any of the foregoing, including but not limited to attorney's fees, and any expenditures made in connection with ongoing loan maintenance and reporting.

#### ARTICLE XXVII - RESERVED

#### ARTICLE XXVIII - LESSEE'S ATTORNEYS

28.1. Lessee covenants and agrees that, if by reason of a default upon the part of Lessor herein in the performance of any of the terms and conditions of any mortgage and the mortgage forecloses on the estate of Lessor in the Demised Premises, upon notice of such event to Lessee, Lessee will attorn to the then holder of such mortgage or the purchaser in such foreclosure proceedings, as the case may be, and will recognize such holder of the mortgage or such purchaser as Lessor under and subject to the terms of this Lease. Lessee covenants and agrees to execute and deliver, at any time and from time to time, upon the request of Lessor, or of the holder of such mortgage or the purchaser in foreclosure proceedings, any instrument which may be reasonably necessary or appropriate to evidence such attornment. In the event any such proceedings are brought against Lessor under such mortgage or the holder of any such mortgage, then Lessee further waives the provisions of any statute or rule or law now or hereafter in effect which may terminate this Lease or give or purport to give Lessee any right of election to terminate this Lease or to surrender possession of the Demised Premises and agrees that, pending any final order, this Lease shall not be affected in any way whatsoever by any such proceedings.

#### ARTICLE XXIX - REPRESENTATIONS

29.1. Lessor represents and warrants as follows:

a) **Organization and Good Standing; Power and Authority.** Each Lessor is a limited liability company, is duly organized and validly existing under the laws of the State of Delaware and has the full right and power to enter into and perform its obligations under this Lease and all agreements or documents entered into or executed in connection therewith and has taken all requisite actions to authorize the execution, delivery and performance of this Lease and all agreements and documents entered into or executed in connection therewith. Lessor is qualified to do business in and is in good standing under the laws of the state in which the Facilities are located.

b) **Enforceability.** This Lease constitutes a legal, valid, and binding obligation of Lessor enforceable in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, fraudulent conveyance, moratorium and other similar laws of general application relating to or affecting creditors' rights and to general principles of equity and judicial discretion and general requirements of materiality, good faith, fair dealing, and commercial reasonableness (whether a matter is considered in a proceeding at law or in equity).

c) **No Conflicts.** Neither the execution and delivery of this Lease, nor any agreement referred to or contemplated hereby, by Lessor will violate any provision of its Operating Agreement, be in conflict with, constitute a default or create a right of termination or cancellation under any agreement or commitment to which Lessor is a party.

29.2. Lessee represents and covenants to Lessor as follows:

a) **Organization and Good Standing; Power and Authority.** Each Lessee is a limited liability company, duly organized and validly existing in good standing under the laws of the State of Ohio, and has full right and power to enter into, or perform its obligations under this Lease and has taken all requisite actions to authorize the execution, delivery and performance of this Lease. Lessee is qualified to do business in and is in good standing under the laws of the state in which the Facilities are located.



b) Acceptance of Condition. Lessee acknowledges that it has inspected the Demised Premises and the Personal Property and, subject to the representations and warranties of Lessor provided above and further subject to the other terms and conditions of this Lease, agrees to lease the same in its present "AS IS, WHERE IS" condition. Lessee further acknowledges that Lessor has represented that it has no obligations or liabilities relating to the Facilities prior to the date hereof.

c) Maintenance of Facilities. In addition to all other covenants contained herein, Lessee expressly covenants that it shall keep and maintain the Facilities at all times in good order and repair all items of Personal Property necessary for operating the Facilities in full compliance with all material laws, rules and regulations. Lessee shall maintain all such items in good order and repair and shall promptly replace any such items which become obsolete, damaged or destroyed with substitute items equivalent to that which has been replaced and such replacement items shall become and be deemed the personal property of Lessor.

d) Litigation. There are no pending, nor threatened claims, lawsuits, governmental actions or other proceeding involving Lessee's operation of the Facilities before any court, agency or other judicial, administrative or other governmental body or arbitrator. Lessee covenants to give notice to Lessor of any pending or threatened claims, lawsuits, governmental or other proceedings involving Lessee's operation of any individual Facility in an actual amount of \$300,000.00 or more, such notice to be delivered within ten (10) days of Lessee's knowledge thereof.

e) No Untrue Statements. No representation or warranty by or on behalf of Lessee contained in this Lease and no statement by or on behalf of Lessee in any certificate, list, exhibit, schedule or other instrument furnished or to be furnished to Lessor by or on behalf of Lessee pursuant hereto contains any untrue statement of a substantial fact, or omits or will omit to state any substantial facts which are necessary in order to make the statements contained therein, in light of the circumstances under which they are made, not misleading in any substantial respect.

f) Date of Representations and Warranties; Survivability. Unless otherwise indicated in a specific representation or warranty contained herein, each representation and warranty of Lessee hereunder shall be true, complete and correct in all material respects as of the Commencement Date with the same force and effect as though such representation or warranty was made on such date, and all representations and warranties shall survive the Commencement Date.

#### ARTICLE XXX - TRANSFER OF OPERATIONS UPON TERMINATION OF LEASE

30.1. For purposes of this Article, the "Closing Date" shall mean, subject to extension as provided in Section 30.4 below, and in any case only after the Commencement Date has occurred, (i) the date on which this Lease terminates or expires, or (ii) the date on which Lessee abandons the Demised Premises. On the Closing Date upon Lessor's election, this Lease shall be deemed and construed as an absolute assignment for purposes of vesting in Lessor (or Lessor's designee) all of Lessee's right, title and interest in and to the following intangible property which is now or hereafter used in connection with the operation of the Demised Premises (the "Intangibles"), and an assumption by Lessor of Lessee's obligations under the Intangibles from and after the Closing Date; provided that, from and after the Closing Date, Lessee shall indemnify, defend and hold harmless Lessor against any claims, losses, costs or damages, including reasonable attorneys' fees incurred or arising by reason of Lessee's obligations under the Intangibles during the Term of this Lease:

- 1) service contracts and equipment leases solely for the benefit of the Demised Premises to which Lessee is a party, and which can be terminated without penalty by Lessee within sixty (60) or fewer days, notice or which Lessor requests be assigned to Lessor pursuant to this Article XXX, subject to any required consents of the lessors or providers under such service contracts and equipment leases;
- 2) to the extent permitted by law and to the extent assignable by Lessee, governmental licenses and certifications required to operate the Facilities as of the Closing Date, and any provider agreements with Medicare, Medicaid or any other third-party payor programs (excluding the right to any

reimbursement for periods prior to the Closing Date, as defined above) entered in connection with the Demised Premises;

3) all existing agreements with residents and any guarantors thereof of the Demised Premises, to the extent assignable by Lessee (excluding the right to any payments for periods prior to the Closing Date) and any and all patient trust fund accounts; and

4) the business of Lessee as conducted at the Demised Premises as a going concern, excluding the name of the business conducted thereon but including all local telephone numbers presently in use thereon.

In the event any of the Intangibles are not assignable to Lessor, Lessor agrees to use all commercially reasonable efforts to obtain, as promptly as practicable, any and all replacement intangibles (including without limitation all appropriate state or other governmental licenses and certifications) required to operate the Facilities as of the Closing Date.

30.2. Lessor shall be responsible for and shall pay all accrued expenses with respect to the Demised Premises accruing on or after 12:01 a.m. on the Closing Date and shall be entitled to receive and retain all revenues from the Demised Premises accruing on or after 12:01 a.m. on the Closing Date. Within fifteen (15) business days after the Closing Date, the following adjustments and provisions shall be determined as of the Closing Date:

1) Real estate taxes, ad valorem taxes, school taxes, assessments and personal property, intangible and use taxes, if any. If the information as to the actual amount of any of the foregoing taxes and assessments are not available for the tax year in which the Closing Date occurs, the provision of such taxes shall be estimated based upon reasonable information available to the parties, including information disclosed by the local tax office or other public information, and an adjustment shall be made when actual figures are published or otherwise become available.

2) Prior to the Closing Date, (a) Lessee will transfer or terminate the employment of all of Lessee's employees who perform services solely at the Facilities, and Lessee and shall be and remain liable for any and all wages, accrued vacation and sick leave pay for employees of the Demised Premises with respect to the period prior to 12:01 a.m. on the Closing Date, and (b) Lessor or Lessor's designee shall offer to hire, as of the Closing Date, the greater of sixty-seven percent (67%) of the non-transferred employees or the minimum number of employees necessary to avoid creating any obligation under the Worker Adjustment and Retraining Notification Act (the "WARN Act") or any other comparable state law. Accordingly, Lessor agrees to indemnify, defend and hold harmless Lessee from any liability which it may incur under the WARN Act or any comparable state law in the event of the violation by Lessor or its designee of its obligations hereunder, including a violation which results from allegations that Lessor or its designee constructively terminated any employees as a result of the terms and conditions of employment offered by Lessor or its designee. Lessor agrees to cooperate with Lessee in order to facilitate the transfer of any funds contained in any of Lessee's 401(k) plans as requested by any retained employees.

3) Lessor shall receive a credit equal to any advance payments by patients at the Demised Premises to the extent attributable to periods after 12:01 a.m. on the Closing Date.

4) Except as otherwise required under applicable policies of insurance or except as agreed to be assigned by Lessee, the present insurance coverage on the Demised Premises shall be terminated as of the Closing Date.

5) All other income from, and expenses of, the Demised Premises (other than mortgage interest and principal), public utility charges and deposits, maintenance charges and service charges shall be prorated between Lessee and Lessor as of 12:01 a.m. on the Closing Date. Lessee shall, if possible, obtain final utility meter readings as of the Closing Date.

6) Lessee shall be and remain responsible for any employee severance pay and accrued benefits which may be payable as the result of any termination of an employee's employment on or prior to 12:01 a.m. on the Closing Date.

30.3. All necessary arrangements shall be made to provide possession of the Demised Premises to Lessor on the Closing Date, at which time of possession Lessee shall deliver to Lessor all medical records, patient records and other personal information concerning all patients residing at the Demised Premises as of the Closing Date and other relevant records used or developed in connection with the business conducted at the Demised Premises. Such transfer and delivery shall be in accordance with all applicable laws, rules and regulations concerning the transfer of medical records and other types of patient records.

30.4. The parties agree and acknowledge that, subject only to the requirements of applicable law, Lessee's obligations to manage and operate the Demised Premises shall expire as of the Closing Date. Notwithstanding the foregoing, if this Lease has expired or been terminated for any reason other than for Lessor's breach, then, Lessor, or Lessor's designee, shall have the right, but not the obligation, to elect that the Closing Date be extended for a period not to exceed (6) six months or, if earlier, until the date that Lessor, or its designee, obtains all appropriate state or other governmental licenses and certifications required to operate the Facilities, provided that Lessor is using its best efforts to diligently and continuously obtain the same. If made, such election shall be made in writing delivered to Lessee no later than ninety (90) days prior to the expiration or termination of the Lease and shall be deemed an extension of the Term of this Lease, and Lessee shall pay Rent in an amount equal to the Rent in effect as of the date that notice of the extension is provided, and Lessee shall continue to operate the Facilities and shall be entitled to all revenues of the Demised Premises during such period.

30.5. Lessee shall provide Lessor with an accounting within fifteen (15) days after the Closing Date of all funds belonging to patients at the Demised Premises which are held by Lessee in a custodial capacity. Such accounting shall set forth the names of the patients for whom such funds are held, the amounts held on behalf of each such patient and Lessee's warranty that the accounting is true, correct and complete. Additionally, Lessee, in accordance with all applicable rules and regulations, shall make all necessary arrangements to transfer such funds to a bank account designated by Lessor, and Lessor shall in writing acknowledge receipt of and expressly assume all Lessee's financial and custodial obligations with respect thereto. Notwithstanding the foregoing, Lessee will indemnify, defend and hold Lessor harmless from all liabilities, claims and demands, including reasonable attorney's fees, in the event the amount of funds, if any, transferred to Lessor's bank account as provided above, did not represent the full amount of the funds then or thereafter shown to have been delivered to Lessee as custodian that remain undispensed for the benefit of the patient for whom such funds were deposited, or with respect to any matters relating to patient funds which accrued during the Term and Lessor will indemnify, defend and hold Lessor harmless from all liabilities, claims and demands, including reasonable attorney's fees with respect to any matters relating to patient funds which accrue after the Term.

30.6. All cash, checks and cash equivalent at the Demised Premises and deposits in bank accounts (other than patient trust accounts) relating to the Demised Premises on the Closing Date shall remain Lessee's property after the Closing Date. Subject to the provisions of Article XXIII of this Lease, all accounts receivable, loans receivable and other receivables of Lessee, whether derived from operation of the Demised Premises or otherwise, shall remain the property of Lessee after the Closing Date. Lessee shall retain full responsibility for the collection thereof. Lessor shall assume responsibility for the billing and collection of payments on account of services rendered by it on and after the Closing Date. In order to facilitate Lessee's collection efforts, Lessee agrees to deliver to Lessor, within a reasonable time after the Closing Date, a schedule identifying all of those private pay balances owing for the month prior to the Closing Date and Lessor agrees to apply any payments received which are specifically designated as being applicable to services rendered prior to the Closing Date to reduce the pre-Closing Date balances of said patients by promptly remitting said payments to Lessee. Payments received by Lessor or Lessee from patients owing money for services rendered by Lessor and Lessee, and which are not allocated to a particular time period shall be applied (i) applied on a first-in-first-out basis to Lessee for a period of 60 days following the Closing; (ii) applied in an equally shared proportional split between Lessee and Lessor (or Lessor's designee) for the sixty (60) day period

between 60-120 days following the Closing Date; and (iii) and thereafter on a last-in-first-out basis. Lessor shall cooperate with Lessee in Lessee's collection of its pre-Closing Date accounts receivable and, subject to the foregoing, Lessor shall have no liability for uncollectible receivables and shall not be obligated to bear any expense as a result of such activities on behalf of Lessee. Subject to the provisions of Article XXIII of this Lease, Lessor shall remit to Lessee or its assignee those portions of any payments received by Lessor which are specifically designated as repayment or reimbursement arising out of cost reports filed for the cost reporting periods ending on or prior to the Closing Date.

30.7. With respect to residents at the Demised Premises on the Closing Date, Lessor and Lessee agree as follows:

1) With respect to Medicare and Medicaid residents, Lessor and Lessee agree that subject to the provisions of Article XXIII of this Lease, payment for in-house residents covered by Medicare or Medicaid on the Closing Date will be made (on a per diem basis) by Medicare or Medicaid under current regulations directly to Lessee for services rendered at the Demised Premises prior to the Closing Date. Said payments shall be the sole responsibility of Lessee and Lessor shall in no way be liable therefor. After the Closing Date and for a period of six (6) years thereafter, Lessor and Lessee shall each have the right to review supporting books, records and documentation that are in the possession of the other relating to Medicaid or Medicare payments.

2) If, following the Closing Date, Lessor (or its designee) receives payment from any state or federal agency or third-party provider which represents reimbursement with respect to services provided at the Demised Premises prior to the Closing Date, Lessor agrees that, subject to the provisions of Article XXIII of this Lease, it shall remit such payments to Lessee. Payments by Lessor to Lessee shall be accompanied by a copy of the appropriate remittance.

30.8. In addition to the obligations required to be performed hereunder by Lessee and Lessor on and after the Closing Date, Lessee and Lessor agree to perform such other acts, and to execute, acknowledge, and/or deliver subsequent to the Closing Date such other instruments, documents and materials, as the other may reasonably request in order to effectuate the consummation of the transaction contemplated herein.

30.9. Lessor, or Lessor's designated operator for the Demised Premises if such a party is designated, for itself, its successors and assigns hereby indemnifies and agrees to defend and hold Lessee and its successors and assigns harmless from any and all claims, demands, obligations, losses, liabilities, damages, recoveries and deficiencies (including interest, penalties and reasonable attorney's fees, costs and expenses) which any of them may suffer as a result of the breach by Lessor in the performance of any of its commitments, covenants or obligations under this Article XXX, or with respect to any suits, arbitration proceedings, administrative actions or investigations which relate to the use of the Demised Premises after the Term, or for any liability which may arise from operation of the Demised Premises after the Term, or for any overpayment amounts due or to be reimbursed from any governmental authority based upon any audit or review of Lessee or of the Facilities or the operation thereof and pertaining to the period during the Term. The rights of Lessee under this paragraph are without prejudice to any other remedies not inconsistent herewith which Lessee may have against Lessor pursuant to the terms of this Lease or otherwise. The foregoing indemnity shall survive the expiration or termination of this Lease, whether due to lapse of time or otherwise.

30.10. Each party shall have the right to offset against any monies due to it pursuant to the terms of this Article XXX, any amounts due pursuant to this Lease or due to any third party, including without limitation any amounts due for taxes, utilities, unemployment insurance premiums, payroll obligations or any other obligation arising from the operation of the Demised Premises.

30.11. Anything to the contrary contained in this Article XXX notwithstanding, in the event the termination of this Lease is due to a default by Lessee hereunder, none of the provisions of this Article XXX shall in any way limit, reduce, restrict or modify the rights otherwise granted to Lessor pursuant to this Lease, and to the extent any monies are due to Lessee pursuant to this Article XXX, such sums shall be applied by Lessor to any damages suffered by Lessor as a result of Lessee's default hereunder.



30.12. Lessor and Lessee agree to cooperate with each other in order to effectuate the terms and provisions of this Article XXX.

30.13. Notwithstanding anything herein to the contrary, provided that the Closing (as defined in the OTA) occurs under the OTA, the terms and provision of the Section XXX shall be deemed to be null and void and of no force or effect.

#### ARTICLE XXXI - FINANCIAL COVENANTS, STATEMENTS AND REPORTS

31.1. Lessee shall, at its sole cost and expense, as of the Effective Date or Commencement Date, as applicable, and during the Term, comply with all financial covenants and reporting requirements set forth in the Loan Documents.

##### 31.2. Reporting Requirements:

a) Monthly Reports: Within thirty (30) days after the end of each calendar month, Lessee shall deliver monthly unaudited financial statements to Lessor and Lessor's Lender (if required), which financial statements shall include a combined income statement and combined balance sheet for business conducted at the Facilities, and any such combined financial statements shall include other financial information for the Facilities to the extent the same is reasonably required by Lessor or Lessor's Lender and the information is maintained by the Lessee.

b) Quarterly Reports: Within forty-five (45) days after the end of each calendar quarter, Guarantor will provide quarterly and year to date unaudited financial statements to Lessor and, which financial statements shall include a combined income statement and a combined balance sheet for business conducted at the Facilities and any such combined financial statements shall include other financial information for the Facilities to the extent the same is reasonably required by Lessor and the information is maintained by Guarantor.

c) Annual Reports: On or prior to May 31 of the year following the end of each lease year, Lessee will deliver to Lessor and Lessor's Lender (if required) annual audited financial statements of the Guarantor, which shall include a combined income statement and a combined balance sheet, and any such combined financial statements shall include other financial information for Guarantor to the extent the same is reasonably required by Lessor or Lessor's Lender and the information is maintained by the Guarantor. Lessee's annual financial statements will be provided as part of Guarantor's audit in a supplemental information section.

d) Lessee and Guarantor will comply with all reasonable requests for information from Lessor's Lender, including HUD.

#### ARTICLE XXXII - TERMINATION

32.1. Upon termination of this Lease (whether by reason of default, the natural expiration of the Term or otherwise), the following provisions shall be applicable:

a) Upon the expiration or other termination of this Lease, Lessee shall return to Lessor the Demised Premises and the Personal Property in a condition no worse than that which existed on the Effective Date, licensed by any governmental agencies having jurisdiction over the Demised Premises, and free of liens or encumbrances arising through Lessee except for tax liens for current general real estate taxes or special assessments, personally leases and other expenses incurred in the ordinary course of business which shall be prorated.

b) Lessee shall pay all bills incurred in respect of the ownership of the Demised Premises and operation of the Facilities from the Commencement Date through the termination date and shall receive and keep all income and suffer all losses incurred in the ownership of the Demised Premises and operation of the Facilities from the Commencement Date through the termination date.

c) During the period from the Effective Date to the termination date:

i) Lessee shall be responsible for the payment of all real estate taxes in accordance with the provisions of Article V hereof;

ii) Lessee shall maintain all required insurance and Lessee shall be liable for payment of and shall pay the premiums thereon; and

iii) In case of termination, Lessee shall be liable to return to Lessor, the Demised Premises and all Personal Property in a condition no worse than that which existed on the Effective Date, and free of liens or encumbrances arising through Lessee except for tax liens for current general real estate taxes or special assessments, which shall be prorated to the termination date, and except as to consumable items to the extent of consumption thereof, which, as consumed, will be replenished by Lessee, in the ordinary course of business.

d) Lessee agrees to execute such documents and take such actions as may be required in order to restore Lessor to ownership and possession of the Demised Premises and the Personal Property, including, without limitation, execution of any assignment or change of ownership documents required to license Lessor or its assignee to operate the Facilities.

e) Lessee shall keep and maintain medical records in accordance with applicable law.

f) Lessee shall keep and maintain such financial and operational records (including, without limitation, cost reports/contracts) as are required for the operation of the business under applicable laws.

32.2. Notwithstanding anything to the contrary contained herein, Lessor shall have the right to terminate this Lease at any time by providing written notice of such termination to Lessee.

#### ARTICLE XXXIII - CONDITIONS PRECEDENT AND CONCURRENT TO LEASE COMMENCEMENT

33.1. The following shall be conditions precedent to Lessee's obligation to proceed with this Lease, and, notwithstanding anything to the contrary in this Lease, the Commencement Date shall not be deemed to have occurred prior to such conditions being satisfied:

a) Lessor shall not be in material breach of any term, provision or condition of this Lease, including without limitation Lessor's representations and warranties hereunder;

b) All schedules and exhibits to this Lease prepared by Lessor shall be provided and shall be true, complete and correct in all material respects.

33.2. The following shall be conditions precedent to Lessor's obligation to proceed with this Lease, and, notwithstanding anything to the contrary in this Lease, the Commencement Date shall not be deemed to have occurred prior to such conditions being satisfied:

a) The execution and delivery prior to the Effective Date of a corporate guaranty of Latic Care Centers, LLC, a Delaware limited liability company of all obligations of Lessee under this Lease, in the form attached hereto as Exhibit B.

b) Lessee shall have duly and timely performed and fulfilled all of its duties, obligations, promises, covenants and agreements hereunder; and

c) Lessee shall not be in material breach of any term, provision or condition of this Lease.

33.3. Notwithstanding anything contained in Section 33.1 to the contrary, Lessee may in its sole discretion waive any conditions precedent or conditions concurrent contained in Section 33.1.

33.4. Notwithstanding anything contained in Section 33.2 to the contrary, Lessor may in its sole discretion waive any conditions precedent or conditions concurrent contained in Section 33.2.

33.5. Except as otherwise provided in this Lease, in the event that any of the conditions precedent are not satisfied as of the Commencement Date, Lessee's or Lessor's sole and exclusive remedy hereunder shall be to terminate this Lease, in which event, Lessor shall refund any monies paid by Lessee to Lessor with respect to this Lease.

#### ARTICLE XXXIV - RESERVED

##### ARTICLE XXXV - MISCELLANEOUS

35.1. Lessee, upon paying the Rent and all other charges herein provided, and for observing and keeping the covenants, agreements, terms and conditions of this Lease on its part to be performed, shall lawfully and quietly hold, occupy and enjoy the Demised Premises during the Term of this Lease, and subject to its terms, without hindrance by Lessor or by any other person or persons claiming under Lessor.

35.2. All payments to be made by the Lessee hereunder (other than Base Rent), whether or not designated as "Additional Rent", shall be deemed Additional Rent, so that in the event of a default of payment when due, Lessor shall be entitled to all of the remedies available at law or equity, or under this Lease, for the nonpayment of Rent.

35.3. It is understood and agreed that the granting of any consent by Lessor to Lessee to perform any act of Lessee requiring Lessor's consent under the terms of this Lease, or the failure on the part of Lessor to object to any such action taken by Lessee without Lessor's consent, shall not be deemed a waiver by Lessor of its rights to require such consent for any further similar act by Lessee, and Lessee hereby expressly covenants and warrants that as to all matters requiring Lessor's consent under the terms of this Lease, Lessee shall secure such consent for each and every happening of the event requiring such consent, and shall not claim any waiver on the part of Lessor of the requirement to secure such consent.

##### 35.4. RESERVED.

35.5. Lessee represents that it did not deal with any broker in connection with this Lease, and hereby indemnifies Lessor against any claims or demands for brokerage commissions from any party. Lessor represents that it did not deal with any broker in connection with this Lease, and hereby indemnifies Lessee against any claims or demands for brokerage commissions from any party.

35.6. If an action shall be brought to recover any Rent under this Lease, or for or on account of any breach of or to enforce or interpret any of the terms, covenants or conditions of this Lease, or for the recovery of possession of the Demised Premises, the prevailing party shall be entitled to recover from the other party, as part of the prevailing party's costs, reasonable attorney's fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered.

35.7. Except as provided in Section 30.4 of this Lease, should Lessee hold possession hereunder after the expiration of the Term of this Lease with or without the consent of Lessor, Lessee shall become a tenant on a month to month basis upon all the terms, covenants and conditions herein specified, excepting however that Lessee shall pay Lessor a monthly rental, for the period of such month-to-month tenancy, in an amount equal to twice the last Rent specified.

35.8. All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered (i) upon the delivery by personal delivery, messenger or overnight express delivery service (or, if such date is not on a business day, on the business day next following such date), (ii) on the third (3<sup>rd</sup>) business day next following the date of its mailing by certified mail, postage prepaid, at a post office maintained by the United States Postal Service, and (iii) by electronic mail transmission (followed by delivery by one of the other means identified in (i)-(ii)), addressed as follows:

If to Lessor:

c/o Topaz Fiscal Services  
6085 Strickland Avenue  
Brooklyn, NY 11234  
Attn: Hal Brecher  
Email: hbrecher@topazfs.com

With a copy to:

NBC Law  
675 Third Avenue, 8<sup>th</sup> Floor  
New York, New York 10017  
Email: eburbaum@nbcclw.com

If to Lessee:

c/o Synergy Healthcare Services  
800 Concourse Parkway South  
Maitland, FL 32751  
Email: legalnotices@synergyhcs.com

or such other address that any party designates to the other by written notice given in the manner stated above. Any notice sent by electronic mail shall be deemed delivered upon transmission, so long as said transmission is evidenced by proof of said transmittal and sent before 5:00 p.m. local time at the place of the recipient and if sent after 5:00 p.m. shall be deemed delivered on the next business day. Notices from counsel to Lessor shall for all purposes hereunder constitute notice from Lessor. Notices from counsel to Lessee shall for purposes hereunder constitute notice from Lessee.

##### 35.9. RESERVED

35.10. Upon demand by either party, Lessor and Lessee agree to record this Lease in the real property records of the county in which the Demised Premises is located.

35.11. Each party agrees at any time, and from time to time, upon not less than ten (10) days prior written request from the other party, to execute, acknowledge and deliver to the other party a statement in writing, certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), the dates to which the Rent has been paid, the amount of the Additional Rent held by Lessor, and whether to the best knowledge of such party an Event of Default has occurred or whether any events have occurred which, with the giving of notice or the passage of time, or both, could constitute an Event of Default hereunder, it being intended that any such statement delivered pursuant to this section may be relied upon by any prospective assignee, mortgagee or purchaser of the fee interest in the Demised Premises or of this Lease.

35.12. All of the provisions of this Lease shall be deemed and construed to be "conditions" and "covenants" as though the words specifically expressing or importing covenants and conditions were used in each separate provision hereof.

35.13. Any reference herein to the termination of this Lease shall be deemed to include any termination thereof by expiration, or pursuant to Articles referring to earlier termination.

35.14. Time is of the essence in this Lease and with regard to all provisions herein contained.

35.15. The headings and titles in this Lease are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Lease, nor in any way affect this Lease.

35.16. This Lease contains the entire agreement between the parties and any executory agreement hereafter made shall be ineffective to change, modify or discharge it in whole or in part unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought. This Lease cannot be changed orally or terminated orally.

35.17. Except as otherwise herein expressly provided, the covenants, conditions and agreements in this Lease shall bind and inure to the benefit of Lessor and Lessee and their respective successors and assigns.

35.18. All nouns and pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons, firm or firms, corporation or corporations, entity or entities or any other thing or things may require. "Any" or "any" shall mean "any and all"; "or" shall mean "and/or"; "including" shall mean "including, but not limited to".

35.19. This Lease may be executed in counterparts, each of which shall for all purposes be deemed an original, and all of such counterparts shall together constitute one and the same agreement.

35.20. If any term or provision of this Lease shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this Lease shall not be affected thereby, but each term and provision shall be valid and be enforced to the fullest extent permitted by law.

35.21. This Lease shall be construed in accordance with the laws of the State of Florida without regard to conflict of laws principles.

35.22. It is expressly understood and agreed that except as otherwise expressly provided herein, this Lease shall not be construed as creating any personal liability whatsoever against any member, officer, director, shareholder or agent of Lessor and/or of Lessee and in particular without limiting the generality of the foregoing, there shall be no personal liability to pay any obligations set forth herein or to perform any covenant, either expressed or implied, herein contained, and that, except as otherwise provided herein, all personal liability of any member, officer, director, shareholder or agent of Lessor and/or of Lessee of every sort, if any, is hereby expressly waived by the other party hereto.

35.23. The term "Knowledge" as used herein shall be deemed to mean the best of a Person's knowledge, and of the executive officers of such Person. Any fact or circumstance that a Person and their principals, officers or agents reasonably should know assuming commercially reasonable best efforts were utilized, shall be deemed the Knowledge of such Person. The term "commercially reasonable best efforts" shall mean the efforts that a commercially reasonable Person desirous of achieving a result would use in similar circumstances to achieve that result as expeditiously as reasonably practicable, provided, however, that a Person required to use commercially reasonable best efforts under this Lease will not thereby be required to take any action that would result in a material adverse change in the benefits to such Person of this Lease or the transactions contemplated hereby or to make any change in its business, incur any extraordinary fees or expenses or incur any other material burden. "Person" shall mean any individual, partnership (general and/or limited), association, corporation, limited liability company, trust, joint venture or other legal entity of any and every nature whatsoever.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by persons authorized so to do on behalf of each of them respectively the day and year first above written.

LESSOR:

CREA NEW PORT RICHEY LLC

By: [Signature]

Print: Benjamin Landa

Its: Authorized Signatory

LESSEE:

NEW PORT RICHEY FACILITY OPERATIONS, LLC

By: \_\_\_\_\_

Print: \_\_\_\_\_

Authorized Signatory

CREA BAYONET LLC

By: [Signature]

Print: Benjamin Landa

Its: Authorized Signatory

BAYONET POINT FACILITY OPERATIONS, LLC

By: \_\_\_\_\_

Print: \_\_\_\_\_

Authorized Signatory

CREA SARASOTA LLC

By: [Signature]

Print: Benjamin Landa

Its: Authorized Signatory

SARASOTA FACILITY OPERATIONS, LLC

By: \_\_\_\_\_

Print: \_\_\_\_\_

Authorized Signatory

CREA MELBOURNE LLC

By: [Signature]

Print: Benjamin Landa

Its: Authorized Signatory

MELBOURNE FACILITY OPERATIONS, LLC

By: \_\_\_\_\_

Print: \_\_\_\_\_

Authorized Signatory

CREA KISSIMMEE LLC

By: [Signature]

Print: Benjamin Landa

Its: Authorized Signatory

KISSIMMEE FACILITY OPERATIONS, LLC

By: \_\_\_\_\_

Print: \_\_\_\_\_

Authorized Signatory

CREA PENSACOLA LLC

By: [Signature]

Print: Benjamin Landa

Its: Authorized Signatory

PENSACOLA FACILITY OPERATIONS, LLC

By: \_\_\_\_\_

Print: \_\_\_\_\_

Authorized Signatory

CREA BRANDON-C LLC  
By: *[Signature]*  
Print: Benjamin Landa  
Is: Authorized Signatory

BRANDON FACILITY OPERATIONS, LLC  
By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Is: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by persons authorized so to do on behalf of each of them respectively the day and year first above written.

LESSOR:  
CREA NEW PORT RICHEY LLC  
By: \_\_\_\_\_  
Print: Benjamin Landa  
Is: Authorized Signatory

LESSEE:  
NEW PORT RICHEY FACILITY  
OPERATIONS, LLC

By: \_\_\_\_\_  
Print: Jared Elliott  
Manager

CREA BAYONET LLC

BAYONET POINT FACILITY OPERATIONS,  
LLC

By: \_\_\_\_\_  
Print: Benjamin Landa  
Is: Authorized Signatory

By: *John Sillier*  
Print: John Sillier  
Manager

CREA SARASOTA LLC  
By: \_\_\_\_\_  
Print: Benjamin Landa  
Is: Authorized Signatory

SARASOTA FACILITY OPERATIONS, LLC  
By: \_\_\_\_\_  
Print: Miriam Pastor  
Manager

CREA MELBOURNE LLC  
By: \_\_\_\_\_  
Print: Benjamin Landa  
Is: Authorized Signatory

MELBOURNE FACILITY OPERATIONS, LLC  
By: \_\_\_\_\_  
Print: Miriam Pastor  
Manager

CREA KISSIMMEE LLC  
By: \_\_\_\_\_  
Print: Benjamin Landa  
Is: Authorized Signatory

KISSIMMEE FACILITY OPERATIONS,  
LLC  
By: *John Sillier*  
Print: John Sillier  
Manager

CREA PENSACOLA LLC  
By: \_\_\_\_\_  
Print: Benjamin Landa  
Is: Authorized Signatory

PENSACOLA FACILITY OPERATIONS,  
LLC  
By: *John Sillier*  
Print: John Sillier  
Manager

SIGNATURE PAGE LEASE 1

SIGNATURE PAGE LEASE 1



IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by persons authorized so to do on behalf of each of them respectively the day and year first above written.

LESSOR:

CREA NEW PORT RICHEY LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

LESSEE:

NEW PORT RICHEY FACILITY  
OPERATIONS, LLC

By: Jared Elliott  
Print: Jared Elliott  
Manager

CREA BAYONET LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

BAYONET POINT FACILITY OPERATIONS,  
LLC

By: John Silliter  
Print: John Silliter  
Manager

CREA SARASOTA LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

SARASOTA FACILITY OPERATIONS, LLC

By: Miriam Pastor  
Print: Miriam Pastor  
Manager

CREA MELBOURNE LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

MELBOURNE FACILITY OPERATIONS, LLC

By: Miriam Pastor  
Print: Miriam Pastor  
Manager

CREA KISSIMMEE LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

KISSIMMEE FACILITY OPERATIONS,  
LLC

By: John Silliter  
Print: John Silliter  
Manager

CREA PENSACOLA LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

PENSACOLA FACILITY OPERATIONS,  
LLC

By: John Silliter  
Print: John Silliter  
Manager

SIGNATURE PAGE LEASE 1

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by persons authorized so to do on behalf of each of them respectively the day and year first above written.

LESSOR:

CREA NEW PORT RICHEY LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

LESSEE:

NEW PORT RICHEY FACILITY  
OPERATIONS, LLC

By: Jared Elliott  
Print: Jared Elliott  
Manager

CREA BAYONET LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

BAYONET POINT FACILITY OPERATIONS,  
LLC

By: John Silliter  
Print: John Silliter  
Manager

CREA SARASOTA LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

SARASOTA FACILITY OPERATIONS, LLC

By: Miriam Pastor  
Print: Miriam Pastor  
Manager

CREA MELBOURNE LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

MELBOURNE FACILITY OPERATIONS, LLC

By: Miriam Pastor  
Print: Miriam Pastor  
Manager

CREA KISSIMMEE LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

KISSIMMEE FACILITY OPERATIONS,  
LLC

By: John Silliter  
Print: John Silliter  
Manager

CREA PENSACOLA LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

PENSACOLA FACILITY OPERATIONS,  
LLC

By: John Silliter  
Print: John Silliter  
Manager

SIGNATURE PAGE LEASE 1

CREA BRANDON-C LLC  
By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

BRANDON FACILITY OPERATIONS, LLC  
BY: [Signature]  
NAME: Jared Elliott  
Manager

EXHIBIT A

Lessor	Lessee	Facility
CREA New Port Richey LLC Delaware	New Port Richey Facility Operations, LLC	<b>RAYDIANT HEALTH CARE OF NEW PORT RICHEY</b> 8417 Old country Rd 54 New Port Richey, FL 34653 Skilled Nursing Facility 120 beds
CREA Bayonet LLC Delaware	Bayonet Point Facility Operations, LLC	<b>BAYONET POINT LIVING CENTER</b> 8132 Hudson Ave Hudson, FL 34667 Skilled Nursing Facility 120 beds
CREA Sarasota LLC Delaware	Sarasota Facility Operations, LLC	<b>INSPIRE HEALTHCARE SARASOTA</b> 4783 Fruitville Rd Sarasota, FL 34232 Skilled Nursing Facility 81 beds
CREA Melbourne LLC Delaware	Melbourne Facility Operations, LLC	<b>INSPIRE HEALTHCARE MELBOURNE</b> 3033 Sarno Rd Melbourne, FL 32934 Skilled Nursing Facility 167 beds
CREA Kissimmee LLC Delaware	Kissimmee Facility Operations, LLC	<b>LIVING CENTER OF KISSIMMEE</b> 2511 N. John Young Pkwy Kissimmee, FL 34741 Skilled Nursing Facility 120 beds
CREA Pensacola LLC Delaware	Pensacola Facility Operations, LLC	<b>LIVING CENTER OF PENSACOLA</b> 235 W. Airport Blvd Pensacola, FL 32505 Skilled Nursing Facility 120 beds
CREA Brandon-C LLC Delaware	Brandon Facility Operations, LLC	<b>RAYDIANT HEALTH CARE OF BRANDON</b> 701 Victoria St. Brandon, FL 33510 Skilled Nursing Facility 120 beds

**EXHIBIT A-1**  
**LEGAL DESCRIPTION - NEW PORT RICHEY**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PASCO, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS: A PORTION OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 26 SOUTH, RANGE 16 EAST, PASCO COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE, COMMENCE AT THE SOUTH 1/4 CORNER OF SAID SECTION 14; THENCE NORTH 06°24'34" EAST, 50.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 54, AS NOW ESTABLISHED AND THE POINT OF BEGINNING; THENCE NORTH 89°31'27" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 556.60 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAWGRASS BOULEVARD AS NOW ESTABLISHED; THENCE NORTH 06°28'33" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 100.00 FEET; THENCE NORTH 05°14'05" WEST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 201.00 FEET; THENCE NORTH 06°28'33" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 50.00 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF PARK LAKE ESTATES UNIT ONE, AS SHOWN ON PLAT RECORDED IN PLAT BOOK 15, PAGES 111 AND 112 OF THE PUBLIC RECORDS OF PASCO COUNTY, FLORIDA; THENCE SOUTH 89°31'27" EAST, ALONG SAID SOUTHERLY BOUNDARY, 276.19 FEET TO THE EASTERLY BOUNDARY OF SAID PARK LAKE ESTATES UNIT ONE; THENCE NORTH 00°24'34" EAST, ALONG SAID EASTERLY BOUNDARY, 250.00 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID PARK LAKE ESTATES UNIT ONE; THENCE SOUTH 89°31'27" EAST, ALONG SAID SOUTHERLY BOUNDARY, 300.00 FEET; THENCE SOUTH 00°24'34" WEST, 600.00 FEET TO THE POINT OF BEGINNING.

SUBJECT TO RIGHT OF WAY FOR S.R. 54, AS LAID OUT AND IN USE.

APN: 14-26-16-0000-00300-0030

**EXHIBIT A-2**  
**LEGAL DESCRIPTION - BAYONET**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PASCO, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

A PARCEL OF LAND BEING A PORTION OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 24 SOUTH, RANGE 16 EAST, PASCO COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 24 SOUTH, RANGE 16 EAST, PASCO COUNTY, FLORIDA; SAID CORNER LYING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF HUDSON AVENUE, ACCORDING TO THE PLAT OF "HUDSON AVENUE PHASE 1" AS RECORDED IN PLAT BOOK 26, PAGES 125 THROUGH 127, INCLUSIVE, OF THE PUBLIC RECORDS OF PASCO COUNTY, FLORIDA; THENCE SOUTH 43°39'12" EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, AS SHOWN ON SAID PLAT OF "HUDSON AVENUE PHASE 1" AND THE PLAT OF "HUDSON AVENUE PHASE 2" AS RECORDED IN PLAT BOOK 26, PAGES 128 THROUGH 131, INCLUSIVE, OF THE PUBLIC RECORDS OF PASCO COUNTY, FLORIDA, 682.26 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 43°39'12" EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 590.00 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE WEST; SAID POINT LYING ON THE WESTERLY RIGHT-OF-WAY LINE OF LIBRARY ROAD ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 26, PAGES 103 THROUGH 104, INCLUSIVE, OF THE PUBLIC RECORDS OF PASCO COUNTY, FLORIDA; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR THE FOLLOWING TWO (2) COURSES: 1) SOUTHERLY ALONG THE ARC OF SAID CURVE, HAVING FOR ITS ELEMENTS A RADIUS OF 35.00 FEET, A CENTRAL ANGLE OF 90°00'00", AN ARC LENGTH OF 54.98 FEET, A CHORD LENGTH OF 49.50 FEET AND CHORD BEARING OF SOUTH 01°20'48" WEST, TO A POINT OF TANGENCY; 2) THENCE SOUTH 46°20'48" WEST FOR 418.00 FEET; THENCE NORTH 43°39'12" WEST, FOR 625.00 FEET; THENCE NORTH 46°20'48" EAST, 453.00 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS SET FORTH IN THAT CERTAIN SEWER LINE EASEMENT AGREEMENT BY AND BETWEEN 700 ISLAND WAY MANAGEMENT CO., INC., AND ARBOR HEALTH CARE COMPANY, DATED APRIL 7, 1992, RECORDED APRIL 9, 1992 IN OFFICIAL RECORDS BOOK 3012, PAGE 1805, PUBLIC RECORDS OF PASCO COUNTY, FLORIDA, FOR THE PURPOSES DESCRIBED IN SAID INSTRUMENT, OVER, UNDER, AND ACROSS THE FOLLOWING LANDS:

THAT PART OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 24 SOUTH, RANGE 16 EAST, PASCO COUNTY, FLORIDA, BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 35; SAID CORNER LYING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF HUDSON AVENUE ACCORDING TO THE PLAT OF "HUDSON AVENUE PHASE 1" AS RECORDED IN PLAT BOOK 26, PAGES 125 THROUGH 127, INCLUSIVE OF THE PUBLIC RECORDS OF PASCO COUNTY,

FLORIDA, THENCE SOUTH 43°39'12" EAST, 1272.25 FEET ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, AS SHOWN ON SAID PLAT OF "HUDSON AVENUE PHASE 1", AND THE PLAT OF "HUDSON AVENUE PHASE 2" AS RECORDED IN PLAT BOOK 26, PAGES 128 ) THROUGH 131, INCLUSIVE, OF THE PUBLIC RECORDS OF PASCO COUNTY, FLORIDA, TO THE NORTHERLY RIGHT-OF-WAY LINE OF LIBRARY ROAD ACCORDING TO THE PLAT OF "LIBRARY ROAD" AS RECORDED IN PLAT BOOK 26, PAGES 103 THROUGH 104, INCLUSIVE, OF THE PUBLIC RECORDS OF PASCO COUNTY, FLORIDA, AND A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 35.00 FEET, THENCE ALONG SAID RIGHT-OF-WAY LINE, THE FOLLOWING, SOUTHERLY ALONG SAID CURVE, 54.98 FEET THROUGH A CENTRAL ANGLE OF 90°00'00" (CHORD SOUTH 01°20'48" WEST, 49.50 FEET; THENCE SOUTH 46°20'48" WEST, 418.00 FEET TO THE POINT OF BEGINNING; THENCE, CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 46°20'48" WEST, 80.00 FEET; THENCE LEAVING SAID LINE, NORTH 05°09'39" EAST, 106.30 FEET; THENCE SOUTH 43°39'12" EAST, 70.00 FEET TO THE POINT OF BEGINNING.

APN: 35-24-16-0000-01400-0010

**EXHIBIT A-3  
LEGAL DESCRIPTION - SARASOTA**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SARASOTA, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

NORTH OF FRUITVILLE ROAD AND 650 FEET, PLUS OR MINUS, WEST OF HOULE AVENUE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**PARCEL 1:**

THE EAST 311.6 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 36 SOUTH, RANGE 18 EAST, LYING NORTH OF FRUITVILLE ROAD (66 FOOT RIGHT OF WAY), SARASOTA COUNTY, FLORIDA.

**PARCEL II:**

ALSO COMMENCING AT THE CENTER OF SAID SECTION 23; THENCE NORTH ALONG THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION, 64.71 FEET TO AN IRON PIPE IN THE NORTH RIGHT OF WAY LINE OF FRUITVILLE ROAD FOR A POINT OF BEGINNING; THENCE CONTINUE NORTH ALONG THE EAST LINE OF SAID QUARTER SECTION, 583.06 FEET TO AN IRON PIPE AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID NORTHWEST 1/4; THENCE WEST ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, 311.6 FEET TO AN IRON PIPE; THENCE NORTH, PARALLEL TO SAID EAST LINE OF NORTHWEST 1/4, A DISTANCE OF 35 FEET (34 FEET PER O.R. BOOK 581, PAGE 81) TO AN IRON PIPE IN AN OLD FENCE LINE, THENCE EAST ALONG THE LINE OF SAID OLD FENCE, 342 FEET (340.6 FEET PER O.R. BOOK 581, PAGE 81) TO AN OLD NORTH-SOUTH FENCE; THENCE SOUTH ALONG SAID SECOND OLD FENCE LINE PASSING AN OLD CONCRETE MARKER AT 9 FEET, A DISTANCE OF 614 FEET (APPROXIMATELY 617 FEET PER O.R. BOOK 581, PAGE 83) TO AN OLD CONCRETE MARKER IN THE NORTH RIGHT OF WAY LINE OF FRUITVILLE ROAD; THENCE WEST 144 FEET TO THE POINT OF BEGINNING, BEING PART OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 AND A PART OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 23, TOWNSHIP 36 SOUTH, RANGE 18 EAST, SARASOTA COUNTY, FLORIDA.

LESS:

THOSE PORTIONS OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 36 SOUTH, RANGE 18 EAST, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 23; THENCE SOUTH 00°06'18"24" WEST, 2539.72 FEET ALONG THE EAST BOUNDARY OF SAID NORTHWEST 1/4 OF THE SURVEY LINE OF SR 786; THENCE NORTH 89°06'12"07" WEST, 311.61 FEET ALONG SAID SURVEY LINE; THENCE NORTH 00°06'18"33" EAST, 33.00 FEET TO THE NORTH EXISTING RIGHT OF WAY LINE OF SR 780, AS PER O.R. BOOK 1379, PAGE 60 FOR A POINT OF BEGINNING; THENCE SOUTH 89°06'12"07" EAST, 326.01 FEET ALONG SAID NORTH RIGHT OF WAY



LINE; THENCE NORTH 01DEG40'11" EAST, 53.31 FEET; THENCE NORTH 89DEG12'07" WEST, 327.28 FEET; THENCE SOUTH 00DEG18'33" WEST, 53.51 FEET TO THE POINT OF BEGINNING.

THE ABOVE PARCELS I AND II TAKEN AS A WHOLE, ARE ALSO DESCRIBED AS:

COMMENCING AT THE SOUTHWEST CORNER OF NORTHEAST 1/4 SECTION 23, TOWNSHIP 36 SOUTH, RANGE 18 EAST, SARASOTA COUNTY, FLORIDA; THENCE NORTH 00DEG56'32" WEST, A DISTANCE OF 117.92 FEET TO THE NORTH RIGHT-OF-WAY LINE OF FRUITVILLE ROAD (STATE ROAD #780); THENCE NORTH 89DEG32'48" EAST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 17.68 FEET FOR THE POINT OF BEGINNING; THENCE SOUTH 89DEG32'48" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 329.29 FEET; THENCE NORTH 00DEG56'32" WEST, A DISTANCE OF 563.06 FEET; THENCE NORTH 89DEG12'59" EAST, A DISTANCE OF 342.63 FEET; THENCE SOUTH 00DEG24'42" WEST, A DISTANCE OF 565.08 FEET TO THE POINT OF BEGINNING.

APN: 0044140013

**EXHIBIT A-4**  
**LEGAL DESCRIPTION - MELBOURNE**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF BREVARD, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

FROM THE NORTHWEST CORNER OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, RUN NORTH 88°11'30" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF SARNO ROAD AND THE NORTH LINE OF THE SOUTHEAST 1/4 OF SECTION 24 A DISTANCE OF 100.0 FEET TO THE POINT OF BEGINNING. OF THE HEREIN DESCRIBED PARCEL, THENCE CONTINUE NORTH 88°11'30" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF SARNO ROAD A DISTANCE OF 977.04 FEET TO THE WEST LINE OF PROPERTY DESCRIBED IN BREVARD COUNTY OFFICIAL RECORDS BOOK 823, PAGE 230; THENCE SOUTH 1°48'30" EAST ALONG SAID WEST LINE, A DISTANCE OF 200.0 FEET; THENCE SOUTH 88°11'30" WEST 155.0 FEET; THENCE SOUTH 01°48'30" EAST 187.0 FEET; THENCE SOUTH 88°11'30" WEST 859.34 FEET; THENCE NORTH 0°45'03" EAST PARALLEL WITH THE WEST LINE OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 24 A DISTANCE OF 387.39 FEET TO THE POINT OF BEGINNING.

APN: 27-36-24-00-750.1

**EXHIBIT A-5  
LEGAL DESCRIPTION - KISSIMEE**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF OSCEOLA, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

A PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 25 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE, COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 9, SAID POINT ALSO BEING SITUATE IN THE CENTERLINE OF DONEGAN AVENUE (A 66.00 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED);

THENCE NORTH 89°51'31" EAST, ALONG SAID CENTERLINE OF DONEGAN AVENUE, A DISTANCE OF 132.00 FEET;

THENCE NORTH 00°07'52" EAST, DEPARTING SAID CENTERLINE, A DISTANCE OF 33.00 FEET TO THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SAID DONEGAN AVENUE AND THE EASTRIGHT-OF-WAY LINE OF BERMUDA AVENUE (ALSO KNOWN AS JOHN YOUNG PARKWAY, A 200.00 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) AND THE POINT OF BEGINNING;

THENCE CONTINUE NORTH 00°07'52" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 628.17 FEET;

THENCE NORTH 89°52'48" EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE AND ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 9, A DISTANCE OF 534.33 FEET;

THENCE SOUTH 00°01'07" WEST, DEPARTING SAID NORTH LINE AND ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 9, A DISTANCE OF 627.97 FEET TO THE AFOREMENTIONED NORTH RIGHT-OF-WAY LINE OF SAID DONEGAN AVENUE;

THENCE SOUTH 89°51'31" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 535.57 FEET TO THE POINT OF BEGINNING.

APN: R092529-000002300000

**EXHIBIT A-6  
LEGAL DESCRIPTION - PENSACOLA**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF PENSACOLA, IN THE COUNTY OF ESCAMBIA, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 45, TOWNSHIP 1 SOUTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA; THENCE SOUTH 88°12'40" EAST ALONG THE NORTH LINE OF SAID SECTION 45 A DISTANCE OF 41.03 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF "W" STREET (80 FOOT RIGHT-OF-WAY); THENCE SOUTH 16°52'11" EAST ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 1025.00 FEET TO A POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF AIRPORT BOULEVARD (100 FOOT RIGHT-OF-WAY); THENCE NORTH 73°07'49" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 400.00 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 123.22 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTH HAVING A CENTRAL ANGLE OF 14°48'21" AND A RADIUS OF 1589.30 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE AND SOUTHERLY RIGHT-OF-WAY LINE AN ARC DISTANCE OF 410.69 FEET (CHORD DISTANCE = 409.55 FEET, CHORD BEARING = NORTH 65°43'38" EAST) TO A POINT OR REVERSE CURVATURE OF A CURVE CONCAVE TO THE SOUTH HAVING A CENTRAL ANGLE OF 03°02'00" AND A RADIUS OF 1618.24 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE AND SOUTHERLY RIGHT-OF-WAY LINE AN ARC DISTANCE OF 85.67 FEET (CHORD DISTANCE = 85.66 FEET, CHORD BEARING = NORTH 59°50'28" EAST); THENCE SOUTH 18°00'10" EAST, LEAVING THE AFORESAID CURVE AND SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 342.05 FEET; THENCE SOUTH 71°59'50" WEST A DISTANCE OF 19.22 FEET; THENCE SOUTH 64°01'39" WEST A DISTANCE OF 201.96 FEET; THENCE SOUTH 18°00'10" EAST A DISTANCE OF 264.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF VAN PELT LANE (RIGHT-OF-WAY VARIES); THENCE SOUTH 71°59'50" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF VAN PELT LANE, A DISTANCE OF 399.84 FEET; THENCE NORTH 17°30'02" WEST A DISTANCE OF 573.74 FEET TO THE POINT OF BEGINNING.

Shown for informational purposes:  
APN: 4515301000000007

**EXHIBIT A-7**  
**LEGAL DESCRIPTION - BRANDON**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF HILLSBOROUGH, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 29 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA;

LESS THAT PART IN USE AS ROAD RIGHT-OF-WAY FOR VICTORIA STREET OFF THE NORTH SIDE; AND

LESS THAT PART IN USE AS ROAD RIGHT-OF-WAY FOR KINGS AVENUE OFF THE EAST SIDE THEREOF.

APN: U-22-29-20-ZZZ-000002-56430.0

**EXHIBIT B**  
**CORPORATE LEASE GUARANTY**



THIS CORPORATE LEASE GUARANTY ("Guaranty") is made as of January 31, 2022, by LaVie Care Centers, LLC, a Delaware limited liability company (the "Guarantor"), to and for the benefit of CREA New Port Richey LLC, CREA Bayonet LLC, CREA Sarasota LLC, CREA Melbourne, CREA Kissimmee LLC, CREA Pensacola LLC, CREA Brandon-C LLC, each a Delaware limited liability company (individually and collectively, "Lessor").

#### RECALLS:

A. New Port Richey Facility Operations, LLC, Brandon Facility Operations, LLC, Melbourne Facility Operations, LLC, Pensacola Facility Operations, LLC, Bayonet Point Facility Operations, LLC, Kissimmee Facility Operations, LLC, Sarasota Facility Operations, LLC, each an Ohio limited liability company (individually and collectively, "Lessee") has entered into a lease agreement with Lessor, dated of even date herewith (the "Lease"), pursuant to which Lessor agreed to lease to Lessee, and Lessee agreed to lease from Lessor, the Demised Premises listed on Exhibit A and more particularly described on Exhibit A1-A-7 attached thereto.

B. Guarantor is affiliated with Lessee and will directly benefit from the consummation of the transactions contemplated under the Lease, and Guarantor has agreed to execute and deliver this Guaranty.

#### AGREEMENT

**NOW, THEREFORE, FOR VALUE RECEIVED**, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Guarantor agrees as follows:

1. Guaranty. As an inducement for Lessor to enter into and consummate the transactions contemplated in the Lease, Guarantor hereby absolutely, irrevocably and unconditionally guarantees to Lessor the payment of any amounts due by Lessee under and in accordance with the provisions of the Lease now existing or hereafter arising (the "Guaranteed Obligations"). Guarantor hereby absolutely, irrevocably and unconditionally covenants and agrees that it is liable for the Guaranteed Obligations as primary obligor, and that Guarantor shall fully perform each and every term and provision hereof. Any amounts due by Guarantor hereunder shall be due within ten (10) business days after demand with interest accruing on the unpaid amounts at a rate per annum equal to five percent (5%) (the "Default Rate"), which interest shall be due to Lessor monthly. Guarantor agrees that it is directly liable to Lessor for the Guaranteed Obligations and that the Guaranteed Obligations of Guarantor hereunder are independent of any obligations of Lessee to Lessor. This Guaranty shall apply until all of the Guaranteed Obligations have been satisfied.

2. Continuing Obligations. Guarantor agrees that performance of the Guaranteed Obligations by Guarantor shall not be subject to any counterclaim, set-off, abatement, deferment or defense based upon any claim that Guarantor may have against Lessee and shall remain in full force and effect without regard to, and shall not be released, discharged or affected in any way by, any circumstance or condition (whether or not Guarantor shall have any knowledge thereof), including, without limitation, (i) any voluntary or involuntary bankruptcy, assignment for the benefit of creditors, insolvency, dissolution, receivership, or similar events or proceedings with respect to Lessor or Guarantor, as applicable, or (ii) any other occurrence, circumstance, happening or event, whether similar or dissimilar to the foregoing and whether foreseen or unforeseen, which otherwise might constitute a legal or equitable defense or discharge of the liabilities of Guarantor or which otherwise might limit recourse against Lessee or Guarantor, to the fullest extent permitted by law.

3. Waivers. Except as otherwise provided herein, Guarantor expressly and unconditionally waives all notices which may be required by statute, rule of law or otherwise, now or hereafter in effect, to preserve intact any rights against Guarantor.

4. Representations and Warranties. Guarantor agrees that the following shall constitute representations and warranties of Guarantor to Lessor, which shall survive the execution and delivery hereof, and that Lessor intends to enter into the Lease in reliance thereon:

a. Neither this Guaranty nor any document, financial statement, credit information, written certificate or written statement heretofore furnished or required herein to be furnished to Lessor by Guarantor contains any untrue statement of material fact or knowingly omits to state a fact material to this Guaranty.

b. Guarantor is currently informed of the financial condition and performance capabilities of Lessee and of all other circumstances which a diligent inquiry would reveal and which would bear upon the risk of nonpayment of the Guaranteed Obligations. Guarantor will continue to keep informed of the financial condition of Lessee and of all other circumstances which bear upon the risk of nonpayment or nonperformance of the Guaranteed Obligations.

5. "Event of Default" shall mean the occurrence of any one of the following events: (i) Guarantor fails or neglects to perform, keep or observe any term, provision, condition, warranty, representation or covenant contained in this Guaranty; (ii) Guarantor shall make an assignment for the benefit of creditors, or an application is made by Guarantor for the appointment of a receiver, trustee, custodian or conservator for Guarantor or any of Guarantor's assets; (iii) an application is made against Guarantor for the appointment of a receiver, trustee, custodian or conservator for Guarantor or any of Guarantor's assets and the related proceeding is pending for sixty (60) days without dismissal; (iv) a petition under the United States Bankruptcy Code or any similar federal, state or local law, statute or regulation shall be filed by Guarantor; or (A) a petition under the United States Bankruptcy Code or any similar federal, state or local law, statute or regulation shall be filed against Guarantor and the related legal proceeding is pending for sixty (60) days without dismissal; (v) Guarantor is enjoined, restrained or in any way prevented by court order from conducting any part of Guarantor's business, the result of which is a material adverse affect on Guarantor's ability to perform hereunder; (vi) a lawsuit or other proceeding is filed by or against Guarantor to liquidate any of Guarantor's assets and the lawsuit or other proceeding is pending for sixty (60) days without dismissal; or (vii) a material breach, default or event of default occurs under any agreement, document or instrument executed and delivered by Lessee or Guarantor to Lessor, and such breach, default or event of default is not cured within the applicable grace or cure period, if any.

6. Remedies Upon an Event of Default. Upon the occurrence of and for as long as an Event of Default remains uncured, the Guaranteed Obligations shall be immediately due and payable by Guarantor, and concurrently with the enforcement of Lessor's rights under the Lease, Lessor may, in its sole discretion, exercise any of its rights or remedies provided in this Guaranty, at law, in equity or otherwise. All of Lessor's rights and remedies are cumulative and non-exclusive, and the exercise by Lessor of any right or remedy shall not preclude Lessor from subsequently exercising any other right or remedy, in any other respect or at any other time.

7. Enforcement Costs. In the event that Lessor prevails on the merits of its claim, Guarantor shall additionally pay to Lessor upon demand all reasonable out of pocket fees, costs and expenses incurred by Lessor in connection with placing this Guaranty in the hands of one attorney for collection or any other legal proceeding with respect to Guarantor, including, without limitation, any bankruptcy, reorganization, receivership or other proceedings affecting creditors' rights or involving a claim under this Guaranty.

8. Successors and Assigns. This Guaranty shall inure to the benefit of Lessor and its successors and assigns. This Guaranty shall be binding on Guarantor and its successors and assigns.

9. No Waiver of Rights. No delay or failure on the part of Lessor to exercise any right, power or privilege under this Guaranty generally shall operate as a waiver thereof, and no single or partial exercise of any right, power or privilege shall preclude any other or further exercise thereof or the exercise of any other power or right, or be deemed to establish a custom or course of dealing or performance between the parties hereto. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law. No notice to or demand on Guarantor in any case shall entitle Guarantor to any other or further notice or demand in the same, similar or other circumstance.

7. Joinder. Any action to enforce this Guaranty may be brought against Guarantor without any reimbursement or joinder of Lessee or any other party in such action.



8. Nature of Guaranty. This Guaranty is an irrevocable, absolute, continuing guaranty of payment and performance. This Guaranty shall continue to be effective with respect to any Guaranteed Obligations arising or created after any attempted revocation by Guarantor.

9. Interpretation. Wherever possible, each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

10. Assignment. No party to this Guaranty may assign his or its obligations or benefits under this Guaranty absent the prior written consent of all parties to this Guaranty.

11. Governing Law. This Guaranty shall be construed in accordance with the laws of the State of Florida without regard to conflict of laws principles.

12. Notices. All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered (i) upon the delivery (or refusal to accept delivery) by personal delivery, messenger or overnight express delivery service (or, if such date is not on a business day, on the business day next following such date), (ii) on the third (3<sup>rd</sup>) business day next following the date of its mailing by certified mail, postage prepaid, at a post office maintained by the United States Postal Service, or (iii) by electronic mail transmission (followed by delivery by one of the other means identified in (i)-(ii)), addressed as follows:

If to Lessor:

c/o Topaz Fiscal Services  
6085 Streakland Avenue  
Brooklyn, NY 11234  
Attn: Hal Brechner  
Email: [hbrechner@topazfs.com](mailto:hbrechner@topazfs.com)

If to Lessee:

c/o Synergy Healthcare Services  
800 Concourse Pkwy South  
Maitland, FL 32751  
Email: [legalnotices@synergyhcs.com](mailto:legalnotices@synergyhcs.com)

If to Guarantor:

LAVIE CARE CENTERS, LLC  
1040 Crown Pointe Parkway, Suite 600  
Atlanta, GA 30338  
Attn: Legal Department  
Email: [legalnotices@synergyhcs.com](mailto:legalnotices@synergyhcs.com)

or such other address that any party designates to the other by written notice given in the manner stated above. Any notice sent by electronic mail shall be deemed delivered upon transmission, so long as said transmission is evidenced by proof of said transmittal, and sent before 5:00 p.m. local time at the place of the recipient and if sent after 5:00 p.m., shall be deemed delivered on the next business day. Notices from counsel to Lessor shall for all purposes hereunder constitute notice from Lessor. Notices from counsel to Guarantor shall for purposes hereunder constitute notice from Lessee.

13. CONSENT TO JURISDICTION. TO INDUCE LESSOR ACCEPT THIS GUARANTY, GUARANTOR IRREVOCABLY AGREES THAT, SUBJECT TO THE LESSOR'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS GUARANTY WILL BE LITIGATED IN COURTS HAVING SITUS IN FLORIDA. GUARANTOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN SUCH COURT. WAIVES PERSONAL SERVICE OF PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO GUARANTOR AT THE ADDRESS STATED HEREIN, AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

14. WAIVER OF JURY TRIAL. GUARANTOR AND LESSOR (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith AND AGREE THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH OF GUARANTOR AND LESSOR AGREES THAT THE OTHER WILL NOT ASSERT ANY CLAIM ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL INCIDENTAL OR PUNITIVE DAMAGES.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Guarantor has executed this Corporate Lease Guaranty as of the date first set forth above.

LAVIE CARE CENTERS, LLC

By:

Name: Timothy H. Lehner  
Title: Manager

# EXHIBIT B

THIS CORPORATE LEASE GUARANTY ("*Guaranty*") is made as of January 31, 2022, by LaVie Care Centers, LLC, a Delaware limited liability company (the "*Guarantor*"), to and for the benefit of CREA New Port Richey LLC, CREA Bayonet LLC, CREA Sarasota LLC, CREA Melbourne, CREA Kissimmee LLC, CREA Pensacola LLC, CREA Brandon-C LLC, each a Delaware limited liability company (individually and collectively, "*Lessor*").

## RECITALS:

A. New Port Richey Facility Operations, LLC, Brandon Facility Operations, LLC, Melbourne Facility Operations, LLC, Pensacola Facility Operations, LLC, Bayonet Point Facility Operations, LLC, Kissimmee Facility Operations, LLC, Sarasota Facility Operations, LLC, each an Ohio limited liability company (individually and collectively, "*Lessee*") has entered into a lease agreement with Lessor, dated of even date herewith (the "*Lease*"), pursuant to which Lessor agreed to lease to Lessee, and Lessee agreed to lease from Lessor, the Demised Premises listed on Exhibit A and more particularly described on Exhibit A1-A-7 attached thereto.

B. Guarantor is affiliated with Lessee and will directly benefit from the consummation of the transactions contemplated under the Lease, and Guarantor has agreed to execute and deliver this Guaranty.

## AGREEMENT

**NOW, THEREFORE, FOR VALUE RECEIVED**, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Guarantor agrees as follows:

1. Guaranty. As an inducement for Lessor to enter into and consummate the transactions contemplated in the Lease, Guarantor hereby absolutely, irrevocably and unconditionally guarantees to Lessor the payment of any amounts due by Lessee under and in accordance with the provisions of the Lease now existing or hereafter arising (the "*Guaranteed Obligations*"). Guarantor hereby absolutely, irrevocably and unconditionally covenants and agrees that it is liable for the Guaranteed Obligations as primary obligor, and that Guarantor shall fully perform each and every term and provision hereof. Any amounts due by Guarantor hereunder shall be due within ten (10) business days after demand with interest accruing on the unpaid amounts at a rate per annum equal to five percent (5%) (the "*Default Rate*"), which interest shall be due to Lessor monthly. Guarantor agrees that it is directly liable to Lessor for the Guaranteed Obligations and that the Guaranteed Obligations of Guarantor hereunder are independent of any obligations of Lessee to Lessor. This Guaranty shall apply until all of the Guaranteed Obligations have been satisfied.

2. *Continuing Obligations.* Guarantor agrees that performance of the Guaranteed Obligations by Guarantor shall not be subject to any counterclaim, set-off, abatement, deduction or defense based upon any claim that Guarantor may have against Lessee and shall remain in full force and effect without regard to, and shall not be released, discharged or affected in any way by, any circumstance or condition (whether or not Guarantor shall have any knowledge thereof), including, without limitation, (i) any voluntary or involuntary bankruptcy, assignment for the benefit of creditors, insolvency, dissolution, receivership, or similar events or proceedings with respect to Lessor or Guarantor, as applicable, or (ii) any other occurrence, circumstance, happening or event, whether similar to the foregoing and whether foreseen or unforeseen, which otherwise might constitute a legal or equitable defense or discharge of the liabilities of Guarantor or which otherwise might limit recourse against Lessee or Guarantor, to the fullest extent permitted by law.

3. *Waivers.* Except as otherwise provided herein, Guarantor expressly and unconditionally waives all notices which may be required by statute, rule of law or otherwise, now or hereafter in effect, to preserve intact any rights against Guarantor.

4. Representations and Warranties. Guarantor agrees that the following shall constitute representations and warranties of Guarantor to Lessor, which shall survive the execution and delivery hereof, and that Lessor intends to enter into the Lease in reliance thereon:
  - a. Neither this Guaranty nor any document, financial statement, credit information, written certificate or written statement heretofore furnished or required herein to be furnished to Lessor by Guarantor contains any untrue statement of material fact or knowingly omits to state a fact material to this Guaranty.
  - b. Guarantor is currently informed of the financial condition and performance capabilities of Lessee and of all other circumstances which a diligent inquiry would reveal and which would bear upon the risk of nonpayment of the Guaranteed Obligations. Guarantor will continue to keep informed of the financial condition of Lessee and of all other circumstances which bear upon the risk of nonpayment or nonperformance of the Guaranteed Obligations.
5. "Event of Default" shall mean the occurrence of any one of the following events: (i) Guarantor fails or neglects to perform, keep or observe any term, provision, condition, warranty, representation or covenant contained in this Guaranty; (ii) Guarantor shall make an assignment for the benefit of creditors, or an application is made by Guarantor for the appointment of a receiver, trustee, custodian or conservator for Guarantor or any of Guarantor's assets; (iii) an application is made against Guarantor for the appointment of a receiver, trustee, custodian or conservator for Guarantor or any of Guarantor's assets and the related proceeding is pending for sixty (60) days without dismissal; (iv) a petition under the United States Bankruptcy Code or any similar federal, state or local law, statute or regulation shall be filed by Guarantor; or (v) a petition under the United States Bankruptcy Code or any similar federal, state or local law, statute or regulation shall be filed against Guarantor and the related legal proceeding is pending for sixty (60) days without dismissal; (vi) Guarantor is enjoined, restrained or in any way prevented by court order from conducting any part of Guarantor's business, the result of which is a material adverse affect on Guarantor's ability to perform hereunder; (vii) a lawsuit or other proceeding is filed by or against Guarantor to liquidate any of Guarantor's assets and the lawsuit or other proceeding is pending for sixty (60) days without dismissal; or (viii) a material breach, default or event of default occurs under any agreement, document or instrument executed and delivered by Lessee or Guarantor to Lessor, and such breach, default or event of default is not cured within the applicable grace or cure period, if any.
6. Remedies Upon an Event of Default. Upon the occurrence of and for as long as an Event of Default remains uncured, the Guaranteed Obligations shall be immediately due and payable by Guarantor, and concurrently with the enforcement of Lessor's rights under the Lease, Lessor may, in its sole discretion, exercise any of its rights or remedies provided in this Guaranty, at law, in equity or otherwise. All of Lessor's rights and remedies are cumulative and non-exclusive, and the exercise by Lessor of any right or remedy shall not preclude Lessor from subsequently exercising any other right or remedy, in any other respect or at any other time.
7. Enforcement Costs. In the event that Lessor prevails on the merits of its claim, Guarantor shall additionally pay to Lessor upon demand all reasonable out of pocket fees, costs and expenses incurred by Lessor in connection with placing this Guaranty in the hands of one attorney for collection or any other legal proceeding with respect to Guarantor, including, without limitation, any bankruptcy, reorganization, receivership or other proceedings affecting creditors' rights or involving a claim under this Guaranty.
8. Successors and Assigns. This Guaranty shall inure to the benefit of Lessor and its successors and assigns. This Guaranty shall be binding on Guarantor and its successors and assigns.
9. No Waiver of Rights. No delay or failure on the part of Lessor to exercise any right, power or privilege under this Guaranty generally shall operate as a waiver thereof, and no single or partial exercise of any right, power or privilege shall preclude any other or further exercise thereof or the exercise of any other power or right, or be deemed to establish a custom or course of dealing or performance between the parties hereto. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law. No notice to or demand on Guarantor in any case shall entitle Guarantor to any other or further notice or demand in the same, similar or other circumstance.

7. Joinder. Any action to enforce this Guaranty may be brought against Guarantor without any reimbursement or joinder of Lessee or any other party in such action.
8. Nature of Guaranty. This Guaranty is an irrevocable, absolute, continuing guaranty of payment and performance. This Guaranty shall continue to be effective with respect to any Guaranteed Obligations arising or created after any attempted revocation by Guarantor.
9. Interpretation. Wherever possible, each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty.
10. Assignment. No party to this Guaranty may assign his or its obligations or benefits under this Guaranty absent the prior written consent of all parties to this Guaranty.
11. Governing Law. This Guaranty shall be construed in accordance with the laws of the State of Florida without regard to conflict of laws principles.
12. Notices. All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered (i) upon the delivery (or refusal to accept delivery) by personal delivery, messenger or overnight express delivery service (or, if such date is not on a business day, on the business day next following such date); (ii) on the third (3<sup>rd</sup>) business day next following the date of its mailing by certified mail, postage prepaid, at a post office maintained by the United States Postal Service; or (iii) by electronic mail transmission (followed by delivery by one of the other means identified in (i)-(ii)), addressed as follows:

If to Lessor:

c/o Topaz Fiscal Services  
6085 Strickland Avenue  
Brooklyn, NY 11234  
Attn: Hal Brechter  
Email: hbrecter@topazfs.com

If to Lessee

c/o Synergy Healthcare Services  
800 Concourse Pkwy South  
Maitland, FL 32751  
Email: legalnotices@synergyhcs.com

If to Guarantor:

LAVIE CARE CENTERS, LLC  
1040 Crown Pointe Parkway, Suite 600  
Atlanta, GA 30338  
Attn: Legal Department  
Email: legalnotices@synergyhcs.com

or such other address that any party designates to the other by written notice given in the manner stated above. Any notice sent by electronic mail shall be deemed delivered upon transmission, so long as said transmission is evidenced by proof of said transmittal, and sent before 5:00 p.m. local time at the place of the recipient and if sent after 5:00 p.m., shall be deemed delivered on the next



business day. Notices from counsel to Lessor shall for all purposes hereunder constitute notice from Lessor. Notices from counsel to Guarantor shall for purposes hereunder constitute notice from Lessee.

13. CONSENT TO JURISDICTION. TO INDUCE LESSOR ACCEPT THIS GUARANTY, GUARANTOR IRREVOCABLY AGREES THAT, SUBJECT TO THE LESSOR'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS GUARANTY WILL BE LITIGATED IN COURTS HAVING SITUS IN FLORIDA. GUARANTOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN SUCH COURT. WAIVES PERSONAL SERVICE OF PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL, DIRECTED TO GUARANTOR AT THE ADDRESS STATED HEREIN, AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

14. WAIVER OF JURY TRIAL. GUARANTOR AND LESSOR (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith AND AGREE THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH OF GUARANTOR AND LESSOR AGREES THAT THE OTHER WILL NOT ASSERT ANY CLAIM ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL INCIDENTAL OR PUNITIVE DAMAGES.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Guarantor has executed this Corporate Lease Guaranty as of the date first set forth above.

LAVIE CARE CENTERS, LLC

By:   
Name: Timothy H. Lehnert  
Title: Manager

# EXHIBIT C

## OPERATIONS TRANSFER AGREEMENT

This OPERATIONS TRANSFER AGREEMENT ("*Agreement*") is entered into as of this 31<sup>st</sup> day of January, 2022 (the "*Effective Date*"), by and among the entity listed as a current operator on Exhibit A attached hereto ("*Current Operator*"), the entity listed as a new operator on Exhibit A attached hereto ("*New Operator*"), and LaVie Care Centers, LLC, a Delaware limited liability company, as Guarantor, solely for purposes of Sections 2.5, 2.9 and 5 ("*Guarantor*").

## RECITALS

A. The entity listed as the Owner on Exhibit A attached hereto (the "*Owner*") owns certain real property improved with a certain skilled nursing facility listed on Exhibit A attached hereto (the "*Facility*") located at the address set forth on Exhibit A attached hereto, and all of the furniture, fixtures and equipment and other items of personal property located therein (other than such personal property that is owned by the Current Operator) (collectively with the Facility, the "*Property*"). The Facility is licensed and certified for that number of SNF beds listed on Exhibit A attached hereto (the "*License*").

B. Owner and the purchaser listed on Exhibit A attached hereto (the "*Purchaser*") are parties, along with the other parties named therein, to that certain Purchase and Sale Agreement, dated December 6, 2021 (the "*PSA*"), pursuant to which Purchaser will purchase the Property from Owner contemporaneously with the closing of the transactions contemplated by this Agreement.

C. Current Operator is the licensed operator of the Facility and leases its Property directly or indirectly from Owner pursuant to a lease or sub-lease agreement.

D. Pursuant to the terms and conditions of this Agreement, Owner desires for Current Operator to transfer to New Operator on the Closing Date the Assignable Licenses and Permits (defined below), and for the parties to take other acts to ensure the continued business operations of the Facility on and after the Closing Date, in order that New Operator may lease the Facility from and after the consummation of the transaction contemplated by the PSA, and be the licensed operator of the Facility on and after the Closing Date.

E. The parties desire to enter into this Agreement to facilitate an orderly transition of the Facility's operations from Current Operator to New Operator as more specifically provided herein.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree that:

**SECTION 1**  
**CLOSING; CONVEYANCE OF ASSETS; LIABILITIES; CLOSING CONDITIONS;**  
**CLOSING DELIVERABLES**

1.1 Closing. The closing of the transactions contemplated under this Agreement (the "Closing") shall occur on the first day of the first calendar month following the satisfaction of all conditions precedent set forth in Section 1.2 below (the "Closing Date"). The effectiveness of the Closing and New Operator's obligations for operations at the Facility shall be deemed to have occurred at 12:00 a.m. (beginning of the day) on the Closing Date. It is currently anticipated that the Closing Date shall be May 1, 2022. Notwithstanding anything to this Agreement to the contrary, nothing in this Section shall obligate either party to close the transactions contemplated by this Agreement if any condition precedent to Closing has not been met in accordance with the terms of this Agreement or waived in writing by the applicable party. Notwithstanding the foregoing, or anything to the contrary contained herein, Current Operator and New Operator agree that at any time prior to the Outside Date, at New Operator's request, they will enter into a management agreement (in a form to be mutually agreed upon by the parties) (the "Management Agreement"). The Management Agreement will provide that if the Closing does not occur by the Outside Date due to a failure to meet the closing condition set forth in Section 1.4(a)(6) below, or at such earlier date if requested by New Operator, then New Operator shall take over the management of the Facility on behalf of Current Operator until such closing condition has been satisfied. In addition, among other things, the Management Agreement will provide that New Operator will assume responsibility for all of the expenses related to the operation of the Facility and, in consideration of such assumption, Current Operator shall pay to New Operator all of the gross revenues generated in connection with the operation of the Facility following New Operator's assumption of the expenses.

1.2 Conveyance of Assets. On the Closing Date, Current Operator shall transfer to New Operator the following (the "Assigned Assets");

(a) To the extent Current Operator's interest is assignable and/or transferable pursuant to applicable law and to the extent New Operator, in its sole discretion, elects to assume the same, all consents, the Assignable Licenses and Permits, permits, approvals, accreditations, certifications, bed operating rights, and Medicare and Medicaid provider numbers and agreements issued by any Governmental Entity, including without limitation, any authorizations to participate in any state or federal reimbursement program such as Medicaid or Medicare;

(b) All right, title and interest of Current Operator in and to any trade names and all variations thereof connected with each Facility;

(c) All telephone and facsimile numbers relating solely to the Facility (including, without limitation, any "e-fax" numbers and all "800" numbers) and all post office box addresses associated with the Facility;

(d) all current resident and employee records in the form located at the Facility on the Closing Date;

(e) all consumable inventories of every kind and nature whatsoever (specifically including, but not limited to, all pharmacy supplies, nursing supplies, medical supplies, housekeeping supplies, laundry supplies, maintenance supplies, office supplies, dietary supplies, other supplies and food) located at and used in connection with the operation of the Facility (the "Supplies"), which Supplies shall be in a quantity sufficient to meet the needs of the residents of the Facility for the proper operation thereof and in compliance with all applicable laws, in the ordinary course of business; and

(f) Any and all other items of tangible and intangible personal property owned or leased by the applicable Current Operator and used solely in connection with the operation, leasing and maintenance of the Facility, including all furniture, fixtures and equipment, IT equipment, and other items of personal property located at the Facility (collectively, the "Personal Property"), and any goodwill of Current Operator associated with the business operated at the Facility.

Current Operator shall have no obligation to deliver the Assigned Assets to any location other than that at which each item of the Assigned Assets is currently located, and New Operator agrees that the presence of the Assigned Assets at the Facility on the Closing Date shall constitute delivery thereof. Notwithstanding the foregoing, the parties shall cooperate in the transfer of records as contemplated herein.

1.3 Excluded Liabilities. New Operator shall not assume and shall not be liable for, and Current Operator shall satisfy and indemnify and defend New Operator from and against, in accordance with Section 5 herein, any debts, liabilities, claims or obligations of any kind or nature arising from, out of or relating to Current Operator's operation of the Facility, or any activities, of Current Operator prior to the Closing Date including the performance of Current Operator's obligations under its respective Assigned Agreements prior to the Closing Date (the "Retained Liabilities").

1.4 Conditions Precedent.

(a) New Operator's Conditions Precedent. New Operator's obligation to consummate the transactions contemplated in this Agreement shall be subject to the following conditions precedent being satisfied on or prior to the Closing Date or the waiver thereof by New Operator, which waiver shall be binding upon New Operator only to the extent made in writing:

(1) Current Operator shall have duly and timely performed and fulfilled all of its duties, obligations, promises, covenants and agreements required to be performed hereunder on or prior to the Closing Date in all material respects;

(2) Each of the representations and warranties of Current Operator contained in this Agreement shall be true and correct in all material respects as of the Closing Date, except that those representations and warranties that contain materiality qualifications and other qualifications based on the word "material" shall be required to be true and correct in all respects and not merely material respects;

(3) Current Operator shall deliver to New Operator on or before the Closing Date the Current Operator's Deliverables;

- (4) Owner and Purchaser shall have entered into, and consummated the transactions contemplated under the PSA;
  - (5) Transfer of the Assigned Assets;
  - (6) Transfer of those Assignable Licenses and Permits from Current Operator to New Operator which are required for New Operator to operate the Facility as of the Closing Date as a duly licensed skilled nursing facility, and the procurement by New Operator of the new License from the State of Florida, provided that the same shall be deemed to have been satisfied if the parties have satisfied all notice and filing requirements such that any of such transfer(s) or procurement shall be effected after the Closing but effective as of the Closing Date;
  - (7) Since the date of this Agreement, there shall have occurred no event, circumstance or other change in Current Operator or the Facility that has had a Material Adverse Effect that has not been corrected or resolved prior to Closing to New Operator's satisfaction as determined in its reasonable discretion;
  - (8) No Facility shall be Out of Compliance; and
  - (9) On the Closing Date there shall not be any injunction or order entered by a court of competent jurisdiction prohibiting the consummation of the transaction contemplated hereby.
- (b) Current Operator's Conditions Precedent. Current Operator's obligation to consummate the transactions contemplated in this Agreement shall be subject to the following conditions precedent being satisfied on or prior to the Closing Date to or the waiver thereof by Current Operator, which waiver shall be binding upon Current Operator only to the extent made in writing:
- (1) New Operator shall have duly and timely performed and fulfilled all of its duties, obligations, promises, covenants and agreements required to be performed hereunder on or prior to the Closing Date in all material respects;
  - (2) Each of the representations and warranties of New Operator contained in this Agreement shall be true and correct in all material respects as of the Closing Date, except that those representations and warranties that contain materiality qualifications and other qualifications based on the word "material" shall be required to be true and correct in all respects and not merely material respects;
  - (3) New Operator shall have executed and delivered to Current Operator the New Operator Deliverables, as applicable;
  - (4) Owner and Purchaser shall have entered into, and consummated the transactions contemplated under the PSA; and

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- (5) Current Operator's Lease obligations and those of any affiliate related to Property have been terminated.
- 1.5 Current Operator Deliverables. At Closing, Current Operator shall deliver the following to New Operator (collectively, the "Current Operator Deliverables");
- (a) Executed counterparts of a closing statement reflecting any prorations and other payments to be made at Closing in accordance with the terms of this Agreement (the "OTA Settlement Statement");
  - (b) The accounting of patient funds required by Section 2.2 hereof and such patient funds;
  - (c) An executed counterpart of that certain Agreement entered into among Current Operator, New Operator and MidCap Funding IV Trust, a Delaware statutory trust and Current Operator's lender ("MidCap"), a copy of which is attached hereto as Exhibit B (the "MidCap Agreement");
  - (d) Counterparts to any conveyance documents;
  - (e) An executed counterpart of the Bill of Sale, the form of which is attached hereto as Exhibit C (the "Bill of Sale");
  - (f) An executed counterpart of the Assignment and Assumption Agreement, the form of which is attached hereto as Exhibit D (the "Assignment and Assumption"); and
  - (g) Cooperate with New Operator to provide any and all documents reasonably requested or required by New Operator's lenders.
- 1.6 New Operator's Deliverables. At Closing, New Operator shall deliver the following to Current Operator (collectively, the "New Operator Deliverables");
- (a) An executed counterpart of the OTA Settlement Statement;
  - (b) Payment in immediately available funds of any amounts due to Current Operator from New Operator with respect to the Facility as reflected in the OTA Settlement Statement;
  - (c) An executed counterpart of the Bill of Sale;
  - (d) An executed counterpart of the Assignment and Assumption; and
  - (e) Counterparts to any conveyance documents.
- 1.7 Payment. Any mutual obligations owing between Current Operator on the one hand and New Operator on the other pursuant to Sections 1.5 and 1.6 hereof shall be offset against each

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other and shall be reflected on the OTA Settlement Statement or otherwise paid in accordance with Section 2.8.

1.8 Waiver. In the event that either of the parties hereto (a "**Waiving Party**") waives a condition precedent to its performance hereunder, or otherwise elects to proceed with the Closing despite the fact that one or more conditions precedent to its performance have not been satisfied, such action by the Waiving Party shall in no way be deemed a waiver of any payment, indemnification or other rights of the Waiving Party with respect to such condition, and the Waiving Party shall be entitled, following the Closing, to pursue any and all available remedies at law or equity with respect thereto.

## SECTION 2 TRANSFER OF OPERATIONS; CERTAIN COVENANTS

### 2.1 Licensure; Cooperation.

(a) The parties hereto agree to cooperate with each other to effect an orderly and expeditious transfer of the continued operations of the Facility. The parties hereto also agree to cooperate with each other to effect an orderly and expeditious transfer of all of the licenses and permits which Current Operator uses as a requirement for the operation of the Facility as a licensed skilled nursing facility and which are assignable by law (the "**Assignable Licenses and Permits**"). New Operator acknowledges that the Assignable Licenses and Permits will not include the License if the same is not assignable by law. New Operator shall apply for any and all consents, approvals, authorizations, notices, filings, transfers and other approvals, including, but not limited to, approval for a new License, and approval of the transfer of the Assignable Licenses and Permits, which in each case are (i) prescribed by any governmental, regulatory or administrative body, agency or authority, whether Federal, state or local, (ii) required by the Assignable Licenses and Permits, and/or (iii) required for the operation of the Facility as a duly licensed skilled nursing facility. As soon as practicable, New Operator shall apply for the approvals from Medicare and Medicaid (including, without limitation, the assignment to New Operator of Current Operator's respective Medicare provider agreement). New Operator, at its sole cost and expense, shall take all steps necessary to secure in New Operator's name all such licensure, permits or other authorizations that are required for New Operator to operate the Facility upon the Closing, and New Operator shall use all commercially reasonable efforts to obtain such licensure, permits and other authorizations for the Closing to occur within sixty (60) days of the Effective Date. Current Operator shall reasonably cooperate with New Operator by furnishing all reasonably requested documentation and executing all documents and consents reasonably necessary for New Operator's satisfaction of its obligations under this Section 2.1. Any reasonable, documented, out of pocket expense incurred by Current Operator in complying with the foregoing shall be promptly reimbursed by New Operator at the Closing or as provided in Section 2.8.

(b) For any periods following the Closing that New Operator is not yet able to bill under its Medicaid and/or Medicare provider agreements and/or managed care contracts (the "**Provider Agreements**"), Current Operator shall allow New Operator to bill under Current Operator's respective Provider Agreements, to the extent permitted by applicable law and contract, and Current Operator shall promptly forward to New Operator any payments received with respect to services rendered by New Operator from and after Closing in accordance with Section 2.5.

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hereof. Nothing herein shall require Current Operator to submit claims on behalf of New Operator, perform any billing activity on behalf of New Operator or otherwise make representations to any payor, except as necessary to advise the payor of the operations transfer.

### 2.2 Patient Funds; Advance Payments.

(a) Within five (5) days following the Closing Date, and subject to adjustment within thirty (30) days following the Closing Date, Current Operator shall provide New Operator with an accounting of all funds belonging to residents at the Facility, which are held by Current Operator in a custodial capacity, and an accounting of all advance payments received by each of them pertaining to residents at the Facility (collectively, the "**Resident Trust Funds/Payments**"). Such accounting shall set forth the names of the residents for whom such Resident Trust Funds/Payments are held and the amounts held on behalf of each resident.

(b) No later than five (5) days before the Closing Date, New Operator shall provide Current Operator with wire transfer instructions for New Operator's receipt on the Closing Date of the Resident Trust Funds/Payments into trust accounts opened by New Operator prior to the Closing in compliance with all applicable laws.

(c) On the Closing Date, and subject to adjustment within thirty (30) days following the Closing Date, Current Operator shall transfer the Resident Trust Funds/Payments to a bank account designated by New Operator, and New Operator shall acknowledge receipt of, and does hereby expressly assume, all of Current Operator's financial and custodial obligations arising from and after the Closing with respect thereto, it being the intent and purpose of this provision that, as of the Closing, and effective upon transfer of the Resident Trust Funds/Payments into the account designated by New Operator, Current Operator shall be, and is hereby, relieved of all fiduciary and custodial obligation with respect to such funds and that New Operator shall, and does hereby, assume all such post-Closing obligations and shall be directly accountable to the residents with respect thereto.

(d) On the Closing Date, New Operator shall, and does hereby, assume custody of all Resident Trust Funds/Payments and any other trust accounts for residents transferred by Current Operator to New Operator and agrees to hold and treat such accounts in the fiduciary capacity required by law. New Operator agrees to indemnify and hold Current Operator harmless from all liabilities, claims, and demands that may be asserted against Current Operator in connection with New Operator's treatment of such accounts on and after the Closing Date.

2.3 Final Cost Reports. Current Operator shall prepare and file, with the appropriate governmental authorities, a final cost report in respect to its operation of the Facility, prior to Closing, within the time frame following the Closing as required by law, rule, or regulation. New Operator shall prepare and file, with the appropriate governmental authorities, its initial cost reports with respect to its operation of the Facility, following Closing for the fiscal year

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commencing with the fiscal year in which the Closing occurs, within the time frame following the Closing as required by law, rule, or regulation.

**2.4 Employees.**

(a) As of the Effective Date, Current Operator currently employs certain employees engaged in the operation of the Facility (together with such additional persons as Current Operator may hire before the Closing in the ordinary course of the Facility's operations (the "**Employees**"). Current Operator shall provide New Operator with a list of all Employees as of the Effective Date including: (i) the vacation, sick, holiday, personal time-off, and any other paid time off of all such Employees, whether vested or unvested, to the extent it was accrued prior to the Effective Date and remains unused ("**PTO**"), (ii) the current base salaries or wage rate of such Employees, (iii) the exempt and nonexempt status of each Employee under the Fair Labor Standards Act and any applicable state law (whether or not paid an hourly or salary rate), (iv) each Employee's date of hire or commencement of most recent employment, (v) each Employee's position, and (vi) the number of hours worked by each Employee in the preceding 12 months, each of which shall be updated as of the most recent payroll day prior to the Closing. New Operator shall not be bound by or assume any employment contracts to which Current Operator may be a party. Current Operator shall terminate the employment and all benefits of the Employees, effective as of 11:59:59 on the day immediately preceding the Closing Date. Current Operator shall be responsible for, and shall pay to the Employees, at or prior to the Closing Date, any amounts due for PTO payable in accordance with, or otherwise as required under (i) Current Operator's then-current policy for terminated employees, which New Operator acknowledges may not require any payout, (ii) any collective bargaining agreements affecting the Facility, as determined by the Current Operator, and (iii) applicable laws of the state, county, or city in which the Facility is located.

(b) New Operator shall offer to hire a sufficient number of the Employees effective as of the Closing Date, and shall use all commercially reasonable efforts to employ the minimum number of employees, so as to avoid creating any obligation on the part of Current Operator under the Worker Adjustment and Retraining Notification Act, or any other comparable state or local law (collectively, the "**WARN Act**"). Such Employees who accept such employment offers from New Operator shall be referred to as the "**Retained Employees**." Any such employment of a Retained Employee by New Operator shall be on terms such that Current Operator shall not have violated the WARN Act, and will not result in a determination that Retained Employees have been constructively discharged. New Operator shall not discriminate in the hiring of Employees on any legally impermissible basis, and shall indemnify, defend, and hold harmless Current Operator with respect to any related liability or claim. No later than five (5) business days before the Closing Date, New Operator shall provide Current Operator with a written list of any Employees whom New Operator does not anticipate will become Retained Employees.

(c) New Operator and Current Operator acknowledge and agree that the provisions of this Section 2.4, are designed, in part, to ensure that Current Operator is not required to give notice to Employees under the WARN Act. Accordingly, New Operator agrees to, and hereby does, assume any liability relating to the WARN Act, in the event of the violation by New Operator of their obligations under Section 2.4 of this Agreement, including a violation which results from allegations that New Operator constructively discharged any Employees as a result of the terms

and conditions of employment offered by New Operator or any of their affiliates. Nothing in this Section 2.4 shall, however, create any third party beneficiary or other rights in favor of any person not a party hereto, including Employees, or constitute an employment agreement or condition of employment for Retained Employees.

(d) Current Operator shall be responsible for providing, if required by law, all applicable COBRA notices and COBRA continuation healthcare coverage for all "**M&A Qualified Beneficiaries**" (as that term is defined in Section 4980B of the Code and Title 6 of the Employee Retirement Income Security Act of 1974, as amended, and the regulations thereunder) as in effect from time to time and the regulations thereunder or pursuant to other applicable state law in connection with the transaction. New Operator shall cooperate as reasonably necessary so that Current Operator may satisfy all such obligations. Current Operator acknowledges and agrees that New Operator is not assuming any of Current Operator's obligations to its Current Employees, former employees, and/or qualified beneficiaries under COBRA or other applicable state law.

**2.5 Accounts Receivable.**

(a) On the Closing Date, New Operator shall, and does hereby, assume responsibility for the billing for, and collection of, payments on Accounts Receivable (as such term is defined below) for services rendered by them at their Facility, on and after the Closing Date (such Accounts Receivable, "**New Operator Amounts**"). On and after the Closing Date, all New Operator Amounts shall be billed and collected by New Operator using New Operator's own computer software and billing systems. Current Operator shall not be responsible for billing or collecting New Operator's amounts using its own computer software, billing systems, or any other resources, without limiting the foregoing, to the extent permitted under applicable law and applicable enrollment terms, and at New Operator's election, for a period between the Closing Date and the first anniversary thereof, Current Operator hereby agrees that New Operator may bill for services provided by New Operator under Current Operator's Medicare and Medicaid provider agreements (including use of any NPI numbers of other billing identifiers necessary to complete such billing), as well as any other provider agreements, and that the New Operator Amounts resulting from such billing may be paid to Current Operator. Such New Operator Amounts collected by Current Operator shall be paid to New Operator as provided in this Section 2.5 and as provided in the MidCap Agreement. As a condition of the rights granted by Current Operator in this Section 2.5, New Operator agrees to comply with the terms of the MidCap Agreement and further agree that, if any terms of the MidCap Agreement conflict with the terms of this Section 2.5, then the terms of the MidCap Agreement shall control.

(b) Current Operator shall retain all rights in and title to Accounts Receivable for services rendered at its Facility prior to the Closing Date (the "**Current Operator's Accounts Receivable**"), and shall retain full responsibility for the collection thereof. The Current Operator's Accounts Receivable shall include all amounts due Current Operator, whether billed or unbilled prior to the Closing Date, for all services and ancillary services or products provided to any current or former residents by Current Operator prior to the Closing Date, and any Accounts Receivable arising from the rate adjustments which relate to periods prior to the Closing Date, even if such adjustments occur after the Closing Date.



(c) All third party payor payments that designate the dates of service or other identifying data on the remittance received by New Operator from and after the Closing Date shall relate to the period prior to the Closing Date or after the Closing Date, as the case may be, in connection with the account of the resident for whom the payment is made in accordance with the dates of service or other identifying data indicated on the remittance, and New Operator shall remit to Current Operator, within five (5) days of its receipt thereof, any payment received by New Operator that apply to Current Operator's Accounts Receivable, together with a copy of the remittance advice; provided, however, in the event payment is made without remittance advice (or where the remittance advice does not specify the dates of service), and the parties are otherwise unable to identify the time period to which such payment relates, such payment will, for the first thirty (30) days after the Closing Date, be applied to the appropriate Current Operator's Accounts Receivable, and thereafter to the appropriate New Operator Amounts.

(d) In addition, New Operator shall remit to Current Operator, within fifteen (15) business days of its receipt thereof, any cash repayment or cash reimbursement received by New Operator arising out of cost reports filed for the period ending prior to the Closing Date. New Operator acknowledges that Medicare Part A constrains receivables from dates of service prior to the Closing Date exist, and New Operator agrees that, to the extent the information is provided to the New Operator so that it may accurately reflect the information in the filing, New Operator will (i) report any amounts uncollectible from Medicare Part A beneficiaries that meet all of the criteria specified in 42 CFR 413.89(3), or any successor laws thereto, and any other regulations, laws, materials, or CMS guidance (such amounts, the "*Medicare Bad Debts*") from Current Operator's dates of service on New Operator's initial Medicare cost report, and any subsequent cost reports if needed, and (ii) if New Operator receives payment or credit for the Medicare Bad Debts that are from Current Operator's dates of service, New Operator will pay to Current Operator those amounts within fifteen (15) business days of its receipt thereof. Any amounts not so paid to Current Operator shall bear interest thereon at an annual rate of twelve percent (12%) calculated from the date such payment or credit was received by New Operator through the date when paid in full.

(e) Current Operator and New Operator agree that, except as provided in the MidCap Agreement, any payments received by Current Operator that pertain to the period commencing from and after the Closing Date, whether received from private pay patients or as repayment or reimbursement arising out of cost reports, shall be remitted by Current Operator to New Operator within five (5) days of Current Operator's receipt thereof.

(f) To the extent either party receives any proceeds from the Accounts Receivable of the other party, the parties acknowledge that the party receiving the payment belonging to the other party shall hold the payment in trust. However, both Parties shall have the right to offset with respect to any amounts otherwise owed, or reasonably estimated to be owed, by and between the Parties pursuant to this Agreement. For a period of six (6) months following the Closing Date, Current Operator and New Operator shall provide each other with an accounting by the twentieth (20th) day of each month setting forth all amounts received by them during the preceding month with respect to the Accounts Receivable. To the extent that such accounting shows that either party received Accounts Receivable that are applicable to the other party's period of operation, such amounts shall be paid over to such other party within five (5) days of such determination. Nothing

herein shall be deemed to limit in any way either party's rights and remedies to recover accounts receivable due and owing to it under the terms of this Agreement.

(g) Notwithstanding anything in this Agreement to the contrary, any and all grant payments, stimulus payments, retroactive rate adjustments, and any and all other payments and support paid with respect to the Facility in relation to COVID-19 relief efforts ("*COVID Payments*") based on, in return for, or calculated using data or dates of service prior to the Closing Date, shall be the property of the Current Operator and retained by and/or paid to the Current Operator. Any COVID Payments based on, in return for, or calculated using data or dates of service on or after the Closing Date shall be the property of the New Operator and retained by and/or paid to the New Operator. Such COVID Payments shall be transferred by the receiving party in the same manner as other Accounts Receivable pursuant to this Section 2.5 and in compliance with applicable law. To the extent that Current Operator receives any COVID Payments after the Closing Date that are not legally permitted to be transferred to New Operator for any reason, then Current Operator shall otherwise cooperate with New Operator to ensure that such COVID Payments are used solely for the benefit of the Facility and its residents and staff in compliance with applicable law. To the extent that New Operator receives any COVID Payments after the Closing Date that are not legally permitted to be transferred to Current Operator for any reason, then New Operator shall cooperate with Current Operator to ensure that such COVID Payments are used solely to offset applicable COVID-19 costs and expenses incurred by Current Operator prior to the Closing Date in compliance with applicable law.

(h) As of the Effective Date, Current Operator is in receipt of an amount equal to six thousand two hundred twenty-nine and 0/100 Dollars (\$6,229.00) pursuant to the Medicare Accelerated & Advance Payment Program ("*MAAPP Funds*"), which funds were received by Current Operator in accordance with the process described by the United States Department of Health and Human Services' Centers for Medicare & Medicaid Services ("*CMS*"). Current Operator has applied or will apply the MAAPP Funds in accordance with all applicable CMS requirements under federal laws, regulations, and published CMS policies or guidance. The parties hereto hereby acknowledge and agree that should any of the COVID Payments including MAAPP Funds be recouped against New Operator's Medicare provider agreement, or should New Operator otherwise be required to repay such COVID Payments including MAAPP Funds (collectively, the "*Recouped MAAPP Funds*"), then Current Operator shall, within thirty (30) days of receipt of notice that such recoupment was for Recouped MAAPP Funds, remit such Recouped MAAPP Funds to New Operator. Should Current Operator not remit such funds, New Operator may seek such funds from the Guarantor. Current Operator shall pay to New Operator interest on the Recouped MAAPP Funds equal to the rate of twelve percent (12%) per annum, compounded monthly, from the date of such recoupment until such Recouped MAAPP Funds have been paid in full.

2.6 Payment of Operating Costs, Prorations and Deposits. Current Operator shall be responsible for, and shall pay on a timely basis, claims or charges which are owed to third parties arising from their use, operation, or control of the Facility, including payroll, taxes (including all real estate and personal property taxes and assessments), insurance premiums, utilities, amounts due under executory obligations, and similar obligations for all periods prior to the Closing Date. New Operator, to the extent it utilizes the services provided by third parties, shall be responsible for, and shall pay on a timely basis, any claims or charges which are due to such third parties

arising from the use, operation, or control of the Facility from and after the Closing Date. Revenues and expenses pertaining to utility charges for the billing period in which the Closing Date occurs, prepaid expenses, real estate taxes and assessments for the year during which the Closing Date occurs, and like items of revenue or expense attributable to the Facility shall be prorated between Current Operator and New Operator as of the Closing Date. All such prorations shall be based on the basis of actual days elapsed in the relevant accounting or revenue period, and shall be based on the most recent information available to Current Operator. Utility charges that are not metered and read on the Closing Date shall be estimated based on prior charges, and shall be re-prorated upon receipt of statements therefor. Real estate taxes and assessments shall be estimated based on the most recently available tax bill, and shall be re-prorated upon receipt of the actual tax bill for the year of Closing. In general, such prorations shall be made so as to reimburse Current Operator for actual prepaid expense items, and to charge Current Operator for prepaid revenue items, to the extent that the same are attributable to periods on or after the Closing Date.

2.7 Treatment of Prorations. The accounts of Current Operator and New Operator created pursuant to the prorations provided for in the preceding Section 2.6 shall be netted against each other, as follows:

(a) If the result is a net positive balance for New Operator, Current Operator shall pay to New Operator the amount of such balance in immediately available funds in accordance with the terms of Section 1.5 of this Agreement; and

(b) If the result is a net positive balance for Current Operator, New Operator shall pay to Current Operator the amount of such balance in immediately available funds in accordance with the terms of Section 1.5 of this Agreement.

The aforementioned accounts shall be reflected on the OTA Settlement Statement or shall be otherwise paid in accordance with Section 2.8.

2.8 Future Settlement. All amounts owing from one party hereto to the other party hereto, including, without limitation, prorations according to Section 2.6 hereof (but excluding amounts in respect of Section 2.2, Section 2.5, and Section 5 hereof that are determined or otherwise require adjustment after the date of the OTA Settlement Statement) shall be settled three (3) months after the Closing Date. If, thereafter, a party hereto determines that any further payment or adjustment is to be made, such party shall submit a statement to the owing party setting forth any and all such items, and the calculation of the amounts due hereunder. Such statement shall be submitted with appropriate backup materials. If amounts are owing from New Operator to Current Operator, New Operator shall have thirty (30) days from the date of receipt of such statement to tender payment to on behalf of Current Operator, or to question or dispute in writing any item thereon. If amounts are determined to be owing from Current Operator to New Operator, Current Operator shall have thirty (30) days from the date of receipt of such statement to tender payment to New Operator, or to question or dispute in writing any item thereon.

2.9 Medicare/Medicaid Reimbursements; Audits.

(a) Current Operator and New Operator understand that reimbursements from Medicare and/or Medicaid for items or services provided or rendered from or after the Closing

Date may continue to be issued to Current Operator for a period of time. Current Operator agree to comply with the terms of Section 2.5 with respect to any reimbursements received by Current Operator from Medicare and/or Medicaid for items or services provided or rendered from or after the Closing Date, subject to the terms of the MidCap Agreement. Notwithstanding anything to the contrary contained herein, with respect to any audit, interim payment, final payment, or other action relating to Current Operator's business for the period prior to the Closing Date by any state regulatory agency, the Centers for Medicaid and Medicare Services, Blue Cross Blue Shield or its applicable state affiliate, Health Care Service Corporation, or any other third party payer (any such action, a "Current Operator Payer Audit"), in no event will New Operator make any assumption or take any action, which results in any claim, adjustment, or offset against amounts otherwise reimbursable to Current Operator for services provided prior to the Closing Date. New Operator agrees to promptly notify Current Operator upon receipt of any notice of a Current Operator's Payer Audit. If, and to the extent that, New Operator is responsible for taking any action, or making any filing, pursuant to a Current Operator Payer Audit, New Operator agrees to keep Current Operator reasonably informed and will coordinate with Current Operator any such actions taken or filings made by New Operator.

(b) In the event any Governmental Entity making payments for services performed at the Facility or vested with audit authority, makes any recoupment on or after the Closing Date for an alleged overpayment, underpayment, or adjustment of any tax assessment or Medicaid or Medicare reimbursement applicable for any period prior to the Closing Date (collectively, a "Recapture Claim"), then each party agrees to notify the other within five (5) business days. Both parties shall be entitled to contest or pursue such Recapture Claim (to the extent permitted by applicable law/regulation); provided, however, that New Operator shall be allowed the opportunity to participate in such contest, and be included in all meetings, and be provided with copies of all audit adjustments and workpapers. Current Operator and New Operator shall cooperate to resolve such audit to their mutual satisfaction. In the event one party fails to pursue any issue or issues raised in any such appeal, the other party may, at its own expense, pursue an appeal of such issue or issues, and the non-appealing party will cooperate fully with appealing party in such appeal, including by providing copies of any documentation required to substantiate costs reported on the cost reports. In the event either party's funds are withheld from, or credited to, the other party as the result of a Recapture Claim, then the receiving or crediting party shall pay such amounts to the other party within five (5) days following demand therefore.

2.10 Transfer of Resident Records; Access to Records. Subject to all applicable laws, on the Closing Date, Current Operator shall transfer to New Operator, by leaving at the Facility, the records of all residents in the Facility (the "Transferred Records"); provided, however, that (a) Current Operator shall be entitled to keep such copies of all Transferred Records, as it may deem necessary; and (b) New Operator shall not have any claim or right of indemnity against Current Operator arising from the condition or quality of the Transferred Records, including claims based on their completeness or accuracy. From and after the Closing Date, New Operator shall be solely responsible for caring for the residents of the Facility in accordance with their contractual rights, and in accordance with law. Subsequent to the Closing Date, New Operator shall allow Current Operator and their respective affiliates, agents, and representatives, at Current Operator's sole cost and expense, to have unfettered access to (upon reasonable prior notice), and to make copies of, the Transferred Records, and any other records that are in New Operator's possession on the Closing Date relating to the operations of the business at the Facility prior to the Closing Date



("Operational Records"), to the extent reasonably required by Current Operator. New Operator will preserve the existence and maintain the confidentiality of the resident records and the other Transferred Records and the Operational Records, to the extent required by law and in accordance with any applicable any Government and/or private third party provider agreements, but in no event less than seven (7) years.

2.11 Deposits. All deposits, if any, held by a utility, or other party to an executory contract, shall remain the property of Current Operator, and New Operator shall be required to post its own replacement security deposits, including, but not limited to, any security deposits required under any Assigned Agreements (as herein defined) assumed by New Operator.

2.12 Compliance with Laws. The parties shall comply in all material respects with all applicable laws, and with all applicable rules and regulations of all governmental authorities, in conjunction with the execution, delivery, and performance of this Agreement and the transactions contemplated hereby.

2.13 Accounts Payable. New Operator agrees to assume only those accounts payable for supplies and other goods or equipment received at the Facility on and subsequent to the Closing Date, and for services rendered and performed on and subsequent to the Closing Date. Unless otherwise specifically assumed in writing by New Operator, New Operator shall not be responsible or liable for any accounts payable, including, without limitation, trade payables, utility bills, vendor payables, or other expenses which accrued prior to the Closing Date, except to the extent New Operator continues to receive or utilize such services, supplies, goods, or equipment following the Closing Date. Notwithstanding the foregoing, New Operator agrees to ensure all services, supplies, goods, or equipment received at the Facility on and subsequent to the Closing Date are under its own accounts, and New Operator shall maintain responsibility for paying for the same.

2.14 Taxes. New Operator shall not assume, and shall not be liable for, and Current Operator shall indemnify New Operator for, any debts, liabilities, or obligations of the Current Operator for any Taxes applicable to, or assessed against, the Current Operator, the Property, or the assets or business of the Current Operator for (a) any taxable year or period ending on or prior to the Closing Date, and (b) in the case of any Straddle Period, the portion of the Straddle Period prior to the Closing Date. New Operator shall be liable for, and New Operator shall indemnify Current Operator for, any debts, liabilities, or obligations of New Operator for any taxes applicable to, or assessed against, the New Operator, or the assets or business of the New Operator for (aa) any taxable year or period beginning after the Closing Date, and (bb) in the case of any Straddle Period, the portion of the Straddle Period beginning after the Closing Date. "Straddle Period" means any taxable year or period that includes, but does not end on, the Closing Date. For purposes of this Agreement, whenever it is necessary to determine the liability for Taxes in respect of the Current Operator or New Operator for a Straddle Period, the determination of such Taxes for the portion of the Straddle Period ending on and including, and the portion of the Straddle Period beginning after, the Closing Date shall be determined as follows: (1) in the case of property and similar ad valorem taxes and any other taxes not described in clause (2) below, by multiplying the amount of such taxes for the entire Straddle Period by a fraction, the numerator of which is the number of days during the Straddle Period that fall on or prior to the Closing Date and the denominator of which is the number of days in the entire Straddle Period, and (2) in the case of income taxes, sales

and similar taxes, employment taxes, and other taxes that are readily apportionable based on an actual or deemed closing of the books, by assuming that the Straddle Period consisted of two taxable years or periods, one which ended at the close of the Closing Date and the other which began at the beginning of the day immediately following the Closing Date, and items of income, gain, deduction, loss, or credit of the Current Operator or the New Operator for the Straddle Period shall be allocated between such two taxable years or periods on a "closing of the books basis" by assuming that the books of the Current Operator or New Operator, as applicable, were closed at the close of the Closing Date; provided, however, that exemptions, allowances, or deductions that are calculated on an annual basis, such as the deduction for depreciation, shall be apportioned between such two taxable years or periods on a daily basis.

2.15 Regulatory Inspections; Surveys. Current Operator shall be responsible for, and shall bear all costs and expenses incurred in connection with, any requirements of regulatory inspections or surveys (a) completed prior to the Closing Date, or (b) commenced, but not completed prior to, the Closing Date, except in such case Current Operator shall only be responsible to the extent penalties are assessed for dates prior to the Closing Date. New Operator shall be responsible for and shall bear all costs and expenses incurred in connection with any requirements of regulatory inspections or surveys conducted on or after the Closing Date. Current Operator shall be responsible and obligated for all costs and expenses of correction if upon a change of ownership any life safety code waivers currently in effect are withdrawn or canceled.

2.16 Delivery of Inventory. On the Closing Date, Current Operator shall deliver to New Operator, by leaving at the Facility, the Supplies located at the Facility, as of the Closing Date; and it shall be Current Operator's responsibility to ensure that it has delivered, prior to Closing, such amounts sufficient to comply with applicable law and/or regulation as of the Closing Date.

#### 2.17 Assignment of Contracts.

(a) Promptly following the Effective Date, Current Operator shall make available for review by New Operator copies or a model of the care or residency agreements pertaining to residents of the Facility (the "Care Agreements") and Current Operator will provide copies of agreements and contracts relating to the operations of the Facility (the "Facility Operating Agreements").

(b) Thirty (30) days prior to the Closing Date, New Operator shall identify in writing all of those Facility Operating Agreements which are assignable by Current Operator to New Operator and which New Operator elects to assume (any agreements so assigned are referred to collectively herein as the "Selected Facility Agreements," and all of the Facility Operating Agreements which are not Selected Facility Agreements are "Rejected Agreements"). The election of the Selected Facility Agreements shall be in writing ("Notice of Selected Facility Agreements"), delivered to Current Operator provided not later than thirty (60) business days prior to the Closing Date. In the event New Operator fails to deliver the Notice of Selected Facility Agreements within such period, it shall be deemed to be New Operator's election NOT to assume any of the Facility Operating Agreements.



- (c) Current Operator may, at its election and at any time after deliver of the Notice of Selected Facility Agreements, provide notices of intent to terminate any Facility Operating Agreements which New Operator has not already identified on such Notice.
- (d) On the Closing Date, Current Operator shall and hereby does assign to New Operator, and New Operator shall and hereby does assume, all of the Care Agreements.
- (e) On the Closing Date, Current Operator shall and hereby does assign to New Operator, and New Operator shall and hereby does assume the Selected Facility Agreements (together with the Care Agreements, the "**Assigned Agreements**").
- (f) Current Operator shall provide commercially reasonable cooperation to New Operator in connection with New Operator's arrangement of the assignment and assumption of all Selected Facility Agreements (and New Operator shall be primarily responsible for making such arrangements). Current Operator shall retain responsibility for the termination or transfer of Rejected Agreements, however, New Operator shall reimburse Current Operator for any termination penalties due in connection with the termination of any Rejected Agreements if New Operator has failed to deliver a Notice of Selected Facility Agreements within the time frame required in Section 2.17(b).
- (g) Current Operator shall be responsible for any and all amounts accrued under the Facility Operating Agreements including any costs related to the termination of the same, subject to other terms of this Section 2.17. New Operator acknowledges and understands that Current Operator intends to provide notices of termination of the Facility Operating Agreements effective as of the Outside Date and that any failure of the Closing to occur on the Outside Date for any reason other than Current Operator's material breach of this Agreement may adversely affect the continued business operations of the Facility and/or cause Current Operator to incur additional costs and expenses. Accordingly, New Operator hereby acknowledges and agrees that, upon any failure of the Closing to occur on or before the Date for any reason other than Current Operator's material breach of this Agreement, New Operator shall immediately reimburse Current Operator, upon request delivered with reasonable documentation of the amounts owing, any amounts owed by Current Operator under any of the Facility Operating Agreements as (i) penalties for early termination of any of the Rejected Agreements, or (ii) additional costs incurred in connection with re-initiating services for any period following the Outside Date (such amounts collectively, the "**Additional Transfer Costs**").
- (h) Payments under the Assigned Agreements shall be prorated through the Closing Date in accordance with the terms of Section 2.6 above.
- (i) Except as otherwise specifically set forth in this Agreement, any Assigned Agreements or other business records being acquired by New Operator pursuant to this Agreement shall be delivered by leaving all such records at the Facility on the Closing Date.
- 2.18 Remittances, Mail and Other Communications. All remittances, mail, and other communications received by Current Operator, or its affiliates, at any time after the Closing Date, relating to the operations of the Facility following the Closing Date, shall be promptly turned over to New Operator. All remittances, mail, and other communications received by New Operator, or

its affiliates, relating to the operations of the Facility prior to the Closing Date, shall be promptly turned over to Current Operator.

- 2.19 Interim Operations. During the period from the Effective Date to the Closing Date (the "**Pre-Closing Period**"), except as otherwise (a) permitted or provided in this Agreement, (b) consented to by New Operator (such consent not to be unreasonably withheld), or (c) reasonably requested in writing by New Operator, Current Operator shall operate the Facility in the ordinary course and in a manner substantially consistent with past practices, including, without limitation, with respect to any marketing efforts, and during said period shall:
- (a) refrain from transferring, selling, leasing, or conveying (or listing for transfer, sale, lease, or conveyance) any of the Assigned Assets or Assignable Licenses and Permits;
- (b) keep in effect Current Operator's existing policies of public liability, professional liability, and hazard and extended coverage insurance, insuring the Facility and employees to the extent required by law, or required under the Current Operator's lease with the Owner;
- (c) perform all material obligations under the Assigned Agreements;
- (d) continue to market the Facility and use commercially reasonable efforts to maintain census consistent with past practice;
- (e) maintain their normal inventory of Supplies, which shall be in quantities consistent with legal requirements and past practice for operation of the Facility;
- (f) without limiting the foregoing, to the extent depleted or replaced in the ordinary course, restock and replenish any portion of the Supplies used during the Pre-Closing Period with inventory of comparable quality and consistent with past practice;
- (g) not increase the wages, salaries, or benefits of the Employees, except in the ordinary course of business and consistent with past practice; and
- (h) comply with all labor agreements affecting the Facility in all material respects.
- During the Pre-Closing Period, Current Operator shall promptly notify New Operator in writing of any fact, circumstance, event, or action, the existence, occurrence, or taking of which: (1) has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (2) has resulted in, or could reasonably be expected to result in, the failure of any of the requirements set forth in this Section 2.19 to be satisfied. During the Pre-Closing Period, Current Operator (i) shall not, without the prior written consent of New Operator, enter into any transaction or contractual obligation that would materially adversely impact Current Operator's ability to perform its respective obligations under this Agreement; (ii) shall, prior to the end of each calendar month, provide New Operator with a Resident Census Report detailing the performance of the applicable Facility for the previous calendar month; and (iii) shall not transfer any Employees and shall not transfer any residents to any business or facility owned or controlled by an affiliate of Current Operator, unless required to comply with legal requirements.

2.20 Cooperation. New Operator shall cooperate, in good faith, with Current Operator, with respect to any suit, claim, governmental investigation, or other legal or administrative proceeding involving Current Operator and the Facility that is outstanding from and after the Closing Date, including, without limitation, promptly providing Current Operator with such information and documentation regarding the Facility and the operation thereof that is in the possession or control of New Operator, and as is required in connection with the foregoing.

2.21 Confidentiality.

(a) New Operator agrees that, between the Effective Date and the Closing Date (or thereafter for one (1) year if the Closing does not occur), without the prior written consent of Current Operator, New Operator shall not disclose to any third party any information to be provided or previously provided by, or on behalf of, Current Operator, related to the operations of the Facility or otherwise provided in connection with the transactions contemplated herein (the "Current Operator's Confidential Information"), except as provided herein or as required by law. New Operator agrees that the Current Operator's Confidential Information shall be used solely for the purposes of New Operator's investigation of the Facility, the operation of the Facility, facilitating an orderly transition with respect to operations of the Facility, and/or providing continuing patient care for residents of the Facility, and the same will not in any way be used in a manner that is directly or indirectly detrimental to Current Operator. In addition, New Operator agrees to disclose Current Operator's Confidential Information only to New Operator's agents, consultants, and representatives who have a legitimate need to know such information and who shall: (i) be advised by New Operator of the confidentiality provisions of this Agreement, and (ii) agree in writing to be bound by the confidentiality provisions hereof. New Operator shall be responsible for any breach of this Agreement by any of New Operator's agents, consultants and representatives (including employees who, subsequent to the first date of disclosure of Current Operator's Confidential Information hereunder, become former employees, if disclosed during term of employment). New Operator agrees, at its sole expense, to take all reasonable measures, including, but not limited to, court proceedings, to restrain New Operator's agents, consultants and representatives (and former employees) from unauthorized disclosure or use of Current Operator's Confidential Information.

(b) New Operator hereby acknowledges that if any breach of this section occurs, Current Operator would be irreparably and immediately harmed and could not be made whole by monetary damages. Accordingly, in addition to any other remedy to which they may be entitled in law or in equity, Current Operator shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and/or to compel specific performance of this section, and New Operator shall not oppose the granting of such relief on the basis that monetary damages are adequate. Following a breach by New Operator, New Operator also agrees to reimburse Current Operator for all reasonable costs and expenses, including reasonable attorney's fees, incurred by it in enforcing New Operator's or New Operator's representatives' obligations under this section.

(c) Current Operator's Confidential Information does not include all, or any portion of, information which (i) becomes generally available to the public, other than as a result of a disclosure by New Operator or New Operator's representatives, or (ii) was or becomes rightfully available to New Operator on a non-confidential basis from a source other than Current Operator or Current Operator's representatives; provided that such source is not prohibited from disclosing

such information to New Operator by a contractual, legal, or fiduciary obligation to Current Operator or Current Operator's representatives.

(d) Notwithstanding any other provision of this Agreement, the terms of this section related to Current Operator's Confidential Information shall survive any termination or expiration of this Agreement.

2.22 Non-Solicitation.

(a) During the Pre-Closing Period and for a period of twelve (12) months commencing on the Closing Date, Current Operator and Guarantor shall not, and shall not permit any of their respective affiliates who had direct contact with any of the Retained Employees prior to Closing to: (i) solicit any Retained Employee(s) or encourage any such Retained Employee(s) (or Employees during the Pre-Closing Period) to leave such employment; or (ii) solicit any resident of the Facility. In the event that a Retained Employee separates from employment with New Operator during the first nine (9) months following the Closing Date, Current Operator shall be permitted to solicit such Retained Employee after a period of ninety (90) days following the Retained Employee's separation date. Nothing in this Agreement shall restrict Current Operator or Guarantor from conducting general mass solicitations of employment and generalized employee searches through headhunter/search firms (in either case not targeted, directly or indirectly, at the Retained Employees) and hiring any individual who responds to any such general mass solicitation or generalized employee search.

(b) Current Operator and Guarantor acknowledge that a breach or threatened breach of Section 2.22(a) would give rise to irreparable harm to New Operator, for which monetary damages would not be an adequate remedy, and hereby agree that in the event of a breach or a threatened breach by Current Operator or Guarantor of any such obligations, New Operator shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond). Current Operator and Guarantor acknowledge that the restrictions contained in Section 2.22(a) are reasonable and necessary to protect the legitimate interests of New Operator and constitute a material inducement to New Operator to enter into this Agreement and consummate the transactions contemplated by this Agreement.

### SECTION 3 REPRESENTATIONS AND WARRANTIES OF NEW OPERATOR

New Operator hereby makes the representations and warranties indicated below to Current Operator on the Effective Date and, subject to Section 1.4(b)(2), on the Closing Date:

3.1 Authority, Validity and Binding Effect. New Operator has all necessary corporate/partnership/limited liability company (as the case may be) power and authority to operate and lease the Facility and to carry on its business, as it is now being conducted. New Operator has all necessary corporate/partnership/limited liability company (as the case may be) power and authority, to enter into this Agreement, and to execute all documents and instruments referred to herein or contemplated hereby, and all necessary action has been taken to authorize the



individuals executing this Agreement on each of its behalf to do so. This Agreement has been duly validly executed and delivered by New Operator and is enforceable against New Operator in accordance with its terms.

3.2 **No Defaults.** The execution and delivery of this Agreement, and any documents contemplated hereby by New Operator, and the performance of its obligations hereunder and thereunder, does not and will not:

(a) conflict with, or result in any material breach of, the provisions of, or constitute a default under, the articles of formation and operating agreement of New Operator (or, if New Operator is not a limited liability company, the charter or other organizational documents and governing stockholder agreements);

(b) violate any material license, authorization, or permit, or other material agreement or instrument to which any New Operator is a party, unless (i) such violation will be cured prior to the Closing Date, or (ii) such license, authorization, permit, agreement, or instrument will be terminated prior to the Closing Date, as a result of the transactions contemplated by this Agreement; or

(c) constitute a violation of any applicable material resolution, rule, regulation, law, statute, or ordinance of any administrative agency or governmental authority, or of any judgment, decree, writ, injunction, or order of any court to which New Operator is subject, or by which its assets are bound, or any credit agreement or other financing arrangement to which New Operator, or any of their respective affiliates, is a party.

3.3 **No Litigation.** There are no actions, suits, claims, governmental investigations, or other legal or administrative proceedings, or any orders, decrees, or judgments in progress, pending or in effect, or to the knowledge of New Operator, threatened, against New Operator, that challenge or seek to prevent, enjoin, or otherwise delay the transactions contemplated by this Agreement.

3.4 **Accuracy of Representations and Warranties.** Each representation and warranty of New Operator hereunder is true, complete, and correct in all respects as of the Effective Date and the Closing Date.

#### SECTION 4

##### REPRESENTATIONS AND WARRANTIES OF CURRENT OPERATOR

Current Operator hereby makes the representations and warranties indicated below to New Operator on the Effective Date and, subject to Section 1.4(a)(2), on the Closing Date:

4.1 **Authority, Validity and Binding Effect.** Current Operator is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Ohio. Current Operator is duly qualified to do business in Florida and is not required to be licensed or qualified in any other jurisdiction. Current Operator has all necessary limited liability company power and authority to carry on its business, as it is now being conducted. Current Operator has all necessary limited liability company power and authority to enter into this Agreement, and to execute all documents and instruments referred to herein or contemplated hereby, and all necessary action has been taken to authorize the individuals executing this Agreement to do so. This Agreement has

been duly and validly executed and delivered by Current Operator, and is enforceable against Current Operator in accordance with its terms. Current Operator has no subsidiaries.

4.2 **No Defaults.** The execution and delivery of this Agreement, and any documents contemplated hereby, by Current Operator, and the performance of their obligations hereunder, does not and will not:

(a) conflict with, or result in any material breach of, the provisions of, or constitute a default under, the articles of formation or operating agreements of Current Operator;

(b) violate any material license, authorization, or permit or other material agreement or instrument to which Current Operator is a party, unless (i) such violation will be cured prior to the Closing Date, or (ii) such license, authorization, permit, agreement, or instrument will be terminated prior to the Closing Date, as a result of the transactions contemplated by this Agreement; or

(c) constitute a violation of any applicable material resolution, rule, regulation, law, statute, or ordinance of any administrative agency or governmental authority, or any judgment, decree, writ, injunction, or order of any court to which Current Operator is subject or by which its assets are bound, or any credit agreement or other financing arrangement to which Current Operator is a party.

4.3 **No Litigation.** There are no actions, suits, claims, governmental investigations, or other legal or administrative proceedings, or any orders, decrees, or judgments in progress, pending, or in effect, or to the knowledge of Current Operator, threatened, against Current Operator, that challenge or seek to prevent, enjoin, or otherwise delay the transactions contemplated by this Agreement.

4.4 **Labor Matters.** Except as set forth on **Schedule 4.4**, neither Current Operator nor any ERS/EA Affiliate is, or has ever been, a party to any collective bargaining agreement, employment agreement or other labor contract, and there are no pending or, to Current Operator's knowledge, threatened labor disputes at the Facility including, but not limited to, any strike, slowdown, picketing, work stoppage, organizational activities, employee grievances or unfair labor practice charges affecting each Facility. No Employee is, to Current Operator's knowledge, a party to or bound by any contract, or subject to any judgment that may interfere with the use of such Employee's best efforts to promote the interests of the Facility, may conflict with the operation of the Facility, this Agreement or related agreements, or that has had or could reasonably be expected to have a material adverse effect on the Assets and the operations of the Facility. Current Operator has complied in all material respects with all applicable state and federal laws governing wage, hour, payroll and all other employment and labor matters.

4.5 **Environmental.** Except for medical waste generated and disposed of in the ordinary course of business and in compliance with applicable laws, Current Operator has not generated, stored or disposed of any Hazardous Materials on the Properties, and there is not currently any Hazardous Materials on the Properties. Current Operator has not violated any Environmental Laws, in any material manner, in connection with the use, lease, maintenance or operation of the Facility and

the Property. Any and all environmental permits, licenses or approvals required by any applicable law pertaining to the Facility are listed on Schedule 4.5.

#### 4.6 ERISA and Benefit Plans.

(a) Except as set forth on Schedule 4.6(a), neither Current Operator nor any ERISA Affiliate is or ever has been a party to, participates in, has participated in or has any liability or contingent liability with respect to any of the following: (i) any "employee welfare benefit plan" or "employee pension benefit plan" as those terms are respectively defined in Sections 3(1) and 3(2) of ERISA; (ii) any retirement or deferred compensation plan, incentive compensation plan, stock plan, unemployment compensation plan, vacation pay, severance pay, bonus or benefit arrangement, insurance or hospitalization program or any other fringe benefit arrangements for any current or former employee, director, consultant or agent, whether pursuant to contract, arrangement, custom or informal understanding, written or unwritten, which does not constitute an "employee benefit plan" (as defined in section 3(3) of ERISA); or (iii) any fringe benefit plans, as that term is defined in Section 6039D(d) of the Code (collectively, the "Employee Plans") as they relate to the Employees.

(b) Neither Current Operator, nor any ERISA Affiliate, is or has been a participant in, or is or has been obligated to maintain or to make contributions to, a multiemployer plan (within the meaning of ERISA Section 3(37) and ERISA Section 4001(a)(3)) or an Employee Plan which is subject to Title IV of ERISA. Neither Current Operator nor any ERISA Affiliate has incurred any withdrawal liability, nor do any of them have any liability for any potential withdrawal liability. Neither Current Operator nor any ERISA Affiliate has sponsored, contributed to or been obligated under Title I or IV of ERISA to contribute to a "defined benefit plan" (as defined in ERISA Section 3(35)) or a plan that was ever subject to Sections 412 or 430 of the Code, or Part 3 of Title I of ERISA, and under no circumstances will New Operator have any liability with respect to any Employee Plan maintained by Current Operator or any ERISA Affiliate, regardless of whether such Employee Plan relates to the Employees.

(c) None of the Employee Plans promises or provides medical, life or other welfare benefits to any current or future retired employees, managers, members, directors or consultants (or any spouse or dependents thereof), except as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA).

(d) Current Operator has complied in all material respects with the notice and continuation coverage requirements of Section 4980B of the Code and the regulations thereunder with respect to each Employee Plan that is a group health plan within the meaning of Section 5000(b)(1) of the Code. Each Employee Plan that is a group health plan is in material compliance with the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act, to the extent applicable, and Current Operator has complied with all its obligations thereunder, including all reporting obligations, such that Current Operator is not and will not be subject to any assessable payments under Code Section 4980H or other penalties under the Code or other applicable laws.

#### 4.7 Health Care Representations.

(a) Current Operator has not received any notice from any Governmental Entity, accrediting body, or other applicable authority of (i) any violation, non-renewal, suspension or revocation of any such licenses or accreditations that has not been dismissed or cured, or (ii) any failure by Current Operator to obtain any material licenses or accreditations required by any applicable law for the ownership, maintenance, use, occupancy or operation of the Facility as currently owned or operated.

(b) The Facility is and shall be, as of 11:59 p.m. on the day prior to the Closing Date, licensed by the applicable Governmental Entity as a skilled nursing facility, with the same number and type of units and beds as are operating at the Facility on the Effective Date. Such licenses are and shall on the Closing Date be unrestricted, unconditional, in good standing and in full force and effect and subject to no waivers or limitations. Current Operator has operated the Facility in compliance with all laws necessary to operate the Facility as licensed by the applicable Governmental Entity.

(c) Except as disclosed on Schedule 4.7(c), there are no outstanding inspections, surveys, or plans of correction, and no deficiencies exist in respect of any such inspections, surveys or plans of correction, nor has Current Operator been cited for substandard quality of care. There are no implemented bans, remedies, sanctions, prohibitions on payment, or limitations in effect with respect to the Facility, and no action has been taken or recommended, nor, to Current Operator's knowledge, is there any basis for any action, by any Governmental Entity, either to revoke, withdraw or suspend its license to operate the Facility or to terminate or decertify any participation of the Facility in the Medicare or Medicaid programs.

(d) The Facility has not: (i) been designated as a facility subject to the Special Focus Facility, Low-Rated Facility, or any successor or similar program (collectively "*SFF*") as defined by CMS or any other applicable Governmental Authority or been placed on any "watch list" or other list for consideration for a SFF program within the three (3) year period immediately preceding the Effective Date, (ii) been subject to enhanced penalties by the OIG or otherwise, (iii) has been cited for any material deficiency that has not been cured that would result in a denial of payment for new admissions, civil monetary penalties, termination, final revocation or cancellation of any license, or termination or other restriction of a provider agreement within the three (3) year period immediately preceding the Effective Date.

(e) Except as set forth on Schedule 4.7(e), neither Current Operator nor any current director, officer, or managing employee of Current Operator, is or has been party to a corporate integrity agreement, corporate compliance agreement, or other settlement agreement with the OIG, CMS, the United States Department of Justice, any state Department of Health, (or similar Governmental Entity), any state Department of Medicaid (or similar Governmental Entity), or any state Attorney General, as a result of an alleged violation of any applicable law (and neither the Facility nor the Assets are in any way subject to or liable with respect to any such corporate integrity agreement, corporate compliance agreement, or other settlement agreement). Neither Current Operator nor any current director, officer, contractor, vendor, or employee of Current Operator is listed on the OIG List of Excluded Individuals and entities, any state Medicaid



exclusion list, or has been suspended, excluded, or otherwise limited from participating in the Medicare program or any other government reimbursement program.

(f) The Facility is certified for participation in the Medicare and Medicaid programs and Current Operator has a provider agreement with such government reimbursement program (collectively, the "Provider Agreement"). The Provider Agreement is in full force and effect, and Current Operator does not have any knowledge of any fact or circumstance that would cause any such Provider Agreement not to remain in force or be renewed on and after Closing. The Provider Numbers are active with CMS, the applicable Governmental Entity of the state where the Facility is located, and any other applicable Governmental Entity. There is no proceeding, audit, investigation or survey pending or, to each Current Operator's knowledge, threatened, involving any of the government reimbursement program or any other third-party payor programs, with respect to the Facility, and Current Operator has no reason to believe that any such proceedings, audits, investigations, or surveys are pending, threatened, or imminent.

(g) The cost reports for the Facility for the last six (6) years prior to the Effective Date have been prepared and filed in material compliance with all applicable laws and any applicable Provider Agreement.

(h) Except as set forth on Schedule 4.7(h), neither Current Operator nor the Facility (i) has been subject to any audit by any third-party payor relating to false or fraudulent billing procedures or practices within the prior six (6) years, or (ii) has received notice of an alleged or actual breach of any commercial or other third-party payor agreement, or any notice of termination, suspension, or other limitation of any commercial or other third-party payor agreement within the prior six (6) years.

(i) Current Operator has not received written notice, and Current Operator does not have any knowledge, (i) that any actions will or may be taken with respect to any of the foregoing representations and warranties that could result in a violation of, or action described under, any of the foregoing representations and warranties in this Section 4.8, (ii) that Current Operator or the Facility is under investigation or review with respect to any of the subjects described in the foregoing representations and warranties in this Section 4.8, or (iii) of the existence of any circumstances or occurrences that could be reasonably believed to lead to a violation of, or action described under, any of the foregoing representations and warranties in this Section 4.8.

4.8 Contracts. True, correct, and complete copies of all of the Care Agreements and Facility Operating Agreements have been, or will be, made available to New Operator to the extent such Care Agreements and Facility Operating Agreements are in Current Operator's possession or control. Except as set forth in Schedule 4.8(a), (i) each of the Care Agreements and Facility Operating Agreements is valid, binding and enforceable in accordance with its terms except as limited by bankruptcy, insolvency, fraudulent conveyance, moratorium, liquidation, reorganization or other similar laws affecting the enforcement of creditors' rights in general, (ii) neither Current Operator nor, to Current Operator's knowledge, the other party to each of the Assigned Agreements is in material breach or default, and no event has occurred which with notice or lapse of time would constitute such a material breach or default, or permit termination, modification or acceleration under any Assigned Agreements to which the Current Operator is a party, (iii) neither a Current Operator nor, to each Current Operator's knowledge, the other party

to each of the Assigned Agreements have repudiated any material provision of such Assigned Agreements.

(a) Current Operator has the power and authority to assign each of the Assigned Agreements to which Current Operator is a party to New Operator, subject to any consent requirements under such Assigned Agreements.

4.9 Broker. Except as set forth on Schedule 4.9, Current Operator has not engaged, nor is Current Operator liable to pay any fees, costs or commissions to, any broker, finder, agent or financial advisor in connection with the transactions contemplated hereby.

4.10 Compliance with Applicable Laws. To Current Operator's knowledge, the Facility is being used and operated by Current Operator in compliance in all material respects with applicable and material statutes, laws, regulations, rules, licensing requirements, ordinances, orders or permits of any kind whatsoever affecting the Facility or any part thereof, and any rules or regulations promulgated thereunder, but not including any Environmental Laws.

4.11 Intangible Property. Except for commercial software licensed for use, Current Operator owns the entire right, title and interest in and to all intangible property used in the operation of the Facility (the "Intangible Property"). There have not been and are no pending or, to Current Operator's knowledge, threatened proceedings or litigation or other adverse claims affecting or with respect to the Intangible Property. There is no reasonable basis upon which a claim may be asserted against Current Operator for infringement of any domestic or foreign letters patent, patents, patent applications, patent licenses and know-how licenses, trade names, trademark registrations and applications, common law trademarks, service marks, service mark registrations or applications, internet domain name registrations or applications, copyrights, copyright registrations or applications, trade secrets or other confidential proprietary information.

4.12 PPP Loans. Current Operator represents and warrants that it has not received any Paycheck Protection Program ("PPP") loans or similar governmental aid or deferred any payroll taxes in connection therewith.

4.13 Knowledge. Where any representation or warranty contained in this Agreement is expressly qualified by reference to "Current Operator's knowledge," the knowledge of Current Operator or similar qualifications, such knowledge shall be to the actual knowledge of the Facility's administrator.

4.14 Accuracy of Representations and Warranties. Each representation and warranty of Current Operator hereunder is true, complete, and correct in all respects as of the Effective Date.

Except as expressly set forth in this Agreement, Current Operator makes no representation, warranty, or covenant with respect to the Facility, the operations of Current Operator's business, the assets to be conveyed hereunder, or any matter, thing or event related to the foregoing. Without limiting the generality of the foregoing and except as otherwise specifically set forth in this Agreement, Current Operator will convey and New Operator will accept the Assigned Assets conveyed hereunder in their "AS-IS" "WHERE-IS" condition as of the Effective Date, subject to normal wear and tear. Current Operator shall have no obligation to replace any Assigned Asset to be conveyed hereunder, to repair any damage to or defect in the Facility or the Assigned Asset to



be conveyed hereunder, or otherwise to remedy any matter affecting the condition of the Facility, Assigned Asset and New Operator acknowledges that it has had sufficient opportunity to perform its own inspection.

## SECTION 5 INDEMNIFICATION

5.1 Survival of Representations and Warranties. Without limiting the parties' obligations under Section 2.5 with respect to Accounts Receivable and payment and collection and remittances thereof or any of the other covenants set forth herein, all warranties, and representations, and the indemnification rights associated therewith, in this Agreement, shall survive the execution of this Agreement for a period of eighteen (18) months (the "Survival Period"); provided that claims for breaches of the representations and warranties set forth in Section 4.1, Section 4.2 and Section 4.7 and claims made by New Operator under Section 5.3(a) and Section 5.3(c) shall survive for six (6) years. The parties hereto in executing and in carrying out the provisions of this Agreement are relying solely on the representations, warranties, and agreements contained in this Agreement, and not upon any representation, warranty, agreement, promise, or information, written or oral, made by any person other than as specifically set forth herein or therein.

5.2 Agreement to Defend. In the event of any action, suit, proceeding, or investigation of the nature specified in Sections 5.3, 5.4, or 5.5 hereof is commenced, all of the parties hereto agree to cooperate and use their commercially reasonable best efforts to defend against and respond thereto.

5.3 Indemnification by Current Operator. Subject to the limitations set forth in this Section 5, Current Operator shall indemnify, exculpate, and hold New Operator, and its partners, members, directors, managers, officers, employees, and agents (collectively, the "Acquiring Indemnified Parties"), harmless from and against, and will promptly defend Acquiring Indemnified Parties from, and will reimburse Acquiring Indemnified Parties, to the extent of, any and all losses, damages, costs, expenses, liabilities, obligations, and claims of any kind (including, without limitation, costs of investigation, reasonable attorneys' fees, and other reasonable legal costs and expenses actually incurred), which any of the Acquiring Indemnified Parties may at any time suffer or incur, or become subject to, as a result of:

- (a) any claim brought by a third party against an Acquiring Indemnified Party in connection with a Retained Liability;
- (b) any misrepresentation or inaccuracy in, or any breach of, any of the representations and warranties made by Current Operator in this Agreement; and
- (c) any failure by Current Operator to carry out, perform, satisfy, and discharge any of its covenants, agreements, liabilities, or obligations under this Agreement.

Notwithstanding anything to the contrary herein, Current Operator's indemnity obligations, and any and all other liabilities to New Operator or any of the other Acquiring Indemnified Parties, including in tort or in contract, shall be limited to actual damages suffered by New Operator or any of the other Acquiring Indemnified Parties in excess of any insurance proceeds available and actually received as a result of such liabilities, and Current Operator shall not be responsible for any lost profits or any speculative, incidental, indirect, consequential, special, or punitive damages.

5.4 Indemnification by New Operator. Subject to the limitation set forth in this Section 5, New Operator shall indemnify, exculpate, and hold Current Operator, and its respective partners, directors, officers, employees, and agents (collectively, the "Current Operator's Indemnified Parties"), harmless from and against, and will promptly defend Current Operator's Indemnified Parties from, and will reimburse Current Operator's Indemnified Parties, to the extent of, any and all losses, damages, costs, expenses, liabilities, obligations, and claims of any kind (including, without limitation, costs of investigation, reasonable attorneys' fees, and other reasonable legal costs and expenses actually incurred), which any of the Current Operator's Indemnified Parties may at any time suffer or incur, or become subject to, as a result of:

- (a) any claim brought by a third party against a Current Operator Indemnified Party in connection with an Assumed Liability (as used herein, the term "Assumed Liability" shall refer only to any liability, obligation or claim arising in connection with (A) the performance of New Operator's obligations under the Assigned Agreements on and following the Closing Date and/or New Operator's operation of the Facility on and following the Closing Date);
- (b) any material misrepresentation or inaccuracy in, or any breach of, any of the representations or warranties made by New Operator in, or pursuant to, this Agreement; and
- (c) any failure by New Operator to carry out, perform, satisfy, and discharge any of their covenants, agreements, undertakings, liabilities, or obligations under this Agreement.

Notwithstanding anything to the contrary herein, New Operator's indemnity obligations, and any and all other liabilities to Current Operator or any of the other Current Operator's Indemnified Parties, including in tort or in contract, shall be limited to actual damages suffered by Current Operator or any of the other Current Operator's Indemnified Parties in excess of any insurance proceeds available and actually received as a result of such liabilities, and New Operator shall not be responsible for any lost profits or any speculative, incidental, indirect, consequential, special, or punitive damages.

5.5 Indemnification Procedures: All claims for indemnification by any Acquiring Indemnified Parties or Current Operator's Indemnified Parties (each, an "Indemnified Party") under this Section 5 shall be asserted and resolved as follows:

- (a) If an Indemnified Party intends to seek indemnification under this Section 5, it shall promptly notify the party from which it is seeking indemnification hereunder (the "Indemnifying Party"), in writing, of such claim, which such notice shall include a description of the facts underlying such claim, the provisions hereunder forming the basis for such claim, and a reasonable estimate of the amount of such claim. The failure to provide such notice will not affect any rights hereunder, except to the extent the Indemnifying Party is materially prejudiced thereby.

- (b) If such claim involves a claim by a third party against the Indemnified Party, the Indemnifying Party may, within ten days after receipt of such notice and upon notice to the Indemnified Party, assume, with counsel reasonably satisfactory to the Indemnified Party, at the sole cost and expense of the Indemnifying Party, the settlement or defense thereof; provided, that the Indemnified Party may participate in such settlement or defense through counsel chosen by it at its sole expense. If the Indemnified Party determines, in good faith, that representation by the

Indemnifying Party's counsel of both the Indemnifying Party and the Indemnified Party may present such counsel with a conflict of interest, then the Indemnifying Party shall pay the reasonable fees and expenses of the Indemnified Party's counsel. Notwithstanding the foregoing, (i) the Indemnified Party may take over the control of the defense or settlement of a third-party claim at any time if it irrevocably waives its right to indemnify under this Section 5 with respect to such claim, and (ii) the Indemnifying Party may not, without the consent of the Indemnified Party, settle or compromise any action or consent to the entry of any judgment, such consent not to be unreasonably withheld. The Indemnified Party shall not pay or settle any such claim without the Indemnifying Party's consent, such consent not to be unreasonably withheld.

(c) If, and to the extent, any liabilities for which indemnification is sought is related to events or circumstances occurring both prior to and after the Closing Date, or are from both a cause that is indemnified and one that is not so indemnified, (i) the obligations of Current Operator hereunder shall extend only to liabilities attributable to events or circumstances occurring prior to the Closing Date, and to the indemnified event, circumstance, or cause, and (ii) the obligations of New Operator hereunder shall extend only to liabilities attributable to events or circumstances on and subsequent to the Closing Date, and to the indemnified event, circumstance, or cause.

(d) Claims must be brought within the Survival Period. Any claim to be asserted must be asserted in writing, and with reasonable specificity as to the facts forming a basis for such claim.

5.6 **Guaranty.** As an inducement to New Operator to enter into and consummate the transactions contemplated under this Agreement, Guarantor hereby absolutely, unconditionally, and irrevocably guarantees to New Operator the due and punctual payment of any and all amounts payable by Current Operator pursuant to Section 2.5(h), Section 2.9(b) and this Section 5 (the "**Guaranteed Obligations**"). This is a guarantee of payment and performance, and not merely of collection, and Guarantor acknowledges and agrees that, except as otherwise set forth herein, this guarantee is full and unconditional, and no release or extinguishments of Current Operator's obligations or liabilities (other than in accordance with the terms of this Agreement), whether by decree under bankruptcy law or otherwise, shall affect the continuing validity and enforceability of this guarantee. Guarantor agrees that performance of the Guaranteed Obligations by Guarantor shall be a primary obligation, and shall not be subject to any counterclaim, set off, abatement, deferment, or defense based upon any claim that Guarantor may have against New Operator. Guarantor agrees that performance of the Guaranteed Obligations by Guarantor shall remain in full force and effect without regard to, and shall not be released, discharged or affected in any way by, any circumstance or condition other than those set forth in this Agreement, whether or not Guarantor shall have any knowledge thereof, including, without limitation, (i) any voluntary or involuntary bankruptcy, assignment for the benefit of creditors, receivership, or similar events or proceedings with respect to Current Operator or Guarantor, as applicable, (ii) any voluntary or involuntary dissolution or roll-up of Current Operator, or (iii) any other occurrence, circumstance, happening, or event, whether similar or dissimilar to the foregoing and whether foreseen or unforeseen, which otherwise might constitute a legal or equitable defense or discharge of the liabilities of Guarantor or which otherwise might limit recourse against Current Operator or Guarantor, to the fullest extent permitted by law. Guarantor hereby waives, for the benefit of New Operator, any right to require New Operator, as a condition of payment or performance by Guarantor, to proceed against Current Operator or pursue any other remedies whatsoever and (b) to the fullest extent permitted by law, any defenses or benefits that may be derived from or afforded

by law that limit the liability of or exonerate guarantors or sureties. Guarantor understands that New Operator is relying on this guarantee in entering into this Agreement.

5.7 **Exclusive Remedy.** The rights of indemnification contained in this Agreement shall be the sole and exclusive remedy of the parties with regard to any and all liabilities, obligations, losses, damages, claims, activities and expenses (including, without limitation, attorneys' fees and court costs) that result or arise from or any breach or inaccuracy of any representation or warranty made by any party contain in, or related to, this Agreement.

## SECTION 6 MISCELLANEOUS

6.1 **Further Assurances.** Each of the parties hereto agrees to execute and deliver any and all further agreements, documents, or instruments necessary to effectuate this Agreement and the transactions referred to herein, contemplated hereby, or reasonably requested by the other party to perfect or evidence their rights hereunder.

6.2 **Notices.** All notices, requests, demands, and other communications required or permitted hereunder shall be in writing, and shall be sent by overnight commercial delivery service (provided a receipt is available with respect to such delivery), or mailed by first-class certified or registered mail, return receipt requested, postage prepaid. Notices sent via overnight commercial delivery service shall be effective on the day after mailing. Notices sent via first-class certified or registered mail shall be effective on the third day after mailing. A copy of any notice to a party must also be sent to that party's e-mail address listed below, but e-mail alone shall not constitute notice.

If to Current Operator or Guarantor:

**BRANDON FACILITY OPERATIONS, LLC**  
c/o Synergy Healthcare Services  
800 Concourse Parkway S., Suite 200  
Maitland, FL 32751  
Attn: Legal Department  
Email: legalnotices@synergyhcs.com

and

If to New Operator:

**BRANDON HEALTH OPSCO, LLC**  
c/o Topaz Fiscal Services  
6085 Strickland Avenue  
Brooklyn, New York 11234  
Attn: Hal Brecher  
hbrecher@topazfs.com



With a copy to (which shall not constitute notice):

**NBC LAW**

675 Third Avenue, 8<sup>th</sup> Floor  
New York, New York 10017  
Attn: Edward H. Burnbaum, Esq.  
Email: [eburnbaum@nbcclaw.com](mailto:eburnbaum@nbcclaw.com)

and

If to Guarantor:

**LAVIE CARE CENTERS, LLC**

1040 Crown Pointe Parkway, Suite 600  
Atlanta, GA 30338  
Attn: Legal Department  
Email: [legalnotices@synergyhs.com](mailto:legalnotices@synergyhs.com)

or to such other person or address as any party hereto shall furnish to the other parties hereto in writing pursuant to this Section 6.2.

6.3 Payment of Expenses. In the event of any dispute or controversy arising out of this Agreement, including in connection with the interpretation of any term or condition of this Agreement, the prevailing party shall recover from the non-prevailing party all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party.

6.4 Entire Agreement; Amendment; Waiver. This Agreement, together with the other agreements referred to herein, constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions, and preliminary agreements. This Agreement may not be modified or amended, except in writing signed by the parties hereto. No waiver of any term, provision, or condition of this Agreement, in any one or more instances, shall be deemed to be, or be construed as a further or continuing waiver of, any such term, provision, or condition, or as a waiver of any other term, provision, or condition, of this Agreement. No failure to act shall be construed as a waiver of any term, provision, condition, or rights granted hereunder.

6.5 Joint Venture; Third Party Beneficiaries. Nothing contained herein shall be construed as forming a joint venture or partnership between the parties hereto with respect to the subject matter hereof. Except as otherwise provided in Section 5, the parties hereto do not intend that any third party shall have any rights under this Agreement.

6.6 Representation by Counsel. The parties hereto acknowledge that they have been represented by independent legal counsel of their choosing throughout all of the negotiations which preceded the execution of this Agreement, and that each party has executed this Agreement with

the consent and on the advice of such independent legal counsel. This Agreement is a negotiated document. As a result, any rule of construction providing for any ambiguity in the terms of this Agreement to be construed against the drafterperson of this Agreement shall be inapplicable to the interpretation of this Agreement.

6.7 Captions. The section headings contained herein are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

6.8 Counterparts. This Agreement may be executed and delivered (including by facsimile transmittal, which for purposes of this Agreement shall be deemed to be an original signature) in one or more counterparts and all such counterparts taken together shall constitute a single original Agreement.

6.9 Governing Law. This Agreement shall be governed by the laws of the state where the Facility is located, as to, including, but not limited to, matters of validity, construction, effect and performance but exclusive of such jurisdiction's conflicts of laws provisions.

6.10 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION BROUGHT ON OR WITH RESPECT TO THIS AGREEMENT, INCLUDING TO ENFORCE OR DEFEND ANY RIGHTS HEREUNDER, AND AGREES THAT ANY SUCH ACTION SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

6.11 Termination.

(a) In the event that prior to the Closing the PSA is terminated pursuant to the terms and conditions set forth in the PSA, then this Agreement shall automatically terminate contemporaneously therewith.

(b) In the event of a material breach of this Agreement by either party that is not cured within ten (10) days of delivery of written notice of such breach, this Agreement may be terminated by the non-breaching party, upon which termination each of the parties hereto shall automatically be relieved of its respective obligations hereunder, except for obligations arising prior to such termination.

(c) In the event that the Closing has not occurred by May 1, 2022 (the "**Outside Date**"), then New Operator and Current Operator shall enter into the Management Agreement.

(d) The obligations of the parties which by their nature are intended to survive this agreement, including without limitation the parties' indemnity and confidentiality obligations, shall so survive.

6.12 Definitions. For purposes of this Agreement, the following terms shall have the following meanings (all terms used in this Agreement which are not defined in this paragraph shall have the meanings set forth elsewhere in this Agreement):

**"Accounts Receivable"** means any and all receivables, including, but not limited to, all receivables arising out of, resulting from, or in connection with, services and/or goods and materials provided to residents and patients, including all accounts receivable and rights to reimbursement from private pay patients, the Medicaid and Medicare programs, the Veteran's Administration, Blue Cross/Blue Shield, and other insurance carriers and third party payors, including whether billed or unbilled, or accrued or unaccrued; all third party cost report settlements; and all rights to payment, however evidenced or incurred, including, but not limited to, all rights to payment and/or reimbursement from and claims against (i) insurers of persons to whom the Facility provides services or goods, and (ii) any governmental authority; and all cash and non-cash proceeds and products of the foregoing, including, but not limited to, all proceeds of the sale or collection of the foregoing, cash and deposit accounts, whether now existing or hereafter arising, including any unearned premiums, refunds, or returns on premiums, or any indemnity, warranty, or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing accounts.

**"Code"** means the Internal Revenue Code of 1986, as amended.

**"Environmental Laws"** shall mean any federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials, as now or at any time hereafter in effect.

**"ERISA Affiliate"** means each trade or business (whether or not incorporated) which together with Current Operator is or ever was treated as a single employer under Section 414(b), (c), (m), (o) or (i) of the Code.

**"Governmental Entity"** shall mean any (a) federal, state, county or municipal government, or city, town, borough, village, district or other jurisdiction; (b) governmental or quasi-governmental entity of any nature (including Medicare administrative contractors and any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers); and (c) anybody exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power.

**"Hazardous Materials"** shall mean any toxic or hazardous waste, pollutants or substances listed, defined, designated, or classified as such, or otherwise determined to be such, under or pursuant to any Environmental Law including, without limitation, asbestos, PCB's, petroleum products and by products, substances defined or listed as: "Hazardous Substances" or "Toxic Substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") as amended, 42 U.S.C. § 9601, et seq., "Hazardous Materials" in the Hazardous Materials Transportation Act, 49 U.S.C. § 1802, et seq., "Hazardous Waste" in The Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq., any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. § 2061, et seq., any "Toxic Pollutant" under the Clean Water Act, 33 U.S.C. § 1251, et seq., as amended, any "Hazardous Air Pollutant" under the Clean Air Act, 42 U.S.C. § 7401, et seq., and any hazardous or toxic substance or pollutant regulated under any other applicable federal, state or local Environmental Laws.

**"Material Adverse Effect"** means any event, fact, change, development or occurrence, individually or in the aggregate, that has had or would reasonably be expected to have a material and adverse effect on (a) the operations, condition (financial or otherwise) or results of operations of Current Operator, the Assigned Assets or the Facility taken as a whole, (b) the value of the Assigned Assets, or (c) the ability of Current Operator to consummate the transactions contemplated hereby on a timely basis.

**"Out of Compliance"** means (A) a finding by a governmental authority of one or more deficiencies at the Facility at a "Level G" or higher that has not been corrected and cleared by the applicable governmental authority; (B) a denial of the Facility's right to admit patients or to receive Medicare or Medicaid payments or reimbursement for existing patients or for new admissions at the Facility; (C) the Facility has its license suspended or loses its license or certificate to operate; (D) the Facility has any provider agreement suspended, revoked or terminated; (E) the Facility is declared a Special Focus Facility by CMS or is placed on the SFF watch list; and (F) the Facility has its number of licensed beds materially reduced after the Effective Date.

**"Resident Census Report"** shall mean a true, correct and complete schedule (provided in accordance with HIPAA) that accurately and completely sets forth the occupancy status of each Facility, the average daily rate and other charges payable with respect thereto, the class of payment or reimbursement (i.e., private, third-party payor, Medicare, and Veterans Administration) of all residents, and the average monthly census of each Facility.

[Rest of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Operations Transfer Agreement as of the day and year first above written.

CURRENT OPERATOR:

**BRANDON FACILITY OPERATIONS, LLC**

By:   
Jared Elliot, Manager

[Signature page to Operations Transfer Agreement]

NEW OPERATOR:

**BRANDON HEALTH OP&CO, LLC**

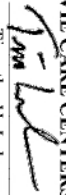
By:   
Name: Richard Patschek  
Title: Authorized Person

[Signature page to Operations Transfer Agreement (Cont.)]



GUARANTOR:

LAVIE CARE CENTERS, LLC

By: 

Name: Timothy H. Lehner

Title: Manager

Schedule 4.4

None.

GUARANTOR SIGNATURE PAGE TO OTA

Schedule 4.5

Facility	License Type Code	Jurisdiction Name	License Number	Effective Date	Expiration Date
Brandon-C	EBW	Hillsborough	29-64-1632681	10/01/2021	09/30/2022

**Schedule 4.6(a)**

None.

**Schedule 4.7(c)**

The Facility settled an Administrative Complaint dated 10/07/2021 in the amount of \$11,500 and is awaiting final order so that it can send payment. Also, the Facility has submitted waiver letters for all covid reporting impositions and is awaiting CMS cmp due in the amount totaling \$1,315,60.

Schedule 4.7(e)

A Settlement Agreement was part of Final Orders dated 10/10/2019 and 03/09/2021.

Schedule 4.7(h)

None.



Schedule 4.8(a)

None.

Schedule 4.9

None.

**Exhibit A**  
**to**  
**Operations Transfer Agreement**

CURRENT OPERATOR	NEW OPERATOR	FACILITY NAME	BEDS
BRANDON FACILITY OPERATIONS, LLC	BRANDON HEALTH OPCO, LLC	RAYDIANT HEALTH CARE OF BRANDON	120

**Exhibit B**  
**to**  
**Operations Transfer Agreement**  
**Mid-Cap Agreement**  
*See Attached*

## FACILITY ACCOUNTS TRANSITION AGREEMENT

This **FACILITY ACCOUNTS TRANSITION AGREEMENT** (this "Agreement"), dated as of April 1, 2022, is by and among **MitCap Funding IV Trust**, as agent for itself and the other Lenders (as defined below) (in such capacity, together with its successors and assigns, "Agent"), the entities listed as "Prior Operators" on Schedule 1 attached hereto (each, a "Prior Operator" and, collectively, "Prior Operators"), and the entities listed as "New Operators" on Schedule 1 attached hereto (each, a "New Operator" and, collectively, "New Operators").

A. Pursuant to those certain Operations Transfer Agreement, dated as of January 31, 2022 (as amended, restated, supplemented or otherwise modified in accordance with this Agreement, collectively, the "Operations Transfer Agreement", together with any and all other agreements, documents, instruments and certificates executed in connection therewith, the "Transfer Documents"), between Prior Operators and New Operators, each New Operator has assumed the operation of the skilled nursing facility having an address listed opposite its name on Schedule 1 (collectively, the "Facilities") effective as of 12:01 a.m. on April 1, 2022 (the "Transfer Date").

B. Pursuant to that certain Second Amended and Restated Credit and Security Agreement, dated as of March 25, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among Prior Operators, the other borrowers party thereto (together with Prior Operators, the "Borrowers"), Agent and the financial institutions or other entities from time to time parties thereto as lenders (the "Lenders"), Agent and the Lenders have agreed, subject to the terms and conditions set forth therein (and in the other agreements, documents, instruments, and certificates executed in connection therewith) to make certain loans and financial accommodations to Borrowers.

C. Prior Operators and New Operators have advised Agent that, for a period of time following the Transfer Date, Prior Operators may come into possession of collections on accounts, accounts receivable and/or payment intangibles (collectively, "Accounts") that are the property of New Operators pursuant to the terms and conditions of the Operations Transfer Agreement (such collections, the "New Operator Amounts").

D. Agent, Prior Operators and New Operators wish to enter into this Agreement to, among other things, set forth the process for paying an amount equal to the New Operator Amounts over to New Operators.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, and for other good and valuable consideration, it is hereby agreed as follows:

1. New Operator Amounts are the property of New Operators pursuant to the terms and conditions of the Operations Transfer Agreement. The Operations Transfer Agreement contemplates that certain New Operator Amounts may be received by a Prior Operator prior to the time the provider numbers under which such New Operator Amounts are billed and paid are transferred to New Operators and, pursuant to the Operations Transfer Agreement, Prior Operators have agreed to transfer to New Operators an amount equal to the New Operator Amounts received by Prior Operators. Agent agrees and acknowledges that New Operator Amounts (a) do not constitute Agent's or Lenders' collateral under the Credit Agreement or under any other agreement, instrument or document entered into by Prior Operators with Agent or other Lenders, (b) are the property of New Operators pursuant to the terms and conditions of the Operations Transfer Agreement subject to the first priority lien of Metropolitan Commercial Bank (including its successors and assigns) ("New Lender"), and (c) are to be held in trust by Prior Operators for the benefit of New Operators. Pursuant to the terms of the Credit Agreement, concurrent with the

consummation of the transactions described in the Operations Transfer Agreement, Agent released its Liens on all asset of Prior Operators that are transferred pursuant to the Operations Transfer Agreement other than, for the avoidance of doubt, the Accounts arising from the operation of the Facilities prior to the Transfer Date. In consideration of the agreements set forth herein, New Operators and Prior Operators agree to comply with the terms of Section 2.5 of the Operations Transfer Agreement with respect to the handling of accounts receivable after the Transfer Date.

2. New Operators hereby acknowledge that (i) pursuant to the Credit Agreement all proceeds of Accounts arising from the operation of the Facilities received by Prior Operators (including New Operator Amounts) will be swept to a deposit account owned by Agent (the "Payment Account"), and (ii) that the Payment Account is one of Agent's general collection accounts that receives payments made by both the Borrowers and other unaffiliated borrowers in connection with Agent's various credit arrangements. Agent, upon receipt of such monies (including New Operator Amounts), shall be permitted to commingle such monies with Agent's and Lenders' other assets and use and apply such monies for Agent's and Lenders' own business purposes without regard to any New Operator's or any other person's interests in the New Operator Amounts and Agent shall have no obligation to hold such monies in trust for New Operators or any other person (except to the extent Prior Operators have delivered a New Operator Amounts Payment Notification (as defined in Section 3 below) prior to any such use or application by Agent and Lenders); provided, however, that Agent and Lenders shall (i) give appropriate credit on their books under the Credit Agreement for all such monies received in the Payment Account that, by the terms of the Credit Agreement, are to be applied to Borrowers' obligations thereunder (Prior Operators hereby acknowledging that no credit shall be given under the Credit Agreement in respect of proceeds of New Operator Amounts that have been identified in a New Operator Amounts Payment Notification, all of which are the property of New Operator pursuant to the terms of the Operations Transfer Agreement), and (ii) promptly turnover, deliver and/or transfer to Prior Operators in accordance with Section 3, any such New Operator Amounts that Prior Operators are obligated to transfer to New Operators pursuant to the Operations Transfer Agreement to the extent the same have been identified in a New Operator Amounts Payment Notification. New Operators and Prior Operators acknowledge that Agent may direct that such monies on deposit in the Payment Account be swept to lenders to whom the Lenders' interests in the Credit Agreement have been pledged for application to indebtedness of the Lenders. Prior Operators agree and acknowledge that nothing in this Agreement shall modify the covenants of Prior Operators pursuant to Section 2.5 of the Operations Transfer Agreement with respect to the timely payment of New Operator Amounts to New Operators.

3. Agent agrees to transfer to Prior Operators, by wire transfer to the account identified by Prior Operators on Schedule 1 attached hereto, an amount equal to the New Operator Amounts received in the Payment Account and identified as such by Prior Operators (each such payment, a "New Operator Amounts Payment" and each such notification a "New Operator Amounts Payment Notification"), which transfer shall be made within five (5) business days following such identification at any time, including, without limitation, during any insolvency or receivership proceeding, or any proceeding under the U.S. Bankruptcy Code of 1978, as amended (11 U.S.C. 101 et. seq.) or any other proceeding under any other bankruptcy or insolvency laws. For the benefit of the New Operators and New Lender, unless and until contrary instruction is received by Prior Operators in writing executed by each New Operator and New Lender, jointly (in one or more counterparts), and delivered in accordance with the notice requirements set forth herein, upon the New Operator Amounts being transferred to the deposit account set forth on Schedule 1 attached hereto, Prior Operators agree to disburse the proceeds of the New Operator Amounts Payment to the applicable deposit account set forth on Schedule 2 attached hereto (the "New Operator Account") pursuant to the terms of Section 2.5 of the Operations Transfer Agreement. The parties hereto acknowledge that New Lender has a first priority secured interest in the New Operator Accounts and the New Operator Amounts.

4. Prior Operators and New Operators agree that neither Agent nor any Lender shall have responsibility to determine the accuracy of any New Operator Amounts calculation or any allocation of amounts received in the Payment Account (i.e., which amounts are New Operator Amounts and which amounts are not). New Operators further agree that Agent shall have no liability to New Operators for making any New Operator Amounts Payment in accordance with the terms of this Agreement. Prior Operators hereby agrees to indemnify, defend and hold Agent and Lenders harmless to the extent required by Section 12.14 of the Credit Agreement.

5. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of each of the parties hereto, but does not otherwise create, and shall not be construed as creating, any rights enforceable by any person not a party to this Agreement, except as expressly set forth herein with respect to New Lender. Agent shall be permitted to assign its rights and obligations under this Agreement. Notwithstanding the foregoing, this Agreement shall not be assignable by Prior Operators or New Operators without the prior written consent of the other parties hereto.

6. All notices, requests and other communications to any party hereunder shall be in writing (including prepaid overnight courier, facsimile transmission, or electronic mail transmission) and shall be given to such party at its address, facsimile number or e-mail address set forth on its signature page hereto or at such other address, facsimile number or e-mail address as such party may hereafter specify for the purpose by notice to the other parties. Each such notice, request or other communication shall be effective (i) if given by facsimile, when such notice is transmitted to the facsimile number specified herein and the sender receives a confirmation of transmission from the sending facsimile machine, (ii) if given by mail, prepaid overnight courier or any other means, when received or when receipt is refused at the applicable address specified herein, and (iii) if given by electronic mail transmission, upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment).

7. This Agreement may not be amended or otherwise modified unless such amendment or other modification is in writing and is signed by the parties hereto and consented to in writing by New Lender. The Operations Transfer Agreement shall not be amended or otherwise modified in any manner that could reasonably be expected to be adverse to Agent's or Lenders' interests without Agent's prior written consent.

8. This Agreement shall be governed as to validity, interpretations, enforcement and effect by the laws of the State of Maryland without giving effect to conflicts of law principles thereunder.

9. This Agreement shall be and remain absolute and unconditional under any and all circumstances, and no act or omission on the part of any party to this Agreement shall affect or impair the agreement of the other party hereunder.

10. This Agreement may be signed by Prior Operators, Agent and New Operators in several counterparts. Delivery of a photocopy, facsimile or .pdf copy of an executed counterpart of this letter shall be effective as delivery of a manually executed original counterpart of this letter.

11. If the terms and provisions of this Agreement conflict with the terms and provisions of any Transfer Document, the terms and provisions of this Agreement shall govern and control.

12. New Lender shall be a third party beneficiary of the agreements made hereunder with respect to the obligations to the New Operators who are party to the Transfer Documents, and shall have the right to enforce such agreements (including this Agreement) directly to the extent it deems such enforcement necessary or advisable to protect its rights or the rights of each such New Operator hereunder.

13. No parties hereto shall have any setoff rights against the New Operator Amounts. For the avoidance of doubt, any payments by Agent to Prior Operators for New Operator Amounts shall not be offset by amounts owed by Prior Operators to Agent and/or Lenders.

14. Agent authorizes the New Operators (or their designees) to file the UCC-3 partial release financing statement in the form attached hereto as Exhibit A to evidence the release of its Liens on all assets of Prior Operators that are transferred pursuant to the Operations Transfer Agreement other than the Prior Operator Amounts.

[Signature Pages Follow]



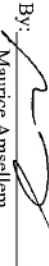
*(Signature Page to Facility Accounts Transition Agreement)*

**IN WITNESS WHEREOF**, the parties have executed this Facility Accounts Transition Agreement as of the date first written above.

**AGENT:** **MIDCAP FUNDING IV TRUST**, a Delaware statutory trust

By: Apollo Capital Management, L.P.  
Its: Investment Manager

By: Apollo Capital Management GP, LLC  
Its: General Partner

By:   
Maurice Amsellem  
Authorized Signatory

Address for Notices:

MidCap Funding IV Trust  
c/o MidCap Financial Services, LLC, as servicer  
7255 Woodmont Ave., Suite 300  
Bethesda, Maryland 20814  
Attn: General Counsel (Consulate NonHUD)  
Facsimile: 301-941-1450

*(Signature Page to Facility Accounts Transition Agreement)*

**PRIOR OPERATORS:**

**BAYONET POINT FACILITY OPERATIONS, LLC**  
**BRANDON FACILITY OPERATIONS, LLC**  
**KISSIMEE FACILITY OPERATIONS, LLC**  
**MELBOURNE FACILITY OPERATIONS, LLC**  
**NEW PORT RICHEY FACILITY OPERATIONS, LLC**  
**PENSACOLA FACILITY OPERATIONS, LLC**  
**SARASOTA FACILITY OPERATIONS, LLC**

By:   
Gregory Hayes  
Authorized Signatory

As Authorized Signer of each of the above entities and, in such capacity, intending this signature to legally bind each of the above entities

Address for Notices:

800 Concourse Parkway, Suite 200  
Maitland, FL 32751  
Attn: Legal Department  
Facsimile: (407) 571-1599

(Signature Page to Facility Accounts Transition Agreement)

**NEW OPERATORS:**

BAYONET OPco, LLC  
 BRANDON HEALTH OPco, LLC  
 KISSIMMEE NURSING &  
 REHABILITATION CENTER, LLC  
 MELBOURNE OPco, LLC  
 NEW PORT RICHEY OPco, LLC  
 PENSACOLA OPco, LLC  
 SARASOTA OPco, LLC

By:   
 Name: Richard Platschek  
 Title: Authorized Signatory

**Address for Notices:**

c/o Topaz Fiscal Services  
 6085 Strickland Avenue  
 Brooklyn, New York 11234  
 Attn: Hal Brecher  
 Email: hbrecher@topazfs.com

**SCHEDULE 1**

**Facility Name; Prior Operators; New Operators**

<b><u>FACILITY ADDRESS</u></b>	<b><u>PRIOR OPERATOR</u></b>	<b><u>NEW OPERATOR</u></b>
Bayonet Point Living Center 8132 Hudson Ave Hudson, FL 34667	Bayonet Point Facility Operations, LLC	Bayonet Opco, LLC
Raydiant Health Care of Brandon 701 Victoria St. Brandon, FL 33510	Brandon Facility Operations, LLC	Brandon Health Opco, LLC
Living Center of Kissimmee 2511 N. John Young Pkwy Kissimmee, FL 34741	Kissimmee Facility Operations, LLC	Kissimmee Nursing & Rehabilitation Center, LLC
Nspire Healthcare Melbourne 3033 Sarno Rd Melbourne, FL 32934	Melbourne Facility Operations, LLC	Melbourne Opco, LLC
Raydiant Health Care of New Port Richey 8417 Old Country Rd 54 New Port Richey, FL 34653	New Port Richey Facility Operations LLC	New Port Richey Opco, LLC
Living Center of Pensacola 235 W. Airport Blvd Pensacola, FL 32505	Pensacola Facility Operations, LLC	Pensacola Opco, LLC
Nspire Healthcare Sarasota 4783 Fruitville Rd Sarasota, FL 34232	Sarasota Facility Operations, LLC	Sarasota Opco, LLC

## FINANCING STATEMENTS

**FOLLOW INSTRUCTIONS**

**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

Flt.: attach Amendment Addendum (Form UCC3-40) and provide Debtor's name in Item 13.

10

2

3

20

7a or 7b	to be deleted in item 8a or 8b
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NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

2011, from a total of 11 women. As noted, nearly 50% of the 100,000 women

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SHEX

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☒ YES (ALL COVERED COLLEGE)

☐ ACTION COLLEGE

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Author

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2290 3636

**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and
- (f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.

"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

"Lockbox Account" means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid.

"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
CSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRfiling@csglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 38631	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed In: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. RITUAL FINANCING STATEMENT FILE NUMBER	1b. <input type="checkbox"/> THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD
OH00171923709 11/19/2013	File: <input type="checkbox"/> Amend <input type="checkbox"/> Addition (Form UCC205) and provide Debtor's name in item 13

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.

3. ☐ ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 7d. For partial assignment, complete items 7 and 8 and also indicate affected collateral in item 8.

4. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

5. ☐ PARTY INFORMATION CHANGE: Check one of these three boxes to: AND Check one of these three boxes to: ☐ Debtor is ☐ Secured Party of record ☐ CHARGE: name and/or address. Complete item 7a or 7b, and item 7c or 7d. ☐ ADD: name and/or address. Complete item 7a or 7b, and item 7c or 7d. ☐ DELETE: name. Give record name in item 7a or 7b, and item 7c or 7d. ☐ TO BE DELETED in item 7a or 7b.

6. ☐ CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one.

7. ☐ CHANGED OR ADDED INFORMATION: Complete for Assignment of Party Information Change - provide only one (a or b). Use "and" to name, do not use "or" wherever any part of the Debtor's name.

7a. ORGANIZATION'S NAME

OR 7b. INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S) (INITIALS)

7c. MAILING ADDRESS

8. ☒ COLLATERAL CHANGE: Also check one of these three boxes: ☐ ADD collateral ☐ DELETE collateral ☒ RESTATE covered collateral ☐ ASSIGN collateral. Indicate collateral. See Exhibit A attached hereto, and make a part hereof.

9. NAME OF PARTY OR RECORD AUTHORIZING THIS AMENDMENT: Provide only one (a or b). Use "and" to name, do not use "or" wherever any part of the Debtor's name.

OR 9b. INDIVIDUAL'S SURNAME

10. OPTIONAL FILER REFERENCE DATA: Debtor: LAKE PARKER FACILITY OPERATIONS, LLC

2290 38631



**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.

"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

"Lockbox Account" means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid.

"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
CSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRfiling@csglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 38356	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed in: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILER NUMBER

OH0017192381011/19/2013

1b. ☐ THIS FINANCING STATEMENT AMENDMENT is to be filed for record

File: ☐ Amend (Amendment Number From UCC205) and provide Debtor's name in Item 13

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.

3. ☐ ASSIGNMENT (full or partial): Provide name of Assignee in Item 7a or 7b, and address of Assignee in Item 7c, and name of Assignor in Item 7d.

4. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party is continued for the additional period provided by applicable law.

5. ☐ PARTY INFORMATION CHANGE:

Check ONE of these two boxes:

This Change affects ☐ Debtor or ☐ Secured Party of record

File: ☐ Debtor or ☐ Secured Party of record

File: ☐ Debtor or ☐ Secured Party of record

File: ☐ Debtor or ☐ Secured Party of record

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File: ☐ Debtor or ☐ Secured Party of record

File: ☐ Debtor or ☐ Secured Party of record

V77#54973888.1

FILING OFFICE COPY — UCC FINANCING STATEMENT AMENDMENT (Form UCC3) (Rev. 04/2011)

2290 38356

**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and
- (f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.



**FOLLOW INSTRUCTIONS**

A. NAME & PHONE OF CONTACT AT FILER (optional)  
CSC 1-800-858-5294

B. EMAIL CONTACT AT FILER (optional)  
SPR1fling@csglobal.com

C. SEND ACKNOWLEDGMENT TO: (Name and Address)  
[ 2290 392716  
CSC  
801 Adlai Stevenson Drive  
Springfield, IL 62703  
[

Filed in: Ohio  
(S.O.S.)

**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

18. INITIAL FINANCING STATEMENT FILE NUMBER  
OH00259992395 02/01/2022

19. THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED [or record]  
[or recorded] in the REAL ESTATE RECORDS  
For: attach Amendment Addendum (Form UCC-9d) and provide Debtor's name in Item 13

2. ☐ **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to the security interests of Secured Party authorizing this Termination Statement.

3. **ASSIGNMENT** (full or partial): Provide name of Assignees in item 7a or 7b, and address of Assignees in item 7c and name of Assignee. For partial assignment, complete items 1 and 3 and also indicate affected column in item 3.

4. **CONTINUATION**: Experiences of this Reporting Statement identified above with respect to the security interest(s) of Security and/or the Reporting Party, and any other information concerning this Continuation Statement, if confirmed for the additional period provided by applicable law.

5. ☐ PARTY INFORMATION CHANGE:  
Check one of these two boxes:  
  
AND Check one of these three boxes to:

[illegible]

OR (B). INDIVIDUAL'S SURNAME	FIRST PERSON'S NAME	ADDITIONAL NAME(S/INITIALS)	SUFFIX

7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information. Change - provide only DATE information. Do not erase, modify, or otherwise alter any part of the Doctor's name.  
7a. ORGANIZATION'S NAME

OR  
7b. INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
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CITY	STATE	POSTAL CODE	COUNTRY

Category	Item	Value	Unit
Energy	Electricity	100	kWh
	Gas	100	m³
	Water	100	m³
	Heating	100	kWh
Transport	Car	100	km
	Bus	100	km
	Train	100	km
	Plane	100	km
Communication	Internet	100	MB
	Mobile	100	MB
	Landline	100	MB
	Television	100	MB

Indicate collateral:  
☒ COLLATERAL CHANGE: Also check ☐ ADD on collateral ☐ DELETE collateral ☒ RESTATE covered collateral ☐ ASSIGN collateral

See Example 7 attached to the second issue of part (iii).

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**9. NAME OF PARTY OF RECORD AUTHORIZING THIS AMENDMENT:** Provide only one name (3a or 9b) (name of Assignor, if this is an Assignment). If there is more than one party authorizing this amendment, attach a separate page for each additional authorizing party.

INVESTOR'S NAME MidCap Funding IV Trust, as Agent

OR	90. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

10. OPTIONAL FILER REFERENCE DATA: Debtor: West Palm Beach Facility Operations, LLC	2290 382
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**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

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"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
CSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRffiling@csoglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 38020	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed in: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. UCC FINANCING STATEMENT FILE NUMBER	1b. <input type="checkbox"/> THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD
OH0017192516711/19/2013	File: <input type="checkbox"/> Amend <input type="checkbox"/> Assignment <input type="checkbox"/> Termination (Form UCC205) and provide Debtor's name in item 13

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.

3. ☐ ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 7d. For partial assignment, complete items 7 and 8 and also indicate affected collateral in item 9.

4. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

5. ☐ PARTY INFORMATION CHANGE: Check one of these three boxes to: AND Check one of these three boxes to: ☐ Debtor is ☐ Secured Party of record ☐ CHARGE: name and/or address. Complete item 7a or 7b, and item 7c or 7d. ☐ ADD: name and/or address. Complete item 7a or 7b, and item 7c or 7d. ☐ DELETE: name. Only record name in item 7a or 7b. ☐ TO BE DELETED in item 7a or 7b.

6. ☐ CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one.

OR	7a. ORGANIZATION'S NAME	7b. INDIVIDUAL'S SURNAME	7c. FIRST PERSONAL NAME	7d. ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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7. ☐ CHANGED OR ADDED INFORMATION: Complete for Assignment of Party Information Change - provide only one (a or b). Use word "to" name, "to" and "or" where appropriate in part of the Debtor's name.

OR	7a. ORGANIZATION'S NAME	7b. INDIVIDUAL'S SURNAME	7c. FIRST PERSONAL NAME	7d. ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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OR	7a. ORGANIZATION'S NAME	7b. INDIVIDUAL'S SURNAME	7c. FIRST PERSONAL NAME	7d. ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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OR	7a. ORGANIZATION'S NAME	7b. INDIVIDUAL'S SURNAME	7c. FIRST PERSONAL NAME	7d. ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.

**FOLLOW INSTRUCTIONS**

**“Securities Account”** means a “securities account” (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

A. NAME & PHONE OF CONTACT AT FILER (optional)		B. E-MAIL CONTACT AT FILER (optional)	
CSC 1-800-858-5294		SPRfling@cscglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)		[ ]	
2290 37901		CSC	
801 Adlai Stevenson Drive		Springfield, IL 62703	
Filed In: Ohio		(S.O.S.)	

**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

1A. INITIAL FINANCING STATEMENT FILE NUMBER		1B. THIS FINANCING STATEMENT ASSIGNMENT is to be filed for record (or recorded in the REAL ESTATE RECORDS	
OH00171922020 11/19/2013		Filer: attach Assignment Addendum from UCC-3 and provide Debtor's name in Item 13	
2. <b>TERMINATION:</b> Effectiveness of the Financing Statement Identified above is terminated with respect to the security interest(s) of Secured Party Authorizing this Termination Statement:			
3. <b>ASSIGNMENT</b> (full or partial): Provide name of Assignee in Item 7a or 7b, and address of Assignee in Item 7c and name of Assignor.			
For partial assignment, complete Items 1 and 5 and also indicate affected collateral in Item 8			
4. <b>CONTINUATION:</b> Effectiveness of this Financing Statement identified above with respect to the security interest(s) of Secured Party Authorizing this Continuation Statement is continued for the additional period provided by applicable law.			
5. <b>PARTY INFORMATION CHANGE:</b>			
Check one of these two boxes:			
This Change affects <input type="checkbox"/> Debtor & <input type="checkbox"/> Secured Party of record		AND Check one of these three boxes to:	
<input type="checkbox"/> Change name and/or address. Complete Item 7a or 7b, and Item 7c and Item 7d		<input type="checkbox"/> ADD new secured party. Complete Item 7a or 7b, and Item 7c and Item 7d	
<input type="checkbox"/> Change name and/or address. Complete Item 7a or 7b, and Item 7c and Item 7d		<input type="checkbox"/> DELETE name. Give record name in Item 7a or 7b, and Item 7c and Item 7d	
6. <b>CURRENT RECORD INFORMATION:</b> Complete for Party Information Change - provide only ONE of the following:			
6a. ORGANIZATION'S NAME			
OR			
6b. INDIVIDUAL'S SURNAME			
FIRST PERSONAL NAME			
ADDITIONAL NAME(S) (INITIALS)			
SUFFIX			
7. <b>CHANGED OR ADDED INFORMATION:</b> Complete for Assignment or Party Information Change - provide only ONE of the following: (Use exact full name, do not omit, modify or abbreviate any part of the Debtor's name.)			
7a. ORGANIZATION'S NAME			
OR			
7b. INDIVIDUAL'S SURNAME			
INDIVIDUAL'S FIRST PERSONAL NAME			
INDIVIDUAL'S ADDITIONAL NAME(S) (INITIALS)			
SUFFIX			
7c. MAILING ADDRESS			
CITY			
STATE			
POSTAL CODE			
COUNTRY			
8. <input checked="" type="checkbox"/> <b>COLLATERAL CHANGE:</b> Add or delete collateral. <input type="checkbox"/> ADD collateral <input type="checkbox"/> DELETE collateral <input checked="" type="checkbox"/> RESTATE covered collateral <input type="checkbox"/> ASSIGN collateral			
Indicate collateral: _____ and make a part hereof: _____			
See Exhibit A attached hereto and make a part hereof.			

9. NAME OF PARTY OF RECORD AUTHORIZING THIS ASSIGNMENT: Provide only USA name (8a or 8b) (name of Assignor, if this is an Assignment)

10. NAME OF PARTY OF RECORD AUTHORIZING THIS ASSIGNMENT: Provide only USA name (8a or 8b) (name of Assignor, if this is an Assignment)

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**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and
- (f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

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**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.



"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

"Lockbox Account" means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid.

"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
GSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRfiling@csoglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 37747	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed in: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. RITUAL FINANCING STATEMENT FILE NUMBER	1d. <input type="checkbox"/> THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD
OH00171923898 11/19/2013	File: <input type="checkbox"/> Amend <input type="checkbox"/> Addition (Form UCC205) and provide Debtor's name in item 13

2. <input type="checkbox"/> TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.
--

3. <input type="checkbox"/> ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 7d.
For partial assignment, complete items 7 and 8 and also indicate affected collateral in item 8

4. <input type="checkbox"/> CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.
--

5. <input type="checkbox"/> PARTY INFORMATION CHANGE: Check one of these three boxes to: AND Check one of these three boxes to:	
This Change affects <input type="checkbox"/> Debtor or <input type="checkbox"/> Secured Party of record	<input type="checkbox"/> CHARGE: name and/or address. Complete item 7a or 7b, and item 7c or 7d
<input type="checkbox"/> Debtor or <input type="checkbox"/> Secured Party of record	<input type="checkbox"/> DELETED name: One record name
File: ORGANIZATION'S NAME	File: ORGANIZATION'S NAME

6. <input type="checkbox"/> CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one.	
File: ORGANIZATION'S NAME	File: ORGANIZATION'S NAME

7. CHANGED OR ADDED INFORMATION: Complete for Assignment of Party Information Change - provide only one (item 7a or 7b) and item 7c and item 7d (name, address or otherwise any part of the Debtor's name).	
7a. ORGANIZATION'S NAME	7b. INDIVIDUAL'S SURNAME

OR	7c. INDIVIDUAL'S FIRST PERSONAL NAME
----	--------------------------------------

INDIVIDUAL'S ADDITIONAL NAME(S) (INITIALS)
--

7d. MAILING ADDRESS
---------------------

8. <input checked="" type="checkbox"/> COLLATERAL CHANGE: Also check one of these three boxes: <input type="checkbox"/> ADD collateral <input type="checkbox"/> DELETE collateral <input checked="" type="checkbox"/> RESTATE covered collateral <input type="checkbox"/> ASSIGN collateral
---

Indicate collateral: See Exhibit A attached hereto, and make it a part hereof.
--

9. NAME OF PARTY OR RECORD AUTHORIZING THIS AMENDMENT: Provide only one (item 9a or 9b) (name of Assignor, if this is an Assignment)
9a. ORGANIZATION'S NAME: MidCap Funding IV Trust, as Agent

OR	9b. INDIVIDUAL'S SURNAME
----	--------------------------

10. OPTIONAL FILER REFERENCE DATA: Debtor: KISSIMMEE FACILITY OPERATIONS, LLC
2290 37747

**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.

**FOLLOW INSTRUCTIONS**

A. NAME & PHONE OF CONTACT AT FILER (optional)  
CSC 1-800-858-5294

B. E-MAIL CONTACT AT FILER (optional)  
SPRFiling@cscglobal.com

C. SEND ACKNOWLEDGMENT TO: (Name and Address)  
[2290 375537  
CSC  
801 Adlai Stevenson Drive  
Springfield, IL 62703]

Filed In: Ohio  
(S.O.S.)

**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

18 INITIAL FINANCING STATEMENT FILE NUMBER OH00171927292 11/19/2013	19 THIS FINANCING STATEMENT AGREEMENT IS TO BE FILED (or RECORD) (or recorded) in the REAL ESTATE RECORDS For: attach Amendment Addendum (Form UCC944) and provide Debtor's name in Item 13
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2. ☐ **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to the security interests of Secured Party, authorizing this Termination Statement.

3 ☐ **ASSIGNMENT** (full or partial): Provide name of Assignee in Item 7a or 7c, and address of Assignee in Item 7c and name of Assignee in Item 7b. For partial assignment, complete items 7 and 9 and also indicate affected collateral in Item 8

4. ☐ **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party, covering this Continuation Statement is confirmed for the additional period provided by applicable law

5 ☐ PARTY INFORMATION CHANGE:  
Check one of these two boxes:

AND Check one of these three boxes to:

**CURRENT RECORD INFORMATION:** Complete for Party Information (Name, Address, Phone No.)

This Change affects ☐ Debtor & ☐ Second Party of record

☐ **CHANGE:** Name and/or address. Complete item 6a or 6b, and item 7a or 7b and item 7c

☐ **DELETE:** Name. Give record name to be deleted in item 6c or 6d

6b. ORGANIZATION'S NAME  


OR BB: INDIVIDUAL'S SURNAME	FIRST PERSON NAME	ADDITIONAL NAME(S) INITIAL(S)	SUFFIX

7. CHANGED OR ADDED INFORMATION: Complete for assignment of Policy Information Change; provide only the information to be added. Do not omit, modify or abbreviate any part of the child's name.

OR  
THE INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S) INITIAL(S)	SUFFIX

CITY	STATE	POSTAL CODE	COUNTRY

7. TOTAL AERIAL PLUMAGE	8. BIRD	9. SEX	10. AGE	11. OCCASION	12. LOCATION

See Exhibit A attached hereto, and make it a part hereof.

Indicate cost attempt:

☒ COLLATERAL CHARGE    ☐ ADD OTHER COLLATERAL CHARGES    ☐ ADD CREDITORS

☐ DELET E CREDITORS    ☒ RESTATE FILE (DRAWING COLLATERAL)    ☐ ASSIGN CREDITORS

2

6

2

9. NAME \_\_\_\_\_ PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only SGLI name (the or 9b) (name of Assignor, if this is an Assignment)

[illegible]

BO, INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX
BO, INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX



**EXHIBIT A  
TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

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**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.



"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

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"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
CSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRRfiling@csoglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 37404	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed In: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER 1b. THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD

OH001719221311/19/2013 Filing Office: Springfield, Illinois (S.O.S.)

2. TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.

3. ASSIGNMENT (full or partial): Provide name of Assignee in Item 7a or 7b, and address of Assignee in Item 7c and name of Assignor in Item 7d. For partial assignment, complete items 7 and 8 and also indicate affected collateral in Item 8.

4. CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party is continued for the additional period provided by applicable law.

5. PARTY INFORMATION CHANGE: Check one of these three boxes to: AND Check one of these three boxes to: ☐ Debtor is ☐ Secured Party of record ☐ Change name and/or address. Complete Item 7a or 7b, and Item 7c and Item 7d. ☐ Debtor is ☐ Secured Party of record ☐ Change name and/or address. Complete Item 7a or 7b, and Item 7c and Item 7d. ☐ Debtor is ☐ Secured Party of record ☐ Change name and/or address. Complete Item 7a or 7b, and Item 7c and Item 7d.

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one. OR 6a. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME ADDITIONAL NAME(S) INITIAL(S) SUFFIX

7. CHANGED OR ADDED INFORMATION: Complete for Assignment of Party Information Change - provide only one. OR 7a. ORGANIZATION'S NAME OR 7b. INDIVIDUAL'S SURNAME OR 7c. INDIVIDUAL'S FIRST PERSONAL NAME OR 7d. INDIVIDUAL'S ADDITIONAL NAME(S) INITIAL(S) SUFFIX

7e. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

8. COLLATERAL CHANGE: Also check one of these three boxes: ☐ ADD collateral ☐ DELETE collateral ☒ RESTATE covered collateral ☐ ASSIGN collateral. See Exhibit A attached hereto, and make a part hereof.

9. NAME OF PARTY OR RECORD AUTHORIZING THIS AMENDMENT: Provide only one name (the or 9b) (name of Assignor, if this is an Assignment) or 9c (name of Debtor, if this is a Termination Statement) or 9d (name of Secured Party, if this is an Assignment or Termination Statement).

9a. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME ADDITIONAL NAME(S) INITIAL(S) SUFFIX

10. OPTIONAL FILER REFERENCE DATA: Debtor: BRANDON FACILITY OPERATIONS, LLC 2290 37404

FILING OFFICE COPY - UCC FINANCING STATEMENT AMENDMENT (Form UCC3) (Rev. 04/2011)

V77#54973888.1

**EXHIBIT A  
TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and
- (f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.

"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

"Lockbox Account" means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid.

"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
CSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRffiling@csoglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 37284	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed In: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. RITUAL FINANCING STATEMENT FILE NUMBER	1d. <input type="checkbox"/> THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD
OH00171924822 11/19/2013	File: <input type="checkbox"/> Amend <input type="checkbox"/> Addition (Form UCC205) and provide Debtor's name in item 13

2. <input type="checkbox"/> TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.
--

3. <input type="checkbox"/> ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 7d.
For partial assignment, complete items 7 and 8 and also indicate affected collateral in item 9

4. <input type="checkbox"/> CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.
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5. <input type="checkbox"/> PARTY INFORMATION CHANGE: Check one of these three boxes to: AND Check one of these three boxes to:	
This Change affects <input type="checkbox"/> Debtor or <input type="checkbox"/> Secured Party of record	<input type="checkbox"/> CHARGE: name and/or address. Complete item 7a or 7b, item 7c or 7d, and item 7e or 7f
<input type="checkbox"/> Party name	<input type="checkbox"/> Party name: Only record name
<input type="checkbox"/> Party address	<input type="checkbox"/> Party address: Only record address

6. <input type="checkbox"/> CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one.
File: ORGANIZATION'S NAME

OR	6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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7. <input type="checkbox"/> CHANGED OR ADDED INFORMATION: Complete for Assignment of Party Information Change - provide only one (item 7a or 7b) and name, address, and state of Assignor, if this is an Assignment.
7a. ORGANIZATION'S NAME

OR	7b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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INDIVIDUAL'S FIRST PERSONAL NAME
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INDIVIDUAL'S ADDITIONAL NAME(S) (INITIALS)
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7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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8. <input checked="" type="checkbox"/> COLLATERAL CHANGE: Also check one of these three boxes: <input type="checkbox"/> ADD collateral <input type="checkbox"/> DELETE collateral <input checked="" type="checkbox"/> RESTATE covered collateral <input type="checkbox"/> ASSIGN collateral	
Indicate collateral:	
See Exhibit A attached hereto, and make a part hereof.	

9. NAME OF PARTY OR RECORD AUTHORIZING THIS AMENDMENT: Provide only one (item 9a or 9b) (name of Assignor, if this is an Assignment)
9a. ORGANIZATION'S NAME: MidCap Funding IV Trust, as Agent

OR	9b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA: Debtor: MELBOURNE FACILITY OPERATIONS, LLC
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**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

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"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

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"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
CSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRfilling@csoglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 36536	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed In: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. UCC FINANCING STATEMENT FILE NUMBER	1b. <input type="checkbox"/> THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD
OH00171926280 11/19/2013	File: <input type="checkbox"/> Amend <input type="checkbox"/> Assignment <input type="checkbox"/> Termination (Form UCC205) and provide Debtor's name in item 13

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.

3. ☐ ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 7d. For partial assignment, complete items 7 and 8 and also indicate affected collateral in item 9.

4. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

5. ☐ PARTY INFORMATION CHANGE:

Check ONE of these two boxes:

AND Check ONE of these three boxes to:

This Change affects ☐ Debtor ☐ Secured Party of record

File: ☐ Debtor ☐ Secured Party of record

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**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

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**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.

**"Instrument"** means "instrument", as defined in Article 9 of the UCC.

**"Lien"** means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

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**"Permits"** means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

**"Securities Account"** means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

**Exhibit C**  
**to**  
**Operations Transfer Agreement**  
**[Facility Name]**  
**Form of Bill of Sale**

This BILL OF SALE (this "Instrument") dated as of \_\_\_\_\_, is made and delivered pursuant to, and subject to the terms of, that certain Operations Transfer Agreement dated as of \_\_\_\_\_, 2022 (as amended and restated from time to time, the "OTA"), by and among \_\_\_\_\_ ("Current Operator"), \_\_\_\_\_ ("New Operator") and certain other parties named therein relating to the transfer of certain assets set forth in the OTA and the business and operations of the applicable Facility. Capitalized terms used but not defined herein shall have the meaning provided in the OTA.

**WITNESSETH:**

WHEREAS, New Operator has the right to acquire the Assigned Assets related to the Facility from Current Operator under the OTA, which includes substantially all of the assets used in the operation of the applicable Facility; and

WHEREAS, New Operator and Current Operator desire to evidence and effectuate the transfer and conveyance of the applicable Assigned Assets to New Operator.

NOW THEREFORE, subject to the terms and conditions of the OTA and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, New Operator and Current Operator hereby agree as follows:

1. Current Operator does hereby convey, transfer, assign and deliver to New Operator all of Current Operator's right, title and interest in and to the Assets free of all liens, encumbrances and security interests, and New Operator hereby accepts from Current Operator all of the Assigned Assets.
2. Subject to the terms of the OTA, New Operator hereby assumes all liabilities and obligations related to the Assets with respect to periods from and after the date hereof.
3. This Instrument shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Current Operator for itself, its successors and assigns, hereby covenants and agrees that, at any time and from time to time upon the written request of New Operator, Current Operator will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney, and assurances as may be reasonably required by New Operator in order to assign, transfer, set over, convey, assure, and confirm unto and vest in New Operator, its successors and assigns, title to the assets sold, conveyed, and transferred by this Instrument.

4. This Instrument may not be amended, modified or changed nor shall any waiver of any provision hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.
5. This Instrument will be construed, performed and enforced in accordance with the laws of the State of Florida without regard to conflict of laws rules.
6. This Instrument may be executed in any number of counterparts, whether original or by facsimile or portable document format (.pdf), each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

[Execution Page to Follow]

IN WITNESS WHEREOF, the undersigned has executed and delivered this Instrument as of the date set forth above.

**BRANDON FACILITY OPERATIONS, LLC**

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

**BRANDON HEALTH OPFCO, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Signature Page to Bill of Sale]



**Exhibit D**  
**to**  
**Operations Transfer Agreement**

*[Facility Name]*

**Form Assignment and Assumption Agreement**

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Instrument") dated as of \_\_\_\_\_, is made and delivered pursuant to, and subject to the terms of, that certain Operations Transfer Agreement dated as of \_\_\_\_\_, 2022 (as amended and restated from time to time, the "OTA"), by and among \_\_\_\_\_ ("Current Operator"), \_\_\_\_\_ ("New Operator") and certain other parties named therein relating to the transfer of certain assets set forth in the OTA and the business and operations of the Facility. Capitalized terms used but not defined herein shall have the meaning provided in the OTA.

WITNESSETH:

WHEREAS, in accordance with the OTA, Current Operator has agreed to assign to New Operator, and New Operator has agreed to accept and assume from Current Operator, the Assignable Licenses and Permits, the Care Agreements, the Assigned Agreements (including Current Operator's rights and interest under the Medicare provider agreement), and trademarks, service marks or internet domain names, and similar indicia of source of origin, all registrations and applications for registration thereof used in operation of the Facility (the "Assigned Property"), as more fully provided in the OTA; and

WHEREAS, New Operator and Current Operator desire to evidence and effectuate the assignment of the same to New Operator.

NOW THEREFORE, subject to the terms and conditions of the OTA and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, New Operator and Current Operator hereby agree as follows:

1. Current Operator does hereby convey, transfer, assign and deliver to New Operator all of Current Operator's right, title and interest in and to the Assigned Property, and the New Operator hereby accepts from Current Operator the same.
2. Subject to the terms of the OTA, New Operator hereby assumes the duties and obligations of Current Operator with respect to the Assigned Property, which duties and obligations arise and accrue from and after the date hereof. For the avoidance of doubt, New Operator assumes no duties or obligations of Current Operator with respect to any Assigned Property that arose or accrued prior to the date hereof, and such duties and obligations remain the sole and exclusive responsibility of Current Operator. Each of the parties hereto shall execute and deliver, at the reasonable request of the other party hereto, such additional documents, instruments, conveyances and assurances and take such further actions as such other party may reasonably request to carry out the provisions hereof and give effect to the transactions contemplated by this Instrument.

3. This Instrument may not be amended, modified or changed nor shall any waiver of any provision hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.

4. This Instrument will be construed, performed and enforced in accordance with the laws of the State of Florida, without regard to conflict of laws rules.

5. This Instrument may be executed in any number of counterparts, whether original or by facsimile or portable document format (.pdf), each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

[Execution Page to Follow]

IN WITNESS WHEREOF, the undersigned has executed and delivered this Instrument as of the date set forth above.

**BRANDON FACILITY OPERATIONS,  
LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BRANDON HEALTH OP&CO, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Signature Page to Assignment and Assumption Agreement]

Fill in this information to identify the case:

Debtor LaVie Care Centers, LLC

United States Bankruptcy Court for the: Northern District of Georgia  
(State)

Case number 24-55507

Official Form 410  
Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>CREA Brandon-C LLC and Brandon Health OpCo, LLC</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? See summary page	Where should payments to the creditor be sent? (if different)
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Contact phone <u>615-664-5355</u> Contact email <u>shane.ramsey@nelsonmullins.com</u>	Contact phone _____ Contact email _____
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6.	<b>Do you have any number you use to identify the debtor?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____
7.	<b>How much is the claim?</b> \$ <u>25,389,782.52</u>	<b>Does this amount include interest or other charges?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8.	<b>What is the basis of the claim?</b> Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.  <u>Breach of Contract</u>	
9.	<b>Is all or part of the claim secured?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property.  <b>Nature or property:</b> <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____  <b>Basis for perfection:</b> _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  <b>Value of property:</b> \$ _____ <b>Amount of the claim that is secured:</b> \$ _____ <b>Amount of the claim that is unsecured:</b> \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)  <b>Amount necessary to cure any default as of the date of the petition:</b> \$ _____  <b>Annual Interest Rate</b> (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable	
10.	<b>Is this claim based on a lease?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. <b>Amount necessary to cure any default as of the date of the petition.</b> \$ _____	
11.	<b>Is this claim subject to a right of setoff?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____	





<p><b>12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?</b></p> <p>A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.</p>	<div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes. Check all that apply:                 </div> <div style="text-align: right; background-color: #f2f2f2; padding: 2px 5px; font-weight: bold;">Amount entitled to priority</div> </div> <div style="margin-top: 10px;"> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 70%;"> <input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).                     </div> <div style="width: 25%; text-align: right;">\$ _____</div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 5px;"> <div style="width: 70%;"> <input type="checkbox"/> Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).                     </div> <div style="width: 25%; text-align: right;">\$ _____</div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 5px;"> <div style="width: 70%;"> <input type="checkbox"/> Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).                     </div> <div style="width: 25%; text-align: right;">\$ _____</div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 5px;"> <div style="width: 70%;"> <input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).                     </div> <div style="width: 25%; text-align: right;">\$ _____</div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 5px;"> <div style="width: 70%;"> <input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).                     </div> <div style="width: 25%; text-align: right;">\$ _____</div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 5px;"> <div style="width: 70%;"> <input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.                     </div> <div style="width: 25%; text-align: right;">\$ _____</div> </div> </div> <div style="margin-top: 10px; font-size: small;"> <p>* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.</p> </div>
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<p><b>13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. 503(b)(9)?</b></p>	<div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.                 </div> <div style="width: 20%; text-align: right;">\$ _____</div> </div>
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**Part 3: Sign Below**

**The person completing this proof of claim must sign and date it. FRBP 9011(b).**

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

**A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.**

Check the appropriate box:

- ☐ I am the creditor.
- ☒ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 08/28/2024  
MM / DD / YYYY

/s/Shane G. Ramsey  
Signature

**Print the name of the person who is completing and signing this claim:**

Name Shane G. Ramsey  
First name Middle name Last name

Title Attorney

Company Nelson Mullins Riley and Scarborough LLP  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address \_\_\_\_\_

Contact phone \_\_\_\_\_ Email \_\_\_\_\_



For phone assistance: Domestic (877) 709-4750 | International (424) 236-7230

<b>Debtor:</b> 24-55507 - LaVie Care Centers, LLC <b>District:</b> Northern District of Georgia, Atlanta Division		
<b>Creditor:</b> CREA Brandon-C LLC and Brandon Health OpCo, LLC Shane G. Ramsey Nelson Mullins Riley and Scarborough LLP 1222 Demonbreun St, Suite 1700 Nashville, TN, 37203 <b>Phone:</b> 615-664-5355 <b>Phone 2:</b> <b>Fax:</b> <b>Email:</b> shane.ramsey@nelsonmullins.com	<b>Has Supporting Documentation:</b> Yes, supporting documentation successfully uploaded <b>Related Document Statement:</b>	
	<b>Has Related Claim:</b> No <b>Related Claim Filed By:</b>	
	<b>Filing Party:</b> Authorized agent	
<b>Other Names Used with Debtor:</b>	<b>Amends Claim:</b> No <b>Acquired Claim:</b> No	
<b>Basis of Claim:</b> Breach of Contract	<b>Last 4 Digits:</b> No	<b>Uniform Claim Identifier:</b>
<b>Total Amount of Claim:</b> 25,389,782.52	<b>Includes Interest or Charges:</b> No	
<b>Has Priority Claim:</b> No	<b>Priority Under:</b>	
<b>Has Secured Claim:</b> No <b>Amount of 503(b)(9):</b> No <b>Based on Lease:</b> No <b>Subject to Right of Setoff:</b> No	<b>Nature of Secured Amount:</b> <b>Value of Property:</b> <b>Annual Interest Rate:</b> <b>Arrearage Amount:</b> <b>Basis for Perfection:</b> <b>Amount Unsecured:</b>	
<b>Submitted By:</b> Shane G. Ramsey on 28-Aug-2024 5:09:57 p.m. Eastern Time <b>Title:</b> Attorney <b>Company:</b> Nelson Mullins Riley and Scarborough LLP		

In re: LaVie Care Centers, LLC

Case No.: 24-55507

**Exhibit to Proof of Claim**

**Itemized Statement of Claim**

Damages sought for Breach of Lease, Guaranty and Transfer Agreement, including Attorneys Fees and Costs	\$25,000,000.00
Undelivered Receivables:	\$389,782.52
<b>TOTAL:</b>	<b>\$25,389,782.52</b>

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,  
IN AND FOR ORANGE COUNTY, FLORIDA**

CREA BRANDON-C LLC and  
BRANDON HEALTH OPco, LLC,

Plaintiffs,

vs.

CASE NO.  
DIVISION:

BRANDON FACILITY OPERATIONS, LLC  
and LAVIE CARE CENTERS, LLC,

Defendants.

**COMPLAINT FOR DAMAGES**

Plaintiffs, CREA Brandon-C LLC and Brandon Health OpCo, LLC, sue Defendants  
Brandon Facility Operations, LLC and LaVie Care Centers, LLC, and state:

1. This complaint arises from the purchase of a skilled nursing facility located at 701  
Victoria Street, Brandon, FL 33510. Plaintiff CREA Brandon-C LLC through its affiliate  
purchased the Brandon facility for \$17,400,000. Prior to the purchase, Defendants or their affiliates  
operated and managed the Brandon facility. The Defendants breached multiple agreements by  
failing to disclose significant legal and regulatory violations and survey deficiencies. Following  
the sale and turnover of operations, Plaintiffs discovered that Defendants ran the Brandon facility  
into the ground resulting in the government-mandated removal and relocation of most facility  
residents around the end of June 2022. For many months continuing to the present, the Brandon  
facility has had few residents or revenues. The damages, losses and diminution in value suffered  
by Plaintiffs amount to many millions of dollars for which recovery is sought.

**PARTIES**

2. Plaintiff CREA Brandon-C LLC is a foreign limited liability company with its  
principal address in New York, NY, that is authorized to conduct business in Florida. Since on or  
about April 1, 2022, CREA Brandon-C LLC has been the owner and landlord of the Brandon  
facility now known as Brandon Center for Nursing and Rehabilitation, 701 Victoria Street,  
Brandon, FL 33510.

3. Plaintiff Brandon Health OpCo, LLC is a foreign limited liability company with its  
principal address at 701 Victoria Street, Brandon, FL 33510, that is authorized to conduct business  
in Florida. Due to licensure violations caused by Defendants as more fully described below,  
Plaintiff Brandon Health OpCo, LLC did not become the licensee of Brandon Center for Nursing  
and Rehabilitation legally responsible for its operations until December 5, 2022. Since December  
5, 2022, Plaintiff Brandon Health OpCo, LLC has operated Brandon Center for Nursing and  
Rehabilitation under a lease with Plaintiff CREA Brandon-C LLC.

4. Defendant Brandon Facility Operations, LLC is a foreign limited liability company  
with its principal address at 850 Concourse Parkway South, Maitland, FL 32751, that is authorized  
to conduct business in Florida. Before December 5, 2022, Defendant Brandon Facility Operations,  
LLC was the licensee of the facility located at 701 Victoria Street, Brandon, FL 33510, and legally  
responsible for its operations. Before December 15, 2021, Defendant Brandon Facility Operations,  
LLC operated the facility under the name Consulate Health Care of Brandon, and from December  
15, 2021 through December 5, 2022 under the name Raydiant Health Care of Brandon.

5. Defendant LaVie Care Centers, LLC is a foreign limited liability company with its  
principal address at 850 Concourse Parkway South, Maitland, FL 32751, that is authorized to  
conduct business in Florida.



### JURISDICTION AND VENUE

6. This is an action for damages in excess of \$50,000, exclusive of interest, costs, and attorneys' fees.
7. Venue is proper in Orange County, Florida, as that is where Defendants Brandon Facility Operations, LLC and LaVie Care Centers, LLC reside, where Defendant Pourtessons, LLC has an office, and where the causes of action accrued.

### FACTUAL BACKGROUND

8. In 2021, the largest nursing home chain in Florida, Consulate Health Care, including Brandon Facility Operations, LLC, d/b/a Consulate Health Care of Brandon, experienced financial difficulties. Those difficulties resulted from a \$258 million federal False Claims Act judgment and the COVID-19 pandemic. In March 2021, a unit of Consulate Health Care filed for Chapter 11 bankruptcy protections. As part of Consulate Health Care's rebranding effort, on December 15, 2021, Defendant Brandon Facility Operations changed Consulate Health Care of Brandon's name to Raydiant Health Care of Brandon. The Defendants assisted Raydiant Health Care of Brandon's owner in selling the facility.

9. Plaintiff CREA Brandon-C through its affiliate purchased Raydiant Health Care of Brandon for \$17,400,000 on January 31, 2022. On that same day, CREA Brandon-C entered into a Lease Agreement of Raydiant Health Care of Brandon with the then-current licensee and operator, Defendant Brandon Facility Operations, which purportedly had skill and expertise in operating Florida nursing homes.

10. Plaintiff Brandon Health OpCo applied to the Florida Agency for Health Care Administration ("AHCA") for a license to operate Raydiant Health Care of Brandon, but AHCA delayed action on the application due to pending administrative proceedings against Defendant Brandon Facility Operations. In those administrative proceedings, AHCA alleged that Defendant

Brandon Facility Operations committed numerous legal violations in operating Consulate Health Care of Brandon and Raydiant Health Care of Brandon, and AHCA sought imposition of administrative fines, revocation of Defendant Brandon Facility Operations' nursing home license, and other remedies.

11. Since Brandon Health OpCo did not have a license legally required to lease or operate Raydiant Health Care of Brandon, it entered into an Operations Transfer Agreement with Defendant Brandon Facility Operations, to facilitate an orderly transition of facility operations.

12. Defendant Brandon Facility Operations operated Raydiant Health Care of Brandon for the Plaintiffs pursuant to the lease agreement and operations transfer agreement from February 1, 2022 through at least March 31, 2022. Although Defendant Brandon Facility Operations ceased paying rent after March 31, 2022, as licensee of Raydiant Health Care of Brandon it remained legally responsible for operations until December 5, 2022, when AHCA approved Brandon Health OpCo's license application.

13. Government regulatory agencies frequently cited Defendant Brandon Facility Operations for non-compliance with legal standards. The May 14, 2021 federal survey resulted in ten (10) deficiencies. Six months later, AHCA conducted a complaint survey, found additional deficiencies, and determined Consulate Health Care of Brandon to be out of compliance with federal law. The non-compliance continued for several months. Shortly thereafter, a Raydiant Health Care of Brandon resident eloped and Defendant Brandon Facility Operations misreported the incident to AHCA.

14. On AHCA's resurvey in February 2022, Raydiant Health Care of Brandon remained out of compliance with legal requirements.

15. On or about March 10, 2022, Defendant Brandon Facility Operations received notice of denial of payment for new admissions to Raydiant Health Care of Brandon. Defendant

Brandon Facility Operations failed to notify the Plaintiffs of this notice despite its obligation to do so under the Lease Agreement and Operations Transfer Agreement.

16. In April 2022, AHCA conducted additional surveys and investigated the resident elopement. Defendant Brandon Facility Operations was again found to be out of compliance. On April 21, 2022, Defendant Brandon Facility Operations was informed of an immediate jeopardy citation, but immediate jeopardy was removed the next day. In June, AHCA investigated additional complaints and found numerous deficiencies that arose before April 1, 2022.

17. Based on the June 2022 survey, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services ("CMS"), imposed several remedies upon Defendant Brandon Facility Operations, including:

- a. Medicare provider agreement will be involuntary terminated on July 6, 2022;
- b. Denial of payment for new admissions remains in effect as of March 10, 2022;
- c. Civil money penalty of \$1,630 per day effective June 8, 2022 until termination of Medicare provider agreement on July 6, 2022; and
- d. Keeping previously imposed civil monetary penalties in effect, specifically:
  - i. \$19,530 effective February 10, 2022
  - ii. \$22,320 effective April 22, 2022

18. CMS terminated Defendant Brandon Facility Operations' Medicare provider agreement on July 6, 2022, triggering termination of its Medicaid provider agreement. Termination of these agreements eliminated the major sources of residents and income for Raydiant Health Care of Brandon, and those losses have continued to the present.

19. On July 19, 2022, AHCA filed a 109-page administrative complaint against Brandon Facility Operations seeking, among other remedies, revocation of its nursing home license to operate Raydiant Health Care of Brandon.

20. Defendant Brandon Facility Operations settled AHCA's administrative complaint in November 2022, by agreeing to pay \$35,000 in administrative fines and imposition of conditional license retroactive to December 21, 2021.

21. All conditions precedent to the initiation and maintenance of this complaint have been performed, have occurred, are futile, are excused, or have been waived.

#### **COUNT I – BREACH OF LEASE AGREEMENT** ***(CREA Brandon-C LLC Against Brandon Facility Operations, LLC)***

22. Plaintiff, CREA Brandon-C LLC realleges and reincorporates paragraphs 1 through 21 as if fully stated here.

23. On January 31, 2022, Plaintiff CREA Brandon-C and Defendant Brandon Facility Operations entered into a Lease Agreement ("Lease"), pursuant to which Brandon Facility Operations operated Raydiant Health Care of Brandon. The Lease is attached as **Exhibit A**. Plaintiff CREA Brandon-C performed all obligations due and owing to Defendant Brandon Facility Operations with respect to the Lease.

24. Defendant Brandon Facility Operations breached the Lease in several respects:
- a. Occupancy provisions in sections 6.1, 6.2, and 6.3, by:
    - i. Failing to maintain in good standing the license permitting the operation of the premises as a skilled nursing facility;
    - ii. Allowing acts to be done or conditions to exist on the premises which may be dangerous; and

- iii. Upon termination, failing to return to Lessor, i.e., CREA Brandon-C, the premises in no worse condition as it existed on the effective date, and with an unrestricted license in full force and good standing.
- b. Repairs and maintenance provision in section 10.1(a) by failing to keep and maintain the premises in good order and condition and in a suitable state of repair.
- c. Legal compliance provisions in sections 12.1, 12.3, and 12.4, by:
  - i. Failing to obey, observe and promptly comply with all present and future laws, rules, regulations and requirements of any governmental agency or authority having jurisdiction over the premises and the operation of the skilled nursing facility;
  - ii. Failing to keep in good standing and in full force and effect all necessary licenses, permits and certifications required by any governmental authority for maintaining and operating on the premises a skilled nursing facility, and the facility shall at all times continue to be qualified to participate in the Medicare and Medicaid reimbursement programs; and
  - iii. Failing to deliver or send to Lessor within 7 days following receipt, copies of any notices from CMS or any agency terminating, disqualifying or suspending, or reasonably likely to result in the termination, disqualification or suspension of the Medicaid or Medicare provider agreements, the license or any other certification relating to facility operations or participation in any governmental or non-governmental reimbursement or third party payor program, including Medicare or Medicaid.
- d. Default provisions in sections 18.1(b), (h), (j), and (k), by:
  - i. Failing to perform, or violation of, any of the covenants, terms, conditions or provision of the Lease;
  - ii. Any material suspension, termination or restriction placed upon Lessee, i.e., Brandon Facility Operations, or the facilities, or the ability to admit residents or patients (e.g., an admissions ban or non-payment for new admissions by Medicare or Medicaid), and such suspension, termination or restriction continues for more than 30 days after imposition;
  - iii. Termination or revocation of the license or any material provider agreement; and
  - iv. Cessation of operations and relocation of patients.
- e. Lessee's representations in sections 29.2(c) and (d), by:
  - i. Failing to keep and maintain the facilities at all times in good order and repair in full compliance with all material laws; and
  - ii. Misrepresenting the absence of pending or threatened claims, lawsuits, governmental actions or other proceeding involving Lessee's operation of the facilities before any court, agency or other judicial, administrative or other governmental body. Lessee covenants to give notice to Lessor of any pending or threatened claims, lawsuits, governmental or other proceedings involving Lessee's operation of any individual facility in an actual amount of \$300,000 or more, such notice to be delivered with 10 days of Lessee's knowledge.
- f. Termination provision in section 32.1(a) by failing to return to Lessor the premises and personal property in a condition no worse other than that

which existed on the effective date, licensed by any governmental agencies having jurisdiction over the premises.

25. The breaches of Lease by Defendant Brandon Facility Operations have injured Plaintiff CREA Brandon-C in the form of compensatory damages amounting to millions of dollars, lost revenue and lost profits, diminution of property value, loss of professional standing and position, and damage to reputation, all of which are continuing and permanent.

26. Section 35.6 of the Lease provides, "If an action shall be brought ... on account of any breach of or to enforce ... this Lease .... the prevailing party shall be entitled to recover from the other party, as part of the prevailing party's costs, reasonable attorneys' fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered." Ex. A at 29. CREA Brandon-C seeks its fees, costs, and expenses incurred in prosecuting this complaint under this provision.

WHEREFORE, Plaintiff, CREA Brandon-C LLC, demands judgment in its favor and against Defendant Brandon Facility Operations, LLC for damages in excess of \$50,000, together with prejudgment interest, costs, attorneys' fees, and any other relief the Court deems just and proper.

#### **COUNT II – BREACH OF CORPORATE LEASE GUARANTY**

*(CREA Brandon-C LLC Against LaVie Care Centers, LLC)*

27. Plaintiff, CREA Brandon-C LLC, realleges and reincorporates paragraphs 1 through 26 above as if fully stated here.

28. On January 31, 2022, Defendant LaVie Care Centers, LLC executed and delivered a Corporate Lease Guaranty to Plaintiff CREA Brandon-C, a copy of which is attached and incorporated by reference as **Exhibit B**.

29. Plaintiff CREA Brandon-C performed all conditions precedent to be performed by plaintiff or the conditions have occurred.

30. Defendant LaVie Care Centers guaranteed all Defendant Brandon Facility Operations' obligations under the Lease.

31. On or about April 5, 2023, Plaintiff CREA Brandon-C sent Defendant LaVie Care Centers a written demand regarding Defendant Brandon Facility Operations' breaches of the Lease and the resulting damages, losses and diminution in value amounting to \$25,000,000.

32. Defendant LaVie Care Centers has refused to pay the demand for \$25,000,000 or any part of it.

33. Defendant LaVie Care Centers owes Plaintiff CREA Brandon-C \$25,000,000 with interest at a rate per annum of 5% due monthly from April 5, 2023. Exhibit B at 1.

34. Section 7 of the Corporate Lease Guaranty provides, "In the event that Lessor prevails on the merits of its claim, Guarantor shall additionally pay to Lessor upon demand all reasonable out of pocket costs, costs and expenses incurred by Lessor in connection with placing this Guaranty in the hands of one attorney for collection or any other legal proceeding with respect to Guarantor ...." Exhibit B at 2. CREA Brandon-C seeks its fees, costs, and expenses incurred in prosecuting this complaint under this provision.

WHEREFORE, Plaintiff, CREA Brandon-C LLC, demands judgment in its favor and against Defendant LaVie Care Centers, LLC for damages in excess of \$50,000, together with prejudgment interest, costs, attorneys' fees, and any other relief the Court deems just and proper.

#### **COUNT III – BREACH OF OPERATIONS TRANSFER AGREEMENT**

*(Brandon Health OpCo, LLC and CREA Brandon-C LLC Against Brandon Facility Operations, LLC and LaVie Care Centers, LLC)*



35. Plaintiffs, Brandon Health OpCo, LLC and CREA Brandon-C LLC, reallege and reincorporate paragraphs 1 through 21 above as if fully stated here.

36. On January 31, 2022, Plaintiff Brandon Health OpCo and Defendant Brandon Facility Operations entered into an Operations Transfer Agreement (“OTA”), pursuant to which Brandon Facility Operations operated Raydiant Health Care of Brandon until Brandon Health OpCo obtained its license to operate the facility from AHCA. Moreover, Defendant LaVie Care Centers, LLC guaranteed certain obligations of Defendant Brandon Facility Operations under the OTA. The OTA is attached as Exhibit C.

37. Plaintiff Brandon Health OpCo performed all obligations due and owing to Defendants Brandon Facility Operations and LaVie Care Centers with respect to the OTA.

38. The OTA was expressly intended for Plaintiff CREA Brandon-C’s benefit by ensuring continued business operations of Raydiant Health Care of Brandon and transition of those operations from Defendant Brandon Facility Operations to Plaintiff Brandon Health OpCo.

39. Plaintiff CREA Brandon-C is an intended third-party beneficiary of the OTA entitled to enforce its provisions against Defendants Brandon Facility Operations and LaVie Care Centers.

40. Defendant Brandon Facility Operations breached the OTA in the following respects:

- a. By failing to comply in all material respects with all applicable laws in connection with performance of the OTA as required by section 2.12;
- b. By failing to promptly notify New Operator, i.e., Brandon Health OpCo, of events which could reasonably expected to have a material adverse effect as required by section 2.19;

c. Failing to comply with health care representations in section 4.7(a), (b), (c), (d), (f), and (i), by:

- i. Misrepresenting that Current Operator, i.e., Brandon Facility Operations, has not received any notice from any Governmental Entity or other applicable authority of ... any violation, non-renewal, suspension or revocation of any such licenses that has not been dismissed or cured;
- ii. Misrepresenting that Raydiant Health Care of Brandon’s license on the closing date shall be unrestricted, unconditional, in good standing and in full force and subject to no limitations;
- iii. Misrepresenting that Current Operator has operated Raydiant Health Care of Brandon in compliance with all laws necessary to operate the facility as licensed by the applicable Governmental Entity;
- iv. Misrepresenting that, except as disclosed on schedule 4.7(c), there are no outstanding inspections, surveys, or plans of correction, and no deficiencies exist in respect of any such inspections, surveys or plans of correction, nor has Current Operator been cited for substandard quality of care;
- v. Misrepresenting that there are no implemented bans, remedies, sanctions, prohibitions on payment, or limitations in effect with respect to Raydiant Health Care of Brandon, and no action has been taken or recommended, nor, to Current Operator’s knowledge, is there any basis for any action, by any Governmental Entity, either to revoke, withdraw

- or suspend its license to operate the facility or to terminate or decertify any participation of the facility in the Medicare or Medicaid programs;
- vi. Misrepresenting that Raydiant Health Care of Brandon has not been cited for any material deficiency that has not been cured that would result in a denial of payment for new admissions, civil monetary penalties, termination, final revocation or cancellation of any license, or termination or other restriction of a provider agreement within the three (3) year period immediately preceding the Effective Date;
- vii. Misrepresenting that Current Operator does not have any knowledge of any fact or circumstance that would cause any provider agreement not to remain in force or be renewed on and after closing;
- viii. Misrepresenting that there is no investigation or survey pending or, to Current Operator's knowledge, threatened, involving any of the government reimbursement programs and Current Operator has no reason to believe that any such investigations or surveys are pending, threatened, or imminent;
- ix. Misrepresenting that Current Operator has not received written notice, and Current Operator does not have any knowledge,
  - a. that any actions will or may be taken with respect to any of the foregoing representations and warranties that could result in a violation of, or action described under, any of the foregoing representations and warranties in section 4.7;
  - b. that Current Operator or Raydiant Health Care of Brandon is under investigation or review with respect to any of the subjects

- described in the foregoing representations and warranties in section 4.7; and
  - c. of the existence of any circumstances or occurrences that could be reasonably believed to lead to a violation of, or action described under, any of the foregoing representations and warranties in section 4.7; and
  - d. Failing to comply with legal representations in section 4.10 by misrepresenting that to Current Operator's knowledge, Raydiant Health Care of Brandon is being used and operated by Current Operator in compliance in all material respects with applicable and material statutes, laws, regulations, rules, licensing requirements, ordinances, orders or permits of any kind whatsoever affecting the facility or any part thereof, and any rules or regulations promulgated thereunder.
41. Defendant LaVie Care Centers guaranteed obligations of Defendant Brandon Facility Operations under OTA sections 2.5, 2.9, and 5, and is liable under the OTA for Defendant Brandon Facility Operations' breaches specified above.
42. The breaches of OTA by Defendants Brandon Facility Operations and LaVie Care Centers have injured Plaintiffs Brandon Health OpCo and CREA Brandon-C in the form of compensatory damages amounting to millions of dollars, lost revenue and lost profits, diminution of property and leasehold value, loss of professional standing and position, and damage to reputation, all of which are continuing and permanent.
43. Section 6.3 of the OTA provides, "In the event of any dispute or controversy arising out of this Agreement, including in connection with the interpretation of any term or condition of this Agreement, the prevailing party shall recover from the non-prevailing party all

reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party." Exhibit C at 30. Brandon Health OpCo and CREA Brandon-C seek their fees, costs, and expenses incurred in prosecuting this complaint under this provision.

WHEREFORE, Plaintiffs, Brandon Health OpCo, LLC and CREA Brandon-C LLC, demand judgment in their favor and against Defendants Brandon Facility Operations, LLC and LaVie Care Centers, LLC for damages in excess of \$50,000, together with prejudgment interest, costs, attorneys fees, and any other relief the Court deems just and proper.

DATED: May 17, 2023

Respectfully submitted,

**NELSON MULLINS RILEY &  
SCARBOROUGH LLP**

By: /s/Michael J. Bitman

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*Attorneys for Plaintiffs CREA Brandon-C LLC  
and Brandon Health OpCo, LLC.*

Exhibits:

- A: Lease Agreement
- B: Corporate Lease Guarantee
- C: Operations Transfer Agreement

**EXHIBIT A**

**LEASE AGREEMENT**

by and among

**CREA New Port Richey LLC**  
**CREA Bayonet LLC**  
**CREA Sarasota LLC**  
**CREA Melbourne**  
**CREA Kissimmee LLC**  
**CREA Pensacola LLC**  
**CREA Brandon-C LLC**

as LESSOR

and

**New Port Richey Facility Operations, LLC**  
**Brandon Facility Operations, LLC**  
**Melbourne Facility Operations, LLC**  
**Pensacola Facility Operations, LLC**  
**Bayonet Point Facility Operations, LLC**  
**Kissimmee Facility Operations, LLC**  
**Sarasota Facility Operations, LLC**

as LESSEE

Dated as of January 31, 2022

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## LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is made and entered into as of this 31st day of January, 2022 (the "Effective Date") by and among the entities listed on the signature page to this Lease and set forth on Exhibit A, each a Delaware limited liability company (individually and collectively, "Lessor"), and the entities listed on the signature page to this Lease and set forth on Exhibit A, each an Ohio limited liability company (individually and collectively, "Lessee").

### RECITALS:

Effective as of the date hereof Lessor is the owner of those certain tracts of land listed on Exhibit A and more particularly described in Exhibit A-1-AZ, attached hereto and made a part hereof (the "Demised Premises"), the furnishings, furniture, equipment and fixtures used in or about the Demised Premises (the "Personal Property").

Concurrently with the execution hereof, Lessor's affiliates and Lessee have entered into those certain Operations Transfer Agreements (collectively "OTA"), to be made effective as of the Commencement Date, for Lessor's affiliates to become the licensed operators of the Demised Premises, all on the terms and conditions more particularly set forth therein.

Lessor desires to lease the Demised Premises and Personal Property to Lessee and Lessee desires to lease the Demised Premises and Personal Property from Lessor.

The parties hereto have agreed to the terms and conditions of this Lease.

NOW THEREFORE, in consideration of the above Recitals which are incorporated herein by this reference and of the mutual covenants, agreements and undertakings hereinafter set forth, it is agreed that the use and occupancy of the Demised Premises, and the use of the Personal Property shall be subject to and in accordance with the terms, conditions and provisions of this Lease.

### ARTICLE I - DEMISED PREMISES AND PERSONAL PROPERTY

1.1. Lessor, for and in consideration of the rents, covenants and agreements hereinafter reserved, mentioned and contained on the part of the Lessee, its successors and assigns, to be paid, kept and performed, does hereby lease unto Lessee the Demised Premises together with the Personal Property to be used in and upon the Demised Premises for the term hereinafter specified for use and operation therein and thereon of skilled nursing facilities or similarly licensed facilities, in substantial compliance with all the rules and regulations and minimum standards applicable thereto, as prescribed by the State of Florida and such other governmental authorities having jurisdiction thereof.

1.2. The "Facilities" (each individually referred to herein as a "Facility") shall mean the skilled nursing facilities located on the Demised Premises.

### ARTICLE II - TERM OF LEASE:

Subject to requirements of Article XXXIII (Conditions Precedent and Concurrent to Lease Commencement), the term of this Lease (the "Initial Term") shall begin and be effective as 12:00 a.m. on the first calendar day following the Effective Date (the "Commencement Date") and shall automatically expire upon the earliest to occur of (i) 12:00 a.m. on the Closing Date as defined in the OTA, (ii) the date that is ninety (90) days following the Commencement Date and (iii) the earlier termination of this of this Lease pursuant to its terms. Provided that Lessor may extend the Initial Term for an additional ninety (90) days provided that written notice is sent to Lessee no later than sixty (60) days from the Commencement Date.

### ARTICLE III - RENT

3.1. Lessee shall pay to Lessor, or as Lessor shall direct, without demand, deduction or offset for any reason whatsoever except as herein specifically provided, fixed monthly base rent in the amount of Six Hundred Eighty-Five Thousand Nine Hundred Eighty-One Dollars (\$685,981) ("Base Rent") for the Demised Premises and the Personal Property over and above all other and additional payments to be made by Lessee as provided in this Lease.

a) All rental payments shall be paid in advance on the first day of each month. If the date for payment of any installment of Base Rent falls on a day other than a business day, such installment shall be due on the first business day immediately following such payment date.

b) All Rent payments shall be sent or wire transferred as directed by Lessor in writing.

3.2. This Lease is and shall be deemed and construed to be a triple net lease and the Base Rent specified herein shall be net to Lessor in each year during the Term of this Lease. The Lessee shall pay all reasonable costs, expenses and obligations of every kind and nature necessary and relating to the use, occupancy and maintenance of the Demised Premises by Lessee which may arise during the Term of this Lease (but not prior to the Commencement Date or after the termination of this Lease, unless arising from events prior to such termination) and which Lessee has agreed to pay under this Lease (the "Additional Rent" and together with Base Rent, collectively, the "Rent"), including, but not limited to, the payment of property taxes as provided in Article V of this Lease, the maintenance of insurance policies as provided in Article VII of this Lease, utility charges, maintenance and repairs to the Demised Premises and the Facilities to maintain the same in no worse condition as of the Effective Date excepting reasonable wear and tear as provided in Article X of this Lease. Lessee does hereby agree to indemnify, defend and hold harmless Lessor against any such costs, expenses and obligations.

### ARTICLE IV - LATE CHARGES

4.1. If (a) payment of any sums required to be paid or deposited by Lessee to Lessor under this Lease, or (b) payments made by Lessor under any provision hereof for which Lessor is entitled to reimbursement by Lessee, shall become overdue beyond ten (10) calendar days after the date on which they are due and payable as set forth in this Lease, a late charge equal to five percent (5%) per month shall be payable on the first day of the month next succeeding the month during which Lessor gives notice of the incurrence of a late charge to Lessee. In the event Lessor fails to notify Lessee of the incurrence of a late charge within sixty (60) days after Lessor's receipt of the overdue payment which give rise to such late charge, Lessor shall be deemed to waive payment of said late charge. Lessee agrees that any such late charges shall not be deemed to be a penalty but shall be deemed to be liquidated damages because of the impossibility of computing the actual amount of damages in advance. If nonpayment of any late charges shall occur, Lessor shall have, in addition to all other rights and remedies, all the rights and remedies provided for herein and by law in the case of nonpayment of Rent. Except as otherwise provided in this Article IV, no failure by Lessor to insist upon the strict performance by Lessee of Lessee's obligations to pay late charges shall constitute a waiver by Lessor of its rights to enforce the provisions of this Article in any instance thereafter occurring, and nothing contained herein shall be deemed to be a waiver of or limitation on the right of Lessor from declaring an Event of Default, as defined herein because of Lessee's failure to make any payment due hereunder when such payment was due.

### ARTICLE V - PAYMENT OF TAXES AND ASSESSMENTS; RESERVES

5.1. "Taxes and Assessments" means, collectively, (a) all real estate and personal property taxes, ad valorem taxes, sales and use taxes arising from the operation of a Facility, or business or occupation taxes of Lessee or a Facility; (b) assessments (including, without limitation, all assessments for public improvements or benefits, whether or not commenced or completed prior to the date hereof and whether or not to be completed within the Term); (c) ground rents, water, sewer or other rents and charges, excises, tax levies, and fees (including, without limitation, license, permit, inspection, authorization and similar fees); (d) all taxes imposed on Lessee's operations of the Demised Premises, including, without limitation, employee withholding

taxes, income taxes and intangible taxes; (c) all taxes imposed by any governmental entity in the State of Florida with respect to the conveyance of the Demised Premises by Lessor to Lessee or Lessee's designee, including, without limitation, conveyance taxes and capital gains taxes; and (f) all other governmental charges, in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen, of every character in respect of the Demised Premises or any part thereof and/or the Rent (including all interest and penalties thereon due to any failure in payment by Lessee), which at any time during the Term hereof may be assessed or imposed on or in respect of or be a lien upon (aa) Lessor or Lessor's interest in the Demised Premises or any part thereof; (bb) the Demised Premises or any part thereof or any rent therefrom or any estate, right, title or interest therein; or (cc) any occupancy, operation, use or possession of, or sales from, or activity conducted on, or in connection with the Demised Premises or the leasing or use of the Demised Premises or any part thereof.

5.2. Any Taxes and Assessments relating to a fiscal period of any authority, a part of which is included within the Term of this Lease and a part of which is included in a period of time before or after the Term of this Lease, shall be adjusted pro rata between Lessor and Lessee as of the commencement and termination of the Term and each party shall be responsible for its pro rata share of any such Taxes and Assessments.

5.3. Notwithstanding anything to the contrary contained herein, in no event shall Lessee be required to pay any tax imposed by any governmental entity on Lessor or its beneficiary, on income, or capital levy, franchise, estate, succession or inheritance taxes of Lessor or its beneficiary. Further, notwithstanding anything to the contrary set forth above, "Taxes and Assessments" shall in no event include any indebtedness or other obligation created by Lessor or any Lessor Affiliate (any person, corporation, partnership, limited liability company, trust or other legal entity that, directly or indirectly, is owned or controlled by Lessor) which is secured by a lien or other encumbrance on the Demised Premises and all interest penalties or other amount which may be owed by Lessor or a Lessor Affiliate with respect thereto.

5.4. Lessee shall pay, as Additional Rent, all Taxes and Assessments that may be levied or become a lien on the Demised Premises or any part thereof that are attributable to a period of time during the Term, before any fine, penalty, interest, or cost is incurred, provided, however, Lessee may contest any Taxes and Assessments in accordance with Section 5.6. If any Taxes and Assessments, at the option of the taxpayer, be paid in installments, Lessee may exercise such option to pay the same in installments (whether or not interest shall accrue on the unpaid balance) as the same respectively become due and before any delinquency, fine, penalty, or further interest or costs may be added thereto.

5.5. Not later than fifteen (15) business days following its receipt thereof, Lessor shall provide to Lessee copies of any bills received by it for Taxes and Assessments.

5.6. Lessee shall have the right to contest the amount or validity, in whole or in part, of any Taxes and Assessments by appropriate proceedings diligently conducted in good faith, but only after payment of such Taxes and Assessments, unless such payment would operate as a bar to such contest or interfere materially with the prosecution thereof, in which event, Lessee may postpone or defer such payment only if (a) neither the Demised Premises, the Personal Property nor any material license or certification, nor any part thereof, would by reason of such postponement or deferment be in material danger of being sold, terminated, forfeited, canceled or lost; and (b) Lessee shall have furnished such security as may be required in the proceeding, or as may be requested by Lessor, to insure the payment of any such Taxes and Assessments or other charges, together with all interest and penalties thereon, which shall not be less than the Taxes and Assessments and other charges being contested.

5.7. Upon the termination of any such proceedings, Lessee shall pay the amount of such Taxes and Assessments or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees, interest, penalties, or other liabilities in connection therewith.

5.8. Lessor shall not be required to join in any proceedings for unpaid Taxes and Assessments, unless the provisions of any law, rule or regulation at the time in effect shall require that such proceedings be brought by or in the name of Lessor, in which event Lessor shall join in such proceedings or permit the same

to be brought in its name, and Lessee shall pay for all costs in connection therewith. Lessor shall not ultimately be subjected to any liability for the payment of any costs or expenses in connection with any such proceedings, and Lessee will indemnify, defend and save harmless Lessor from any such costs and expenses, including, without limitation, reasonable attorneys' fees, as a result of such proceedings. Lessee shall be entitled to any refund of any real estate taxes and penalties or interest thereon recovered by Lessor but previously paid by Lessee.

5.9. Provided that Lessor's lender (the "Lender") requires monthly real estate tax reserves, at any time, under the terms of the documents entered into between Lessor and Lender (the "Loan Documents"), Lessee will make an initial (on the Commencement Date or such later date) and monthly real estate tax deposits with Lender, in an amount as required by Lender. Said deposits shall be due and payable on the first (1st) day of each month as Additional Rent. Such deposits as are held by Lender shall not bear interest unless interest on the deposits is paid to Lessors by Lender in which event such interest shall be for the benefit of Lessees. The deposits shall be held by Lender to pay the real estate taxes as they become due and payable. If the amount of Lessees' payments as made under this Article shall be less than the total amount due of the real estate taxes, then Lessees shall pay to Lessors the amount necessary to make up the deficiency no later than ten (10) days prior to the due date of such tax bill. Not later than five (5) days following their receipt thereof, Lessees shall provide to Lessors copies of any bills received by it for Taxes and Assessments. Within five (5) days of any direct payment by Lessees of the Taxes and Assessments, a copy of the paid tax bill shall be delivered to Lessors.

5.10. Notwithstanding anything to the contrary contained herein, if Lessor is required under the Loan Document to make, with Lender thereunder, monthly deposits for insurance premiums, then commencing May 1, 2022 Lessee will make monthly deposits for insurance premiums with Lessors, in an amount equal one twelfth (1/12th) of the insurance premiums, or such applicable amount required by a Lender. The deposits, if applicable, for insurance deposits, shall be due and payable on the first (1st) day of each month as Additional Rent. Not later than five (5) days following their receipt thereof, Lessors shall provide to Lessees copies of any insurance bills received by it, if not paid by directly by Lessees. At the request of Lessees, within five (5) days of any payment by Lessors of insurance premiums, a copy of the paid insurance bill or evidence of payment of the insurance premiums shall be delivered to Lessees.

5.11. If Lessors are required under the Loan Documents to make, with the Lender thereunder, monthly deposits for replacement reserves, then commencing May 1, 2022 Lessees will make monthly deposits for replacement reserves with Lessors, in an amount equal to the amount Lessors is required to make under the Loan Documents. The deposits, if applicable, for replacement reserves, shall be due and payable on the first (1st) day of each month as Additional Rent. Lessees shall also make any replacement reserve deposits required to be made by a Lender at the closing of its loan to Lessors.

#### ARTICLE VI - OCCUPANCY

6.1. During the Term of this Lease, the Demised Premises shall be used and occupied by Lessee for and as a skilled nursing facility and for no other purpose, except as provided herein. Subject to the terms of Article XIX hereof, Lessee shall at all times during the Term maintain in good standing and full force a probationary or non-probationary license issued by the relevant licensing agency of the State of Florida (collectively the "License"), and any other governmental agencies permitting the operation on the Demised Premises of a skilled nursing facility, except as otherwise provided herein.

6.2. Lessee will not suffer any act to be done or any condition to exist on the Demised Premises which may be dangerous or which may, in law, constitute a public or private nuisance or which may void or make voidable any insurance then in force on the Demised Premises.

6.3. Upon termination of this Lease for any reason, Lessee will return to Lessor the Demised Premises in no worse condition as existed on the Effective Date, reasonable wear and tear excepted, and licensed by the State of Florida and by any governmental agencies having jurisdiction over the Demised Premises, with an unrestricted license in full force and good standing. Lessee shall, within seven (7) days following its receipt thereof, provide Lessor with a copy of any notice from the State of Florida or any federal, state or municipal governmental agency or authority regarding any reduction in the number of licensed beds



and Lessor shall have the right to contest, at its sole expense, by appropriate legal or administrative proceedings, any such reduction.

6.4. During the Term of this Lease, Lessee shall only use the Demised Premises in accordance with Environmental Laws (as hereinafter defined) and shall not use nor permit the Demised Premises to be used for the treatment, storage or disposal of any Hazardous Substances (as hereinafter defined) nor for any purpose involving the use of Hazardous Substances; provided, however, that Lessee may use in and store at the Facilities such materials and substances as are customarily used in nursing homes but only in such quantities as are reasonably necessary for the routine business operation of the Facilities. For purposes hereto: "Hazardous Substances" shall mean any toxic or hazardous waste or pollutants, or substances, including, without limitation, asbestos, PCB's, petroleum products and by products, substances defined or listed as: "Hazardous Substances" or "toxic Substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*, "Hazardous Materials" in the Hazardous Materials Transportation Act, 49 U.S.C. § 1802, *et seq.*, "Hazardous Waste" in The Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. § 2061, *et seq.*, any "Toxic Pollutant" under the Clean Water Act, 33 U.S.C. § 1251, *et seq.*, as amended, any "Hazardous Air Pollutant" under the Clean Air Act, 42 U.S.C. § 7401, *et seq.*, and any hazardous or toxic substance or pollutant regulated under any other applicable federal, state or local Environmental Laws. "Environmental Laws" as used in this Lease means all federal, state and local environmental, health, or safety laws or regulations applicable to the Demised Premises or the Facilities, now or hereafter enacted. Lessee hereby agrees to indemnify, defend and hold Lessor harmless from and against, and shall reimburse Lessor for, any loss, claim, liability, damages, injunctive relief, injuries to persons, property or natural resources, costs, expense, action and causes of action in connection with the use, generation, treatment, storage, release or disposal of Hazardous Substances at or from the Demised Premises during the Term hereof, including, without limitation, the cost of any required or necessary repair, cleanup or decontamination and the preparation of any closure or other required work to be performed, to the full extent that such action is attributable, directly or indirectly, to the use, generation, treatment, storage, release or disposal of Hazardous Substances on the Demised Premises during the Term hereof. Lessee, its agents, and employees, will not be liable for any loss, injury, death, or damage (including consequential damages) to persons or property occasioned by any Hazardous Substances in existence on the Demised Premises on the Effective Date.

6.5. In the event the number of licensed beds permitted at any Facility increases during the Term, such additional beds shall become part of the Demised Premises and may not be subsequently removed or transferred by Lessee.

#### ARTICLE VII - INSURANCE

7.1. Lessee shall, at its sole cost and expense, as of the Effective Date or Commencement Date, as applicable, and during the Term, maintain insurance as detailed in this Article VII and in any case insurance sufficient to satisfy Lender requirements. In the event that Lender requires insurance policies at coverage levels in excess of or different from Lessee's current insurance coverage, Lessee shall obtain such additional insurance coverage at Lessor's expense.

#### 7.2. Insurance Requirements

a) Coverage. Lessee, at its sole cost, for the mutual benefit of Lessor, Lessee and to the extent applicable, Lender, shall obtain and maintain during the Term of the Lease the following policies of insurance:

i) Property insurance insuring against loss or damage customarily included under so called "all risk" or "special form" policies including fire, lightning, vandalism, and malicious mischief, boiler and machinery and, if required by Lessor, flood and/or earthquake coverage and subject to subsection (x) below, coverage for damage or destruction caused by the acts of "terrorists" (or such policies shall have no exclusion from coverage with respect thereto) and such other insurable hazards as, under good insurance practices, from time to time are insured against for other property and buildings similar to the premises in nature, use, location, height, and type of construction. Such insurance policy shall also insure for ordinance of law coverage, costs of

demolition and increased cost of construction in amounts satisfactory to Lessor. Each such insurance policy shall (a) be in an amount equal to 100% of the then replacement cost of the improvements located on the Demised Premises without deduction for physical depreciation, (b) have deductibles no greater than \$100,000 per occurrence, with exception of deductibles for flood and named storms.

ii) Flood insurance if any part of the Demised Premises is located in an area now or hereafter designated by the Federal Emergency Management Agency as a Zone "A" & "V" Special Hazard Area, or such other Special Hazard Area if Lessor so require in their sole discretion.

iii) Public liability insurance, including (a) "Commercial General Liability Insurance", (b) "Owned", "Hired" and "Non Owned Auto Liability", and (c) umbrella liability coverage for personal injury, bodily injury, death, accident and property damage, such insurance containing minimum limits per occurrence of \$1,000,000 and \$3,000,000 in the aggregate for any policy year. The policies described in this subsection shall also include coverage for elevators, escalators, independent contractors, "Contractual Liability", "Products" and "Completed Operations Liability" coverage.

iv) Professional liability insurance in such amounts covering such insurable risks as are at all times consistent with coverage amounts covering similar facilities operated by Lessee's affiliates.

v) Rental loss and/or business interruption insurance (a) with Lender being named as "Lender Loss Payee", (b) in an amount equal to one hundred percent (100%) of the projected Rent from the Demised Premises during the event that caused the loss of income; and (c) containing an extended period of indemnity endorsement which provides that after the physical loss to the Demised Premises has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of twelve (12) months from the date that the Demised Premises is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period. The amount of such insurance shall be increased from time to time during the Term of the Lease as and when the estimated or actual Rent increases.

vi) Comprehensive boiler and machinery insurance covering all mechanical and electrical equipment against physical damage, rent loss and improvements loss and covering, including, without limitation, all Lessee improvements and betterments that Lessee is required to insure pursuant to the Lease on a replacement cost basis and in an amount equal to the lesser of (a) \$2,000,000 and (b) 100% of the full replacement cost of the improvements located on the Demised Premises (without any deduction for depreciation).

vii) Worker's compensation and disability insurance with respect to any employees of Lessee, as required by applicable law.

viii) During any period of repair or restoration, builder's "all-risk" insurance on the so called completed value basis in an amount equal to not less than the full insurable value of the Demised Premises, against such risks (including fire and extended coverage and collapse of the improvements located on the Demised Premises to agreed limits) as Lessor may request, in form and substance acceptable to Lessor.

ix) Coverage to compensate for ordinance of law the cost of demolition and the increased cost of construction in an amount satisfactory to Lessor.

b) Policies. All Policies of insurance required pursuant to Section 7.2(a) shall (i) be issued by companies licensed to do business in the State of Florida, and having (A) a claims paying ability rating of B+ or better by S&P (and the equivalent by any other Rating Agency), and a rating of B+ or better in the current Best's Insurance Reports; or (B) a Financial Stability Rating of "A" by Demotech, Inc.; (ii) name Lessor and their successors and/or assigns as their interest may appear as the mortgagee/owner (in the case of property insurance), loss payee (in the case of business interruption/loss of rents coverage) and an additional insured (in the case of liability insurance); (iii) contain (in the case of property insurance) a Non-Contributory Standard Mortgage Clause and a Lender's Loss Payable Endorsement, or their equivalents, naming Lender as the person to which all payments made by such insurance company shall be paid; (iv) contain a waiver of subrogation against Lessor; (v) be assigned and the originals thereof delivered to Lender; (vi) contain provisions providing

that Lessor will receive at least thirty (30) days prior written notice of any modification, reduction cancellation of any of the Policies, (c) an agreement whereby the insurer waives any right to claim any premiums and commissions against Lessor, provided that the policy need not waive the requirement that the premium be paid in order for a claim to be paid to the insured and (d) providing that Lessor is permitted to make payments to effect the continuation of such policy upon notice of cancellation due to non-payment of premiums; (vii) in the event any insurance policy (except for general public and other liability and workers compensation insurance) shall contain breach of warranty provisions, such policy shall provide that with respect to the interest of Lessor, such insurance policy shall not be invalidated by and shall insure Lessor regardless of (A) any act, failure to act or negligence of or violation of warranties, declarations or conditions contained in such policy by any named insured, (B) the occupancy or use of the premises for purposes more hazardous than permitted by the terms thereof, or (C) any foreclosure or other action or proceeding taken by Lessor; and (viii) be satisfactory in form and substance to Lessor and approved by Lessor as to amounts, form, risk coverage, deductibles, loss payers and insureds. Lessee shall pay the Insurance Premiums for such Policies as the same become due and payable and furnish to Lessor evidence of the renewal of each of the Policies. Lessee acknowledges that Lessor shall be permitted, but not obligated, to finance any or all of the Insurance Premiums and such financing shall be considered evidence of payment. If requested, Lessee shall deliver to Lessor a certified copy of each Policy within thirty (30) days after its effective date. Within thirty (30) days after request by Lessor, Lessee shall obtain such increases in the amounts of coverage required hereunder as may be requested by Lessor, taking into consideration changes in the value of money over time, changes in liability laws, changes in prudent customs and practices, and the like.

e) Casualty.

i) Settlement of Claims. If the Demised Premises shall be destroyed, in whole or in part, or damaged by fire, flood, windstorm or other casualty covered by any of the Policies (an "Insured Casualty") and such loss does not exceed \$500,000 (a "Minor Casualty"), provided no Event of Default has occurred and is continuing, Lessor may settle and adjust any claim without the prior consent of Lessor (provided, that Lessee shall keep Lessor apprised of all developments in connection therewith); provided such adjustment is carried out in a competent and timely manner, and Lessee is hereby authorized to collect and receive the insurance proceeds (the "Proceeds") as provided below with respect to such Minor Casualty. In the event of an Insured Casualty where the loss equals or exceeds \$500,000 (a "Significant Casualty"), Lessee shall consult with Lessor and obtain Lessor's consent to settle and adjust any claim, provided that Lessor's consent shall not be unreasonably conditioned, delayed or withheld.

ii) Proceeds upon Minor Casualty. If there are any checks or payments that are Proceeds paid for a Minor Casualty that are not payable to Lessee, Lessor shall immediately endorse, and cause all such third parties to endorse, such check payable to the order of Lessee.

iii) Administration of Proceeds upon Significant Casualty. Any Proceeds received upon a Significant Casualty shall be due and payable to Lender or Lessor and held by Lender or Lessor and disbursed for the purpose of remediate the Significant Casualty for the benefit of the Demised Premises. If there are any checks or payments that are Proceeds that are not payable to Lender or Lessor, Lessee shall immediately endorse, and cause all such third parties to endorse, such check payable to the order of Lender or Lessor. Lender or Lessor shall promptly release to Lessee all Proceeds that are required by Lessee to remediate Significant Casualty in accordance with Lessee's obligations under the Lease, provided Lessee has delivered a written request for such funding together with an AIA certification of the completion of the work that is the subject of such funding request. If Proceeds are available but Lender or Lessor fail to promptly release such Proceeds to Lessee, then, in addition to all other remedies available to Lessee, (A) Lessee shall not be entitled to pre-fund any expenses of the remediation, and (B) at Lessee's election, Lessee shall be entitled to terminate the Lease with respect to the Demised Premises that sustained the Significant Casualty.

7.3. All policies of insurance shall provide, to the extent available at a commercially reasonable price:

a) They are carried in favor of Lessor, Lessee, and any mortgagee, as their respective interests may appear, and any loss shall be payable as therein provided, notwithstanding any act or negligence of Lessor or Lessee, which might otherwise result in forfeiture of insurance; and

i) Once required to be effective under the provisions of this Lease, they shall not be canceled, terminated, reduced or materially modified without at least thirty (30) days prior written notice to Lessor; and

ii) A standard mortgagee clause in favor of any mortgagee, and shall contain, if obtainable, a waiver of the insurer's right of subrogation against funds paid under the standard mortgagee endorsement which are to be used to pay the cost of any repairing, rebuilding, restoring or replacing.

7.4. Certificates of insurance policies required by this Article shall be delivered to Lessor and mortgagee prior to or on the Effective Date or Commencement Date, as applicable. Upon receipt thereof, Lessee shall deliver copies of the actual policies to Lessor, which certificates and policies shall be updated annually prior to the expiration thereof.

7.5. Lessee shall, during the Term, keep in effect business interruption insurance with loss of rents endorsement naming Lessor as an insured. All proceeds of any business interruption insurance or loss of rents coverage made available to Lessor shall be applied, first, to the payment of any Rent payments for the next succeeding twelve (12) months to the extent that such payments are due and owing under this Lease; and, thereafter, after all necessary repairing, rebuilding, restoring or replacing has been completed as required by the pertinent Articles of this Lease, any remaining balance of such proceeds shall be paid over to the Lessee.

7.6. Insurance to be maintained by Lessee pursuant to this Lease may be provided by an off-shore insurance company wholly-owned by Lessee or an Affiliate of Lessee or under self-insurance programs maintained by Lessee or an Affiliate of Lessee. Any such insurers shall maintain good standing in accordance with applicable statutory requirements and comply with statutory capital requirements.

ARTICLE VIII - DAMAGE AND DESTRUCTION

8.1. If the any of the Demised Premises shall be destroyed, in whole or in part, or damaged by fire, flood, windstorm or other casualty in excess of \$250,000.00 for any single Facility (a "Casualty"), Lessee shall give written notice thereof to Lessor within sixty (60) days after the occurrence of the Casualty (the "Casualty Notice"). Within sixty (60) days after the occurrence of the Casualty or as soon thereafter as such information is reasonably available to Lessee, Lessee shall provide the following information to Lessor: [i] the date of the Casualty; [ii] the nature of the Casualty; [iii] a description of the damage or destruction caused by the Casualty, including the type of Demised Premises damaged and the area of the Demised Premises damaged; [iv] a description of the anticipated property insurance claim, including the name of the insurer, the insurance coverage limits, the deductible amount. Within ten (10) days after request from Lessor, Lessee will provide Lessor with copies of all correspondence to the insurer and any other information reasonably requested by Lessor

8.2. If all or any portion of a Facility is Substantially Destroyed (as defined below), at its option, Lessee shall, within thirty (30) days of the Casualty, notify Lessor of its election to rebuild and restore such improvements or to terminate the Lease with respect to such Facility. The term "Substantially Destroyed" means any casualty resulting in the loss of use of fifty percent (50%) or more of the licensed beds at a Facility.

a) In the event Lessee elects to rebuild and restore such improvements ("Lessee's Substantial Destruction Election to Restore"), then Lessee shall comply with the provisions of Section 8.4 and Lessor shall promptly make or shall cause its lender to make the insurance proceeds available to Lessee for such restoration.

b) In the event Lessee elects to terminate the Lease with respect to a Substantially Destroyed Facility, this Lease shall terminate with respect to such Facility upon Lessee's delivery to Lessor of its notice



of termination. If this Lease is so terminated, Lessee shall be liable to Lessor for all Rent and all other obligations accrued through the effective date of termination and Lessor shall be entitled to any insurance proceeds paid in connection with such Casualty (including business interruption but only to the extent of Rent due through the date of termination) that are attributable to the period after such effective date of termination. Notwithstanding the foregoing, Lessor shall be entitled to any insurance proceeds that reimburse a direct cost or loss to it related to the operation of the Facility or emergency remediation efforts that benefited the property.

8.3. If any portion of a Facility is not Substantially Destroyed, then Lessee shall comply with the provisions of Section 8.4 and Lessor shall promptly make or shall cause its lender to make the insurance proceeds available to Lessee for such restoration, to the extent such proceeds have been paid to Lessor or its lender, as applicable.

8.4. In the event required under this Lease or elected by Lessee, Lessee shall promptly repair, rebuild or restore the damaged Demised Premises, at Lessee's expense, so as to make the Demised Premises at least equal in value to the Demised Premises existing immediately prior to such occurrence and as nearly similar to it in character as is practicable and reasonable (the "Pre-Casualty Condition"). Lessee will provide to Lessor copies of its repair, rebuilding or restoration plans (the "Plans") and Lessor may, at Lessor's sole cost and expense and provided the same is completed within ten (10) business days from the date of Lessor's receipt of the Plans, review or cause an independent third party consultant to review, the Plans and confirm that the Plans to restore the Demised Premises are substantially consistent with the Pre-Closing Condition. Lessee will reasonably cooperate with such review and will reasonably modify the Plans to substantially conform to the Pre-Closing Condition if such modification is found to be required (a) as a result of the independent review and (b) to restore the Demised Premises so that it is at least as valuable as the Demised Premises was immediately prior to the Casualty.

8.5. In the event required under this Lease or elected by Lessee, if the proceeds of any insurance settlement are not sufficient to pay the costs of Lessee's repair, rebuilding or restoration under Section 8.4 in full, Lessee shall nonetheless be responsible for the completion of such repair, rebuilding or restoration in accordance with the provisions of this Lease, and any plans and specifications submitted in connection herewith, free from any liens or encumbrances of any kind whatsoever.

8.6. Any insurance proceeds paid in connection with the Demised Premises shall be deemed trust funds to be held for, and promptly made available to, the Lessee, except as provided in Section 8.2(b).

8.7. During the progress of any repairs or rebuilding, Lessor, its lender, and its architects and engineers may, from time to time, upon reasonable notice to Lessee and at reasonable intervals, inspect the Demised Premises and will be furnished, if required by them, at Lessor's sole cost and expense, with copies of all plans, shop drawings, and specifications relating to such repairs or rebuilding. Lessee will keep all plans, shop drawings, and specifications at the building, and Lessor and its architects and engineers may examine them at all reasonable times.

8.8. Rent will not abate pending any repairs or rebuilding of the Demised Premises; provided, however, that Lessee shall receive a credit against the rent and other sums due hereunder in an amount equal to the proceeds of any rental value and/or business interruption insurance carried by Lessee, which are paid to Lessor or any lender to Lessor.

#### ARTICLE IX - LESSOR'S RIGHT TO PERFORM

9.1. Should Lessee fail to perform any of its covenants herein agreed to be performed, Lessor may, upon fifteen (15) days prior notice specifying the work to be done or covenants to be performed and the approximate amount to be expended, but shall not be required to, make such payment or perform such covenants, and all sums so expended by Lessor thereon shall upon notice of payment by Lessor be immediately payable by Lessee to Lessor, but in no event in excess of the maximum interest rate permitted by law from date expended until paid, and in addition, Lessee shall reimburse Lessor for Lessor's reasonable expenses in enforcing or performing such covenants, including reasonable attorneys' fees. Any

such costs or expenses incurred or payments made by Lessor shall be deemed to be Additional Rent payable by Lessee and collectible as such by Lessor.

9.2. Performance of or payment to discharge said Lessee's obligations shall be optional by Lessor and such performance and payment shall in no way constitute a waiver of, or a limitation upon, Lessor's other rights and remedies hereunder, including, without limitation, Lessor's right to declare an Event of Default for such failure.

#### ARTICLE X - REPAIRS AND MAINTENANCE

10.1. Throughout the Term of this Lease, Lessee will keep and maintain, or cause to be kept and maintained, the Demised Premises (including the grounds, sidewalks, roof, parking lots and curbs abutting the same) and the Personal Property in good order and condition without waste and in a suitable state of repair (ordinary wear and tear excepted), and will make or cause to be made, as and when the same shall become necessary, all structural and nonstructural, ordinary and extraordinary, exterior and interior, replacing, repairing and restoring necessary to that end including without limitation any repairs required by Lessor (the "Lessee's Work"). All replacing, repairing and restoring required of Lessee shall be (in the reasonable opinion of Lessor) of comparable quality equal to the original work and shall be in compliance with all standards and requirements of law, licenses and municipal ordinances necessary to operate the Demised Premises.

a) Lessee shall make Capital Expenditures (as defined herein) each Lease Year in an amount equal to or exceeding the Capital Expenditure Amount, as Lessor may verify by review of Lessee's books and records or other information available to Lessor pursuant to this Lease. The term "Capital Expenditures" shall mean, for any period, the aggregate of all expenditures made in respect of the purchase, construction, or acquisition of fixed or capital assets for the benefit of the Demised Premises, determined in accordance with generally accepted accounting principles in the United States of America ("GAAP"). The term "Capital Expenditure Amount" shall mean a sum equal to \$650,000 per licensed bed; provided that amounts escrowed pursuant to Section 5.11 hereof shall count towards the Capital Expenditure Amount.

#### 10.2. [RESERVED]

10.3. Provided that there is no uncurbed Event of Default by Lessee under this Lease, Lessee shall have the right, at any time and from time to time, to remove and dispose of any Personal Property which may have become obsolete or unfit for use, or which is no longer useful in the operation of the Demised Premises, provided Lessee promptly replaces any such Personal Property so removed or disposed of with other personal property free of any security interest, liens or encumbrances, and the replacement personal property shall be of the same character, and at least equal usefulness and quality to any such Personal Property so removed or disposed of and such replacement property shall automatically become the property of and shall belong to Lessor at the end of the Term and at such time Lessee shall execute and deliver such bills of sale or other documents reasonably requested by Lessor to vest ownership of such replacement personal property in Lessor. Notwithstanding anything to the contrary herein, in no event shall any of the following be deemed to be, or become, property of the Lessor: (a) any IT infrastructure assets used at or in connection with the operations of the Facilities including without limitation any owned or leased computers or software or similar assets; (b) proprietary operational documentation used at or in connection with the operations of the Facilities, including without limitation any compliance plans, policy manuals, employee handbooks or similar documentation; or (c) any property owned or leased by any third party manager of the Facilities.

#### ARTICLE XI - ALTERATIONS AND DEMOLITION

11.1. Lessee will not remove or demolish the Demised Premises or any portion thereof or allow it to be removed or demolished, without the prior written consent of Lessor. Lessee further agrees that it will not make, authorize or permit to be made any changes or alterations in or to the Demised Premises, the cost of which in any twelve (12) month period exceeds \$350,000.00 per Facility, without first obtaining Lessor's written consent thereto. At the request of Lessor, prior to the commencement of any such changes or alterations which cost in excess of \$350,000.00 per Facility, Lessee shall do the following or provide to Lessor the following documentation:

(a) submit complete plans and specifications for such repairs prepared by an architect or general contractor whose qualifications shall be reasonably satisfactory to Lessor; (b) submit a stipulated sum construction contract made with a reputable and responsible builder or contractor, providing for the completion and payment for all work, labor and materials necessary to complete such repairs; (c) establish, at Lessee's sole cost and expense, the disbursement of such funds as may be required to complete said repairs by a national title insurance company or other responsible escrow to the contractor or contractors making such repairs in installments as such work progresses and upon presentation of such certificates, waivers of lien, sworn statements and other documents as may be required by such escrow; and (d) take such other actions or provide such other documentation to Lessor as Lessor may reasonably require to protect its interest in the Demised Premises and Personal Property. All alterations, improvements and additions to the Demised Premises shall be in quality and class at least equal to the that which existed as of the Effective Date and shall become the property of Lessor and shall comply with all building and fire codes, and all other applicable codes, rules, regulations, laws and ordinances. Any plans and specifications required pursuant to clause (d) of this Section shall include detailed architectural, mechanical, electrical and plumbing working drawings. The plans and drawings will be subject to Lessor's approval with respect to design, aesthetics, building code compliance and such other matters as Lessor deems relevant. Notwithstanding the provisions of the preceding sentence to the contrary, the review and approval by Lessor shall not be relied upon by Lessee that any such plans or drawings are in compliance with applicable laws or represent a sound design.

#### ARTICLE XII - COMPLIANCE WITH LAWS AND ORDINANCES

12.1. Throughout the Term of this Lease, Lessee, at its sole cost and expense, will obey, observe and promptly comply with all present and future laws, ordinances, orders, rules, regulations and requirements of any federal, state and municipal governmental agency or authority having jurisdiction over the Demised Premises and the operation thereof as skilled nursing facilities, which may be applicable to the Demised Premises, the Personal Property and the nursing homes located therein and including, but not limited to, the sidewalks, alleyways, passageways, vacant land, parking spaces, curb cuts, curbs adjoining the Demised Premises, whether or not such law, ordinance, order, rules, regulation or requirement shall necessitate structural changes or improvements.

12.2. Lessee shall likewise observe and comply with the requirements of all of Lessee's policies of public liability and fire insurance and all other policies of insurance at any time in force with respect to the Demised Premises, including any recommendations made by any of Lessee's insurers.

12.3. Prior to the Commencement Date, Lessee shall obtain, at its sole cost and expense, all necessary approvals, certifications and licenses from all appropriate governmental agencies necessary to permit Lessee to operate the Facilities as skilled nursing facilities, including, without limitation, the receipt of the Licenses permitting Lessee to operate the Facilities as skilled nursing facilities. Lessee shall, subject to the terms of Article XIX hereof, keep in good standing and in full force and effect all necessary licenses, permits and certifications required by any governmental authority for the purpose of maintaining and operating on the Demised Premises skilled nursing facilities and the Facilities shall at all times, subject to the terms of Article XIX hereof, continue to be qualified to and shall participate in the Medicare and Medicaid reimbursement programs.

12.4. Lessee will deliver or mail and send by email to Lessor within seven (7) days following receipt thereof, copies of any notices from HHS, CMS or any governmental, quasi-governmental or other agency terminating, disqualifying or suspending, or reasonably likely to result in the termination, disqualification or suspension, of the Medicaid or Medicare provider agreements (the "Provider Agreements"), the license or any other license or certification relating to the operations of the Facilities or participation in any governmental or non-governmental reimbursement or third party payor program, including the Medicare or Medicaid reimbursement program, or otherwise related to the Demised Premises.

#### ARTICLE XIII - DISCHARGE OF LIENS

13.1. Subject to the right to contest provided herein, Lessee will not create or permit to be created or to remain, and Lessee will discharge, any lien, encumbrance or charge levied on account of any mechanic's, laborer's or materialman's lien or any conditional sale, security agreement or chattel mortgage, or otherwise, which might be or become a lien, encumbrance or charge upon the Demised Premises or any part thereof or the Personal Property, for work or materials or personal property furnished or supplied to Lessee. Notwithstanding the foregoing, Lessee shall have the right to purchase equipment, furniture, or furnishings (other than as a replacement for any personal property owned by Lessor and leased to Lessee hereunder) which may be subject to a security agreement or chattel mortgage provided that all payments for any such equipment, furniture or furnishings shall be paid on or prior to the due dates thereof and Lessee shall indemnify Lessor against all charges, costs and expenses that may be incurred by Lessor with respect to such security agreement or chattel mortgage.

13.2. If any mechanic's, laborer's or materialman's lien caused or charged to Lessee shall at any time be filed against any portion of the Demised Premises or Personal Property, Lessee shall have the right to contest such lien or charge provided that such lien is discharged or bonded over in a commercially reasonable manner within sixty (60) days of the filing of the lien. If Lessee shall fail to cause such lien to be discharged within the period aforesaid, then in addition to any other right or remedy, Lessor may, upon twenty (20) days prior notice, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by processing the discharge of such lien by deposit, title endorsement or by bonding proceedings. Any amount so paid by Lessor and all costs and expenses incurred by Lessor in connection therewith.

13.3. Notwithstanding anything to the contrary herein, Lessee shall have the right to create, incur or permit to exist any of the following (a) liens granted to Lessor or any Affiliate of Lessor; (b) liens customarily incurred by Lessee in the ordinary course of business for items not delinquent, including mechanic's liens and deposits and charges under workers' compensation laws; (c) liens for taxes and assessments not yet due and payable; (d) any lien, charge, or encumbrance which is being contested in good faith pursuant to this Lease; (e) all easements, liens, encumbrances, restrictions, agreements and other title matters existing as of the Commencement Date, and any sublease of any portion of the Demised Premises made in accordance with this Lease; (f) purchase money financing and capitalized equipment leases for the acquisition of personal property; (g) with Lessor's consent, which consent shall not be unreasonably conditioned, delayed or denied, any easement which is necessary to (i) obtain utilities or other services for the Demised Premises in the ordinary course of Lessee's business or (ii) satisfy requests from local authorities in respect of, without limitation, township projects; (h) liens granted on property in respect of any working capital facilities of Lessee, including, without limitation, liens on Lessee's accounts receivable; and (i) pledges of equity interests in Lessee to institutional lenders provided that the terms of which provide that any change of control resulting from a foreclosure on any such pledges, shall be subject to the terms of any loan agreement entered into by Lessor.

#### ARTICLE XIV - INSPECTION OF PREMISES AND RECORDS BY LESSOR

14.1. At any time, during reasonable business hours and upon reasonable prior notice to Lessee, Lessor and Lender or their respective authorized representatives shall have the right to enter and inspect the Demised Premises and Personal Property provided Lessor shall not disturb the operation of the Demised Premises by Lessee.

14.2. If an Event of Default shall have occurred and for such period until the same shall have been cured, at any time, during reasonable business hours and upon reasonable prior notice to Lessee, Lessor and Lender or their respective authorized representatives shall have the right to inspect, and, at Lessee's expense, make copies of, the books and records relating to the Demised Premises and the applicable Facilities, including, without limitation, to the extent permitted by applicable law all patient records, employment records, surveys and inspections reasonably required by Lessor.

14.3. Lessor agrees that upon entering and inspecting the Demised Premises, Personal Property and books and records Lessor shall take all reasonable measures to avoid disruption to Lessee's routine business operation during any such entries and the person or persons will cause as little inconvenience to the Lessee, its employees and residents of the Facilities as may reasonably be possible under the circumstances.



#### ARTICLE XV - CONDEMNATION

15.1. If all of the Demised Premises are taken by the exercise of the power of eminent domain, or sold under eminent domain proceedings, this Lease shall terminate as of the date possession is taken by the condemnor.

15.2. If less than all of the Demised Premises are taken by the exercise of the power of eminent domain or sold under eminent domain proceedings and in light of such exercise of eminent domain or sale pursuant to eminent domain proceedings, Lessee can no longer operate one or more Facilities in materially the same manner as prior to the exercise of eminent domain, then Lessee may either (a) terminate this Lease with respect to such Facilities or (b) subject to the consent and approval of Lessor, with reasonable diligence, restore or rebuild to the extent reasonably practicable any improvements upon the Demised Premises affected by the taking with the proceeds from the condemnation award. In the event the amount awarded shall be insufficient to repair and restore the Demised Premises, Lessee shall contribute the amount of any such deficiency.

15.3. In the event that all or less than all of the Demised Premises are taken or so sold, and this Lease shall terminate as provided herein, then Lessor shall be entitled to the entire award for the real estate and improvements. Lessee shall be entitled to any award that it can prove for damage to its leasehold interest, provided that such award is separately allocated to Lessee by the condemning authorities and does not diminish or reduce the award to be paid to Lessor. Notwithstanding anything to the contrary herein, if less than all of the Demised Premises are taken by the exercise of the power of eminent domain or sold under eminent domain proceedings and this Lease is not terminated, the Base Rent shall be equitably reduced based on the number of beds no longer in service as a result of such condemnation or eminent domain.

#### ARTICLE XVI - RENT ABSOLUTE

16.1. Except as herein provided, damage to or destruction of any portion of the buildings, structures and fixtures upon the Demised Premises, by fire, the elements or any other cause whatsoever, whether with or without fault on the part of Lessee, shall not terminate this Lease or entitle Lessee to surrender the Demised Premises or entitle Lessee to any abatement of or reduction in the Rent payable, or otherwise affect the respective obligations of the parties hereto, any present or future law to the contrary notwithstanding.

#### ARTICLE XVII - ASSIGNMENT AND SUBLETTING

17.1. During the Term of this Lease, Lessee shall not assign this or in any manner whatsoever subject, assign, encumber or transfer all or any part of the Demised Premises or in any manner whatsoever assign or encumber any interest in the Demised Premises or any interest in this Lease to any Person (an "Assignment") without the prior written consent of Lessor, which consent shall be in Lessor's sole discretion. As a condition of granting its consent, Lessor may request, and Lessee shall provide to Lessor, resumes and financial statements for any proposed transferee. Lessee acknowledges and agrees that Lessor has specifically chosen Lessee to operate the Facilities based upon the skill and expertise of Lessee and its principals in operating nursing homes in the State of Florida and upon the character and reputation of such principals. Prior to any transfer of possession of the Demised Premises to such transferee, any proposed transferee shall assume all the obligations of Lessee transferred hereunder. In the event any transferee commits an Event of Default, such act or omission shall be deemed an Event of Default hereunder on behalf of the Lessee. Any violation or breach or attempted violation or breach of the provisions of this Article by Lessee, or any acts inconsistent herewith shall vest no right, title or interest herein or hereunder or in the Demised Premises in any such transferee or assignee, and Lessor may, at its exclusive option, invoke the provisions of this Lease relating to default. As a condition of granting its consent to any sublease or assignment which requires Lessor's consent, Lessee shall pay, and Lessee hereby agrees to pay, any reasonable out of pocket third party costs and expenses of Lessor incurred in connection with such sublease or assignment, including without limitation, all due diligence costs and reasonable attorneys' fees. "Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, trustee, estate, limited liability company, unincorporated organization, real estate investment trust or other legal entity.

17.2. For purposes of this Article and Article XVIII:

a) Any transfer or transfers of the membership interests in Lessee (or stock in a corporate lessee, partnership interests in a partnership lessee or stock in a corporate general partner of a partnership lessee, as the case may be) however accomplished, which result in a change in ownership of such membership interests in Lessee (or stock in a corporate lessee, partnership interests in a partnership lessee or stock in a corporate general partner of a partnership lessee, as the case may be) shall be deemed an assignment of this Lease. Additionally, the sale of the interest of Lessee in the Demised Premises under execution or other legal process shall also be deemed an assignment of this Lease.

b) Any person, corporation, limited liability company or other entity to whom Lessee's interest under this Lease passes by operation of law, or otherwise, shall be bound by the provisions of this entire Lease and this Article, and except for subsequent subleases, assignments or transfers permitted by this Article, shall obtain the consent of Lessor to any subsequent sublease, assignment, encumbrance or transfer or such event shall be deemed an Event of Default hereunder.

c) An agreement made directly or indirectly, to assume Lessee's obligations under this Lease shall be an assignment.

#### ARTICLE XVIII - EVENTS OF DEFAULT

18.1. The occurrence of any of the following acts or events shall be deemed to be a default ("Event of Default") on the part of the Lessee:

a) The failure of Lessee to pay when due any Rent payment, or any part thereof, or any other sum or sums of money due or payable to Lessor under the provisions of this Lease when such failure shall continue for a period of five (5) calendar days after the date Rent is due, or with respect to other payments, five (5) calendar days after the date of notice of such failure has been delivered by Lessor to Lessee;

b) The failure of Lessee to perform, or the violation by Lessee of, any of the covenants, terms, conditions or provisions of this Lease, if such failure or violation shall not be cured within thirty (30) days after notice of such failure has been delivered by Lessor to Lessee unless such failure or violation cannot with due diligence be cured within a period of thirty (30) days because of the nature of the default or delays beyond the control of Lessee, and cure after such thirty (30) day period will not have a material and adverse effect upon the Demised Premises, in which case such failure or violation shall not constitute an Event of Default if Lessee diligently and continuously pursues cure of the same; provided, however, no cure period for such default shall continue for more than sixty (60) days from Lessee's receipt of a written notice of Lessee's failure or violation from Lessor.

c) The voluntary making by Lessee of an assignment for the benefit of creditors or any unauthorized assignment, or the appointment for Lessee of any receiver, liquidator or trustee; or the adjudication of Lessee as bankrupt or insolvent; or the filing by or against, the consent to, or the acquiescence in by Lessee of any insolvency proceeding, provided, however, if such appointment, adjudication, or Insolvency Proceeding was involuntary and not consented to by Lessee, only upon the same not being discharged, stayed or dismissed within ninety (90) days;

d) If proceedings are instituted in a court of competent jurisdiction for the reorganization, liquidation or involuntary dissolution of the Lessee for its adjudication as a bankrupt or insolvent, or for the appointment of a receiver of the property of Lessee, and said proceedings are not dismissed and any receiver, trustee or liquidator appointed therein discharged within ninety (90) days after the institution of said proceedings;

e) Any assignment in violation of Article XVII hereof;

f) An "Event of Default" under the Guaranty as defined therein;

g) INTENTIONALLY OMITTED

b) Any material suspension, termination or restriction placed upon Lessee, or the Facilities, or the ability to admit residents or patients (e.g., an admissions ban or non-payment for new admissions by Medicare or Medicaid), and such suspension, termination or restriction continues for more than thirty (30) calendar days after imposition thereof.

j) A Facility shall have been placed on the CMS Special Focus Facility list.

j) The License or any material provider agreement for a Facility has been terminated or revoked.

k) a Facility has ceased operations and the patients have been relocated.

#### ARTICLE XIX - RIGHT TO CONTEST/CURE

19.1. Anything to the contrary stated herein notwithstanding, Lessee shall have the right to contest by appropriate administrative or legal proceedings, diligently conducted in good faith, the validity or application of any law, ordinance, regulation or rule mentioned herein, and to delay compliance therewith pending the prosecution of such proceedings, including without limitation any proceeding for any matter that would otherwise give rise to an Event of Default pursuant to Article XVIII, provided that Lessee shall obtain Lessor's prior consent, not to be unreasonably withheld, conditioned or delayed, if such contest could be reasonably expected to result in the termination of the License. Notwithstanding anything to the contrary contained herein, despite the existence and continuance of an Event of Default hereunder, Lessor shall not pursue and shall not be entitled to pursue any remedies arising solely from the occurrence of such Event of Default hereunder relating to the subject matter of Lessee's contest, including without limitation the termination of this Lease; provided, that during said contest: (a) no civil or criminal liability would thereby be incurred by Lessor and no lien or charge would thereby be imposed upon or satisfied out of the Demised Premises; (b) there continues during the course of such contest authority to continue operations of the Demised Premises as a nursing home (which may be temporary or provisional); (c) such situation does not cause Lessor to be in default pursuant to the terms of any mortgage encumbering the Demised Premises and (d) such Event of Default does not jeopardize the License or the Provider Agreements, or the operations, certifications or value of the Demised Premises and the Personal Property.

19.2. Except for an Event of Default of Lessee in the payment of Rent or any additional payment required hereunder, in any case where Lessor shall have given to Lessee a written notice specifying a situation which, as hereinafter provided, must be remedied by Lessee within a certain time period, and, if for causes beyond Lessee's control, it would not reasonably be possible for Lessee to remedy such situation within such period, then, provided Lessee, immediately upon receipt of such notice, shall advise Lessor in writing of Lessee's intention to institute and Lessor's written consent thereto, as determined in its sole discretion, and shall, as soon as reasonably possible thereafter, duly institute, and thereafter diligently prosecute to completion, all steps necessary to remedy such situation and shall remedy the same, during the period necessary to remedy such situation, (but not exceeding a total of ninety (90) days following the initial delivery by Lessor to Lessee of the written notice of default), notwithstanding anything to the contrary contained herein, although such situation shall be deemed an Event of Default hereunder, Lessor shall not pursue and shall not be entitled to pursue any remedies arising solely from the occurrence of such Event of Default hereunder; provided, however, that: (a) no civil or criminal liability would thereby be incurred by Lessor and no lien or charge would thereby be imposed upon or satisfied out of all or any part of the Demised Premises; and (b) there continues during such remedy authority to continue to operate the Facilities as nursing homes (which may be temporary or provisional); (c) such situation does not cause Lessor to be in default pursuant to the terms of any mortgage; and (d) such Event of Default does not jeopardize the License or the Provider Agreements, or the operations, certifications or value of the Demised Premises and the Personal Property.

19.3. Lessee shall promptly provide Lessor with a copy of any notice from any governmental authority or agency threatening or requesting a reduction in the number of licensed beds at the Facilities. Lessee shall have the right to contest any such reduction and shall notify Lessor within fifteen (15) days following the date of such notice (or such shorter period as required to provide notice to Lessor not later than ten (10) days prior to the cutoff date for any such contest) whether or not Lessee shall undertake such

contest. If Lessee fails to contest any such reduction, Lessor may, following written notice to Lessee of its intent to do so, contest any such reduction. Lessor shall additionally have the right to intervene in any such contest dealing with a reduction in the number of beds at the Facilities.

19.4. The cost for any contest permitted under this Article XIX shall be borne by the Lessee. At Lessor's reasonable request, Lessee shall consult with Lessor regarding the pursuit of any contest.

#### ARTICLE XX - LESSOR'S REMEDIES UPON DEFAULT

20.1. Subject to the limitations on Lessor's right to terminate this Lease pursuant to Section 19.1, in the event of any Event of Default by Lessee, Lessor may, if it so elects, and with notice of such election to Lessee, and upon demand upon Lessee, forthwith terminate this Lease and Lessee's right to possession of the Demised Premises. Upon any such termination of this Lease, Lessee shall vacate the Demised Premises as promptly as is reasonably practicable taking into account legal and regulatory requirements and shall quietly and peaceably deliver possession thereof to Lessor, and Lessee hereby grants to Lessor full and free license to enter into and upon the Demised Premises in such event with process of law and to repossess the Demised Premises and Personal Property as Lessor's former estate. In the event of any such termination of this Lease, Lessor shall again have possession and enjoyment of the Demised Premises and Personal Property to the extent as if this Lease had not been made, and thereupon this Lease and everything herein contained on the part of Lessee to be done and performed shall cease and terminate, all, however, without prejudice to and without relinquishing the rights of Lessor to Rent (which, upon such termination of this Lease and entry of Lessor upon the Demised Premises, shall, in any event, be the right to receive Rent due up to the time of such entry) or any other right given to Lessor hereunder or by operation of law.

20.2. In the event of an Event of Default and Lessor elects to terminate this Lease, then all licenses, certifications, permits, authorizations and provider agreements issued by any governmental agency, body or authority in connection with or relating to the Demised Premises and the Facilities thereon shall be deemed as being assigned to Lessor to the extent the same are legally assignable. Lessor shall also have the right to continue to utilize the telephone numbers used by Lessee in connection with the operation of the Facilities. In connection with the foregoing clauses of this Section 20.2, this Lease shall be deemed and construed as an assignment for purposes of vesting in Lessor all right, title and interest in and to (a) all licenses, certifications, permits, authorizations and provider agreements obtained in connection with the operation of the Facilities and (b) the telephone numbers used in connection with the operation of the Facilities. Lessee hereby agrees to take such other action and execute such other documents as may be reasonably necessary in order to vest in Lessor all right, title and interest to the items specified herein.

#### 20.3. [RESERVED]

20.4. Lessee's liability to Lessor for damages upon the occurrence of an Event of Default shall in all events survive the termination by Lessor of this Lease.

20.5. No receipt of funds by Lessor from Lessee after service of any notice of an Event of Default, termination of this Lease or after commencement of any suit or proceeding of Lessee shall in any way terminate, continue or extend this Lease or in any way affect the notice of the Event of Default or demand or in any way be deemed a waiver by Lessor of any of its rights unless consented to in writing by Lessor.

#### ARTICLE XXI - LIABILITY OF LESSOR

Lessor, its agents, and employees, will not be liable for any loss, injury, death, or damage (including consequential damages) to persons, property, or Lessee's business occasioned by theft, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, order of governmental body or authority, fire, explosion, falling objects, steam, water, rain or snow, leak or flow of water, rain or snow from the Demised Premises or into the Demised Premises or from the roof, street, subsurface or from any other place, or by



damages or from the breakage, leakage, obstruction, or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures of the Demised Premises, or from construction, repair, or alteration of the Demised Premises or from any acts or omissions of any other occupant or visitor of the Demised Premises, or from any other cause beyond Lessor's control, except as caused by (a) the fraud, negligence or misconduct of Lessor or its agents or employees, or (b) Lessor's breach of its obligations under this Lease.

#### ARTICLE XXII - CUMULATIVE REMEDIES OF LESSOR

The specific remedies to which Lessor may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Lessor may be lawfully entitled in case of any breach or threatened breach by Lessee of any provision or provisions of this Lease. The failure of Lessor to insist, in any one or more cases, upon the strict performance of any of the terms, covenants, conditions, provisions or agreements of this Lease, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment for the future of any such term, covenant, condition, provisions, agreement or option.

#### ARTICLE XXIII - SECURITY FOR RENT; LESSEE'S WORKING CAPITAL FINANCING

23.1. Lessor shall have a lien on every right and interest of Lessee in and to this Lease, and on any of Lessee's accounts receivable, furnishings, equipment, or fixtures or property of any kind belonging to Lessee and located at or used in connection with the Facilities ("Lessor's Lien"). Notwithstanding the foregoing, during any period in which Lessor's Lien shall be subject and subordinate to any lien thereon granted by Lessee from time to time to any institutional lender or lenders providing working capital to Lessee or to Lessee's affiliates in connection with any enterprise financing secured in part by the Facilities or Lessee's assets (any of the foregoing is "Working Capital Financing"), and to all renewals, modifications, extensions and replacements thereof, if the Working Capital Financing lenders consent to such subordinate lien, Lessor agrees to prepare and file, or consent to the filing of, within five (5) days following Lessee's request therefor, such financing statements or other instruments as may be reasonably requested by Lessee to evidence or effect subordination of Lessor's Lien to the lien of the institutional lenders described above. Any financing statement evidencing or perfecting Lessor's Lien shall expressly provide for such subordination with respect to Lessee's accounts receivable, furnishings, equipment, fixtures or property of any kind. The subordination to Lessee's institutional lender shall be on such lender's form of subordination agreement, which shall be reasonably agreed by Lessor. Such lien is granted for the purpose of securing the payments of Rent, charges, penalties, and damages herein covenanted to be paid by Lessee, and for the purpose of securing the performance of all of Lessee's obligations under this Lease. Such lien shall be in addition to all rights to Lessor given and provided by law. This Lease shall constitute a security agreement under the Uniform Commercial Code granting Lessor a security interest in such furnishings, equipment, fixtures or property of any kind and accounts receivable, and upon the request by Lessor, Lessee shall prepare and file, or consent to the filing of, such financing statements and other documents reasonably required to perfect such security interest, which documents shall be filed or recorded at the expense of Lessee. Notwithstanding the foregoing, Lessor's Lien shall be suspended and waived during any period in which MidCap Funding IV Trust is providing Working Capital Financing to Lessee with respect to the Facilities.

#### 23.2. INTENTIONALLY OMITTED

#### 23.3. INTENTIONALLY OMITTED

#### ARTICLE XXIV - INDEMNIFICATION

24.1. Lessee agrees to protect, indemnify and save harmless Lessor with respect to the Demised Premises from and against any claims, demands, losses, and causes of action of any nature whatsoever asserted against or incurred by Lessor on account of: (a) any failure on the part of Lessee during the Term of this Lease to perform or comply with any of the terms of this Lease; or (b) injury to or death of persons or loss of or damage to property, occurring on the Demised Premises or any adjoining sidewalks, streets or ways or in any manner growing out of or connected with the use or occupation of the Demised Premises or the condition

thereof, or the use of any existing or future sewer system, or the use of any adjoining sidewalks, streets or ways occurring after the Effective Date; or (c) any claims, penalties, recoveries, interest, monetary sanctions, fees, or other liabilities imposed by a governmental agency or by a third party insurance company related to the operations of and payments made to the Facilities while Lessee was providing skilled nursing services. Lessee further agrees to pay any reasonable attorneys' fees and expenses incident to the defense by Lessor of any such claims, demands or causes of action. Notwithstanding anything in this Lease to the contrary, in no event shall Lessee have any indemnification obligations to Lessor for any claims, demands, losses, and causes of action arising out of the fraud, gross negligence or willful misconduct of Lessor or any of its officers, directors, shareholders, managers, principals, employees or affiliates.

24.2. Lessor agrees to indemnify, defend and save harmless Lessee from and against any liabilities, losses, claims, demands and causes of action whatsoever asserted against or incurred by Lessee on account of: (a) any failure on the part of Lessor during the Term of this Lease to perform or comply with any of the terms of this Lease; and (b) any failure on the part of Lessor to perform or comply with the terms of any mortgage (except to the extent that such failure is caused in whole or in part by acts or omissions of Lessee). Lessor further agrees to pay any reasonable attorneys' fees and expenses incident to the defense by Lessee of any such claims, demands or causes of action. There is expressly excluded from Lessor's indemnity hereunder any claim or proceeding by Lessee (i) which is based upon the physical condition of the Demised Premises or Personal Property prior to the Effective Date, or (ii) any form of relief not satisfied by the payment of money. Furthermore, and notwithstanding anything in this Lease to the contrary, in no event shall Lessor have any indemnification obligations to Lessee for any claims, demands, losses, and causes of action arising out of the fraud, gross negligence or willful misconduct of Lessee or any of its officers, directors, shareholders, managers, principals, employees or affiliates.

24.3. In the event that any liability, claim, demand or cause of action which is indemnified against by or under any term, provision, section or paragraph of this Lease ("Indemnitee's Claim") is made against or received by any indemnified party (hereinafter "Indemnitee") hereunder, said Indemnitee shall notify the indemnifying party (hereinafter "Indemnitor") in writing within fifteen (15) calendar days of Indemnitee's receipt of written notice of said Indemnitee's Claim, provided, however, that Indemnitee's failure to timely notify Indemnitor of Indemnitee's receipt of an Indemnitee's Claim shall not impair, void, vitiate or invalidate Indemnitor's indemnity hereunder nor release Indemnitor from the same, which duty, obligation and indemnity shall remain valid, binding, enforceable and in full force and effect so long as Indemnitee's delay in notifying Indemnitor does not, solely by itself, directly and materially prejudice Indemnitor's right or ability to defend the Indemnified Claim. Upon its receipt of any or all Indemnitee's Claim(s), Indemnitor shall, in its sole, absolute and unreviewable discretion, diligently and vigorously defend, compromise or settle said Indemnitee's Claim at Indemnitor's sole and exclusive cost and expense to the extent funds are available ("Available Funds") to fully indemnify such claims. Upon the receipt of the written request of Indemnitee, Indemnitor shall within ten (10) business days provide Indemnitee a true, correct, accurate and complete written status report regarding the then current status of said Indemnitee's Claim. Prior to an Indemnification Default (as defined herein), Indemnitee may not settle or compromise an Indemnitee's Claim without Indemnitor's prior written consent. Failure to obtain such consent shall be deemed a forfeiture by Indemnitee of its indemnification rights hereunder. In the event that Indemnitor fails or refuses to indemnify, save, defend, protect or hold Indemnitee harmless from and against an Indemnitee's Claim and/or to diligently pursue the same to its conclusion, or in the event that Indemnitor fails to timely report to Indemnitee the status of its efforts to reach a final resolution of an Indemnitee's Claim, which failure to report causes Indemnitee material harm, or in the event that Indemnitor does not have the Available Funds, on thirty (30) calendar days prior written notice to Indemnitor during which time Indemnitor may cure any alleged default hereunder, the foregoing shall immediately, automatically and without further notice be an event of default hereunder (an "Indemnification Default") and thereafter Indemnitee may, but shall not be obligated to, immediately and without notice to Indemnitor, except such notice as may be required by law and/or rule of Court, intervene in and defend, settle and/or compromise said Indemnitee's Claim at Indemnitor's sole and exclusive cost and expense, including but not limited to attorneys' fees, and, thereafter, within thirty (30) calendar days of written demand for the same Indemnitor shall promptly reimburse Indemnitee all said Indemnitee's Claims and the reasonable costs, expenses and attorneys' fees incurred by Indemnitee to defend, settle or compromise said Indemnitee's Claims.

ARTICLE XXV - SUBORDINATION PROVISIONS

25.1. Subject to the provisions of this Section, this Lease (and Lessee's interest in the Demised Premises and Personal Property) shall be subordinate to any existing mortgage and to any mortgage given by Lessor to any lender which may affect the Demised Premises or Personal Property, and to all renewals, modifications, consolidations, replacements refinancings and extensions thereof, in each case subject to Section 26.2. However, if requested by Lessor or its mortgagee, or if requested by Lessee, then Lessee, Lessor and such Lessor's mortgagee shall execute and deliver such documents as may be required in order to evidence such subordination, provided that such documents shall not affect any of the provisions of this Lease relating to the amount of Rent, the purposes for which the Demised Premises may be used, the size or location of the Demised Premises, or the duration or Commencement Date of the Term, and shall include a non-disturbance provision as set forth in this Section reasonably satisfactory to Lessee.

25.2. It is understood, agreed and acknowledged that Lessor shall have the right, subject to Section 26.2, to finance, refinance and guaranty such financing or refinancing, from time to time, the Demised Premises and Personal Property, and grant a mortgage, deed of trust or security interest thereon, to assign or pledge any or all of its interest in this Lease and to assign or pledge the revenues and receipts to be received by Lessor hereunder to a third party.

ARTICLE XXVI - LESSOR'S LOAN DOCUMENT REQUIREMENTS

26.1. Anything in this Lease contained to the contrary notwithstanding, Lessee shall at all times and in all respects fully, timely and faithfully comply with and observe each and all of the conditions, covenants, and provisions required on the part of Lessor under the Loan Documents, including, without limitation, any Lender notice requirements under the Loan Documents, such conditions, covenants and provisions thereof as related to the financial covenants and financial reporting, related to operations, related to the care, maintenance, repair, insurance, restoration, preservation and condemnation of the Demised Premises, notwithstanding that such conditions, covenants and provisions may require compliance and observance to a standard or degree in excess of that required by the provisions of this Lease, or may require performance not required by the provisions of this Lease; provided, however, Lessor shall provide Lessee notice of any such failure to comply with or observe the terms of the Loan Documents and Lessee shall have five (5) days following receipt of such notice to cure such failure. If any Loan Document entered into following the Commencement Date requires compliance, observance or performance to a standard or degree in excess of that required by the terms of any existing Loan Document and this Lease, Lessee shall comply with such standard, degree or additional performance. Lessee further agrees that it shall not do or permit to be done anything which would constitute a breach of or default under any obligation of Lessor under the Loan Documents, it being the intention hereof that Lessee shall so comply with and observe each and all of such covenants, conditions and provisions of any Loan Document affecting the Demised Premises so that they will at all times be in good standing and there will not be any default on the part of Lessor thereunder; provided, however, Lessor shall provide Lessee notice of any such breach or default and Lessee shall have five (5) days following receipt of such notice to cure such breach or default. Notwithstanding anything in this Lease to the contrary, in the event that Lessee is required to take any action pursuant to this Section 26.1 to comply with the Loan Documents, provided that the underlying event to be remedied did not also constitute a breach of Lessee's obligations under this Lease, the cost of any such remedial action by Lessee shall be paid by Lessor. Other than as specifically provided herein, Lessee specifically acknowledges and agrees that they may not sublet or assign all or any portion of the Demised Premises or their interests under this Lease without Lessor first obtaining the written consent of Lessor.

26.2. Lessee agrees to reasonably cooperate with Lessor (a) to allow the granting to an FHA mortgagee of a subordinate security interest in Lessee's accounts and other assets, and to execute HUD loan and bank documents in form and substance acceptable to Lessee and (b) in connection with any amendment or modification of this Lease requested in connection with the amendment, modification or replacement of Lessor's financing terms, including by amending this Lease, entering into an intercreditor agreement in a form that is customary and reasonably acceptable to the applicable parties, and setting up and maintaining lockboxes to effectuate the same, provided in each case that (i) any obligations imposed upon Lessee or any restrictions of Lessee's rights in connection with the same will not increase Lessee's obligations or reduce Lessee's rights under this Lease except to a *de minimis* extent; (ii) Lessee shall not be required to grant any security interest on

its assets other than as contemplated by this Lease, and any security interest granted by Lessee shall be subordinate to any liens granted in connection with Working Capital Financing, and (iii) Lessor shall be responsible for payment of any and all costs incurred by Lessee in connection with any of the foregoing, including but not limited to attorney's fees, and any expenditures made in connection with ongoing loan maintenance and reporting.

ARTICLE XXVII - RESERVED

ARTICLE XXVIII - LESSEE'S ATTORNEYS

28.1. Lessee covenants and agrees that, if by reason of a default upon the part of Lessor herein in the performance of any of the terms and conditions of any mortgage and the mortgage forecloses on the estate of Lessor in the Demised Premises, upon notice of such event to Lessee, Lessee will attorn to the then holder of such mortgage or the purchaser in such foreclosure proceedings, as the case may be, and will recognize such holder of the mortgage or such purchaser as Lessor under and subject to the terms of this Lease. Lessee covenants and agrees to execute and deliver, at any time and from time to time, upon the request of Lessor, or of the holder of such mortgage or the purchaser in foreclosure proceedings, any instrument which may be reasonably necessary or appropriate to evidence such attornment. In the event any such proceedings are brought against Lessor under such mortgage or the holder of any such mortgage, then Lessee further waives the provisions of any statute or rule or law now or hereafter in effect which may terminate this Lease or give or purport to give Lessee any right of election to terminate this Lease or to surrender possession of the Demised Premises and agrees that, pending any final order, this Lease shall not be affected in any way whatsoever by any such proceedings.

ARTICLE XXIX - REPRESENTATIONS

29.1. Lessor represents and warrants as follows:

a) **Organization and Good Standing; Power and Authority.** Each Lessor is a limited liability company, is duly organized and validly existing under the laws of the State of Delaware and has the full right and power to enter into and perform its obligations under this Lease and all agreements or documents entered into or executed in connection therewith and has taken all requisite actions to authorize the execution, delivery and performance of this Lease and all agreements and documents entered into or executed in connection therewith. Lessor is qualified to do business in and is in good standing under the laws of the state in which the Facilities are located.

b) **Enforceability.** This Lease constitutes a legal, valid, and binding obligation of Lessor enforceable in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, fraudulent conveyance, moratorium and other similar laws of general application relating to or affecting creditors' rights and to general principles of equity and judicial discretion and general requirements of materiality, good faith, fair dealing, and commercial reasonableness (whether a matter is considered in a proceeding at law or in equity).

c) **No Conflicts.** Neither the execution and delivery of this Lease, nor any agreement referred to or contemplated hereby, by Lessor will violate any provision of its Operating Agreement, be in conflict with, constitute a default or create a right of termination or cancellation under any agreement or commitment to which Lessor is a party.

29.2. Lessee represents and covenants to Lessor as follows:

a) **Organization and Good Standing; Power and Authority.** Each Lessee is a limited liability company, duly organized and validly existing in good standing under the laws of the State of Ohio, and has full right and power to enter into, or perform its obligations under this Lease and has taken all requisite actions to authorize the execution, delivery and performance of this Lease. Lessee is qualified to do business in and is in good standing under the laws of the state in which the Facilities are located.



b) Acceptance of Condition. Lessee acknowledges that it has inspected the Demised Premises and the Personal Property and, subject to the representations and warranties of Lessor provided above and further subject to the other terms and conditions of this Lease, agrees to lease the same in its present "AS IS, WHERE IS" condition. Lessee further acknowledges that Lessor has represented that it has no obligations or liabilities relating to the Facilities prior to the date hereof.

c) Maintenance of Facilities. In addition to all other covenants contained herein, Lessee expressly covenants that it shall keep and maintain the Facilities at all times in good order and repair all items of Personal Property necessary for operating the Facilities in full compliance with all material laws, rules and regulations. Lessee shall maintain all such items in good order and repair and shall promptly replace any such items which become obsolete, damaged or destroyed with substitute items equivalent to that which has been replaced and such replacement items shall become and be deemed the personal property of Lessor.

d) Litigation. There are no pending, nor threatened claims, lawsuits, governmental actions or other proceeding involving Lessee's operation of the Facilities before any court, agency or other judicial, administrative or other governmental body or arbitrator. Lessee covenants to give notice to Lessor of any pending or threatened claims, lawsuits, governmental or other proceedings involving Lessee's operation of any individual Facility in an actual amount of \$300,000.00 or more, such notice to be delivered within ten (10) days of Lessee's knowledge thereof.

e) No Untrue Statements. No representation or warranty by or on behalf of Lessee contained in this Lease and no statement by or on behalf of Lessee in any certificate, list, exhibit, schedule or other instrument furnished or to be furnished to Lessor by or on behalf of Lessee pursuant hereto contains any untrue statement of a substantial fact, or omits or will omit to state any substantial facts which are necessary in order to make the statements contained therein, in light of the circumstances under which they are made, not misleading in any substantial respect.

f) Date of Representations and Warranties; Survivability. Unless otherwise indicated in a specific representation or warranty contained herein, each representation and warranty of Lessee hereunder shall be true, complete and correct in all material respects as of the Commencement Date with the same force and effect as though such representation or warranty was made on such date, and all representations and warranties shall survive the Commencement Date.

#### ARTICLE XXX - TRANSFER OF OPERATIONS UPON TERMINATION OF LEASE

30.1. For purposes of this Article, the "Closing Date" shall mean, subject to extension as provided in Section 30.4 below, and in any case only after the Commencement Date has occurred, (i) the date on which this Lease terminates or expires, or (ii) the date on which Lessee abandons the Demised Premises. On the Closing Date upon Lessor's election, this Lease shall be deemed and construed as an absolute assignment for purposes of vesting in Lessor (or Lessor's designee) all of Lessee's right, title and interest in and to the following intangible property which is now or hereafter used in connection with the operation of the Demised Premises (the "Intangibles"), and an assumption by Lessor of Lessee's obligations under the Intangibles from and after the Closing Date; provided that, from and after the Closing Date, Lessee shall indemnify, defend and hold harmless Lessor against any claims, losses, costs or damages, including reasonable attorneys' fees incurred or arising by reason of Lessee's obligations under the Intangibles during the Term of this Lease:

- 1) service contracts and equipment leases solely for the benefit of the Demised Premises to which Lessee is a party, and which can be terminated without penalty by Lessee within sixty (60) or fewer days, notice of which Lessor requests be assigned to Lessor pursuant to this Article XXX, subject to any required consents of the lessors or providers under such service contracts and equipment leases;
- 2) to the extent permitted by law and to the extent assignable by Lessee, governmental licenses and certifications required to operate the Facilities as of the Closing Date, and any provider agreements with Medicare, Medicaid or any other third-party payor programs (excluding the right to any

reimbursement for periods prior to the Closing Date, as defined above) entered in connection with the Demised Premises;

3) all existing agreements with residents and any guarantors thereof of the Demised Premises, to the extent assignable by Lessee (excluding the right to any payments for periods prior to the Closing Date) and any and all patient trust fund accounts; and

4) the business of Lessee as conducted at the Demised Premises as a going concern, excluding the name of the business conducted thereon but including all local telephone numbers presently in use thereon.

In the event any of the Intangibles are not assignable to Lessor, Lessor agrees to use all commercially reasonable efforts to obtain, as promptly as practicable, any and all replacement intangibles (including without limitation all appropriate state or other governmental licenses and certifications) required to operate the Facilities as of the Closing Date.

30.2. Lessor shall be responsible for and shall pay all accrued expenses with respect to the Demised Premises accruing on or after 12:01 a.m. on the Closing Date and shall be entitled to receive and retain all revenues from the Demised Premises accruing on or after 12:01 a.m. on the Closing Date. Within fifteen (15) business days after the Closing Date, the following adjustments and provisions shall be determined as of the Closing Date:

1) Real estate taxes, ad valorem taxes, school taxes, assessments and personal property, intangible and use taxes, if any. If the information as to the actual amount of any of the foregoing taxes and assessments are not available for the tax year in which the Closing Date occurs, the provision of such taxes shall be estimated based upon reasonable information available to the parties, including information disclosed by the local tax office or other public information, and an adjustment shall be made when actual figures are published or otherwise become available.

2) Prior to the Closing Date, (a) Lessee will transfer or terminate the employment of all of Lessee's employees who perform services solely at the Facilities, and Lessee and shall be and remain liable for any and all wages, accrued vacation and sick leave pay for employees of the Demised Premises with respect to the period prior to 12:01 a.m. on the Closing Date, and (b) Lessor or Lessor's designee shall offer to hire, as of the Closing Date, the greater of sixty-seven percent (67%) of the non-transferred employees or the minimum number of employees necessary to avoid creating any obligation under the Worker Adjustment and Retraining Notification Act (the "WARN Act") or any other comparable state law. Accordingly, Lessor agrees to indemnify, defend and hold harmless Lessee from any liability which it may incur under the WARN Act or any comparable state law in the event of the violation by Lessor or its designee of its obligations hereunder, including a violation which results from allegations that Lessor or its designee constructively terminated any employees as a result of the terms and conditions of employment offered by Lessor or its designee. Lessor agrees to cooperate with Lessee in order to facilitate the transfer of any funds contained in any of Lessee's 401(k) plans as requested by any retained employees.

3) Lessor shall receive a credit equal to any advance payments by patients at the Demised Premises to the extent attributable to periods after 12:01 a.m. on the Closing Date.

4) Except as otherwise required under applicable policies of insurance or except as agreed to be assigned by Lessee, the present insurance coverage on the Demised Premises shall be terminated as of the Closing Date.

5) All other income from, and expenses of, the Demised Premises (other than mortgage interest and principal), public utility charges and deposits, maintenance charges and service charges shall be prorated between Lessee and Lessor as of 12:01 a.m. on the Closing Date. Lessee shall, if possible, obtain final utility meter readings as of the Closing Date.

6) Lessee shall be and remain responsible for any employee severance pay and accrued benefits which may be payable as the result of any termination of an employee's employment on or prior to 12:01 a.m. on the Closing Date.

30.3. All necessary arrangements shall be made to provide possession of the Demised Premises to Lessor on the Closing Date, at which time of possession Lessee shall deliver to Lessor all medical records, patient records and other personal information concerning all patients residing at the Demised Premises as of the Closing Date and other relevant records used or developed in connection with the business conducted at the Demised Premises. Such transfer and delivery shall be in accordance with all applicable laws, rules and regulations concerning the transfer of medical records and other types of patient records.

30.4. The parties agree and acknowledge that, subject only to the requirements of applicable law, Lessee's obligations to manage and operate the Demised Premises shall expire as of the Closing Date. Notwithstanding the foregoing, if this Lease has expired or been terminated for any reason other than for Lessor's breach, then, Lessor, or Lessor's designee, shall have the right, but not the obligation, to elect that the Closing Date be extended for a period not to exceed (6) six months or, if earlier, until the date that Lessor, or its designee, obtains all appropriate state or other governmental licenses and certifications required to operate the Facilities, provided that Lessor is using its best efforts to diligently and continuously obtain the same. If made, such election shall be made in writing delivered to Lessee no later than ninety (90) days prior to the expiration or termination of the Lease and shall be deemed an extension of the Term of this Lease, and Lessee shall pay Rent in an amount equal to the Rent in effect as of the date that notice of the extension is provided, and Lessee shall continue to operate the Facilities and shall be entitled to all revenues of the Demised Premises during such period.

30.5. Lessee shall provide Lessor with an accounting within fifteen (15) days after the Closing Date of all funds belonging to patients at the Demised Premises which are held by Lessee in a custodial capacity. Such accounting shall set forth the names of the patients for whom such funds are held, the amounts held on behalf of each such patient and Lessee's warranty that the accounting is true, correct and complete. Additionally, Lessee, in accordance with all applicable rules and regulations, shall make all necessary arrangements to transfer such funds to a bank account designated by Lessor, and Lessor shall in writing acknowledge receipt of and expressly assume all Lessee's financial and custodial obligations with respect thereto. Notwithstanding the foregoing, Lessee will indemnify, defend and hold Lessor harmless from all liabilities, claims and demands, including reasonable attorney's fees, in the event the amount of funds, if any, transferred to Lessor's bank account as provided above, did not represent the full amount of the funds then or thereafter shown to have been delivered to Lessee as custodian that remain undispensed for the benefit of the patient for whom such funds were deposited, or with respect to any matters relating to patient funds which accrued during the Term and Lessor will indemnify, defend and hold Lessor harmless from all liabilities, claims and demands, including reasonable attorney's fees with respect to any matters relating to patient funds which accrue after the Term.

30.6. All cash, checks and cash equivalent at the Demised Premises and deposits in bank accounts (other than patient trust accounts) relating to the Demised Premises on the Closing Date shall remain Lessee's property after the Closing Date. Subject to the provisions of Article XXIII of this Lease, all accounts receivable, loans receivable and other receivables of Lessee, whether derived from operation of the Demised Premises or otherwise, shall remain the property of Lessee after the Closing Date. Lessee shall retain full responsibility for the collection thereof. Lessor shall assume responsibility for the billing and collection of payments on account of services rendered by it on and after the Closing Date. In order to facilitate Lessee's collection efforts, Lessee agrees to deliver to Lessor, within a reasonable time after the Closing Date, a schedule identifying all of those private pay balances owing for the month prior to the Closing Date and Lessor agrees to apply any payments received which are specifically designated as being applicable to services rendered prior to the Closing Date to reduce the pre-Closing Date balances of said patients by promptly remitting said payments to Lessee. Payments received by Lessor or Lessee from patients owing money for services rendered by Lessor and Lessee, and which are not allocated to a particular time period shall be applied (i) applied on a first-in-first-out basis to Lessee for a period of 60 days following the Closing; (ii) applied in an equally shared proportional split between Lessee and Lessor (or Lessor's designee) for the sixty (60) day period

between 60-120 days following the Closing Date; and (iii) and thereafter on a last-in-first-out basis. Lessor shall cooperate with Lessee in Lessee's collection of its pre-Closing Date accounts receivable and, subject to the foregoing, Lessor shall have no liability for uncollectible receivables and shall not be obligated to bear any expense as a result of such activities on behalf of Lessee. Subject to the provisions of Article XXIII of this Lease, Lessor shall remit to Lessee or its assignee those portions of any payments received by Lessor which are specifically designated as repayment or reimbursement arising out of cost reports filed for the cost reporting periods ending on or prior to the Closing Date.

30.7. With respect to residents at the Demised Premises on the Closing Date, Lessor and Lessee agree as follows:

1) With respect to Medicare and Medicaid residents, Lessor and Lessee agree that subject to the provisions of Article XXIII of this Lease, payment for in-house residents covered by Medicare or Medicaid on the Closing Date will be made (on a per diem basis) by Medicare or Medicaid under current regulations directly to Lessee for services rendered at the Demised Premises prior to the Closing Date. Said payments shall be the sole responsibility of Lessee and Lessor shall in no way be liable therefor. After the Closing Date and for a period of six (6) years thereafter, Lessor and Lessee shall each have the right to review supporting books, records and documentation that are in the possession of the other relating to Medicaid or Medicare payments.

2) If, following the Closing Date, Lessor (or its designee) receives payment from any state or federal agency or third-party provider which represents reimbursement with respect to services provided at the Demised Premises prior to the Closing Date, Lessor agrees that, subject to the provisions of Article XXIII of this Lease, it shall remit such payments to Lessee. Payments by Lessor to Lessee shall be accompanied by a copy of the appropriate remittance.

30.8. In addition to the obligations required to be performed hereunder by Lessee and Lessor on and after the Closing Date, Lessee and Lessor agree to perform such other acts, and to execute, acknowledge, and/or deliver subsequent to the Closing Date such other instruments, documents and materials, as the other may reasonably request in order to effectuate the consummation of the transaction contemplated herein.

30.9. Lessor, or Lessor's designated operator for the Demised Premises if such a party is designated, for itself, its successors and assigns hereby indemnifies and agrees to defend and hold Lessee and its successors and assigns harmless from any and all claims, demands, obligations, losses, liabilities, damages, recoveries and deficiencies (including interest, penalties and reasonable attorney's fees, costs and expenses) which any of them may suffer as a result of the breach by Lessor in the performance of any of its commitments, covenants or obligations under this Article XXX, or with respect to any suits, arbitration proceedings, administrative actions or investigations which relate to the use of the Demised Premises after the Term, or for any liability which may arise from operation of the Demised Premises after the Term, or for any overpayment amounts due or to be reimbursed from any governmental authority based upon any audit or review of Lessee or of the Facilities or the operation thereof and pertaining to the period during the Term. The rights of Lessee under this paragraph are without prejudice to any other remedies not inconsistent herewith which Lessee may have against Lessor pursuant to the terms of this Lease or otherwise. The foregoing indemnity shall survive the expiration or termination of this Lease, whether due to lapse of time or otherwise.

30.10. Each party shall have the right to offset against any monies due to it pursuant to the terms of this Article XXX, any amounts due pursuant to this Lease or due to any third party, including without limitation any amounts due for taxes, utilities, unemployment insurance premiums, payroll obligations or any other obligation arising from the operation of the Demised Premises.

30.11. Anything to the contrary contained in this Article XXX notwithstanding, in the event the termination of this Lease is due to a default by Lessee hereunder, none of the provisions of this Article XXX shall in any way limit, reduce, restrict or modify the rights otherwise granted to Lessor pursuant to this Lease, and to the extent any monies are due to Lessee pursuant to this Article XXX, such sums shall be applied by Lessor to any damages suffered by Lessor as a result of Lessee's default hereunder.



30.12. Lessor and Lessee agree to cooperate with each other in order to effectuate the terms and provisions of this Article XXX.

30.13. Notwithstanding anything herein to the contrary, provided that the Closing (as defined in the OTA) occurs under the OTA, the terms and provision of the Section XXX shall be deemed to be null and void and of no force or effect.

#### ARTICLE XXXI - FINANCIAL COVENANTS, STATEMENTS AND REPORTS

31.1. Lessee shall, at its sole cost and expense, as of the Effective Date or Commencement Date, as applicable, and during the Term, comply with all financial covenants and reporting requirements set forth in the Loan Documents.

##### 31.2. Reporting Requirements:

a) Monthly Reports: Within thirty (30) days after the end of each calendar month, Lessee shall deliver monthly unaudited financial statements to Lessor and Lessor's Lender (if required), which financial statements shall include a combined income statement and combined balance sheet for business conducted at the Facilities, and any such combined financial statements shall include other financial information for the Facilities to the extent the same is reasonably required by Lessor or Lessor's Lender and the information is maintained by the Lessee.

b) Quarterly Reports: Within forty-five (45) days after the end of each calendar quarter, Guarantor will provide quarterly and year to date unaudited financial statements to Lessor and, which financial statements shall include a combined income statement and a combined balance sheet for business conducted at the Facilities and any such combined financial statements shall include other financial information for the Facilities to the extent the same is reasonably required by Lessor and the information is maintained by Guarantor.

c) Annual Reports: On or prior to May 31 of the year following the end of each lease year, Lessee will deliver to Lessor and Lessor's Lender (if required) annual audited financial statements of the Guarantor, which shall include a combined income statement and a combined balance sheet, and any such combined financial statements shall include other financial information for Guarantor to the extent the same is reasonably required by Lessor or Lessor's Lender and the information is maintained by the Guarantor. Lessee's annual financial statements will be provided as part of Guarantor's audit in a supplemental information section.

d) Lessee and Guarantor will comply with all reasonable requests for information from Lessor's Lender, including HUD.

#### ARTICLE XXXII - TERMINATION

32.1. Upon termination of this Lease (whether by reason of default, the natural expiration of the Term or otherwise), the following provisions shall be applicable:

a) Upon the expiration or other termination of this Lease, Lessee shall return to Lessor the Demised Premises and the Personal Property in a condition no worse than that which existed on the Effective Date, licensed by any governmental agencies having jurisdiction over the Demised Premises, and free of liens or encumbrances arising through Lessee except for tax liens for current general real estate taxes or special assessments, personally leases and other expenses incurred in the ordinary course of business which shall be prorated.

b) Lessee shall pay all bills incurred in respect of the ownership of the Demised Premises and operation of the Facilities from the Commencement Date through the termination date and shall receive and keep all income and suffer all losses incurred in the ownership of the Demised Premises and operation of the Facilities from the Commencement Date through the termination date.

c) During the period from the Effective Date to the termination date:

i) Lessee shall be responsible for the payment of all real estate taxes in accordance with the provisions of Article V hereof;

ii) Lessee shall maintain all required insurance and Lessee shall be liable for payment of and shall pay the premiums thereon; and

iii) In case of termination, Lessee shall be liable to return to Lessor, the Demised Premises and all Personal Property in a condition no worse than that which existed on the Effective Date, and free of liens or encumbrances arising through Lessee except for tax liens for current general real estate taxes or special assessments, which shall be prorated to the termination date, and except as to consumable items to the extent of consumption thereof, which, as consumed, will be replenished by Lessee, in the ordinary course of business.

d) Lessee agrees to execute such documents and take such actions as may be required in order to restore Lessor to ownership and possession of the Demised Premises and the Personal Property, including, without limitation, execution of any assignment or change of ownership documents required to license Lessor or its assignee to operate the Facilities.

e) Lessee shall keep and maintain medical records in accordance with applicable law.

f) Lessee shall keep and maintain such financial and operational records (including, without limitation, cost reports/contracts) as are required for the operation of the business under applicable laws.

32.2. Notwithstanding anything to the contrary contained herein, Lessor shall have the right to terminate this Lease at any time by providing written notice of such termination to Lessee.

#### ARTICLE XXXIII - CONDITIONS PRECEDENT AND CONCURRENT TO LEASE COMMENCEMENT

33.1. The following shall be conditions precedent to Lessee's obligation to proceed with this Lease, and, notwithstanding anything to the contrary in this Lease, the Commencement Date shall not be deemed to have occurred prior to such conditions being satisfied:

a) Lessor shall not be in material breach of any term, provision or condition of this Lease, including without limitation Lessor's representations and warranties hereunder;

b) All schedules and exhibits to this Lease prepared by Lessor shall be provided and shall be true, complete and correct in all material respects.

33.2. The following shall be conditions precedent to Lessor's obligation to proceed with this Lease, and, notwithstanding anything to the contrary in this Lease, the Commencement Date shall not be deemed to have occurred prior to such conditions being satisfied:

a) The execution and delivery prior to the Effective Date of a corporate guaranty of Latic Care Centers, LLC, a Delaware limited liability company of all obligations of Lessee under this Lease, in the form attached hereto as Exhibit B.

b) Lessee shall have duly and timely performed and fulfilled all of its duties, obligations, promises, covenants and agreements hereunder; and

c) Lessee shall not be in material breach of any term, provision or condition of this Lease.

33.3. Notwithstanding anything contained in Section 33.1 to the contrary, Lessee may in its sole discretion waive any conditions precedent or conditions concurrent contained in Section 33.1.

33.4. Notwithstanding anything contained in Section 33.2 to the contrary, Lessor may in its sole discretion waive any conditions precedent or conditions concurrent contained in Section 33.2.

33.5. Except as otherwise provided in this Lease, in the event that any of the conditions precedent are not satisfied as of the Commencement Date, Lessee's or Lessor's sole and exclusive remedy hereunder shall be to terminate this Lease, in which event, Lessor shall refund any monies paid by Lessee to Lessor with respect to this Lease.

#### ARTICLE XXXIV - RESERVED

##### ARTICLE XXXV - MISCELLANEOUS

35.1. Lessee, upon paying the Rent and all other charges herein provided, and for observing and keeping the covenants, agreements, terms and conditions of this Lease on its part to be performed, shall lawfully and quietly hold, occupy and enjoy the Demised Premises during the Term of this Lease, and subject to its terms, without hindrance by Lessor or by any other person or persons claiming under Lessor.

35.2. All payments to be made by the Lessee hereunder (other than Base Rent), whether or not designated as "Additional Rent", shall be deemed Additional Rent, so that in the event of a default of payment when due, Lessor shall be entitled to all of the remedies available at law or equity, or under this Lease, for the nonpayment of Rent.

35.3. It is understood and agreed that the granting of any consent by Lessor to Lessee to perform any act of Lessee requiring Lessor's consent under the terms of this Lease, or the failure on the part of Lessor to object to any such action taken by Lessee without Lessor's consent, shall not be deemed a waiver by Lessor of its rights to require such consent for any further similar act by Lessee, and Lessee hereby expressly covenants and warrants that as to all matters requiring Lessor's consent under the terms of this Lease, Lessee shall secure such consent for each and every happening of the event requiring such consent, and shall not claim any waiver on the part of Lessor of the requirement to secure such consent.

##### 35.4. RESERVED.

35.5. Lessee represents that it did not deal with any broker in connection with this Lease, and hereby indemnifies Lessor against any claims or demands for brokerage commissions from any party. Lessor represents that it did not deal with any broker in connection with this Lease, and hereby indemnifies Lessee against any claims or demands for brokerage commissions from any party.

35.6. If an action shall be brought to recover any Rent under this Lease, or for or on account of any breach of or to enforce or interpret any of the terms, covenants or conditions of this Lease, or for the recovery of possession of the Demised Premises, the prevailing party shall be entitled to recover from the other party, as part of the prevailing party's costs, reasonable attorney's fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered.

35.7. Except as provided in Section 30.4 of this Lease, should Lessee hold possession hereunder after the expiration of the Term of this Lease with or without the consent of Lessor, Lessee shall become a tenant on a month to month basis upon all the terms, covenants and conditions herein specified, excepting however that Lessee shall pay Lessor a monthly rental, for the period of such month-to-month tenancy, in an amount equal to twice the last Rent specified.

35.8. All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered (i) upon the delivery by personal delivery, messenger or overnight express delivery service (or, if such date is not on a business day, on the business day next following such date), (ii) on the third (3<sup>rd</sup>) business day next following the date of its mailing by certified mail, postage prepaid, at a post office maintained by the United States Postal Service, and (iii) by electronic mail transmission (followed by delivery by one of the other means identified in (i)-(ii)), addressed as follows:

If to Lessor:

c/o Topaz Fiscal Services  
6085 Strickland Avenue  
Brooklyn, NY 11234  
Attn: Hal Brecher  
Email: hbrecher@topazfs.com

With a copy to:

NBC Law  
675 Third Avenue, 8<sup>th</sup> Floor  
New York, New York 10017  
Email: eburbaum@nbcclw.com

If to Lessee:

c/o Synergy Healthcare Services  
800 Concourse Parkway South  
Maitland, FL 32751  
Email: legalnotices@synergyhcs.com

or such other address that any party designates to the other by written notice given in the manner stated above. Any notice sent by electronic mail shall be deemed delivered upon transmission, so long as said transmission is evidenced by proof of said transmittal and sent before 5:00 p.m. local time at the place of the recipient and if sent after 5:00 p.m. shall be deemed delivered on the next business day. Notices from counsel to Lessor shall for all purposes hereunder constitute notice from Lessor. Notices from counsel to Lessee shall for purposes hereunder constitute notice from Lessee.

##### 35.9. RESERVED

35.10. Upon demand by either party, Lessor and Lessee agree to record this Lease in the real property records of the county in which the Demised Premises is located.

35.11. Each party agrees at any time, and from time to time, upon not less than ten (10) days prior written request from the other party, to execute, acknowledge and deliver to the other party a statement in writing, certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), the dates to which the Rent has been paid, the amount of the Additional Rent held by Lessor, and whether to the best knowledge of such party an Event of Default has occurred or whether any events have occurred which, with the giving of notice or the passage of time, or both, could constitute an Event of Default hereunder, it being intended that any such statement delivered pursuant to this section may be relied upon by any prospective assignee, mortgagee or purchaser of the fee interest in the Demised Premises or of this Lease.

35.12. All of the provisions of this Lease shall be deemed and construed to be "conditions" and "covenants" as though the words specifically expressing or importing covenants and conditions were used in each separate provision hereof.

35.13. Any reference herein to the termination of this Lease shall be deemed to include any termination thereof by expiration, or pursuant to Articles referring to earlier termination.

35.14. Time is of the essence in this Lease and with regard to all provisions herein contained.

35.15. The headings and titles in this Lease are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Lease, nor in any way affect this Lease.

35.16. This Lease contains the entire agreement between the parties and any executory agreement hereafter made shall be ineffective to change, modify or discharge it in whole or in part unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought. This Lease cannot be changed orally or terminated orally.

35.17. Except as otherwise herein expressly provided, the covenants, conditions and agreements in this Lease shall bind and inure to the benefit of Lessor and Lessee and their respective successors and assigns.

35.18. All nouns and pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons, firm or firms, corporation or corporations, entity or entities or any other thing or things may require. "Any" or "any" shall mean "any and all"; "or" shall mean "and/or"; "including" shall mean "including, but not limited to".

35.19. This Lease may be executed in counterparts, each of which shall for all purposes be deemed an original, and all of such counterparts shall together constitute one and the same agreement.

35.20. If any term or provision of this Lease shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this Lease shall not be affected thereby, but each term and provision shall be valid and be enforced to the fullest extent permitted by law.

35.21. This Lease shall be construed in accordance with the laws of the State of Florida without regard to conflict of laws principles.

35.22. It is expressly understood and agreed that except as otherwise expressly provided herein, this Lease shall not be construed as creating any personal liability whatsoever against any member, officer, director, shareholder or agent of Lessor and/or of Lessee and in particular without limiting the generality of the foregoing, there shall be no personal liability to pay any obligations set forth herein or to perform any covenant, either expressed or implied, herein contained, and that, except as otherwise provided herein, all personal liability of any member, officer, director, shareholder or agent of Lessor and/or of Lessee of every sort, if any, is hereby expressly waived by the other party hereto.

35.23. The term "Knowledge" as used herein shall be deemed to mean the best of a Person's knowledge, and of the executive officers of such Person. Any fact or circumstance that a Person and their principals, officers or agents reasonably should know assuming commercially reasonable best efforts were utilized, shall be deemed the Knowledge of such Person. The term "commercially reasonable best efforts" shall mean the efforts that a commercially reasonable Person desirous of achieving a result would use in similar circumstances to achieve that result as expeditiously as reasonably practicable, provided, however, that a Person required to use commercially reasonable best efforts under this Lease will not thereby be required to take any action that would result in a material adverse change in the benefits to such Person of this Lease or the transactions contemplated hereby or to make any change in its business, incur any extraordinary fees or expenses or incur any other material burden. "Person" shall mean any individual, partnership (general and/or limited), association, corporation, limited liability company, trust, joint venture or other legal entity of any and every nature whatsoever.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by persons authorized so to do on behalf of each of them respectively the day and year first above written.

LESSOR:

CREA NEW PORT RICHEY LLC

By: [Signature]  
Print: Benjamin Landa  
Its: Authorized Signatory

LESSEE:

NEW PORT RICHEY FACILITY  
OPERATIONS, LLC

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Authorized Signatory

CREA BAYONET LLC

By: [Signature]  
Print: Benjamin Landa  
Its: Authorized Signatory

BAYONET POINT FACILITY OPERATIONS,  
LLC

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Authorized Signatory

CREA SARASOTA LLC

By: [Signature]  
Print: Benjamin Landa  
Its: Authorized Signatory

SARASOTA FACILITY OPERATIONS, LLC

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Authorized Signatory

CREA MELBOURNE LLC

By: [Signature]  
Print: Benjamin Landa  
Its: Authorized Signatory

MELBOURNE FACILITY OPERATIONS, LLC

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Authorized Signatory

CREA KISSIMMEE LLC

By: [Signature]  
Print: Benjamin Landa  
Its: Authorized Signatory

KISSIMMEE FACILITY OPERATIONS, LLC

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Authorized Signatory

CREA PENSACOLA LLC

By: [Signature]  
Print: Benjamin Landa  
Its: Authorized Signatory

PENSACOLA FACILITY OPERATIONS, LLC

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Authorized Signatory

CREA BRANDON-C LLC  
By: *[Signature]*  
Print: Benjamin Landa  
Its: Authorized Signatory

BRANDON FACILITY OPERATIONS, LLC  
By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by persons authorized so to do on behalf of each of them respectively the day and year first above written.

LESSOR:  
CREA NEW PORT RICHEY LLC  
By: \_\_\_\_\_  
Print: Benjamin Landa  
Its: Authorized Signatory

LESSEE:  
NEW PORT RICHEY FACILITY  
OPERATIONS, LLC

By: \_\_\_\_\_  
Print: Jared Elliott  
Manager

CREA BAYONET LLC

By: \_\_\_\_\_  
Print: Benjamin Landa  
Its: Authorized Signatory

BAYONET POINT FACILITY OPERATIONS,  
LLC

By: *John Shiller*  
Print: John Shiller  
Manager

CREA SARASOTA LLC  
By: \_\_\_\_\_  
Print: Benjamin Landa  
Its: Authorized Signatory

SARASOTA FACILITY OPERATIONS, LLC

By: \_\_\_\_\_  
Print: Miriam Pastor  
Manager

CREA MELBOURNE LLC  
By: \_\_\_\_\_  
Print: Benjamin Landa  
Its: Authorized Signatory

MELBOURNE FACILITY OPERATIONS, LLC

By: \_\_\_\_\_  
Print: Miriam Pastor  
Manager

CREA KISSIMMEE LLC  
By: \_\_\_\_\_  
Print: Benjamin Landa  
Its: Authorized Signatory

KISSIMMEE FACILITY OPERATIONS,  
LLC

By: *John Shiller*  
Print: John Shiller  
Manager

CREA PENSACOLA LLC  
By: \_\_\_\_\_  
Print: Benjamin Landa  
Its: Authorized Signatory

PENSACOLA FACILITY OPERATIONS,  
LLC

By: *John Shiller*  
Print: John Shiller  
Manager



IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by persons authorized so to do on behalf of each of them respectively the day and year first above written.

LESSOR:

CREA NEW PORT RICHEY LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

LESSEE:

NEW PORT RICHEY FACILITY  
OPERATIONS, LLC

By: Jared Elliott  
Print: Jared Elliott  
Manager

CREA BAYONET LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

BAYONET POINT FACILITY OPERATIONS,  
LLC

By: John Silliter  
Print: John Silliter  
Manager

CREA SARASOTA LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

SARASOTA FACILITY OPERATIONS, LLC

By: Miriam Pastor  
Print: Miriam Pastor  
Manager

CREA MELBOURNE LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

MELBOURNE FACILITY OPERATIONS, LLC

By: Miriam Pastor  
Print: Miriam Pastor  
Manager

CREA KISSIMMEE LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

KISSIMMEE FACILITY OPERATIONS,  
LLC

By: John Silliter  
Print: John Silliter  
Manager

CREA PENSACOLA LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

PENSACOLA FACILITY OPERATIONS,  
LLC

By: John Silliter  
Print: John Silliter  
Manager

SIGNATURE PAGE LEASE 1

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by persons authorized so to do on behalf of each of them respectively the day and year first above written.

LESSOR:

CREA NEW PORT RICHEY LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

LESSEE:

NEW PORT RICHEY FACILITY  
OPERATIONS, LLC

By: Jared Elliott  
Print: Jared Elliott  
Manager

CREA BAYONET LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

BAYONET POINT FACILITY OPERATIONS,  
LLC

By: John Silliter  
Print: John Silliter  
Manager

CREA SARASOTA LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

SARASOTA FACILITY OPERATIONS, LLC

By: Miriam Pastor  
Print: Miriam Pastor  
Manager

CREA MELBOURNE LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

MELBOURNE FACILITY OPERATIONS, LLC

By: Miriam Pastor  
Print: Miriam Pastor  
Manager

CREA KISSIMMEE LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

KISSIMMEE FACILITY OPERATIONS,  
LLC

By: John Silliter  
Print: John Silliter  
Manager

CREA PENSACOLA LLC

By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

PENSACOLA FACILITY OPERATIONS,  
LLC

By: John Silliter  
Print: John Silliter  
Manager

SIGNATURE PAGE LEASE 1

CREA BRANDON-C LLC  
By: Benjamin Landa  
Print: Benjamin Landa  
Its: Authorized Signatory

BRANDON FACILITY OPERATIONS, LLC  
BY: [Signature]  
NAME: Jared Elliot  
Manager

EXHIBIT A

Lessor	Lessee	Facility
CREA New Port Richey LLC Delaware	New Port Richey Facility Operations, LLC	<b>RAYDIANT HEALTH CARE OF NEW PORT RICHEY</b> 8417 Old country Rd 54 New Port Richey, FL 34653 Skilled Nursing Facility 120 beds
CREA Bayonet LLC Delaware	Bayonet Point Facility Operations, LLC	<b>BAYONET POINT LIVING CENTER</b> 8132 Hudson Ave Hudson, FL 34667 Skilled Nursing Facility 120 beds
CREA Sarasota LLC Delaware	Sarasota Facility Operations, LLC	<b>INSPIRE HEALTHCARE SARASOTA</b> 4783 Fruitville Rd Sarasota, FL 34232 Skilled Nursing Facility 81 beds
CREA Melbourne LLC Delaware	Melbourne Facility Operations, LLC	<b>INSPIRE HEALTHCARE MELBOURNE</b> 3033 Sarno Rd Melbourne, FL 32934 Skilled Nursing Facility 167 beds
CREA Kissimmee LLC Delaware	Kissimmee Facility Operations, LLC	<b>LIVING CENTER OF KISSIMMEE</b> 2511 N. John Young Pkwy Kissimmee, FL 34741 Skilled Nursing Facility 120 beds
CREA Pensacola LLC Delaware	Pensacola Facility Operations, LLC	<b>LIVING CENTER OF PENSACOLA</b> 235 W. Airport Blvd Pensacola, FL 32505 Skilled Nursing Facility 120 beds
CREA Brandon-C LLC Delaware	Brandon Facility Operations, LLC	<b>RAYDIANT HEALTH CARE OF BRANDON</b> 701 Victoria St. Brandon, FL 33510 Skilled Nursing Facility 120 beds

**EXHIBIT A-1**  
**LEGAL DESCRIPTION - NEW PORT RICHEY**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PASCO, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS: A PORTION OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 26 SOUTH, RANGE 16 EAST, PASCO COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE, COMMENCE AT THE SOUTH 1/4 CORNER OF SAID SECTION 14; THENCE NORTH 00°24'34" EAST, 50.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 54, AS NOW ESTABLISHED AND THE POINT OF BEGINNING; THENCE NORTH 89°31'27" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 556.60 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAWGRASS BOULEVARD AS NOW ESTABLISHED; THENCE NORTH 00°28'33" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 100.00 FEET; THENCE NORTH 05°14'05" WEST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 201.00 FEET; THENCE NORTH 00°28'33" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 50.00 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF PARK LAKE ESTATES UNIT ONE, AS SHOWN ON PLAT RECORDED IN PLAT BOOK 15, PAGES 111 AND 112 OF THE PUBLIC RECORDS OF PASCO COUNTY, FLORIDA; THENCE SOUTH 89°31'27" EAST, ALONG SAID SOUTHERLY BOUNDARY, 276.19 FEET TO THE EASTERLY BOUNDARY OF SAID PARK LAKE ESTATES UNIT ONE; THENCE NORTH 00°24'34" EAST, ALONG SAID EASTERLY BOUNDARY, 250.00 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID PARK LAKE ESTATES UNIT ONE; THENCE SOUTH 89°31'27" EAST, ALONG SAID SOUTHERLY BOUNDARY, 300.00 FEET; THENCE SOUTH 00°24'34" WEST, 600.00 FEET TO THE POINT OF BEGINNING.

SUBJECT TO RIGHT OF WAY FOR S.R. 54, AS LAID OUT AND IN USE.

APN: 14-26-16-0000-00300-0030

**EXHIBIT A-2**  
**LEGAL DESCRIPTION - BAYONET**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PASCO, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

A PARCEL OF LAND BEING A PORTION OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 24 SOUTH, RANGE 16 EAST, PASCO COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 24 SOUTH, RANGE 16 EAST, PASCO COUNTY, FLORIDA; SAID CORNER LYING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF HUDSON AVENUE, ACCORDING TO THE PLAT OF "HUDSON AVENUE PHASE 1" AS RECORDED IN PLAT BOOK 26, PAGES 125 THROUGH 127, INCLUSIVE, OF THE PUBLIC RECORDS OF PASCO COUNTY, FLORIDA; THENCE SOUTH 43°39'12" EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, AS SHOWN ON SAID PLAT OF "HUDSON AVENUE PHASE 1" AND THE PLAT OF "HUDSON AVENUE PHASE 2" AS RECORDED IN PLAT BOOK 26, PAGES 128 THROUGH 131, INCLUSIVE, OF THE PUBLIC RECORDS OF PASCO COUNTY, FLORIDA, 682.26 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 43°39'12" EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 590.00 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE WEST; SAID POINT LYING ON THE WESTERLY RIGHT-OF-WAY LINE OF LIBRARY ROAD ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 26, PAGES 103 THROUGH 104, INCLUSIVE, OF THE PUBLIC RECORDS OF PASCO COUNTY, FLORIDA; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR THE FOLLOWING TWO (2) COURSES: 1) SOUTHERLY ALONG THE ARC OF SAID CURVE, HAVING FOR ITS ELEMENTS A RADIUS OF 35.00 FEET, A CENTRAL ANGLE OF 90°00'00", AN ARC LENGTH OF 54.98 FEET, A CHORD LENGTH OF 49.50 FEET AND CHORD BEARING OF SOUTH 01°20'48" WEST, TO A POINT OF TANGENCY; 2) THENCE SOUTH 46°20'48" WEST FOR 418.00 FEET; THENCE NORTH 43°39'12" WEST, FOR 625.00 FEET; THENCE NORTH 46°20'48" EAST, 453.00 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS SET FORTH IN THAT CERTAIN SEWER LINE EASEMENT AGREEMENT BY AND BETWEEN 700 ISLAND WAY MANAGEMENT CO., INC., AND ARBOR HEALTH CARE COMPANY, DATED APRIL 7, 1992, RECORDED APRIL 9, 1992 IN OFFICIAL RECORDS BOOK 3012, PAGE 1805, PUBLIC RECORDS OF PASCO COUNTY, FLORIDA, FOR THE PURPOSES DESCRIBED IN SAID INSTRUMENT, OVER, UNDER, AND ACROSS THE FOLLOWING LANDS:

THAT PART OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 24 SOUTH, RANGE 16 EAST, PASCO COUNTY, FLORIDA, BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 35; SAID CORNER LYING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF HUDSON AVENUE ACCORDING TO THE PLAT OF "HUDSON AVENUE PHASE 1" AS RECORDED IN PLAT BOOK 26, PAGES 125 THROUGH 127, INCLUSIVE OF THE PUBLIC RECORDS OF PASCO COUNTY,

FLORIDA, THENCE SOUTH 43°39'12" EAST, 1272.25 FEET ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, AS SHOWN ON SAID PLAT OF "HUDSON AVENUE PHASE 1", AND THE PLAT OF "HUDSON AVENUE PHASE 2" AS RECORDED IN PLAT BOOK 26, PAGES 128 ) THROUGH 131, INCLUSIVE, OF THE PUBLIC RECORDS OF PASCO COUNTY, FLORIDA, TO THE NORTHERLY RIGHT-OF-WAY LINE OF LIBRARY ROAD ACCORDING TO THE PLAT OF "LIBRARY ROAD" AS RECORDED IN PLAT BOOK 26, PAGES 103 THROUGH 104, INCLUSIVE, OF THE PUBLIC RECORDS OF PASCO COUNTY, FLORIDA, AND A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 35.00 FEET, THENCE ALONG SAID RIGHT-OF-WAY LINE, THE FOLLOWING, SOUTHERLY ALONG SAID CURVE, 54.98 FEET THROUGH A CENTRAL ANGLE OF 90°00'00" (CHORD SOUTH 01°20'48" WEST, 49.50 FEET; THENCE SOUTH 46°20'48" WEST, 418.00 FEET TO THE POINT OF BEGINNING; THENCE, CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 46°20'48" WEST, 80.00 FEET; THENCE LEAVING SAID LINE, NORTH 05°09'39" EAST, 106.30 FEET; THENCE SOUTH 43°39'12" EAST, 70.00 FEET TO THE POINT OF BEGINNING.

APN: 35-24-16-0000-01400-0010

**EXHIBIT A-3  
LEGAL DESCRIPTION - SARASOTA**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SARASOTA, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

NORTH OF FRUITVILLE ROAD AND 650 FEET, PLUS OR MINUS, WEST OF HOULE AVENUE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**PARCEL 1:**

THE EAST 311.6 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 36 SOUTH, RANGE 18 EAST, LYING NORTH OF FRUITVILLE ROAD (66 FOOT RIGHT OF WAY), SARASOTA COUNTY, FLORIDA.

**PARCEL II:**

ALSO COMMENCING AT THE CENTER OF SAID SECTION 23; THENCE NORTH ALONG THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION, 64.71 FEET TO AN IRON PIPE IN THE NORTH RIGHT OF WAY LINE OF FRUITVILLE ROAD FOR A POINT OF BEGINNING; THENCE CONTINUE NORTH ALONG THE EAST LINE OF SAID QUARTER SECTION, 583.06 FEET TO AN IRON PIPE AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID NORTHWEST 1/4; THENCE WEST ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, 311.6 FEET TO AN IRON PIPE; THENCE NORTH, PARALLEL TO SAID EAST LINE OF NORTHWEST 1/4, A DISTANCE OF 35 FEET (34 FEET PER O.R. BOOK 581, PAGE 81) TO AN IRON PIPE IN AN OLD FENCE LINE, THENCE EAST ALONG THE LINE OF SAID OLD FENCE, 342 FEET (340.6 FEET PER O.R. BOOK 581, PAGE 81) TO AN OLD NORTH-SOUTH FENCE; THENCE SOUTH ALONG SAID SECOND OLD FENCE LINE PASSING AN OLD CONCRETE MARKER AT 9 FEET, A DISTANCE OF 614 FEET (APPROXIMATELY 617 FEET PER O.R. BOOK 581, PAGE 83) TO AN OLD CONCRETE MARKER IN THE NORTH RIGHT OF WAY LINE OF FRUITVILLE ROAD; THENCE WEST 144 FEET TO THE POINT OF BEGINNING, BEING PART OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 AND A PART OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 23, TOWNSHIP 36 SOUTH, RANGE 18 EAST, SARASOTA COUNTY, FLORIDA.

LESS:

THOSE PORTIONS OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 36 SOUTH, RANGE 18 EAST, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A CONCRETE MONUMENT MARKING THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 23; THENCE SOUTH 00°06'18"24" WEST, 2559.72 FEET ALONG THE EAST BOUNDARY OF SAID NORTHWEST 1/4 OF THE SURVEY LINE OF SR 786; THENCE NORTH 89°06'12"07" WEST, 311.61 FEET ALONG SAID SURVEY LINE; THENCE NORTH 00°06'18"33" EAST, 33.00 FEET TO THE NORTH EXISTING RIGHT OF WAY LINE OF SR 780, AS PER O.R. BOOK 1379, PAGE 60 FOR A POINT OF BEGINNING; THENCE SOUTH 89°06'12"07" EAST, 326.01 FEET ALONG SAID NORTH RIGHT OF WAY



LINE; THENCE NORTH 01DEG40'11" EAST, 53.31 FEET; THENCE NORTH 89DEG12'07" WEST, 327.28 FEET; THENCE SOUTH 00DEG18'33" WEST, 53.51 FEET TO THE POINT OF BEGINNING.

THE ABOVE PARCELS I AND II TAKEN AS A WHOLE, ARE ALSO DESCRIBED AS:

COMMENCING AT THE SOUTHWEST CORNER OF NORTHEAST 1/4 SECTION 23, TOWNSHIP 36 SOUTH, RANGE 18 EAST, SARASOTA COUNTY, FLORIDA; THENCE NORTH 00DEG56'32" WEST, A DISTANCE OF 117.92 FEET TO THE NORTH RIGHT-OF-WAY LINE OF FRUITVILLE ROAD (STATE ROAD #780); THENCE NORTH 89DEG32'48" EAST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 17.68 FEET FOR THE POINT OF BEGINNING; THENCE SOUTH 89DEG32'48" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 329.29 FEET; THENCE NORTH 00DEG56'32" WEST, A DISTANCE OF 563.06 FEET; THENCE NORTH 89DEG12'59" EAST, A DISTANCE OF 342.63 FEET; THENCE SOUTH 00DEG24'42" WEST, A DISTANCE OF 565.08 FEET TO THE POINT OF BEGINNING.

APN: 0044140013

**EXHIBIT A4**  
**LEGAL DESCRIPTION - MELBOURNE**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF BREVARD, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

FROM THE NORTHWEST CORNER OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 27 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, RUN NORTH 88°11'30" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF SARNO ROAD AND THE NORTH LINE OF THE SOUTHEAST 1/4 OF SECTION 24 A DISTANCE OF 100.0 FEET TO THE POINT OF BEGINNING. OF THE HEREIN DESCRIBED PARCEL, THENCE CONTINUE NORTH 88°11'30" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF SARNO ROAD A DISTANCE OF 977.04 FEET TO THE WEST LINE OF PROPERTY DESCRIBED IN BREVARD COUNTY OFFICIAL RECORDS BOOK 823, PAGE 230; THENCE SOUTH 1°48'30" EAST ALONG SAID WEST LINE A DISTANCE OF 200.0 FEET; THENCE SOUTH 88°11'30" WEST 155.0 FEET; THENCE SOUTH 01°48'30" EAST 187.0 FEET; THENCE SOUTH 88°11'30" WEST 859.34 FEET; THENCE NORTH 0°45'03" EAST PARALLEL WITH THE WEST LINE OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 24 A DISTANCE OF 387.39 FEET TO THE POINT OF BEGINNING.

APN: 27-36-24-00-750.1

**EXHIBIT A-5  
LEGAL DESCRIPTION - KISSIMEE**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF OSCEOLA, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

A PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 25 SOUTH, RANGE 29 EAST, OSCEOLA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE, COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 9, SAID POINT ALSO BEING SITUATE IN THE CENTERLINE OF DONEGAN AVENUE (A 66.00 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED);

THENCE NORTH 89°51'31" EAST, ALONG SAID CENTERLINE OF DONEGAN AVENUE, A DISTANCE OF 132.00 FEET;

THENCE NORTH 00°07'52" EAST, DEPARTING SAID CENTERLINE, A DISTANCE OF 33.00 FEET TO THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SAID DONEGAN AVENUE AND THE EASTRIGHT-OF-WAY LINE OF BERMUDA AVENUE (ALSO KNOWN AS JOHN YOUNG PARKWAY, A 200.00 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) AND THE POINT OF BEGINNING;

THENCE CONTINUE NORTH 00°07'52" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 628.17 FEET;

THENCE NORTH 89°52'48" EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE AND ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 9, A DISTANCE OF 534.33 FEET;

THENCE SOUTH 00°01'07" WEST, DEPARTING SAID NORTH LINE AND ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 9, A DISTANCE OF 627.97 FEET TO THE AFOREMENTIONED NORTH RIGHT-OF-WAY LINE OF SAID DONEGAN AVENUE;

THENCE SOUTH 89°51'31" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 535.57 FEET TO THE POINT OF BEGINNING.

APN: R092529-0000002300000

**EXHIBIT A-6  
LEGAL DESCRIPTION - PENSACOLA**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF PENSACOLA, IN THE COUNTY OF ESCAMBIA, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 45, TOWNSHIP 1 SOUTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA; THENCE SOUTH 88°12'40" EAST ALONG THE NORTH LINE OF SAID SECTION 45 A DISTANCE OF 41.03 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF "W" STREET (80 FOOT RIGHT-OF-WAY); THENCE SOUTH 16°52'11" EAST ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 1025.00 FEET TO A POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF AIRPORT BOULEVARD (100 FOOT RIGHT-OF-WAY); THENCE NORTH 73°07'49" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 400.00 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 123.22 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTH HAVING A CENTRAL ANGLE OF 14°48'21" AND A RADIUS OF 1589.30 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE AND SOUTHERLY RIGHT-OF-WAY LINE AN ARC DISTANCE OF 410.69 FEET (CHORD DISTANCE = 409.55 FEET, CHORD BEARING = NORTH 65°43'38" EAST) TO A POINT OR REVERSE CURVATURE OF A CURVE CONCAVE TO THE SOUTH HAVING A CENTRAL ANGLE OF 03°02'00" AND A RADIUS OF 1618.24 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE AND SOUTHERLY RIGHT-OF-WAY LINE AN ARC DISTANCE OF 85.67 FEET (CHORD DISTANCE = 85.66 FEET, CHORD BEARING = NORTH 59°50'28" EAST); THENCE SOUTH 18°00'10" EAST, LEAVING THE AFORESAID CURVE AND SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 342.05 FEET; THENCE SOUTH 71°59'50" WEST A DISTANCE OF 19.22 FEET; THENCE SOUTH 64°01'39" WEST A DISTANCE OF 201.96 FEET; THENCE SOUTH 18°00'10" EAST A DISTANCE OF 264.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF VAN PELT LANE (RIGHT-OF-WAY VARIES); THENCE SOUTH 71°59'50" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF VAN PELT LANE, A DISTANCE OF 399.84 FEET; THENCE NORTH 17°30'02" WEST A DISTANCE OF 573.74 FEET TO THE POINT OF BEGINNING.

Shown for informational purposes:  
APN: 4515301000000007

EXHIBIT A-7  
**LEGAL DESCRIPTION - BRANDON**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF HILLSBOROUGH, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 29 SOUTH, RANGE 20 EAST, HILLSBOROUGH COUNTY, FLORIDA;

LESS THAT PART IN USE AS ROAD RIGHT-OF-WAY FOR VICTORIA STREET OFF THE NORTH SIDE; AND

LESS THAT PART IN USE AS ROAD RIGHT-OF-WAY FOR KINGS AVENUE OFF THE EAST SIDE THEREOF.

APN: U-22-29-20-ZZZ-000002-56430.0

EXHIBIT B  
**CORPORATE LEASE GUARANTY**



THIS CORPORATE LEASE GUARANTY ("Guaranty") is made as of January 31, 2022, by LaVie Care Centers, LLC, a Delaware limited liability company (the "Guarantor"), to and for the benefit of CREA New Port Richey LLC, CREA Bayonet LLC, CREA Sarasota LLC, CREA Melbourne, CREA Kissimmee LLC, CREA Pensacola LLC, CREA Brandon-C LLC, each a Delaware limited liability company (individually and collectively, "Lessor").

#### RECITALS:

A. **New Port Richey Facility Operations, LLC, Brandon Facility Operations, LLC, Melbourne Facility Operations, LLC, Pensacola Facility Operations, LLC, Bayonet Point Facility Operations, LLC, Kissimmee Facility Operations, LLC, Sarasota Facility Operations, LLC**, each an Ohio limited liability company (individually and collectively, "Lessee") has entered into a lease agreement with Lessor, dated of even date herewith (the "Lease"), pursuant to which Lessor agreed to lease to Lessee, and Lessee agreed to lease from Lessor, the Demised Premises listed on Exhibit A and more particularly described on Exhibit A1-A-7 attached thereto.

B. Guarantor is affiliated with Lessee and will directly benefit from the consummation of the transactions contemplated under the Lease, and Guarantor has agreed to execute and deliver this Guaranty.

#### AGREEMENT

**NOW, THEREFORE, FOR VALUE RECEIVED**, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Guarantor agrees as follows:

1. Guaranty. As an inducement for Lessor to enter into and consummate the transactions contemplated in the Lease, Guarantor hereby absolutely, irrevocably and unconditionally guarantees to Lessor the payment of any amounts due by Lessee under and in accordance with the provisions of the Lease now existing or hereafter arising (the "Guaranteed Obligations"). Guarantor hereby absolutely, irrevocably and unconditionally covenants and agrees that it is liable for the Guaranteed Obligations as primary obligor, and that Guarantor shall fully perform each and every term and provision hereof. Any amounts due by Guarantor hereunder shall be due within ten (10) business days after demand with interest accruing on the unpaid amounts at a rate per annum equal to five percent (5%) (the "Default Rate"), which interest shall be due to Lessor monthly. Guarantor agrees that it is directly liable to Lessor for the Guaranteed Obligations and that the Guaranteed Obligations of Guarantor hereunder are independent of any obligations of Lessee to Lessor. This Guaranty shall apply until all of the Guaranteed Obligations have been satisfied.

2. Continuing Obligations. Guarantor agrees that performance of the Guaranteed Obligations by Guarantor shall not be subject to any counterclaim, set-off, abatement, deferment or defense based upon any claim that Guarantor may have against Lessee and shall remain in full force and effect without regard to, and shall not be released, discharged or affected in any way by, any circumstance or condition (whether or not Guarantor shall have any knowledge thereof), including, without limitation, (i) any voluntary or involuntary bankruptcy, assignment for the benefit of creditors, insolvency, dissolution, receivership, or similar events or proceedings with respect to Lessor or Guarantor, as applicable, or (ii) any other occurrence, circumstance, happening or event, whether similar or dissimilar to the foregoing and whether foreseen or unforeseen, which otherwise might constitute a legal or equitable defense or discharge of the liabilities of Guarantor or which otherwise might limit recourse against Lessee or Guarantor, to the fullest extent permitted by law.

3. Waivers. Except as otherwise provided herein, Guarantor expressly and unconditionally waives all notices which may be required by statute, rule of law or otherwise, now or hereafter in effect, to preserve intact any rights against Guarantor.

4. Representations and Warranties. Guarantor agrees that the following shall constitute representations and warranties of Guarantor to Lessor, which shall survive the execution and delivery hereof, and that Lessor intends to enter into the Lease in reliance thereon:

a. Neither this Guaranty nor any document, financial statement, credit information, written certificate or written statement heretofore furnished or required herein to be furnished to Lessor by Guarantor contains any untrue statement of material fact or knowingly omits to state a fact material to this Guaranty.

b. Guarantor is currently informed of the financial condition and performance capabilities of Lessee and of all other circumstances which a diligent inquiry would reveal and which would bear upon the risk of nonpayment of the Guaranteed Obligations. Guarantor will continue to keep informed of the financial condition of Lessee and of all other circumstances which bear upon the risk of nonpayment or nonperformance of the Guaranteed Obligations.

5. "Event of Default" shall mean the occurrence of any one of the following events: (i) Guarantor fails or neglects to perform, keep or observe any term, provision, condition, warranty, representation or covenant contained in this Guaranty; (ii) Guarantor shall make an assignment for the benefit of creditors, or an application is made by Guarantor for the appointment of a receiver, trustee, custodian or conservator for Guarantor or any of Guarantor's assets; (iii) an application is made against Guarantor for the appointment of a receiver, trustee, custodian or conservator for Guarantor or any of Guarantor's assets and the related proceeding is pending for sixty (60) days without dismissal; (iv) a petition under the United States Bankruptcy Code or any similar federal, state or local law, statute or regulation shall be filed against Guarantor and the related legal proceeding is pending for sixty (60) days without dismissal; (v) Guarantor is enjoined, restrained or in any way prevented by court order from conducting any part of Guarantor's business, the result of which is a material adverse affect on Guarantor's ability to perform hereunder; (vi) a lawsuit or other proceeding is filed by or against Guarantor to liquidate any of Guarantor's assets and the lawsuit or other proceeding is pending for sixty (60) days without dismissal; or (vii) a material breach, default or event of default occurs under any agreement, document or instrument executed and delivered by Lessee or Guarantor to Lessor, and such breach, default or event of default is not cured within the applicable grace or cure period, if any.

6. Remedies Upon an Event of Default. Upon the occurrence of and for as long as an Event of Default remains uncured, the Guaranteed Obligations shall be immediately due and payable by Guarantor, and concurrently with the enforcement of Lessor's rights under the Lease, Lessor may, in its sole discretion, exercise any of its rights or remedies provided in this Guaranty, at law, in equity or otherwise. All of Lessor's rights and remedies are cumulative and non-exclusive, and the exercise by Lessor of any right or remedy shall not preclude Lessor from subsequently exercising any other right or remedy, in any other respect or at any other time.

7. Enforcement Costs. In the event that Lessor prevails on the merits of its claim, Guarantor shall additionally pay to Lessor upon demand all reasonable out of pocket fees, costs and expenses incurred by Lessor in connection with placing this Guaranty in the hands of one attorney for collection or any other legal proceeding with respect to Guarantor, including, without limitation, any bankruptcy, reorganization, receivership or other proceedings affecting creditors' rights or involving a claim under this Guaranty.

8. Successors and Assigns. This Guaranty shall inure to the benefit of Lessor and its successors and assigns. This Guaranty shall be binding on Guarantor and its successors and assigns.

9. No Waiver of Rights. No delay or failure on the part of Lessor to exercise any right, power or privilege under this Guaranty generally shall operate as a waiver thereof, and no single or partial exercise of any right, power or privilege shall preclude any other or further exercise thereof or the exercise of any other power or right, or be deemed to establish a custom or course of dealing or performance between the parties hereto. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law. No notice to or demand on Guarantor in any case shall entitle Guarantor to any other or further notice or demand in the same, similar or other circumstance.

7. Joinder. Any action to enforce this Guaranty may be brought against Guarantor without any reimbursement or joinder of Lessee or any other party in such action.



8. Nature of Guaranty. This Guaranty is an irrevocable, absolute, continuing guaranty of payment and performance. This Guaranty shall continue to be effective with respect to any Guaranteed Obligations arising or created after any attempted revocation by Guarantor.

9. Interpretation. Wherever possible, each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

10. Assignment. No party to this Guaranty may assign his or its obligations or benefits under this Guaranty absent the prior written consent of all parties to this Guaranty.

11. Governing Law. This Guaranty shall be construed in accordance with the laws of the State of Florida without regard to conflict of laws principles.

12. Notices. All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered (i) upon the delivery (or refusal to accept delivery) by personal delivery, messenger or overnight express delivery service (or, if such date is not on a business day, on the business day next following such date), (ii) on the third (3<sup>rd</sup>) business day next following the date of its mailing by certified mail, postage prepaid, at a post office maintained by the United States Postal Service, or (iii) by electronic mail transmission (followed by delivery by one of the other means identified in (i)-(ii)), addressed as follows:

If to Lessor:

c/o Topaz Fiscal Services  
6085 Strickland Avenue  
Brooklyn, NY 11234  
Attn: Hal Brecher  
Email: [hbrecher@topazfs.com](mailto:hbrecher@topazfs.com)

If to Lessee:

c/o Synergy Healthcare Services  
800 Concourse Pkwy South  
Maitland, FL 32751  
Email: [legalnotices@synergyhcs.com](mailto:legalnotices@synergyhcs.com)

If to Guarantor:

LAVIE CARE CENTERS, LLC  
1040 Crown Pointe Parkway, Suite 600  
Atlanta, GA 30338  
Attn: Legal Department  
Email: [legalnotices@synergyhcs.com](mailto:legalnotices@synergyhcs.com)

or such other address that any party designates to the other by written notice given in the manner stated above. Any notice sent by electronic mail shall be deemed delivered upon transmission, so long as said transmission is evidenced by proof of said transmittal, and sent before 5:00 p.m. local time at the place of the recipient and if sent after 5:00 p.m., shall be deemed delivered on the next business day. Notices from counsel to Lessor shall for all purposes hereunder constitute notice from Lessor. Notices from counsel to Guarantor shall for purposes hereunder constitute notice from Lessee.

13. CONSENT TO JURISDICTION. TO INDUCE LESSOR ACCEPT THIS GUARANTY, GUARANTOR IRREVOCABLY AGREES THAT, SUBJECT TO THE LESSOR'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS GUARANTY WILL BE LITIGATED IN COURTS HAVING SITUS IN FLORIDA. GUARANTOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN SUCH COURT. WAIVES PERSONAL SERVICE OF PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO GUARANTOR AT THE ADDRESS STATED HEREIN, AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

14. WAIVER OF JURY TRIAL. GUARANTOR AND LESSOR (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith AND AGREE THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH OF GUARANTOR AND LESSOR AGREES THAT THE OTHER WILL NOT ASSERT ANY CLAIM ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL INCIDENTAL OR PUNITIVE DAMAGES.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Guarantor has executed this Corporate Lease Guaranty as of the date first set forth above.

LAVIE CARE CENTERS, LLC

By:

Name: Timothy H. Lehner  
Title: Manager

# EXHIBIT B

THIS CORPORATE LEASE GUARANTY ("*Guaranty*") is made as of January 31, 2022, by LaVie Care Centers, LLC, a Delaware limited liability company (the "*Guarantor*"), to and for the benefit of CREA New Port Richey LLC, CREA Bayonet LLC, CREA Sarasota LLC, CREA Melbourne, CREA Kissimmee LLC, CREA Pensacola LLC, CREA Brandon-C LLC, each a Delaware limited liability company (individually and collectively, "*Lessor*").

## RECITALS:

A. New Port Richey Facility Operations, LLC, Brandon Facility Operations, LLC, Melbourne Facility Operations, LLC, Pensacola Facility Operations, LLC, Bayonet Point Facility Operations, LLC, Kissimmee Facility Operations, LLC, Sarasota Facility Operations, LLC, each an Ohio limited liability company (individually and collectively, "*Lessee*") has entered into a lease agreement with Lessor, dated of even date herewith (the "*Lease*"), pursuant to which Lessor agreed to lease to Lessee, and Lessee agreed to lease from Lessor, the Demised Premises listed on Exhibit A and more particularly described on Exhibit A1-A-7 attached thereto.

B. Guarantor is affiliated with Lessee and will directly benefit from the consummation of the transactions contemplated under the Lease, and Guarantor has agreed to execute and deliver this Guaranty.

## AGREEMENT

**NOW, THEREFORE, FOR VALUE RECEIVED**, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Guarantor agrees as follows:

1. Guaranty. As an inducement for Lessor to enter into and consummate the transactions contemplated in the Lease, Guarantor hereby absolutely, irrevocably and unconditionally guarantees to Lessor the payment of any amounts due by Lessee under and in accordance with the provisions of the Lease now existing or hereafter arising (the "*Guaranteed Obligations*"). Guarantor hereby absolutely, irrevocably and unconditionally covenants and agrees that it is liable for the Guaranteed Obligations as primary obligor, and that Guarantor shall fully perform each and every term and provision hereof. Any amounts due by Guarantor hereunder shall be due within ten (10) business days after demand with interest accruing on the unpaid amounts at a rate per annum equal to five percent (5%) (the "*Default Rate*"), which interest shall be due to Lessor monthly. Guarantor agrees that it is directly liable to Lessor for the Guaranteed Obligations and that the Guaranteed Obligations of Guarantor hereunder are independent of any obligations of Lessee to Lessor. This Guaranty shall apply until all of the Guaranteed Obligations have been satisfied.

2. Continuing Obligations. Guarantor agrees that performance of the Guaranteed Obligations by Guarantor shall not be subject to any counterclaim, set-off, abatement, delayment or defense based upon any claim that Guarantor may have against Lessee and shall remain in full force and effect without regard to, and shall not be released, discharged or affected in any way by, any circumstance or condition (whether or not Guarantor shall have any knowledge thereof), including, without limitation, (i) any voluntary or involuntary bankruptcy, assignment for the benefit of creditors, insolvency, dissolution, receivership, or similar events or proceedings with respect to Lessor or Guarantor, as applicable, or (ii) any other occurrence, circumstance, happening or event, whether similar to the foregoing and whether foreseen or unforeseen, which otherwise might constitute a legal or equitable defense or discharge of the liabilities of Guarantor or which otherwise might limit recourse against Lessee or Guarantor, to the fullest extent permitted by law.

3. Waivers. Except as otherwise provided herein, Guarantor expressly and unconditionally waives all notices which may be required by statute, rule of law or otherwise, now or hereafter in effect, to preserve intact any rights against Guarantor.

4. Representations and Warranties. Guarantor agrees that the following shall constitute representations and warranties of Guarantor to Lessor, which shall survive the execution and delivery hereof, and that Lessor intends to enter into the Lease in reliance thereon:
  - a. Neither this Guaranty nor any document, financial statement, credit information, written certificate or written statement heretofore furnished or required herein to be furnished to Lessor by Guarantor contains any untrue statement of material fact or knowingly omits to state a fact material to this Guaranty.
  - b. Guarantor is currently informed of the financial condition and performance capabilities of Lessee and of all other circumstances which a diligent inquiry would reveal and which would bear upon the risk of nonpayment of the Guaranteed Obligations. Guarantor will continue to keep informed of the financial condition of Lessee and of all other circumstances which bear upon the risk of nonpayment or nonperformance of the Guaranteed Obligations.
5. "Event of Default" shall mean the occurrence of any one of the following events: (i) Guarantor fails or neglects to perform, keep or observe any term, provision, condition, warranty, representation or covenant contained in this Guaranty; (ii) Guarantor shall make an assignment for the benefit of creditors, or an application is made by Guarantor for the appointment of a receiver, trustee, custodian or conservator for Guarantor or any of Guarantor's assets; (iii) an application is made against Guarantor for the appointment of a receiver, trustee, custodian or conservator for Guarantor or any of Guarantor's assets and the related proceeding is pending for sixty (60) days without dismissal; (iv) a petition under the United States Bankruptcy Code or any similar federal, state or local law, statute or regulation shall be filed by Guarantor; or (v) a petition under the United States Bankruptcy Code or any similar federal, state or local law, statute or regulation shall be filed against Guarantor and the related legal proceeding is pending for sixty (60) days without dismissal; (vi) Guarantor is enjoined, restrained or in any way prevented by court order from conducting any part of Guarantor's business, the result of which is a material adverse affect on Guarantor's ability to perform hereunder; (vii) a lawsuit or other proceeding is filed by or against Guarantor to liquidate any of Guarantor's assets and the lawsuit or other proceeding is pending for sixty (60) days without dismissal; or (viii) a material breach, default or event of default occurs under any agreement, document or instrument executed and delivered by Lessee or Guarantor to Lessor, and such breach, default or event of default is not cured within the applicable grace or cure period, if any.
6. Remedies Upon an Event of Default. Upon the occurrence of and for as long as an Event of Default remains uncured, the Guaranteed Obligations shall be immediately due and payable by Guarantor, and concurrently with the enforcement of Lessor's rights under the Lease, Lessor may, in its sole discretion, exercise any of its rights or remedies provided in this Guaranty, at law, in equity or otherwise. All of Lessor's rights and remedies are cumulative and non-exclusive, and the exercise by Lessor of any right or remedy shall not preclude Lessor from subsequently exercising any other right or remedy, in any other respect or at any other time.
7. Enforcement Costs. In the event that Lessor prevails on the merits of its claim, Guarantor shall additionally pay to Lessor upon demand all reasonable out of pocket fees, costs and expenses incurred by Lessor in connection with placing this Guaranty in the hands of one attorney for collection or any other legal proceeding with respect to Guarantor, including, without limitation, any bankruptcy, reorganization, receivership or other proceedings affecting creditors' rights or involving a claim under this Guaranty.
8. Successors and Assigns. This Guaranty shall inure to the benefit of Lessor and its successors and assigns. This Guaranty shall be binding on Guarantor and its successors and assigns.
9. No Waiver of Rights. No delay or failure on the part of Lessor to exercise any right, power or privilege under this Guaranty generally shall operate as a waiver thereof, and no single or partial exercise of any right, power or privilege shall preclude any other or further exercise thereof or the exercise of any other power or right, or be deemed to establish a custom or course of dealing or performance between the parties hereto. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law. No notice to or demand on Guarantor in any case shall entitle Guarantor to any other or further notice or demand in the same, similar or other circumstance.

7. Joinder. Any action to enforce this Guaranty may be brought against Guarantor without any reimbursement or joinder of Lessee or any other party in such action.
8. Nature of Guaranty. This Guaranty is an irrevocable, absolute, continuing guaranty of payment and performance. This Guaranty shall continue to be effective with respect to any Guaranteed Obligations arising or created after any attempted revocation by Guarantor.
9. Interpretation. Wherever possible, each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty.
10. Assignment. No party to this Guaranty may assign his or its obligations or benefits under this Guaranty absent the prior written consent of all parties to this Guaranty.
11. Governing Law. This Guaranty shall be construed in accordance with the laws of the State of Florida without regard to conflict of laws principles.
12. Notices. All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered (i) upon the delivery (or refusal to accept delivery) by personal delivery, messenger or overnight express delivery service (or, if such date is not on a business day, on the business day next following such date); (ii) on the third (3<sup>rd</sup>) business day next following the date of its mailing by certified mail, postage prepaid, at a post office maintained by the United States Postal Service; or (iii) by electronic mail transmission (followed by delivery by one of the other means identified in (i)-(ii)), addressed as follows:

If to Lessor:

c/o Topaz Fiscal Services  
6085 Strickland Avenue  
Brooklyn, NY 11234  
Attn: Hal Brechter  
Email: hbrecter@topazfs.com

If to Lessee

c/o Synergy Healthcare Services  
800 Concourse Pkwy South  
Maitland, FL 32751  
Email: legalnotices@synergyhcs.com

If to Guarantor:

LAVIE CARE CENTERS, LLC  
1040 Crown Pointe Parkway, Suite 600  
Atlanta, GA 30338  
Attn: Legal Department  
Email: legalnotices@synergyhcs.com

or such other address that any party designates to the other by written notice given in the manner stated above. Any notice sent by electronic mail shall be deemed delivered upon transmission, so long as said transmission is evidenced by proof of said transmittal, and sent before 5:00 p.m. local time at the place of the recipient and if sent after 5:00 p.m., shall be deemed delivered on the next



business day. Notices from counsel to Lessor shall for all purposes hereunder constitute notice from Lessor. Notices from counsel to Guarantor shall for purposes hereunder constitute notice from Lessee.


13. CONSENT TO JURISDICTION. TO INDUCE LESSOR ACCEPT THIS GUARANTY, GUARANTOR IRREVOCABLY AGREES THAT, SUBJECT TO THE LESSOR'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS GUARANTY WILL BE LITIGATED IN COURTS HAVING SITUS IN FLORIDA. GUARANTOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN SUCH COURT. WAIVES PERSONAL SERVICE OF PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL, DIRECTED TO GUARANTOR AT THE ADDRESS STATED HEREIN, AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

14. WAIVER OF JURY TRIAL. GUARANTOR AND LESSOR (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith AND AGREE THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH OF GUARANTOR AND LESSOR AGREES THAT THE OTHER WILL NOT ASSERT ANY CLAIM ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL INCIDENTAL OR PUNITIVE DAMAGES.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Guarantor has executed this Corporate Lease Guaranty as of the date first set forth above.

LAVIE CARE CENTERS, LLC

By: 

Name: Timothy H. Lehnert

Title: Manager

# EXHIBIT C

## OPERATIONS TRANSFER AGREEMENT

This OPERATIONS TRANSFER AGREEMENT ("*Agreement*") is entered into as of this 31<sup>st</sup> day of January, 2022 (the "*Effective Date*"), by and among the entity listed as a current operator on Exhibit A attached hereto ("*Current Operator*"), the entity listed as a new operator on Exhibit A attached hereto ("*New Operator*"), and LaVie Care Centers, LLC, a Delaware limited liability company, as Guarantor, solely for purposes of Sections 2.5, 2.9 and 5 ("*Guarantor*").

## RECITALS

A. The entity listed as the Owner on Exhibit A attached hereto (the "*Owner*") owns certain real property improved with a certain skilled nursing facility listed on Exhibit A attached hereto (the "*Facility*") located at the address set forth on Exhibit A attached hereto, and all of the furniture, fixtures and equipment and other items of personal property located therein (other than such personal property that is owned by the Current Operator) (collectively with the Facility, the "*Property*"). The Facility is licensed and certified for that number of SNF beds listed on Exhibit A attached hereto (the "*License*").

B. Owner and the purchaser listed on Exhibit A attached hereto (the "*Purchaser*") are parties, along with the other parties named therein, to that certain Purchase and Sale Agreement, dated December 6, 2021 (the "*PSA*"), pursuant to which Purchaser will purchase the Property from Owner contemporaneously with the closing of the transactions contemplated by this Agreement.

C. Current Operator is the licensed operator of the Facility and leases its Property directly or indirectly from Owner pursuant to a lease or sub-lease agreement.

D. Pursuant to the terms and conditions of this Agreement, Owner desires for Current Operator to transfer to New Operator on the Closing Date the Assignable Licenses and Permits (defined below), and for the parties to take other acts to ensure the continued business operations of the Facility on and after the Closing Date, in order that New Operator may lease the Facility from and after the consummation of the transaction contemplated by the PSA, and be the licensed operator of the Facility on and after the Closing Date.

E. The parties desire to enter into this Agreement to facilitate an orderly transition of the Facility's operations from Current Operator to New Operator as more specifically provided herein.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree that:

**SECTION 1**  
**CLOSING; CONVEYANCE OF ASSETS; LIABILITIES; CLOSING CONDITIONS;**  
**CLOSING DELIVERABLES**

1.1 Closing. The closing of the transactions contemplated under this Agreement (the "Closing") shall occur on the first day of the first calendar month following the satisfaction of all conditions precedent set forth in Section 1.2 below (the "Closing Date"). The effectiveness of the Closing and New Operator's obligations for operations at the Facility shall be deemed to have occurred at 12:00 a.m. (beginning of the day) on the Closing Date. It is currently anticipated that the Closing Date shall be May 1, 2022. Notwithstanding anything to this Agreement to the contrary, nothing in this Section shall obligate either party to close the transactions contemplated by this Agreement if any condition precedent to Closing has not been met in accordance with the terms of this Agreement or waived in writing by the applicable party. Notwithstanding the foregoing, or anything to the contrary contained herein, Current Operator and New Operator agree that at any time prior to the Outside Date, at New Operator's request, they will enter into a management agreement (in a form to be mutually agreed upon by the parties) (the "Management Agreement"). The Management Agreement will provide that if the Closing does not occur by the Outside Date due to a failure to meet the closing condition set forth in Section 1.4(a)(6) below, or at such earlier date if requested by New Operator, then New Operator shall take over the management of the Facility on behalf of Current Operator until such closing condition has been satisfied. In addition, among other things, the Management Agreement will provide that New Operator will assume responsibility for all of the expenses related to the operation of the Facility and, in consideration of such assumption, Current Operator shall pay to New Operator all of the gross revenues generated in connection with the operation of the Facility following New Operator's assumption of the expenses.

1.2 Conveyance of Assets. On the Closing Date, Current Operator shall transfer to New Operator the following (the "Assigned Assets");

(a) To the extent Current Operator's interest is assignable and/or transferable pursuant to applicable law and to the extent New Operator, in its sole discretion, elects to assume the same, all consents, the Assignable Licenses and Permits, permits, approvals, accreditations, certifications, bed operating rights, and Medicare and Medicaid provider numbers and agreements issued by any Governmental Entity, including without limitation, any authorizations to participate in any state or federal reimbursement program such as Medicaid or Medicare;

(b) All right, title and interest of Current Operator in and to any trade names and all variations thereof connected with each Facility;

(c) All telephone and facsimile numbers relating solely to the Facility (including, without limitation, any "e-fax" numbers and all "800" numbers) and all post office box addresses associated with the Facility;

(d) all current resident and employee records in the form located at the Facility on the Closing Date;

(e) all consumable inventories of every kind and nature whatsoever (specifically including, but not limited to, all pharmacy supplies, nursing supplies, medical supplies, housekeeping supplies, laundry supplies, maintenance supplies, office supplies, dietary supplies, other supplies and food) located at and used in connection with the operation of the Facility (the "Supplies"), which Supplies shall be in a quantity sufficient to meet the needs of the residents of the Facility for the proper operation thereof and in compliance with all applicable laws, in the ordinary course of business; and

(f) Any and all other items of tangible and intangible personal property owned or leased by the applicable Current Operator and used solely in connection with the operation, leasing and maintenance of the Facility, including all furniture, fixtures and equipment, IT equipment, and other items of personal property located at the Facility (collectively, the "Personal Property"), and any goodwill of Current Operator associated with the business operated at the Facility.

Current Operator shall have no obligation to deliver the Assigned Assets to any location other than that at which each item of the Assigned Assets is currently located, and New Operator agrees that the presence of the Assigned Assets at the Facility on the Closing Date shall constitute delivery thereof. Notwithstanding the foregoing, the parties shall cooperate in the transfer of records as contemplated herein.

1.3 Excluded Liabilities. New Operator shall not assume and shall not be liable for, and Current Operator shall satisfy and indemnify and defend New Operator from and against, in accordance with Section 5 herein, any debts, liabilities, claims or obligations of any kind or nature arising from, out of or relating to Current Operator's operation of the Facility, or any activities, of Current Operator prior to the Closing Date including the performance of Current Operator's obligations under its respective Assigned Agreements prior to the Closing Date (the "Retained Liabilities").

1.4 Conditions Precedent.

(a) New Operator's Conditions Precedent. New Operator's obligation to consummate the transactions contemplated in this Agreement shall be subject to the following conditions precedent being satisfied on or prior to the Closing Date or the waiver thereof by New Operator, which waiver shall be binding upon New Operator only to the extent made in writing:

(1) Current Operator shall have duly and timely performed and fulfilled all of its duties, obligations, promises, covenants and agreements required to be performed hereunder on or prior to the Closing Date in all material respects;

(2) Each of the representations and warranties of Current Operator contained in this Agreement shall be true and correct in all material respects as of the Closing Date, except that those representations and warranties that contain materiality qualifications and other qualifications based on the word "material" shall be required to be true and correct in all respects and not merely material respects;

(3) Current Operator shall deliver to New Operator on or before the Closing Date the Current Operator's Deliverables;

- (4) Owner and Purchaser shall have entered into, and consummated the transactions contemplated under the PSA;
  - (5) Transfer of the Assigned Assets;
  - (6) Transfer of those Assignable Licenses and Permits from Current Operator to New Operator which are required for New Operator to operate the Facility as of the Closing Date as a duly licensed skilled nursing facility, and the procurement by New Operator of the new License from the State of Florida, provided that the same shall be deemed to have been satisfied if the parties have satisfied all notice and filing requirements such that any of such transfer(s) or procurement shall be effected after the Closing but effective as of the Closing Date;
  - (7) Since the date of this Agreement, there shall have occurred no event, circumstance or other change in Current Operator or the Facility that has had a Material Adverse Effect that has not been corrected or resolved prior to Closing to New Operator's satisfaction as determined in its reasonable discretion;
  - (8) No Facility shall be Out of Compliance; and
  - (9) On the Closing Date there shall not be any injunction or order entered by a court of competent jurisdiction prohibiting the consummation of the transaction contemplated hereby.
- (b) Current Operator's Conditions Precedent. Current Operator's obligation to consummate the transactions contemplated in this Agreement shall be subject to the following conditions precedent being satisfied on or prior to the Closing Date to or the waiver thereof by Current Operator, which waiver shall be binding upon Current Operator only to the extent made in writing:
- (1) New Operator shall have duly and timely performed and fulfilled all of its duties, obligations, promises, covenants and agreements required to be performed hereunder on or prior to the Closing Date in all material respects;
  - (2) Each of the representations and warranties of New Operator contained in this Agreement shall be true and correct in all material respects as of the Closing Date, except that those representations and warranties that contain materiality qualifications and other qualifications based on the word "material" shall be required to be true and correct in all respects and not merely material respects;
  - (3) New Operator shall have executed and delivered to Current Operator the New Operator Deliverables, as applicable;
  - (4) Owner and Purchaser shall have entered into, and consummated the transactions contemplated under the PSA; and

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- (5) Current Operator's Lease obligations and those of any affiliate related to Property have been terminated.
- 1.5 Current Operator Deliverables. At Closing, Current Operator shall deliver the following to New Operator (collectively, the "Current Operator Deliverables"):
- (a) Executed counterparts of a closing statement reflecting any prorations and other payments to be made at Closing in accordance with the terms of this Agreement (the "OTA Settlement Statement");
  - (b) The accounting of patient funds required by Section 2.2 hereof and such patient funds;
  - (c) An executed counterpart of that certain Agreement entered into among Current Operator, New Operator and MidCap Funding IV Trust, a Delaware statutory trust and Current Operator's lender ("MidCap"), a copy of which is attached hereto as Exhibit B (the "MidCap Agreement");
  - (d) Counterparts to any conveyance documents;
  - (e) An executed counterpart of the Bill of Sale, the form of which is attached hereto as Exhibit C (the "Bill of Sale");
  - (f) An executed counterpart of the Assignment and Assumption Agreement, the form of which is attached hereto as Exhibit D (the "Assignment and Assumption"); and
  - (g) Cooperate with New Operator to provide any and all documents reasonably requested or required by New Operator's lenders.
- 1.6 New Operator's Deliverables. At Closing, New Operator shall deliver the following to Current Operator (collectively, the "New Operator Deliverables"):
- (a) An executed counterpart of the OTA Settlement Statement;
  - (b) Payment in immediately available funds of any amounts due to Current Operator from New Operator with respect to the Facility as reflected in the OTA Settlement Statement;
  - (c) An executed counterpart of the Bill of Sale;
  - (d) An executed counterpart of the Assignment and Assumption; and
  - (e) Counterparts to any conveyance documents.
- 1.7 Payment. Any mutual obligations owing between Current Operator on the one hand and New Operator on the other pursuant to Sections 1.5 and 1.6 hereof shall be offset against each

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other and shall be reflected on the OTA Settlement Statement or otherwise paid in accordance with Section 2.8.

1.8 Waiver. In the event that either of the parties hereto (a "**Waiving Party**") waives a condition precedent to its performance hereunder, or otherwise elects to proceed with the Closing despite the fact that one or more conditions precedent to its performance have not been satisfied, such action by the Waiving Party shall in no way be deemed a waiver of any payment, indemnification or other rights of the Waiving Party with respect to such condition, and the Waiving Party shall be entitled, following the Closing, to pursue any and all available remedies at law or equity with respect thereto.

## SECTION 2 TRANSFER OF OPERATIONS; CERTAIN COVENANTS

### 2.1 Licensure; Cooperation.

(a) The parties hereto agree to cooperate with each other to effect an orderly and expeditious transfer of the continued operations of the Facility. The parties hereto also agree to cooperate with each other to effect an orderly and expeditious transfer of all of the licenses and permits which Current Operator uses as a requirement for the operation of the Facility as a licensed skilled nursing facility and which are assignable by law (the "**Assignable Licenses and Permits**"). New Operator acknowledges that the Assignable Licenses and Permits will not include the License if the same is not assignable by law. New Operator shall apply for any and all consents, approvals, authorizations, notices, filings, transfers and other approvals, including, but not limited to, approval for a new License, and approval of the transfer of the Assignable Licenses and Permits, which in each case are (i) prescribed by any governmental, regulatory or administrative body, agency or authority, whether Federal, state or local, (ii) required by the Assignable Licenses and Permits, and/or (iii) required for the operation of the Facility as a duly licensed skilled nursing facility. As soon as practicable, New Operator shall apply for the approvals from Medicare and Medicaid (including, without limitation, the assignment to New Operator of Current Operator's respective Medicare provider agreement). New Operator, at its sole cost and expense, shall take all steps necessary to secure in New Operator's name all such licensure, permits or other authorizations that are required for New Operator to operate the Facility upon the Closing, and New Operator shall use all commercially reasonable efforts to obtain such licensure, permits and other authorizations for the Closing to occur within sixty (60) days of the Effective Date. Current Operator shall reasonably cooperate with New Operator by furnishing all reasonably requested documentation and executing all documents and consents reasonably necessary for New Operator's satisfaction of its obligations under this Section 2.1. Any reasonable, documented, out of pocket expense incurred by Current Operator in complying with the foregoing shall be promptly reimbursed by New Operator at the Closing or as provided in Section 2.8.

(b) For any periods following the Closing that New Operator is not yet able to bill under its Medicaid and/or Medicare provider agreements and/or managed care contracts (the "**Provider Agreements**"), Current Operator shall allow New Operator to bill under Current Operator's respective Provider Agreements, to the extent permitted by applicable law and contract, and Current Operator shall promptly forward to New Operator any payments received with respect to services rendered by New Operator from and after Closing in accordance with Section 2.5

hereof. Nothing herein shall require Current Operator to submit claims on behalf of New Operator, perform any billing activity on behalf of New Operator or otherwise make representations to any payor, except as necessary to advise the payor of the operations transfer.

### 2.2 Patient Funds; Advance Payments.

(a) Within five (5) days following the Closing Date, and subject to adjustment within thirty (30) days following the Closing Date, Current Operator shall provide New Operator with an accounting of all funds belonging to residents at the Facility, which are held by Current Operator in a custodial capacity, and an accounting of all advance payments received by each of them pertaining to residents at the Facility (collectively, the "**Resident Trust Funds/Payments**"). Such accounting shall set forth the names of the residents for whom such Resident Trust Funds/Payments are held and the amounts held on behalf of each resident.

(b) No later than five (5) days before the Closing Date, New Operator shall provide Current Operator with wire transfer instructions for New Operator's receipt on the Closing Date of the Resident Trust Funds/Payments into trust accounts opened by New Operator prior to the Closing in compliance with all applicable laws.

(c) On the Closing Date, and subject to adjustment within thirty (30) days following the Closing Date, Current Operator shall transfer the Resident Trust Funds/Payments to a bank account designated by New Operator, and New Operator shall acknowledge receipt of, and does hereby expressly assume, all of Current Operator's financial and custodial obligations arising from and after the Closing with respect thereto, it being the intent and purpose of this provision that, as of the Closing, and effective upon transfer of the Resident Trust Funds/Payments into the account designated by New Operator, Current Operator shall be, and is hereby, relieved of all fiduciary and custodial obligation with respect to such funds and that New Operator shall, and does hereby, assume all such post-Closing obligations and shall be directly accountable to the residents with respect thereto.

(d) On the Closing Date, New Operator shall, and does hereby, assume custody of all Resident Trust Funds/Payments and any other trust accounts for residents transferred by Current Operator to New Operator and agrees to hold and treat such accounts in the fiduciary capacity required by law. New Operator agrees to indemnify and hold Current Operator harmless from all liabilities, claims, and demands that may be asserted against Current Operator in connection with New Operator's treatment of such accounts on and after the Closing Date.

2.3 Final Cost Reports. Current Operator shall prepare and file, with the appropriate governmental authorities, a final cost report in respect to its operation of the Facility, prior to Closing, within the time frame following the Closing as required by law, rule, or regulation. New Operator shall prepare and file, with the appropriate governmental authorities, its initial cost reports with respect to its operation of the Facility, following Closing for the fiscal year

commencing with the fiscal year in which the Closing occurs, within the time frame following the Closing as required by law, rule, or regulation.

**2.4 Employees.**

(a) As of the Effective Date, Current Operator currently employs certain employees engaged in the operation of the Facility (together with such additional persons as Current Operator may hire before the Closing in the ordinary course of the Facility's operations (the "**Employees**"). Current Operator shall provide New Operator with a list of all Employees as of the Effective Date including: (i) the vacation, sick, holiday, personal time-off, and any other paid time off of all such Employees, whether vested or unvested, to the extent it was accrued prior to the Effective Date and remains unused ("**PTO**"); (ii) the current base salaries or wage rate of such Employees, (iii) the exempt and nonexempt status of each Employee under the Fair Labor Standards Act and any applicable state law (whether or not paid an hourly or salary rate), (iv) each Employee's date of hire or commencement of most recent employment, (v) each Employee's position, and (vi) the number of hours worked by each Employee in the preceding 12 months, each of which shall be updated as of the most recent payroll day prior to the Closing. New Operator shall not be bound by or assume any employment contracts to which Current Operator may be a party. Current Operator shall terminate the employment and all benefits of the Employees, effective as of 11:59:59 on the day immediately preceding the Closing Date. Current Operator shall be responsible for, and shall pay to the Employees, at or prior to the Closing Date, any amounts due for PTO payable in accordance with, or otherwise as required under (i) Current Operator's then-current policy for terminated employees, which New Operator acknowledges may not require any payout, (ii) any collective bargaining agreements affecting the Facility, as determined by the Current Operator, and (iii) applicable laws of the state, county, or city in which the Facility is located.

(b) New Operator shall offer to hire a sufficient number of the Employees effective as of the Closing Date, and shall use all commercially reasonable efforts to employ the minimum number of employees, so as to avoid creating any obligation on the part of Current Operator under the Worker Adjustment and Retraining Notification Act, or any other comparable state or local law (collectively, the "**WARN Act**"). Such Employees who accept such employment offers from New Operator shall be referred to as the "**Retained Employees**." Any such employment of a Retained Employee by New Operator shall be on terms such that Current Operator shall not have violated the WARN Act, and will not result in a determination that Retained Employees have been constructively discharged. New Operator shall not discriminate in the hiring of Employees on any legally impermissible basis, and shall indemnify, defend, and hold harmless Current Operator with respect to any related liability or claim. No later than five (5) business days before the Closing Date, New Operator shall provide Current Operator with a written list of any Employees whom New Operator does not anticipate will become Retained Employees.

(c) New Operator and Current Operator acknowledge and agree that the provisions of this Section 2.4, are designed, in part, to ensure that Current Operator is not required to give notice to Employees under the WARN Act. Accordingly, New Operator agrees to, and hereby does, assume any liability relating to the WARN Act, in the event of the violation by New Operator of their obligations under Section 2.4 of this Agreement, including a violation which results from allegations that New Operator constructively discharged any Employees as a result of the terms

and conditions of employment offered by New Operator or any of their affiliates. Nothing in this Section 2.4 shall, however, create any third party beneficiary or other rights in favor of any person not a party hereto, including Employees, or constitute an employment agreement or condition of employment for Retained Employees.

(d) Current Operator shall be responsible for providing, if required by law, all applicable COBRA notices and COBRA continuation healthcare coverage for all "M&A Qualified Beneficiaries" (as that term is defined in Section 4980B of the Code and Title 6 of the Employee Retirement Income Security Act of 1974, as amended, and the regulations thereunder) as in effect from time to time and the regulations thereunder or pursuant to other applicable state law in connection with the transaction. New Operator shall cooperate as reasonably necessary so that Current Operator may satisfy all such obligations. Current Operator acknowledges and agrees that New Operator is not assuming any of Current Operator's obligations to its Current Employees, former employees, and/or qualified beneficiaries under COBRA or other applicable state law.

**2.5 Accounts Receivable.**

(a) On the Closing Date, New Operator shall, and does hereby, assume responsibility for the billing for, and collection of, payments on Accounts Receivable (as such term is defined below) for services rendered by them at their Facility, on and after the Closing Date (such Accounts Receivable, "**New Operator Amounts**"). On and after the Closing Date, all New Operator Amounts shall be billed and collected by New Operator using New Operator's own computer software and billing systems. Current Operator shall not be responsible for billing or collecting New Operator's amounts using its own computer software, billing systems, or any other resources, without limiting the foregoing, to the extent permitted under applicable law and applicable enrollment terms, and at New Operator's election, for a period between the Closing Date and the first anniversary thereof, Current Operator hereby agrees that New Operator may bill for services provided by New Operator under Current Operator's Medicare and Medicaid provider agreements (including use of any NPI numbers of other billing identifiers necessary to complete such billing), as well as any other provider agreements, and that the New Operator Amounts resulting from such billing may be paid to Current Operator. Such New Operator Amounts collected by Current Operator shall be paid to New Operator as provided in this Section 2.5 and as provided in the MidCap Agreement. As a condition of the rights granted by Current Operator in this Section 2.5, New Operator agrees to comply with the terms of the MidCap Agreement and further agree that, if any terms of the MidCap Agreement conflict with the terms of this Section 2.5, then the terms of the MidCap Agreement shall control.

(b) Current Operator shall retain all rights in and title to Accounts Receivable for services rendered at its Facility prior to the Closing Date (the "**Current Operator's Accounts Receivable**"), and shall retain full responsibility for the collection thereof. The Current Operator's Accounts Receivable shall include all amounts due Current Operator, whether billed or unbilled prior to the Closing Date, for all services and ancillary services or products provided to any current or former residents by Current Operator prior to the Closing Date, and any Accounts Receivable arising from the rate adjustments which relate to periods prior to the Closing Date, even if such adjustments occur after the Closing Date.



(c) All third party payor payments that designate the dates of service or other identifying data on the remittance received by New Operator from and after the Closing Date shall relate to the period prior to the Closing Date or after the Closing Date, as the case may be, in connection with the account of the resident for whom the payment is made in accordance with the dates of service or other identifying data indicated on the remittance, and New Operator shall remit to Current Operator, within five (5) days of its receipt thereof, any payment received by New Operator that apply to Current Operator's Accounts Receivable, together with a copy of the remittance advice; provided, however, in the event payment is made without remittance advice (or where the remittance advice does not specify the dates of service), and the parties are otherwise unable to identify the time period to which such payment relates, such payment will, for the first thirty (30) days after the Closing Date, be applied to the appropriate Current Operator's Accounts Receivable, and thereafter to the appropriate New Operator Amounts.

(d) In addition, New Operator shall remit to Current Operator, within fifteen (15) business days of its receipt thereof, any cash repayment or cash reimbursement received by New Operator arising out of cost reports filed for the period ending prior to the Closing Date. New Operator acknowledges that Medicare Part A constrains receivables from dates of service prior to the Closing Date exist, and New Operator agrees that, to the extent the information is provided to the New Operator so that it may accurately reflect the information in the filing, New Operator will (i) report any amounts uncollectible from Medicare Part A beneficiaries that meet all of the criteria specified in 42 CFR 413.89(3), or any successor laws thereto, and any other regulations, laws, materials, or CMS guidance (such amounts, the "*Medicare Bad Debts*") from Current Operator's dates of service on New Operator's initial Medicare cost report, and any subsequent cost reports if needed, and (ii) if New Operator receives payment or credit for the Medicare Bad Debts that are from Current Operator's dates of service, New Operator will pay to Current Operator those amounts within fifteen (15) business days of its receipt thereof. Any amounts not so paid to Current Operator shall bear interest thereon at an annual rate of twelve percent (12%) calculated from the date such payment or credit was received by New Operator through the date when paid in full.

(e) Current Operator and New Operator agree that, except as provided in the MidCap Agreement, any payments received by Current Operator that pertain to the period commencing from and after the Closing Date, whether received from private pay patients or as repayment or reimbursement arising out of cost reports, shall be remitted by Current Operator to New Operator within five (5) days of Current Operator's receipt thereof.

(f) To the extent either party receives any proceeds from the Accounts Receivable of the other party, the parties acknowledge that the party receiving the payment belonging to the other party shall hold the payment in trust. However, both Parties shall have the right to offset with respect to any amounts otherwise owed, or reasonably estimated to be owed, by and between the Parties pursuant to this Agreement. For a period of six (6) months following the Closing Date, Current Operator and New Operator shall provide each other with an accounting by the twentieth (20th) day of each month setting forth all amounts received by them during the preceding month with respect to the Accounts Receivable. To the extent that such accounting shows that either party received Accounts Receivable that are applicable to the other party's period of operation, such amounts shall be paid over to such other party within five (5) days of such determination. Nothing

herein shall be deemed to limit in any way either party's rights and remedies to recover accounts receivable due and owing to it under the terms of this Agreement.

(g) Notwithstanding anything in this Agreement to the contrary, any and all grant payments, stimulus payments, retroactive rate adjustments, and any and all other payments and support paid with respect to the Facility in relation to COVID-19 relief efforts ("*COVID Payments*") based on, in return for, or calculated using data or dates of service prior to the Closing Date, shall be the property of the Current Operator and retained by and/or paid to the Current Operator. Any COVID Payments based on, in return for, or calculated using data or dates of service on or after the Closing Date shall be the property of the New Operator and retained by and/or paid to the New Operator. Such COVID Payments shall be transferred by the receiving party in the same manner as other Accounts Receivable pursuant to this Section 2.5 and in compliance with applicable law. To the extent that Current Operator receives any COVID Payments after the Closing Date that are not legally permitted to be transferred to New Operator for any reason, then Current Operator shall otherwise cooperate with New Operator to ensure that such COVID Payments are used solely for the benefit of the Facility and its residents and staff in compliance with applicable law. To the extent that New Operator receives any COVID Payments after the Closing Date that are not legally permitted to be transferred to Current Operator for any reason, then New Operator shall cooperate with Current Operator to ensure that such COVID Payments are used solely to offset applicable COVID-19 costs and expenses incurred by Current Operator prior to the Closing Date in compliance with applicable law.

(h) As of the Effective Date, Current Operator is in receipt of an amount equal to six thousand two hundred twenty-nine and 0/100 Dollars (\$6,229.00) pursuant to the Medicare Accelerated & Advance Payment Program ("*MAAPP Funds*"), which funds were received by Current Operator in accordance with the process described by the United States Department of Health and Human Services' Centers for Medicare & Medicaid Services ("*CMS*"). Current Operator has applied or will apply the MAAPP Funds in accordance with all applicable CMS requirements under federal laws, regulations, and published CMS policies or guidance. The parties hereto hereby acknowledge and agree that should any of the COVID Payments including MAAPP Funds be recouped against New Operator's Medicare provider agreement, or should New Operator otherwise be required to repay such COVID Payments including MAAPP Funds (collectively, the "*Recouped MAAPP Funds*"), then Current Operator shall, within thirty (30) days of receipt of notice that such recoupment was for Recouped MAAPP Funds, remit such Recouped MAAPP Funds to New Operator. Should Current Operator not remit such funds, New Operator may seek such funds from the Guarantor. Current Operator shall pay to New Operator interest on the Recouped MAAPP Funds equal to the rate of twelve percent (12%) per annum, compounded monthly, from the date of such recoupment until such Recouped MAAPP Funds have been paid in full.

2.6 Payment of Operating Costs, Prorations and Deposits. Current Operator shall be responsible for, and shall pay on a timely basis, claims or charges which are owed to third parties arising from their use, operation, or control of the Facility, including payroll, taxes (including all real estate and personal property taxes and assessments), insurance premiums, utilities, amounts due under executory obligations, and similar obligations for all periods prior to the Closing Date. New Operator, to the extent it utilizes the services provided by third parties, shall be responsible for, and shall pay on a timely basis, any claims or charges which are due to such third parties

arising from the use, operation, or control of the Facility from and after the Closing Date. Revenues and expenses pertaining to utility charges for the billing period in which the Closing Date occurs, prepaid expenses, real estate taxes and assessments for the year during which the Closing Date occurs, and like items of revenue or expense attributable to the Facility shall be prorated between Current Operator and New Operator as of the Closing Date. All such prorations shall be based on the basis of actual days elapsed in the relevant accounting or revenue period, and shall be based on the most recent information available to Current Operator. Utility charges that are not metered and read on the Closing Date shall be estimated based on prior charges, and shall be re-prorated upon receipt of statements therefor. Real estate taxes and assessments shall be estimated based on the most recently available tax bill, and shall be re-prorated upon receipt of the actual tax bill for the year of Closing. In general, such prorations shall be made so as to reimburse Current Operator for actual prepaid expense items, and to charge Current Operator for prepaid revenue items, to the extent that the same are attributable to periods on or after the Closing Date.

2.7 Treatment of Prorations. The accounts of Current Operator and New Operator created pursuant to the prorations provided for in the preceding Section 2.6 shall be netted against each other, as follows:

(a) If the result is a net positive balance for New Operator, Current Operator shall pay to New Operator the amount of such balance in immediately available funds in accordance with the terms of Section 1.5 of this Agreement; and

(b) If the result is a net positive balance for Current Operator, New Operator shall pay to Current Operator the amount of such balance in immediately available funds in accordance with the terms of Section 1.5 of this Agreement.

The aforementioned accounts shall be reflected on the OTA Settlement Statement or shall be otherwise paid in accordance with Section 2.8.

2.8 Future Settlement. All amounts owing from one party hereto to the other party hereto, including, without limitation, prorations according to Section 2.6 hereof (but excluding amounts in respect of Section 2.2, Section 2.5, and Section 5 hereof that are determined or otherwise require adjustment after the date of the OTA Settlement Statement) shall be settled three (3) months after the Closing Date. If, thereafter, a party hereto determines that any further payment or adjustment is to be made, such party shall submit a statement to the owing party setting forth any and all such items, and the calculation of the amounts due hereunder. Such statement shall be submitted with appropriate backup materials. If amounts are owing from New Operator to Current Operator, New Operator shall have thirty (30) days from the date of receipt of such statement to tender payment to on behalf of Current Operator, or to question or dispute in writing any item thereon. If amounts are determined to be owing from Current Operator to New Operator, Current Operator shall have thirty (30) days from the date of receipt of such statement to tender payment to New Operator, or to question or dispute in writing any item thereon.

2.9 Medicare/Medicaid Reimbursements; Audits.

(a) Current Operator and New Operator understand that reimbursements from Medicare and/or Medicaid for items or services provided or rendered from or after the Closing

Date may continue to be issued to Current Operator for a period of time. Current Operator agree to comply with the terms of Section 2.5 with respect to any reimbursements received by Current Operator from Medicare and/or Medicaid for items or services provided or rendered from or after the Closing Date, subject to the terms of the MidCap Agreement. Notwithstanding anything to the contrary contained herein, with respect to any audit, interim payment, final payment, or other action relating to Current Operator's business for the period prior to the Closing Date by any state regulatory agency, the Centers for Medicaid and Medicare Services, Blue Cross Blue Shield or its applicable state affiliate, Health Care Service Corporation, or any other third party payer (any such action, a "Current Operator Payer Audit"), in no event will New Operator make any assumption or take any action, which results in any claim, adjustment, or offset against amounts otherwise reimbursable to Current Operator for services provided prior to the Closing Date. New Operator agrees to promptly notify Current Operator upon receipt of any notice of a Current Operator's Payer Audit. If, and to the extent that, New Operator is responsible for taking any action, or making any filing, pursuant to a Current Operator Payer Audit, New Operator agrees to keep Current Operator reasonably informed and will coordinate with Current Operator any such actions taken or filings made by New Operator.

(b) In the event any Governmental Entity making payments for services performed at the Facility or vested with audit authority, makes any recoupment on or after the Closing Date for an alleged overpayment, underpayment, or adjustment of any tax assessment or Medicaid or Medicare reimbursement applicable for any period prior to the Closing Date (collectively, a "Recapture Claim"), then each party agrees to notify the other within five (5) business days. Both parties shall be entitled to contest or pursue such Recapture Claim (to the extent permitted by applicable law/regulation); provided, however, that New Operator shall be allowed the opportunity to participate in such contest, and be included in all meetings, and be provided with copies of all audit adjustments and workpapers. Current Operator and New Operator shall cooperate to resolve such audit to their mutual satisfaction. In the event one party fails to pursue any issue or issues raised in any such appeal, the other party may, at its own expense, pursue an appeal of such issue or issues, and the non-appealing party will cooperate fully with appealing party in such appeal, including by providing copies of any documentation required to substantiate costs reported on the cost reports. In the event either party's funds are withheld from, or credited to, the other party as the result of a Recapture Claim, then the receiving or crediting party shall pay such amounts to the other party within five (5) days following demand therefore.

2.10 Transfer of Resident Records; Access to Records. Subject to all applicable laws, on the Closing Date, Current Operator shall transfer to New Operator, by leaving at the Facility, the records of all residents in the Facility (the "Transferred Records"); provided, however, that (a) Current Operator shall be entitled to keep such copies of all Transferred Records, as it may deem necessary; and (b) New Operator shall not have any claim or right of indemnity against Current Operator arising from the condition or quality of the Transferred Records, including claims based on their completeness or accuracy. From and after the Closing Date, New Operator shall be solely responsible for caring for the residents of the Facility in accordance with their contractual rights, and in accordance with law. Subsequent to the Closing Date, New Operator shall allow Current Operator and their respective affiliates, agents, and representatives, at Current Operator's sole cost and expense, to have unfettered access to (upon reasonable prior notice), and to make copies of, the Transferred Records, and any other records that are in New Operator's possession on the Closing Date relating to the operations of the business at the Facility prior to the Closing Date



("Operational Records"), to the extent reasonably required by Current Operator. New Operator will preserve the existence and maintain the confidentiality of the resident records and the other Transferred Records and the Operational Records, to the extent required by law and in accordance with any applicable any Government and/or private third party provider agreements, but in no event less than seven (7) years.

2.11 Deposits. All deposits, if any, held by a utility, or other party to an executory contract, shall remain the property of Current Operator, and New Operator shall be required to post its own replacement security deposits, including, but not limited to, any security deposits required under any Assigned Agreements (as herein defined) assumed by New Operator.

2.12 Compliance with Laws. The parties shall comply in all material respects with all applicable laws, and with all applicable rules and regulations of all governmental authorities, in conjunction with the execution, delivery, and performance of this Agreement and the transactions contemplated hereby.

2.13 Accounts Payable. New Operator agrees to assume only those accounts payable for supplies and other goods or equipment received at the Facility on and subsequent to the Closing Date, and for services rendered and performed on and subsequent to the Closing Date. Unless otherwise specifically assumed in writing by New Operator, New Operator shall not be responsible or liable for any accounts payable, including, without limitation, trade payables, utility bills, vendor payables, or other expenses which accrued prior to the Closing Date, except to the extent New Operator continues to receive or utilize such services, supplies, goods, or equipment following the Closing Date. Notwithstanding the foregoing, New Operator agrees to ensure all services, supplies, goods, or equipment received at the Facility on and subsequent to the Closing Date are under its own accounts, and New Operator shall maintain responsibility for paying for the same.

2.14 Taxes. New Operator shall not assume, and shall not be liable for, and Current Operator shall indemnify New Operator for, any debts, liabilities, or obligations of the Current Operator for any Taxes applicable to, or assessed against, the Current Operator, the Property, or the assets or business of the Current Operator for (a) any taxable year or period ending on or prior to the Closing Date, and (b) in the case of any Straddle Period, the portion of the Straddle Period prior to the Closing Date. New Operator shall be liable for, and New Operator shall indemnify Current Operator for, any debts, liabilities, or obligations of New Operator for any taxes applicable to, or assessed against, the New Operator, or the assets or business of the New Operator for (aa) any taxable year or period beginning after the Closing Date, and (bb) in the case of any Straddle Period, the portion of the Straddle Period beginning after the Closing Date. "Straddle Period" means any taxable year or period that includes, but does not end on, the Closing Date. For purposes of this Agreement, whenever it is necessary to determine the liability for Taxes in respect of the Current Operator or New Operator for a Straddle Period, the determination of such Taxes for the portion of the Straddle Period ending on and including, and the portion of the Straddle Period beginning after, the Closing Date shall be determined as follows: (1) in the case of property and similar ad valorem taxes and any other taxes not described in clause (2) below, by multiplying the amount of such taxes for the entire Straddle Period by a fraction, the numerator of which is the number of days during the Straddle Period that fall on or prior to the Closing Date and the denominator of which is the number of days in the entire Straddle Period, and (2) in the case of income taxes, sales

and similar taxes, employment taxes, and other taxes that are readily apportionable based on an actual or deemed closing of the books, by assuming that the Straddle Period consisted of two taxable years or periods, one which ended at the close of the Closing Date and the other which began at the beginning of the day immediately following the Closing Date, and items of income, gain, deduction, loss, or credit of the Current Operator or the New Operator for the Straddle Period shall be allocated between such two taxable years or periods on a "closing of the books basis" by assuming that the books of the Current Operator or New Operator, as applicable, were closed at the close of the Closing Date; provided, however, that exemptions, allowances, or deductions that are calculated on an annual basis, such as the deduction for depreciation, shall be apportioned between such two taxable years or periods on a daily basis.

2.15 Regulatory Inspections; Surveys. Current Operator shall be responsible for, and shall bear all costs and expenses incurred in connection with, any requirements of regulatory inspections or surveys (a) completed prior to the Closing Date, or (b) commenced, but not completed prior to, the Closing Date, except in such case Current Operator shall only be responsible to the extent penalties are assessed for dates prior to the Closing Date. New Operator shall be responsible for and shall bear all costs and expenses incurred in connection with any requirements of regulatory inspections or surveys conducted on or after the Closing Date. Current Operator shall be responsible and obligated for all costs and expenses of correction if upon a change of ownership any life safety code waivers currently in effect are withdrawn or canceled.

2.16 Delivery of Inventory. On the Closing Date, Current Operator shall deliver to New Operator, by leaving at the Facility, the Supplies located at the Facility, as of the Closing Date; and it shall be Current Operator's responsibility to ensure that it has delivered, prior to Closing, such amounts sufficient to comply with applicable law and/or regulation as of the Closing Date.

#### 2.17 Assignment of Contracts.

(a) Promptly following the Effective Date, Current Operator shall make available for review by New Operator copies or a model of the care or residency agreements pertaining to residents of the Facility (the "Care Agreements") and Current Operator will provide copies of agreements and contracts relating to the operations of the Facility (the "Facility Operating Agreements").

(b) Thirty (30) days prior to the Closing Date, New Operator shall identify in writing all of those Facility Operating Agreements which are assignable by Current Operator to New Operator and which New Operator elects to assume (any agreements so assigned are referred to collectively herein as the "Selected Facility Agreements," and all of the Facility Operating Agreements which are not Selected Facility Agreements are "Rejected Agreements"). The election of the Selected Facility Agreements shall be in writing ("Notice of Selected Facility Agreements") delivered to Current Operator provided not later than thirty (60) business days prior to the Closing Date. In the event New Operator fails to deliver the Notice of Selected Facility Agreements within such period, it shall be deemed to be New Operator's election NOT to assume any of the Facility Operating Agreements.

- (c) Current Operator may, at its election and at any time after deliver of the Notice of Selected Facility Agreements, provide notices of intent to terminate any Facility Operating Agreements which New Operator has not already identified on such Notice.
- (d) On the Closing Date, Current Operator shall and hereby does assign to New Operator, and New Operator shall and hereby does assume, all of the Care Agreements.
- (e) On the Closing Date, Current Operator shall and hereby does assign to New Operator, and New Operator shall and hereby does assume the Selected Facility Agreements (together with the Care Agreements, the "**Assigned Agreements**").
- (f) Current Operator shall provide commercially reasonable cooperation to New Operator in connection with New Operator's arrangement of the assignment and assumption of all Selected Facility Agreements (and New Operator shall be primarily responsible for making such arrangements). Current Operator shall retain responsibility for the termination or transfer of Rejected Agreements, however, New Operator shall reimburse Current Operator for any termination penalties due in connection with the termination of any Rejected Agreements if New Operator has failed to deliver a Notice of Selected Facility Agreements within the time frame required in Section 2.17(b).
- (g) Current Operator shall be responsible for any and all amounts accrued under the Facility Operating Agreements including any costs related to the termination of the same, subject to other terms of this Section 2.17. New Operator acknowledges and understands that Current Operator intends to provide notices of termination of the Facility Operating Agreements effective as of the Outside Date and that any failure of the Closing to occur on the Outside Date for any reason other than Current Operator's material breach of this Agreement may adversely affect the continued business operations of the Facility and/or cause Current Operator to incur additional costs and expenses. Accordingly, New Operator hereby acknowledges and agrees that, upon any failure of the Closing to occur on or before the Date for any reason other than Current Operator's material breach of this Agreement, New Operator shall immediately reimburse Current Operator, upon request delivered with reasonable documentation of the amounts owing, any amounts owed by Current Operator under any of the Facility Operating Agreements as (i) penalties for early termination of any of the Rejected Agreements, or (ii) additional costs incurred in connection with re-initiating services for any period following the Outside Date (such amounts collectively, the "**Additional Transfer Costs**").
- (h) Payments under the Assigned Agreements shall be prorated through the Closing Date in accordance with the terms of Section 2.6 above.
- (i) Except as otherwise specifically set forth in this Agreement, any Assigned Agreements or other business records being acquired by New Operator pursuant to this Agreement shall be delivered by leaving all such records at the Facility on the Closing Date.
- 2.18 Remittances, Mail and Other Communications. All remittances, mail, and other communications received by Current Operator, or its affiliates, at any time after the Closing Date, relating to the operations of the Facility following the Closing Date, shall be promptly turned over to New Operator. All remittances, mail, and other communications received by New Operator, or

- its affiliates, relating to the operations of the Facility prior to the Closing Date, shall be promptly turned over to Current Operator.
- 2.19 Interim Operations. During the period from the Effective Date to the Closing Date (the "**Pre-Closing Period**"), except as otherwise (a) permitted or provided in this Agreement, (b) consented to by New Operator (such consent not to be unreasonably withheld), or (c) reasonably requested in writing by New Operator, Current Operator shall operate the Facility in the ordinary course and in a manner substantially consistent with past practices, including, without limitation, with respect to any marketing efforts, and during said period shall:
- (a) refrain from transferring, selling, leasing, or conveying (or listing for transfer, sale, lease, or conveyance) any of the Assigned Assets or Assignable Licenses and Permits;
  - (b) keep in effect Current Operator's existing policies of public liability, professional liability, and hazard and extended coverage insurance, insuring the Facility and employees to the extent required by law, or required under the Current Operator's lease with the Owner;
  - (c) perform all material obligations under the Assigned Agreements;
  - (d) continue to market the Facility and use commercially reasonable efforts to maintain census consistent with past practice;
  - (e) maintain their normal inventory of Supplies, which shall be in quantities consistent with legal requirements and past practice for operation of the Facility;
  - (f) without limiting the foregoing, to the extent depleted or replaced in the ordinary course, restock and replenish any portion of the Supplies used during the Pre-Closing Period with inventory of comparable quality and consistent with past practice;
  - (g) not increase the wages, salaries, or benefits of the Employees, except in the ordinary course of business and consistent with past practice; and
  - (h) comply with all labor agreements affecting the Facility in all material respects.
- During the Pre-Closing Period, Current Operator shall promptly notify New Operator in writing of any fact, circumstance, event, or action, the existence, occurrence, or taking of which: (1) has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (2) has resulted in, or could reasonably be expected to result in, the failure of any of the requirements set forth in this Section 2.19 to be satisfied. During the Pre-Closing Period, Current Operator (i) shall not, without the prior written consent of New Operator, enter into any transaction or contractual obligation that would materially adversely impact Current Operator's ability to perform its respective obligations under this Agreement; (ii) shall, prior to the end of each calendar month, provide New Operator with a Resident Census Report detailing the performance of the applicable Facility for the previous calendar month; and (iii) shall not transfer any Employees and shall not transfer any residents to any business or facility owned or controlled by an affiliate of Current Operator, unless required to comply with legal requirements.



2.20 Cooperation. New Operator shall cooperate, in good faith, with Current Operator, with respect to any suit, claim, governmental investigation, or other legal or administrative proceeding involving Current Operator and the Facility that is outstanding from and after the Closing Date, including, without limitation, promptly providing Current Operator with such information and documentation regarding the Facility and the operation thereof that is in the possession or control of New Operator, and as is required in connection with the foregoing.

2.21 Confidentiality.

(a) New Operator agrees that, between the Effective Date and the Closing Date (or thereafter for one (1) year if the Closing does not occur), without the prior written consent of Current Operator, New Operator shall not disclose to any third party any information to be provided or previously provided by, or on behalf of, Current Operator, related to the operations of the Facility or otherwise provided in connection with the transactions contemplated herein (the "Current Operator's Confidential Information"), except as provided herein or as required by law. New Operator agrees that the Current Operator's Confidential Information shall be used solely for the purposes of New Operator's investigation of the Facility, the operation of the Facility, facilitating an orderly transition with respect to operations of the Facility, and/or providing continuing patient care for residents of the Facility, and the same will not in any way be used in a manner that is directly or indirectly detrimental to Current Operator. In addition, New Operator agrees to disclose Current Operator's Confidential Information only to New Operator's agents, consultants, and representatives who have a legitimate need to know such information and who shall: (i) be advised by New Operator of the confidentiality provisions of this Agreement, and (ii) agree in writing to be bound by the confidentiality provisions hereof. New Operator shall be responsible for any breach of this Agreement by any of New Operator's agents, consultants and representatives (including employees who, subsequent to the first date of disclosure of Current Operator's Confidential Information hereunder, become former employees, if disclosed during term of employment). New Operator agrees, at its sole expense, to take all reasonable measures, including, but not limited to, court proceedings, to restrain New Operator's agents, consultants and representatives (and former employees) from unauthorized disclosure or use of Current Operator's Confidential Information.

(b) New Operator hereby acknowledges that if any breach of this section occurs, Current Operator would be irreparably and immediately harmed and could not be made whole by monetary damages. Accordingly, in addition to any other remedy to which they may be entitled in law or in equity, Current Operator shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and/or to compel specific performance of this section, and New Operator shall not oppose the granting of such relief on the basis that monetary damages are adequate. Following a breach by New Operator, New Operator also agrees to reimburse Current Operator for all reasonable costs and expenses, including reasonable attorney's fees, incurred by it in enforcing New Operator's or New Operator's representatives' obligations under this section.

(c) Current Operator's Confidential Information does not include all, or any portion of, information which (i) becomes generally available to the public, other than as a result of a disclosure by New Operator or New Operator's representatives, or (ii) was or becomes rightfully available to New Operator on a non-confidential basis from a source other than Current Operator or Current Operator's representatives; provided that such source is not prohibited from disclosing

such information to New Operator by a contractual, legal, or fiduciary obligation to Current Operator or Current Operator's representatives.

(d) Notwithstanding any other provision of this Agreement, the terms of this section related to Current Operator's Confidential Information shall survive any termination or expiration of this Agreement.

2.22 Non-Solicitation.

(a) During the Pre-Closing Period and for a period of twelve (12) months commencing on the Closing Date, Current Operator and Guarantor shall not, and shall not permit any of their respective affiliates who had direct contact with any of the Retained Employees prior to Closing to: (i) solicit any Retained Employee(s) or encourage any such Retained Employee(s) (or Employees during the Pre-Closing Period) to leave such employment; or (ii) solicit any resident of the Facility. In the event that a Retained Employee separates from employment with New Operator during the first nine (9) months following the Closing Date, Current Operator shall be permitted to solicit such Retained Employee after a period of ninety (90) days following the Retained Employee's separation date. Nothing in this Agreement shall restrict Current Operator or Guarantor from conducting general mass solicitations of employment and generalized employee searches through headhunter/search firms (in either case not targeted, directly or indirectly, at the Retained Employees) and hiring any individual who responds to any such general mass solicitation or generalized employee search.

(b) Current Operator and Guarantor acknowledge that a breach or threatened breach of Section 2.22(a) would give rise to irreparable harm to New Operator, for which monetary damages would not be an adequate remedy, and hereby agree that in the event of a breach or a threatened breach by Current Operator or Guarantor of any such obligations, New Operator shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond). Current Operator and Guarantor acknowledge that the restrictions contained in Section 2.22(a) are reasonable and necessary to protect the legitimate interests of New Operator and constitute a material inducement to New Operator to enter into this Agreement and consummate the transactions contemplated by this Agreement.

### SECTION 3 REPRESENTATIONS AND WARRANTIES OF NEW OPERATOR

New Operator hereby makes the representations and warranties indicated below to Current Operator on the Effective Date and, subject to Section 1.4(b)(2), on the Closing Date:

3.1 Authority, Validity and Binding Effect. New Operator has all necessary corporate/partnership/limited liability company (as the case may be) power and authority to operate and lease the Facility and to carry on its business, as it is now being conducted. New Operator has all necessary corporate/partnership/limited liability company (as the case may be) power and authority, to enter into this Agreement, and to execute all documents and instruments referred to herein or contemplated hereby, and all necessary action has been taken to authorize the

individuals executing this Agreement on each of its behalf to do so. This Agreement has been duly validly executed and delivered by New Operator and is enforceable against New Operator in accordance with its terms.

3.2 **No Defaults.** The execution and delivery of this Agreement, and any documents contemplated hereby by New Operator, and the performance of its obligations hereunder and thereunder, does not and will not:

(a) conflict with, or result in any material breach of, the provisions of, or constitute a default under, the articles of formation and operating agreement of New Operator (or, if New Operator is not a limited liability company, the charter or other organizational documents and governing stockholder agreements);

(b) violate any material license, authorization, or permit, or other material agreement or instrument to which any New Operator is a party, unless (i) such violation will be cured prior to the Closing Date, or (ii) such license, authorization, permit, agreement, or instrument will be terminated prior to the Closing Date, as a result of the transactions contemplated by this Agreement; or

(c) constitute a violation of any applicable material resolution, rule, regulation, law, statute, or ordinance of any administrative agency or governmental authority, or of any judgment, decree, writ, injunction, or order of any court to which New Operator is subject, or by which its assets are bound, or any credit agreement or other financing arrangement to which New Operator, or any of their respective affiliates, is a party.

3.3 **No Litigation.** There are no actions, suits, claims, governmental investigations, or other legal or administrative proceedings, or any orders, decrees, or judgments in progress, pending or in effect, or to the knowledge of New Operator, threatened, against New Operator, that challenge or seek to prevent, enjoin, or otherwise delay the transactions contemplated by this Agreement.

3.4 **Accuracy of Representations and Warranties.** Each representation and warranty of New Operator hereunder is true, complete, and correct in all respects as of the Effective Date and the Closing Date.

#### SECTION 4

##### REPRESENTATIONS AND WARRANTIES OF CURRENT OPERATOR

Current Operator hereby makes the representations and warranties indicated below to New Operator on the Effective Date and, subject to Section 1.4(a)(2), on the Closing Date:

4.1 **Authority, Validity and Binding Effect.** Current Operator is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Ohio. Current Operator is duly qualified to do business in Florida and is not required to be licensed or qualified in any other jurisdiction. Current Operator has all necessary limited liability company power and authority to carry on its business, as it is now being conducted. Current Operator has all necessary limited liability company power and authority to enter into this Agreement, and to execute all documents and instruments referred to herein or contemplated hereby, and all necessary action has been taken to authorize the individuals executing this Agreement to do so. This Agreement has

been duly and validly executed and delivered by Current Operator, and is enforceable against Current Operator in accordance with its terms. Current Operator has no subsidiaries.

4.2 **No Defaults.** The execution and delivery of this Agreement, and any documents contemplated hereby, by Current Operator, and the performance of their obligations hereunder, does not and will not:

(a) conflict with, or result in any material breach of, the provisions of, or constitute a default under, the articles of formation or operating agreements of Current Operator;

(b) violate any material license, authorization, or permit or other material agreement or instrument to which Current Operator is a party, unless (i) such violation will be cured prior to the Closing Date, or (ii) such license, authorization, permit, agreement, or instrument will be terminated prior to the Closing Date, as a result of the transactions contemplated by this Agreement; or

(c) constitute a violation of any applicable material resolution, rule, regulation, law, statute, or ordinance of any administrative agency or governmental authority, or any judgment, decree, writ, injunction, or order of any court to which Current Operator is subject or by which its assets are bound, or any credit agreement or other financing arrangement to which Current Operator is a party.

4.3 **No Litigation.** There are no actions, suits, claims, governmental investigations, or other legal or administrative proceedings, or any orders, decrees, or judgments in progress, pending, or in effect, or to the knowledge of Current Operator, threatened, against Current Operator, that challenge or seek to prevent, enjoin, or otherwise delay the transactions contemplated by this Agreement.

4.4 **Labor Matters.** Except as set forth on **Schedule 4.4**, neither Current Operator nor any ERS/EA Affiliate is, or has ever been, a party to any collective bargaining agreement, employment agreement or other labor contract, and there are no pending or, to Current Operator's knowledge, threatened labor disputes at the Facility including, but not limited to, any strike, slowdown, picketing, work stoppage, organizational activities, employee grievances or unfair labor practice charges affecting each Facility. No Employee is, to Current Operator's knowledge, a party to or bound by any contract, or subject to any judgment that may interfere with the use of such Employee's best efforts to promote the interests of the Facility, may conflict with the operation of the Facility, this Agreement or related agreements, or that has had or could reasonably be expected to have a material adverse effect on the Assets and the operations of the Facility. Current Operator has complied in all material respects with all applicable state and federal laws governing wage, hour, payroll and all other employment and labor matters.

4.5 **Environmental.** Except for medical waste generated and disposed of in the ordinary course of business and in compliance with applicable laws, Current Operator has not generated, stored or disposed of any Hazardous Materials on the Properties, and there is not currently any Hazardous Materials on the Properties. Current Operator has not violated any Environmental Laws, in any material manner, in connection with the use, lease, maintenance or operation of the Facility and



the Property. Any and all environmental permits, licenses or approvals required by any applicable law pertaining to the Facility are listed on Schedule 4.5.

#### 4.6 ERISA and Benefit Plans.

(a) Except as set forth on Schedule 4.6(a), neither Current Operator nor any ERISA Affiliate is or ever has been a party to, participates in, has participated in or has any liability or contingent liability with respect to any of the following: (i) any "employee welfare benefit plan" or "employee pension benefit plan" as those terms are respectively defined in Sections 3(1) and 3(2) of ERISA; (ii) any retirement or deferred compensation plan, incentive compensation plan, stock plan, unemployment compensation plan, vacation pay, severance pay, bonus or benefit arrangement, insurance or hospitalization program or any other fringe benefit arrangements for any current or former employee, director, consultant or agent, whether pursuant to contract, arrangement, custom or informal understanding, written or unwritten, which does not constitute an "employee benefit plan" (as defined in section 3(3) of ERISA); or (iii) any fringe benefit plans, as that term is defined in Section 6039D(d) of the Code (collectively, the "Employee Plans") as they relate to the Employees.

(b) Neither Current Operator, nor any ERISA Affiliate, is or has been a participant in, or is or has been obligated to maintain or to make contributions to, a multiemployer plan (within the meaning of ERISA Section 3(37) and ERISA Section 4001(a)(3)) or an Employee Plan which is subject to Title IV of ERISA. Neither Current Operator nor any ERISA Affiliate has incurred any withdrawal liability, nor do any of them have any liability for any potential withdrawal liability. Neither Current Operator nor any ERISA Affiliate has sponsored, contributed to or been obligated under Title I or IV of ERISA to contribute to a "defined benefit plan" (as defined in ERISA Section 3(35)) or a plan that was ever subject to Sections 412 or 430 of the Code, or Part 3 of Title I of ERISA, and under no circumstances will New Operator have any liability with respect to any Employee Plan maintained by Current Operator or any ERISA Affiliate, regardless of whether such Employee Plan relates to the Employees.

(c) None of the Employee Plans promises or provides medical, life or other welfare benefits to any current or future retired employees, managers, members, directors or consultants (or any spouse or dependents thereof), except as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA).

(d) Current Operator has complied in all material respects with the notice and continuation coverage requirements of Section 4980B of the Code and the regulations thereunder with respect to each Employee Plan that is a group health plan within the meaning of Section 5000(b)(1) of the Code. Each Employee Plan that is a group health plan is in material compliance with the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act, to the extent applicable, and Current Operator has complied with all its obligations thereunder, including all reporting obligations, such that Current Operator is not and will not be subject to any assessable payments under Code Section 4980H or other penalties under the Code or other applicable laws.

#### 4.7 Health Care Representations.

(a) Current Operator has not received any notice from any Governmental Entity, accrediting body, or other applicable authority of (i) any violation, non-renewal, suspension or revocation of any such licenses or accreditations that has not been dismissed or cured, or (ii) any failure by Current Operator to obtain any material licenses or accreditations required by any applicable law for the ownership, maintenance, use, occupancy or operation of the Facility as currently owned or operated.

(b) The Facility is and shall be, as of 11:59 p.m. on the day prior to the Closing Date, licensed by the applicable Governmental Entity as a skilled nursing facility, with the same number and type of units and beds as are operating at the Facility on the Effective Date. Such licenses are and shall on the Closing Date be unrestricted, unconditional, in good standing and in full force and effect and subject to no waivers or limitations. Current Operator has operated the Facility in compliance with all laws necessary to operate the Facility as licensed by the applicable Governmental Entity.

(c) Except as disclosed on Schedule 4.7(c), there are no outstanding inspections, surveys, or plans of correction, and no deficiencies exist in respect of any such inspections, surveys or plans of correction, nor has Current Operator been cited for substandard quality of care. There are no implemented bans, remedies, sanctions, prohibitions on payment, or limitations in effect with respect to the Facility, and no action has been taken or recommended, nor, to Current Operator's knowledge, is there any basis for any action, by any Governmental Entity, either to revoke, withdraw or suspend its license to operate the Facility or to terminate or decertify any participation of the Facility in the Medicare or Medicaid programs.

(d) The Facility has not: (i) been designated as a facility subject to the Special Focus Facility, Low-Rated Facility, or any successor or similar program (collectively "*SFF*") as defined by CMS or any other applicable Governmental Authority or been placed on any "watch list" or other list for consideration for a SFF program within the three (3) year period immediately preceding the Effective Date, (ii) been subject to enhanced penalties by the OIG or otherwise, (iii) has been cited for any material deficiency that has not been cured that would result in a denial of payment for new admissions, civil monetary penalties, termination, final revocation or cancellation of any license, or termination or other restriction of a provider agreement within the three (3) year period immediately preceding the Effective Date.

(e) Except as set forth on Schedule 4.7(e), neither Current Operator nor any current director, officer, or managing employee of Current Operator, is or has been party to a corporate integrity agreement, corporate compliance agreement, or other settlement agreement with the OIG, CMS, the United States Department of Justice, any state Department of Health, (or similar Governmental Entity), any state Department of Medicaid (or similar Governmental Entity), or any state Attorney General, as a result of an alleged violation of any applicable law (and neither the Facility nor the Assets are in any way subject to or liable with respect to any such corporate integrity agreement, corporate compliance agreement, or other settlement agreement). Neither Current Operator nor any current director, officer, contractor, vendor, or employee of Current Operator is listed on the OIG List of Excluded Individuals and entities, any state Medicaid

exclusion list, or has been suspended, excluded, or otherwise limited from participating in the Medicare program or any other government reimbursement program.

(f) The Facility is certified for participation in the Medicare and Medicaid programs and Current Operator has a provider agreement with such government reimbursement program (collectively, the "Provider Agreement"). The Provider Agreement is in full force and effect, and Current Operator does not have any knowledge of any fact or circumstance that would cause any such Provider Agreement not to remain in force or be renewed on and after Closing. The Provider Numbers are active with CMS, the applicable Governmental Entity of the state where the Facility is located, and any other applicable Governmental Entity. There is no proceeding, audit, investigation or survey pending or, to each Current Operator's knowledge, threatened, involving any of the government reimbursement program or any other third-party payor programs, with respect to the Facility, and Current Operator has no reason to believe that any such proceedings, audits, investigations, or surveys are pending, threatened, or imminent.

(g) The cost reports for the Facility for the last six (6) years prior to the Effective Date have been prepared and filed in material compliance with all applicable laws and any applicable Provider Agreement.

(h) Except as set forth on Schedule 4.7(h), neither Current Operator nor the Facility (i) has been subject to any audit by any third-party payor relating to false or fraudulent billing procedures or practices within the prior six (6) years, or (ii) has received notice of an alleged or actual breach of any commercial or other third-party payor agreement, or any notice of termination, suspension, or other limitation of any commercial or other third-party payor agreement within the prior six (6) years.

(i) Current Operator has not received written notice, and Current Operator does not have any knowledge, (i) that any actions will or may be taken with respect to any of the foregoing representations and warranties that could result in a violation of, or action described under, any of the foregoing representations and warranties in this Section 4.8, (ii) that Current Operator or the Facility is under investigation or review with respect to any of the subjects described in the foregoing representations and warranties in this Section 4.8, or (iii) of the existence of any circumstances or occurrences that could be reasonably believed to lead to a violation of, or action described under, any of the foregoing representations and warranties in this Section 4.8.

4.8 Contracts. True, correct, and complete copies of all of the Care Agreements and Facility Operating Agreements have been, or will be, made available to New Operator to the extent such Care Agreements and Facility Operating Agreements are in Current Operator's possession or control. Except as set forth in Schedule 4.8(a), (i) each of the Care Agreements and Facility Operating Agreements is valid, binding and enforceable in accordance with its terms except as limited by bankruptcy, insolvency, fraudulent conveyance, moratorium, liquidation, reorganization or other similar laws affecting the enforcement of creditors' rights in general, (ii) neither Current Operator nor, to Current Operator's knowledge, the other party to each of the Assigned Agreements is in material breach or default, and no event has occurred which with notice or lapse of time would constitute such a material breach or default, or permit termination, modification or acceleration under any Assigned Agreements to which the Current Operator is a party, (iii) neither a Current Operator nor, to each Current Operator's knowledge, the other party

to each of the Assigned Agreements have repudiated any material provision of such Assigned Agreements.

(a) Current Operator has the power and authority to assign each of the Assigned Agreements to which Current Operator is a party to New Operator, subject to any consent requirements under such Assigned Agreements.

4.9 Broker. Except as set forth on Schedule 4.9, Current Operator has not engaged, nor is Current Operator liable to pay any fees, costs or commissions to, any broker, finder, agent or financial advisor in connection with the transactions contemplated hereby.

4.10 Compliance with Applicable Laws. To Current Operator's knowledge, the Facility is being used and operated by Current Operator in compliance in all material respects with applicable and material statutes, laws, regulations, rules, licensing requirements, ordinances, orders or permits of any kind whatsoever affecting the Facility or any part thereof, and any rules or regulations promulgated thereunder, but not including any Environmental Laws.

4.11 Intangible Property. Except for commercial software licensed for use, Current Operator owns the entire right, title and interest in and to all intangible property used in the operation of the Facility (the "Intangible Property"). There have not been and are no pending or, to Current Operator's knowledge, threatened proceedings or litigation or other adverse claims affecting or with respect to the Intangible Property. There is no reasonable basis upon which a claim may be asserted against Current Operator for infringement of any domestic or foreign letters patent, patents, patent applications, patent licenses and know-how licenses, trade names, trademark registrations and applications, common law trademarks, service marks, service mark registrations or applications, internet domain name registrations or applications, copyrights, copyright registrations or applications, trade secrets or other confidential proprietary information.

4.12 PPP Loans. Current Operator represents and warrants that it has not received any Paycheck Protection Program ("PPP") loans or similar governmental aid or deferred any payroll taxes in connection therewith.

4.13 Knowledge. Where any representation or warranty contained in this Agreement is expressly qualified by reference to "Current Operator's knowledge," the knowledge of Current Operator" or similar qualifications, such knowledge shall be to the actual knowledge of the Facility's administrator.

4.14 Accuracy of Representations and Warranties. Each representation and warranty of Current Operator hereunder is true, complete, and correct in all respects as of the Effective Date.

Except as expressly set forth in this Agreement, Current Operator makes no representation, warranty, or covenant with respect to the Facility, the operations of Current Operator's business, the assets to be conveyed hereunder, or any matter, thing or event related to the foregoing. Without limiting the generality of the foregoing and except as otherwise specifically set forth in this Agreement, Current Operator will convey and New Operator will accept the Assigned Assets conveyed hereunder in their "AS-IS" "WHERE-IS" condition as of the Effective Date, subject to normal wear and tear. Current Operator shall have no obligation to replace any Assigned Asset to be conveyed hereunder, to repair any damage to or defect in the Facility or the Assigned Asset to



be conveyed hereunder, or otherwise to remedy any matter affecting the condition of the Facility, Assigned Asset and New Operator acknowledges that it has had sufficient opportunity to perform its own inspection.

## SECTION 5 INDEMNIFICATION

5.1 Survival of Representations and Warranties. Without limiting the parties' obligations under Section 2.5 with respect to Accounts Receivable and payment and collection and remittances thereof or any of the other covenants set forth herein, all warranties, and representations, and the indemnification rights associated therewith, in this Agreement, shall survive the execution of this Agreement for a period of eighteen (18) months (the "Survival Period"); provided that claims for breaches of the representations and warranties set forth in Section 4.1, Section 4.2 and Section 4.7 and claims made by New Operator under Section 5.3(a) and Section 5.3(c) shall survive for six (6) years. The parties hereto in executing and in carrying out the provisions of this Agreement are relying solely on the representations, warranties, and agreements contained in this Agreement, and not upon any representation, warranty, agreement, promise, or information, written or oral, made by any person other than as specifically set forth herein or therein.

5.2 Agreement to Defend. In the event of any action, suit, proceeding, or investigation of the nature specified in Sections 5.3, 5.4, or 5.5 hereof is commenced, all of the parties hereto agree to cooperate and use their commercially reasonable best efforts to defend against and respond thereto.

5.3 Indemnification by Current Operator. Subject to the limitations set forth in this Section 5, Current Operator shall indemnify, exculpate, and hold New Operator, and its partners, members, directors, managers, officers, employees, and agents (collectively, the "Acquiring Indemnified Parties"), harmless from and against, and will promptly defend Acquiring Indemnified Parties from, and will reimburse Acquiring Indemnified Parties, to the extent of, any and all losses, damages, costs, expenses, liabilities, obligations, and claims of any kind (including, without limitation, costs of investigation, reasonable attorneys' fees, and other reasonable legal costs and expenses actually incurred), which any of the Acquiring Indemnified Parties may at any time suffer or incur, or become subject to, as a result of:

- (a) any claim brought by a third party against an Acquiring Indemnified Party in connection with a Retained Liability;
- (b) any misrepresentation or inaccuracy in, or any breach of, any of the representations and warranties made by Current Operator in this Agreement; and
- (c) any failure by Current Operator to carry out, perform, satisfy, and discharge any of its covenants, agreements, liabilities, or obligations under this Agreement.

Notwithstanding anything to the contrary herein, Current Operator's indemnity obligations, and any and all other liabilities to New Operator or any of the other Acquiring Indemnified Parties, including in tort or in contract, shall be limited to actual damages suffered by New Operator or any of the other Acquiring Indemnified Parties in excess of any insurance proceeds available and actually received as a result of such liabilities, and Current Operator shall not be responsible for any lost profits or any speculative, incidental, indirect, consequential, special, or punitive damages.

5.4 Indemnification by New Operator. Subject to the limitation set forth in this Section 5, New Operator shall indemnify, exculpate, and hold Current Operator, and its respective partners, directors, officers, employees, and agents (collectively, the "Current Operator's Indemnified Parties"), harmless from and against, and will promptly defend Current Operator's Indemnified Parties from, and will reimburse Current Operator's Indemnified Parties, to the extent of, any and all losses, damages, costs, expenses, liabilities, obligations, and claims of any kind (including, without limitation, costs of investigation, reasonable attorneys' fees, and other reasonable legal costs and expenses actually incurred), which any of the Current Operator's Indemnified Parties may at any time suffer or incur, or become subject to, as a result of:

- (a) any claim brought by a third party against a Current Operator Indemnified Party in connection with an Assumed Liability (as used herein, the term "Assumed Liability" shall refer only to any liability, obligation or claim arising in connection with (A) the performance of New Operator's obligations under the Assigned Agreements on and following the Closing Date and/or New Operator's operation of the Facility on and following the Closing Date);
- (b) any material misrepresentation or inaccuracy in, or any breach of, any of the representations or warranties made by New Operator in, or pursuant to, this Agreement; and
- (c) any failure by New Operator to carry out, perform, satisfy, and discharge any of their covenants, agreements, undertakings, liabilities, or obligations under this Agreement.

Notwithstanding anything to the contrary herein, New Operator's indemnity obligations, and any and all other liabilities to Current Operator or any of the other Current Operator's Indemnified Parties, including in tort or in contract, shall be limited to actual damages suffered by Current Operator or any of the other Current Operator's Indemnified Parties in excess of any insurance proceeds available and actually received as a result of such liabilities, and New Operator shall not be responsible for any lost profits or any speculative, incidental, indirect, consequential, special, or punitive damages.

5.5 Indemnification Procedures: All claims for indemnification by any Acquiring Indemnified Parties or Current Operator's Indemnified Parties (each, an "Indemnified Party") under this Section 5 shall be asserted and resolved as follows:

- (a) If an Indemnified Party intends to seek indemnification under this Section 5, it shall promptly notify the party from which it is seeking indemnification hereunder (the "Indemnifying Party"), in writing, of such claim, which such notice shall include a description of the facts underlying such claim, the provisions hereunder forming the basis for such claim, and a reasonable estimate of the amount of such claim. The failure to provide such notice will not affect any rights hereunder, except to the extent the Indemnifying Party is materially prejudiced thereby.

- (b) If such claim involves a claim by a third party against the Indemnified Party, the Indemnifying Party may, within ten days after receipt of such notice and upon notice to the Indemnified Party, assume, with counsel reasonably satisfactory to the Indemnified Party, at the sole cost and expense of the Indemnifying Party, the settlement or defense thereof; provided, that the Indemnified Party may participate in such settlement or defense through counsel chosen by it at its sole expense. If the Indemnified Party determines, in good faith, that representation by the

Indemnifying Party's counsel of both the Indemnifying Party and the Indemnified Party may present such counsel with a conflict of interest, then the Indemnifying Party shall pay the reasonable fees and expenses of the Indemnified Party's counsel. Notwithstanding the foregoing, (i) the Indemnified Party may take over the control of the defense or settlement of a third-party claim at any time if it irrevocably waives its right to indemnify under this Section 5 with respect to such claim, and (ii) the Indemnifying Party may not, without the consent of the Indemnified Party, settle or compromise any action or consent to the entry of any judgment, such consent not to be unreasonably withheld. The Indemnified Party shall not pay or settle any such claim without the Indemnifying Party's consent, such consent not to be unreasonably withheld.

(c) If, and to the extent, any liabilities for which indemnification is sought is related to events or circumstances occurring both prior to and after the Closing Date, or are from both a cause that is indemnified and one that is not so indemnified, (i) the obligations of Current Operator hereunder shall extend only to liabilities attributable to events or circumstances occurring prior to the Closing Date, and to the indemnified event, circumstance, or cause, and (ii) the obligations of New Operator hereunder shall extend only to liabilities attributable to events or circumstances on and subsequent to the Closing Date, and to the indemnified event, circumstance, or cause.

(d) Claims must be brought within the Survival Period. Any claim to be asserted must be asserted in writing, and with reasonable specificity as to the facts forming a basis for such claim.

5.6 **Guaranty.** As an inducement to New Operator to enter into and consummate the transactions contemplated under this Agreement, Guarantor hereby absolutely, unconditionally, and irrevocably guarantees to New Operator the due and punctual payment of any and all amounts payable by Current Operator pursuant to Section 2.5(h), Section 2.9(b) and this Section 5 (the "**Guaranteed Obligations**"). This is a guarantee of payment and performance, and not merely of collection, and Guarantor acknowledges and agrees that, except as otherwise set forth herein, this guarantee is full and unconditional, and no release or extinguishments of Current Operator's obligations or liabilities (other than in accordance with the terms of this Agreement), whether by decree under bankruptcy law or otherwise, shall affect the continuing validity and enforceability of this guarantee. Guarantor agrees that performance of the Guaranteed Obligations by Guarantor shall be a primary obligation, and shall not be subject to any counterclaim, set off, abatement, deferment, or defense based upon any claim that Guarantor may have against New Operator. Guarantor agrees that performance of the Guaranteed Obligations by Guarantor shall remain in full force and effect without regard to, and shall not be released, discharged or affected in any way by, any circumstance or condition other than those set forth in this Agreement, whether or not Guarantor shall have any knowledge thereof, including, without limitation, (i) any voluntary or involuntary bankruptcy, assignment for the benefit of creditors, receivership, or similar events or proceedings with respect to Current Operator or Guarantor, as applicable, (ii) any voluntary or involuntary dissolution or roll-up of Current Operator, or (iii) any other occurrence, circumstance, happening, or event, whether similar or dissimilar to the foregoing and whether foreseen or unforeseen, which otherwise might constitute a legal or equitable defense or discharge of the liabilities of Guarantor or which otherwise might limit recourse against Current Operator or Guarantor, to the fullest extent permitted by law. Guarantor hereby waives, for the benefit of New Operator, any right to require New Operator, as a condition of payment or performance by Guarantor, to proceed against Current Operator or pursue any other remedies whatsoever and (b) to the fullest extent permitted by law, any defenses or benefits that may be derived from or afforded

by law that limit the liability of or exonerate guarantors or sureties. Guarantor understands that New Operator is relying on this guarantee in entering into this Agreement.

5.7 **Exclusive Remedy.** The rights of indemnification contained in this Agreement shall be the sole and exclusive remedy of the parties with regard to any and all liabilities, obligations, losses, damages, claims, activities and expenses (including, without limitation, attorneys' fees and court costs) that result or arise from or any breach or inaccuracy of any representation or warranty made by any party contain in, or related to, this Agreement.

## SECTION 6 MISCELLANEOUS

6.1 **Further Assurances.** Each of the parties hereto agrees to execute and deliver any and all further agreements, documents, or instruments necessary to effectuate this Agreement and the transactions referred to herein, contemplated hereby, or reasonably requested by the other party to perfect or evidence their rights hereunder.

6.2 **Notices.** All notices, requests, demands, and other communications required or permitted hereunder shall be in writing, and shall be sent by overnight commercial delivery service (provided a receipt is available with respect to such delivery), or mailed by first-class certified or registered mail, return receipt requested, postage prepaid. Notices sent via overnight commercial delivery service shall be effective on the day after mailing. Notices sent via first-class certified or registered mail shall be effective on the third day after mailing. A copy of any notice to a party must also be sent to that party's e-mail address listed below, but e-mail alone shall not constitute notice.

If to Current Operator or Guarantor:

**BRANDON FACILITY OPERATIONS, LLC**  
c/o Synergy Healthcare Services  
800 Concourse Parkway S., Suite 200  
Maitland, FL 32751  
Attn: Legal Department  
Email: legalnotices@synergyhcs.com

and

If to New Operator:

**BRANDON HEALTH OPSCO, LLC**  
c/o Topaz Fiscal Services  
6085 Strickland Avenue  
Brooklyn, New York 11234  
Attn: Hal Brecher  
hbrecher@topazfs.com



With a copy to (which shall not constitute notice):

**NBC LAW**  
675 Third Avenue, 8<sup>th</sup> Floor  
New York, New York 10017  
Attn: Edward H. Burnbaum, Esq.  
Email: [eburnbaum@nbcclaw.com](mailto:eburnbaum@nbcclaw.com)

and

If to Guarantor:

**LAVIE CARE CENTERS, LLC**  
1040 Crown Pointe Parkway, Suite 600  
Atlanta, GA 30338  
Attn: Legal Department  
Email: [legalnotices@synergyhs.com](mailto:legalnotices@synergyhs.com)

or to such other person or address as any party hereto shall furnish to the other parties hereto in writing pursuant to this Section 6.2.

6.3 Payment of Expenses. In the event of any dispute or controversy arising out of this Agreement, including in connection with the interpretation of any term or condition of this Agreement, the prevailing party shall recover from the non-prevailing party all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party.

6.4 Entire Agreement; Amendment; Waiver. This Agreement, together with the other agreements referred to herein, constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions, and preliminary agreements. This Agreement may not be modified or amended, except in writing signed by the parties hereto. No waiver of any term, provision, or condition of this Agreement, in any one or more instances, shall be deemed to be, or be construed as a further or continuing waiver of, any such term, provision, or condition, or as a waiver of any other term, provision, or condition, of this Agreement. No failure to act shall be construed as a waiver of any term, provision, condition, or rights granted hereunder.

6.5 Joint Venture; Third Party Beneficiaries. Nothing contained herein shall be construed as forming a joint venture or partnership between the parties hereto with respect to the subject matter hereof. Except as otherwise provided in Section 5, the parties hereto do not intend that any third party shall have any rights under this Agreement.

6.6 Representation by Counsel. The parties hereto acknowledge that they have been represented by independent legal counsel of their choosing throughout all of the negotiations which preceded the execution of this Agreement, and that each party has executed this Agreement with

the consent and on the advice of such independent legal counsel. This Agreement is a negotiated document. As a result, any rule of construction providing for any ambiguity in the terms of this Agreement to be construed against the drafterperson of this Agreement shall be inapplicable to the interpretation of this Agreement.

6.7 Captions. The section headings contained herein are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

6.8 Counterparts. This Agreement may be executed and delivered (including by facsimile transmittal, which for purposes of this Agreement shall be deemed to be an original signature) in one or more counterparts and all such counterparts taken together shall constitute a single original Agreement.

6.9 Governing Law. This Agreement shall be governed by the laws of the state where the Facility is located, as to, including, but not limited to, matters of validity, construction, effect and performance but exclusive of such jurisdiction's conflicts of laws provisions.

6.10 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION BROUGHT ON OR WITH RESPECT TO THIS AGREEMENT, INCLUDING TO ENFORCE OR DEFEND ANY RIGHTS HEREUNDER, AND AGREES THAT ANY SUCH ACTION SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

#### 6.11 Termination.

(a) In the event that prior to the Closing the PSA is terminated pursuant to the terms and conditions set forth in the PSA, then this Agreement shall automatically terminate contemporaneously therewith.

(b) In the event of a material breach of this Agreement by either party that is not cured within ten (10) days of delivery of written notice of such breach, this Agreement may be terminated by the non-breaching party, upon which termination each of the parties hereto shall automatically be relieved of its respective obligations hereunder, except for obligations arising prior to such termination.

(c) In the event that the Closing has not occurred by May 1, 2022 (the "***Outside Date***"), then New Operator and Current Operator shall enter into the Management Agreement.

(d) The obligations of the parties which by their nature are intended to survive this agreement, including without limitation the parties' indemnity and confidentiality obligations, shall so survive.

6.12 Definitions. For purposes of this Agreement, the following terms shall have the following meanings (all terms used in this Agreement which are not defined in this paragraph shall have the meanings set forth elsewhere in this Agreement):

**"Accounts Receivable"** means any and all receivables, including, but not limited to, all receivables arising out of, resulting from, or in connection with, services and/or goods and materials provided to residents and patients, including all accounts receivable and rights to reimbursement from private pay patients, the Medicaid and Medicare programs, the Veteran's Administration, Blue Cross/Blue Shield, and other insurance carriers and third party payors, including whether billed or unbilled, or accrued or unaccrued; all third party cost report settlements; and all rights to payment, however evidenced or incurred, including, but not limited to, all rights to payment and/or reimbursement from and claims against (i) insurers of persons to whom the Facility provides services or goods, and (ii) any governmental authority; and all cash and non-cash proceeds and products of the foregoing, including, but not limited to, all proceeds of the sale or collection of the foregoing, cash and deposit accounts, whether now existing or hereafter arising, including any unearned premiums, refunds, or returns on premiums, or any indemnity, warranty, or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing accounts.

**"Code"** means the Internal Revenue Code of 1986, as amended.

**"Environmental Laws"** shall mean any federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials, as now or at any time hereafter in effect.

**"ERISA Affiliate"** means each trade or business (whether or not incorporated) which together with Current Operator is or ever was treated as a single employer under Section 414(b), (c), (m), (o) or (i) of the Code.

**"Governmental Entity"** shall mean any (a) federal, state, county or municipal government, or city, town, borough, village, district or other jurisdiction; (b) governmental or quasi-governmental entity of any nature (including Medicare administrative contractors and any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers); and (c) anybody exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power.

**"Hazardous Materials"** shall mean any toxic or hazardous waste, pollutants or substances listed, defined, designated, or classified as such, or otherwise determined to be such, under or pursuant to any Environmental Law including, without limitation, asbestos, PCB's, petroleum products and by products, substances defined or listed as: "Hazardous Substances" or "Toxic Substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") as amended, 42 U.S.C. § 9601, et seq., "Hazardous Materials" in the Hazardous Materials Transportation Act, 49 U.S.C. § 1802, et seq., "Hazardous Waste" in The Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq., any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. § 2061, et seq., any "Toxic Pollutant" under the Clean Water Act, 33 U.S.C. § 1251, et seq., as amended, any "Hazardous Air Pollutant" under the Clean Air Act, 42 U.S.C. § 7401, et seq., and any hazardous or toxic substance or pollutant regulated under any other applicable federal, state or local Environmental Laws.

**"Material Adverse Effect"** means any event, fact, change, development or occurrence, individually or in the aggregate, that has had or would reasonably be expected to have a material and adverse effect on (a) the operations, condition (financial or otherwise) or results of operations of Current Operator, the Assigned Assets or the Facility taken as a whole, (b) the value of the Assigned Assets, or (c) the ability of Current Operator to consummate the transactions contemplated hereby on a timely basis.

**"Out of Compliance"** means (A) a finding by a governmental authority of one or more deficiencies at the Facility at a "Level G" or higher that has not been corrected and cleared by the applicable governmental authority; (B) a denial of the Facility's right to admit patients or to receive Medicare or Medicaid payments or reimbursement for existing patients or for new admissions at the Facility; (C) the Facility has its license suspended or loses its license or certificate to operate; (D) the Facility has any provider agreement suspended, revoked or terminated; (E) the Facility is declared a Special Focus Facility by CMS or is placed on the SFF watch list; and (F) the Facility has its number of licensed beds materially reduced after the Effective Date.

**"Resident Census Report"** shall mean a true, correct and complete schedule (provided in accordance with HIPAA) that accurately and completely sets forth the occupancy status of each Facility, the average daily rate and other charges payable with respect thereto, the class of payment or reimbursement (i.e., private, third-party payor, Medicare, and Veterans Administration) of all residents, and the average monthly census of each Facility.

[Rest of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Operations Transfer Agreement as of the day and year first above written.

CURRENT OPERATOR:

**BRANDON FACILITY OPERATIONS, LLC**

By:   
Jared Elliot, Manager

[Signature page to Operations Transfer Agreement]

NEW OPERATOR:

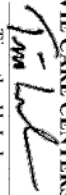
**BRANDON HEALTH OP&CO, LLC**

By:   
Name: Richard Patschek  
Title: Authorized Person

[Signature page to Operations Transfer Agreement (Cont.)]

GUARANTOR:

LAVIE CARE CENTERS, LLC

By: 

Name: Timothy H. Lehner

Title: Manager

Schedule 4.4

None.

GUARANTOR SIGNATURE PAGE TO OTA



**Schedule 4.5**

Facility	License Type Code	Jurisdiction Name	License Number	Effective Date	Expiration Date
Brandon-C	EBW	Hillsborough	29-64-1632681	10/01/2021	09/30/2022

**Schedule 4.6(a)**

None.

**Schedule 4.7(c)**

The Facility settled an Administrative Complaint dated 10/07/2021 in the amount of \$11,500 and is awaiting final order so that it can send payment. Also, the Facility has submitted waiver letters for all covid reporting impositions and is awaiting CMS cmp due in the amount totaling \$1,315,60.

Schedule 4.7(e)

A Settlement Agreement was part of Final Orders dated 10/10/2019 and 03/09/2021.

Schedule 4.7(h)

None.

Schedule 4.8(a)  
None.

Schedule 4.9  
None.



**Exhibit A**  
**to**  
**Operations Transfer Agreement**

CURRENT OPERATOR	NEW OPERATOR	FACILITY NAME	BEDS
BRANDON FACILITY OPERATIONS, LLC	BRANDON HEALTH OPCO, LLC	RAYDIANT HEALTH CARE OF BRANDON	120

**Exhibit B**  
**to**  
**Operations Transfer Agreement**  
**Mid-Cap Agreement**  
*See Attached*

## FACILITY ACCOUNTS TRANSITION AGREEMENT

This **FACILITY ACCOUNTS TRANSITION AGREEMENT** (this "Agreement"), dated as of April 1, 2022, is by and among **MidCap Funding IV Trust**, as agent for itself and the other Lenders (as defined below) (in such capacity, together with its successors and assigns, "**Agent**"), the entities listed as "**Prior Operators**" on Schedule 1 attached hereto (each, a "**Prior Operator**" and, collectively, "**Prior Operators**"), and the entities listed as "**New Operators**" on Schedule 1 attached hereto (each, a "**New Operator**" and, collectively, "**New Operators**").

A. Pursuant to those certain Operations Transfer Agreement, dated as of January 31, 2022 (as amended, restated, supplemented or otherwise modified in accordance with this Agreement, collectively, the "**Operations Transfer Agreement**", together with any and all other agreements, documents, instruments and certificates executed in connection therewith, the "**Transfer Documents**"), between Prior Operators and New Operators, each New Operator has assumed the operation of the skilled nursing facility having an address listed opposite its name on Schedule 1 (collectively, the "**Facilities**") effective as of 12:01 a.m. on April 1, 2022 (the "**Transfer Date**").

B. Pursuant to that certain Second Amended and Restated Credit and Security Agreement, dated as of March 25, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**"), by and among Prior Operators, the other borrowers party thereto (together with Prior Operators, the "**Borrowers**"), Agent and the financial institutions or other entities from time to time parties thereto as lenders (the "**Lenders**"), Agent and the Lenders have agreed, subject to the terms and conditions set forth therein (and in the other agreements, documents, instruments, and certificates executed in connection therewith) to make certain loans and financial accommodations to Borrowers.

C. Prior Operators and New Operators have advised Agent that, for a period of time following the Transfer Date, Prior Operators may come into possession of collections on accounts, accounts receivable and/or payment intangibles (collectively, "**Accounts**") that are the property of New Operators pursuant to the terms and conditions of the Operations Transfer Agreement (such collections, the "**New Operator Amounts**").

D. Agent, Prior Operators and New Operators wish to enter into this Agreement to, among other things, set forth the process for paying an amount equal to the New Operator Amounts over to New Operators.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, and for other good and valuable consideration, it is hereby agreed as follows:

1. New Operator Amounts are the property of New Operators pursuant to the terms and conditions of the Operations Transfer Agreement. The Operations Transfer Agreement contemplates that certain New Operator Amounts may be received by a Prior Operator prior to the time the provider numbers under which such New Operator Amounts are billed and paid are transferred to New Operators and, pursuant to the Operations Transfer Agreement, Prior Operators have agreed to transfer to New Operators an amount equal to the New Operator Amounts received by Prior Operators. Agent agrees and acknowledges that New Operator Amounts (a) do not constitute Agent's or Lenders' collateral under the Credit Agreement or under any other agreement, instrument or document entered into by Prior Operators with Agent or other Lenders, (b) are the property of New Operators pursuant to the terms and conditions of the Operations Transfer Agreement subject to the first priority lien of Metropolitan Commercial Bank (including its successors and assigns) ("**New Lender**"), and (c) are to be held in trust by Prior Operators for the benefit of New Operators. Pursuant to the terms of the Credit Agreement, concurrent with the

consummation of the transactions described in the Operations Transfer Agreement, Agent released its Liens on all asset of Prior Operators that are transferred pursuant to the Operations Transfer Agreement other than, for the avoidance of doubt, the Accounts arising from the operation of the Facilities prior to the Transfer Date. In consideration of the agreements set forth herein, New Operators and Prior Operators agree to comply with the terms of Section 2.5 of the Operations Transfer Agreement with respect to the handling of accounts receivable after the Transfer Date.

2. New Operators hereby acknowledge that (i) pursuant to the Credit Agreement all proceeds of Accounts arising from the operation of the Facilities received by Prior Operators (including New Operator Amounts) will be swept to a deposit account owned by Agent (the "**Payment Account**"), and (ii) that the Payment Account is one of Agent's general collection accounts that receives payments made by both the Borrowers and other unaffiliated borrowers in connection with Agent's various credit arrangements. Agent, upon receipt of such monies (including New Operator Amounts), shall be permitted to commingle such monies with Agent's and Lenders' other assets and use and apply such monies for Agent's and Lenders' own business purposes without regard to any New Operator's or any other person's interests in the New Operator Amounts and Agent shall have no obligation to hold such monies in trust for New Operators or any other person (except to the extent Prior Operators have delivered a New Operator Amounts Payment Notification (as defined in Section 3 below) prior to any such use or application by Agent and Lenders); provided, however, that Agent and Lenders shall (i) give appropriate credit on their books under the Credit Agreement for all such monies received in the Payment Account that, by the terms of the Credit Agreement, are to be applied to Borrowers' obligations thereunder (Prior Operators hereby acknowledging that no credit shall be given under the Credit Agreement in respect of proceeds of New Operator Amounts that have been identified in a New Operator Amounts Payment Notification, all of which are the property of New Operator pursuant to the terms of the Operations Transfer Agreement), and (ii) promptly turnover, deliver and/or transfer to Prior Operators in accordance with Section 3, any such New Operator Amounts that Prior Operators are obligated to transfer to New Operators pursuant to the Operations Transfer Agreement to the extent the same have been identified in a New Operator Amounts Payment Notification. New Operators and Prior Operators acknowledge that Agent may direct that such monies on deposit in the Payment Account be swept to lenders to whom the Lenders' interests in the Credit Agreement have been pledged for application to indebtedness of the Lenders. Prior Operators agree and acknowledge that nothing in this Agreement shall modify the covenants of Prior Operators pursuant to Section 2.5 of the Operations Transfer Agreement with respect to the timely payment of New Operator Amounts to New Operators.

3. Agent agrees to transfer to Prior Operators, by wire transfer to the account identified by Prior Operators on Schedule 1 attached hereto, an amount equal to the New Operator Amounts received in the Payment Account and identified as such by Prior Operators (each such payment, a "**New Operator Amounts Payment**" and each such notification a "**New Operator Amounts Payment Notification**"), which transfer shall be made within five (5) business days following such identification at any time, including, without limitation, during any insolvency or receivership proceeding, or any proceeding under the U.S. Bankruptcy Code of 1978, as amended (11 U.S.C. 101 et seq.) or any other proceeding under any other bankruptcy or insolvency laws. For the benefit of the New Operators and New Lender, unless and until contrary instruction is received by Prior Operators in writing executed by each New Operator and New Lender, jointly (in one or more counterparts), and delivered in accordance with the notice requirements set forth herein, upon the New Operator Amounts being transferred to the deposit account set forth on Schedule 1 attached hereto, Prior Operators agree to disburse the proceeds of the New Operator Amounts Payment to the applicable deposit account set forth on Schedule 2 attached hereto (the "**New Operator Account**") pursuant to the terms of Section 2.5 of the Operations Transfer Agreement. The parties hereto acknowledge that New Lender has a first priority secured interest in the New Operator Accounts and the New Operator Amounts.

4. Prior Operators and New Operators agree that neither Agent nor any Lender shall have responsibility to determine the accuracy of any New Operator Amounts calculation or any allocation of amounts received in the Payment Account (i.e., which amounts are New Operator Amounts and which amounts are not). New Operators further agree that Agent shall have no liability to New Operators for making any New Operator Amounts Payment in accordance with the terms of this Agreement. Prior Operators hereby agrees to indemnify, defend and hold Agent and Lenders harmless to the extent required by Section 12.14 of the Credit Agreement.

5. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of each of the parties hereto, but does not otherwise create, and shall not be construed as creating, any rights enforceable by any person not a party to this Agreement, except as expressly set forth herein with respect to New Lender. Agent shall be permitted to assign its rights and obligations under this Agreement. Notwithstanding the foregoing, this Agreement shall not be assignable by Prior Operators or New Operators without the prior written consent of the other parties hereto.

6. All notices, requests and other communications to any party hereunder shall be in writing (including prepaid overnight courier, facsimile transmission, or electronic mail transmission) and shall be given to such party at its address, facsimile number or e-mail address set forth on its signature page hereto or at such other address, facsimile number or e-mail address as such party may hereafter specify for the purpose by notice to the other parties. Each such notice, request or other communication shall be effective (i) if given by facsimile, when such notice is transmitted to the facsimile number specified herein and the sender receives a confirmation of transmission from the sending facsimile machine, (ii) if given by mail, prepaid overnight courier or any other means, when received or when receipt is refused at the applicable address specified herein, and (iii) if given by electronic mail transmission, upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment).

7. This Agreement may not be amended or otherwise modified unless such amendment or other modification is in writing and is signed by the parties hereto and consented to in writing by New Lender. The Operations Transfer Agreement shall not be amended or otherwise modified in any manner that could reasonably be expected to be adverse to Agent's or Lenders' interests without Agent's prior written consent.

8. This Agreement shall be governed as to validity, interpretations, enforcement and effect by the laws of the State of Maryland without giving effect to conflicts of law principles thereunder.

9. This Agreement shall be and remain absolute and unconditional under any and all circumstances, and no act or omission on the part of any party to this Agreement shall affect or impair the agreement of the other party hereunder.

10. This Agreement may be signed by Prior Operators, Agent and New Operators in several counterparts. Delivery of a photocopy, facsimile or .pdf copy of an executed counterpart of this letter shall be effective as delivery of a manually executed original counterpart of this letter.

11. If the terms and provisions of this Agreement conflict with the terms and provisions of any Transfer Document, the terms and provisions of this Agreement shall govern and control.

12. New Lender shall be a third party beneficiary of the agreements made hereunder with respect to the obligations to the New Operators who are party to the Transfer Documents, and shall have the right to enforce such agreements (including this Agreement) directly to the extent it deems such enforcement necessary or advisable to protect its rights or the rights of each such New Operator hereunder.

13. No parties hereto shall have any setoff rights against the New Operator Amounts. For the avoidance of doubt, any payments by Agent to Prior Operators for New Operator Amounts shall not be offset by amounts owed by Prior Operators to Agent and/or Lenders.

14. Agent authorizes the New Operators (or their designees) to file the UCC-3 partial release financing statement in the form attached hereto as Exhibit A to evidence the release of its Liens on all assets of Prior Operators that are transferred pursuant to the Operations Transfer Agreement other than the Prior Operator Amounts.

[Signature Pages Follow]

*(Signature Page to Facility Accounts Transition Agreement)*

**IN WITNESS WHEREOF**, the parties have executed this Facility Accounts Transition Agreement as of the date first written above.

**AGENT:**

**MIDCAP FUNDING IV TRUST**, a Delaware statutory trust

By: Apollo Capital Management, L.P.  
Its: Investment Manager

By: Apollo Capital Management GP, LLC  
Its: General Partner

By:   
Maurice Amsellem  
Authorized Signatory

Address for Notices:

MidCap Funding IV Trust  
c/o MidCap Financial Services, LLC, as servicer  
7255 Woodmont Ave., Suite 300  
Bethesda, Maryland 20814  
Attn: General Counsel (Consulate NonHUD)  
Facsimile: 301-941-1450

*(Signature Page to Facility Accounts Transition Agreement)*

**PRIOR OPERATORS:**

**BAYONET POINT FACILITY OPERATIONS, LLC**  
**BRANDON FACILITY OPERATIONS, LLC**  
**KISSIMEE FACILITY OPERATIONS, LLC**  
**MELBOURNE FACILITY OPERATIONS, LLC**  
**NEW PORT RICHEY FACILITY OPERATIONS, LLC**  
**PENSACOLA FACILITY OPERATIONS, LLC**  
**SARASOTA FACILITY OPERATIONS, LLC**

By:   
Gregory Hayes  
Authorized Signatory

As Authorized Signer of each of the above entities and, in such capacity, intending this signature to legally bind each of the above entities

Address for Notices:

800 Concourse Parkway, Suite 200  
Maitland, FL 32751  
Attn: Legal Department  
Facsimile: (407) 571-1599



(Signature Page to Facility Accounts Transition Agreement)

**NEW OPERATORS:**

BAYONET OPco, LLC  
 BRANDON HEALTH OPco, LLC  
 KISSIMMEE NURSING &  
 REHABILITATION CENTER, LLC  
 MELBOURNE OPco, LLC  
 NEW PORT RICHEY OPco, LLC  
 PENSACOLA OPco, LLC  
 SARASOTA OPco, LLC

By: \_\_\_\_\_  
 Name: Richard Platschek  
 Title: Authorized Signatory

**Address for Notices:**

c/o Topaz Fiscal Services  
 6085 Strickland Avenue  
 Brooklyn, New York 11234  
 Attn: Hal Brecher  
 Email: hbrecher@topazfs.com

**SCHEDULE 1**

**Facility Name; Prior Operators; New Operators**

<b><u>FACILITY ADDRESS</u></b>	<b><u>PRIOR OPERATOR</u></b>	<b><u>NEW OPERATOR</u></b>
Bayonet Point Living Center 8132 Hudson Ave Hudson, FL 34667	Bayonet Point Facility Operations, LLC	Bayonet Opco, LLC
Raydiant Health Care of Brandon 701 Victoria St. Brandon, FL 33510	Brandon Facility Operations, LLC	Brandon Health Opco, LLC
Living Center of Kissimmee 2511 N. John Young Pkwy Kissimmee, FL 34741	Kissimmee Facility Operations, LLC	Kissimmee Nursing & Rehabilitation Center, LLC
Nspire Healthcare Melbourne 3033 Sarno Rd Melbourne, FL 32934	Melbourne Facility Operations, LLC	Melbourne Opco, LLC
Raydiant Health Care of New Port Richey 8417 Old Country Rd 54 New Port Richey, FL 34653	New Port Richey Facility Operations LLC	New Port Richey Opco, LLC
Living Center of Pensacola 235 W. Airport Blvd Pensacola, FL 32505	Pensacola Facility Operations, LLC	Pensacola Opco, LLC
Nspire Healthcare Sarasota 4783 Fruitville Rd Sarasota, FL 34232	Sarasota Facility Operations, LLC	Sarasota Opco, LLC

VP#54588316.3

EXHIBIT A

FINANCING STATEMENTS

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
CSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRfiling@csccglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 36361	
CSC	
801 Adair Stevenson Drive	
Springfield, IL 62703	
Filed In: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

7A. INITIAL FINANCING STATEMENT FILE NUMBER	7B. THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD
OH0025993296 02/01/2022	

2. TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.
---

3. ASSIGNMENT (full or partial): Provide name of Assignee in Item 7a or 7b, and address of Assignee in Item 7c and name of Assignor.
--

4. CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.
---

5. PARTY INFORMATION CHANGE: Check one of these two boxes: This Change affects <input type="checkbox"/> Debtor & <input type="checkbox"/> Secured Party of record <input type="checkbox"/> CHANGED name and/or address. Complete Item 7a or 7b, and Item 7c or 7d. <input type="checkbox"/> Party Information Change - provide only any <input type="checkbox"/> Party Information Change - provide only any <input type="checkbox"/> Party Information Change - provide only any
---

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only any <input type="checkbox"/> Party Information Change - provide only any <input type="checkbox"/> Party Information Change - provide only any
---

7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Continuation Change - provide only any <input type="checkbox"/> Party Information Change - provide only any <input type="checkbox"/> Party Information Change - provide only any
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7A. ORGANIZATION'S NAME	7B. INDIVIDUAL'S SURNAME	7C. MAILING ADDRESS	7D. CITY	7E. STATE	7F. POSTAL CODE	7G. COUNTRY
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7A. ORGANIZATION'S NAME	7B. INDIVIDUAL'S SURNAME	7C. MAILING ADDRESS	7D. CITY	7E. STATE	7F. POSTAL CODE	7G. COUNTRY
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7A. ORGANIZATION'S NAME	7B. INDIVIDUAL'S SURNAME	7C. MAILING ADDRESS	7D. CITY	7E. STATE	7F. POSTAL CODE	7G. COUNTRY
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7A. ORGANIZATION'S NAME	7B. INDIVIDUAL'S SURNAME	7C. MAILING ADDRESS	7D. CITY	7E. STATE	7F. POSTAL CODE	7G. COUNTRY
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7A. ORGANIZATION'S NAME	7B. INDIVIDUAL'S SURNAME	7C. MAILING ADDRESS	7D. CITY	7E. STATE	7F. POSTAL CODE	7G. COUNTRY
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7A. ORGANIZATION'S NAME	7B. INDIVIDUAL'S SURNAME	7C. MAILING ADDRESS	7D. CITY	7E. STATE	7F. POSTAL CODE	7G. COUNTRY
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7A. ORGANIZATION'S NAME	7B. INDIVIDUAL'S SURNAME	7C. MAILING ADDRESS	7D. CITY	7E. STATE	7F. POSTAL CODE	7G. COUNTRY
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7A. ORGANIZATION'S NAME	7B. INDIVIDUAL'S SURNAME	7C. MAILING ADDRESS	7D. CITY	7E. STATE	7F. POSTAL CODE	7G. COUNTRY
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7A. ORGANIZATION'S NAME	7B. INDIVIDUAL'S SURNAME	7C. MAILING ADDRESS	7D. CITY	7E. STATE	7F. POSTAL CODE	7G. COUNTRY
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7A. ORGANIZATION'S NAME	7B. INDIVIDUAL'S SURNAME	7C. MAILING ADDRESS	7D. CITY	7E. STATE	7F. POSTAL CODE	7G. COUNTRY
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7A. ORGANIZATION'S NAME	7B. INDIVIDUAL'S SURNAME	7C. MAILING ADDRESS	7D. CITY	7E. STATE	7F. POSTAL CODE	7G. COUNTRY
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2290 36361

**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.

"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

"Lockbox Account" means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid.

"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
CSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRfiling@csglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 38631	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed In: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. RITUAL FINANCING STATEMENT FILE NUMBER	1b. <input type="checkbox"/> THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD
OH00171923709 11/19/2013	File: <input type="checkbox"/> Amend <input type="checkbox"/> Addition (Form UCC205) and provide Debtor's name in item 13

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.

3. ☐ ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 7d. For partial assignment, complete items 7 and 8 and also indicate affected collateral in item 8.

4. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

5. ☐ PARTY INFORMATION CHANGE:

Check ONE of these two boxes:

AND Check ONE of these three boxes to:

This Change affects ☐ Debtor ☐ Secured Party of record

6. ☐ CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only ONE.

File: ORGANIZATION'S NAME

OR: INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S) (INITIALS)

SUFFIX

7. ☐ CHANGED OR ADDED INFORMATION: Complete for Assignment of Party Information Change - provide only ONE (item 7a or 7b) and name of Assignor, if this is an Assignment.

File: ORGANIZATION'S NAME

OR: INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S) (INITIALS)

SUFFIX

7c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

8. ☒ COLLATERAL CHANGE: Also check ☐ ADD collateral ☐ DELETE collateral ☒ RESTATE covered collateral ☐ ASSIGN collateral

Indicate collateral:

See Exhibit A attached hereto, and make a part hereof.

9. NAME OF PARTY OR RECORD AUTHORIZING THIS AMENDMENT: Provide only ONE name (the or 9b) (name of Assignor, if this is an Assignment).

File: ORGANIZATION'S NAME: MidCap Funding IV Trust, as Agent

OR: INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S) (INITIALS)

SUFFIX

10. OPTIONAL FILER REFERENCE DATA: Debtor: LAKE PARKER FACILITY OPERATIONS, LLC

2290 38631



**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

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"Instrument" means "instrument", as defined in Article 9 of the UCC.

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"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
CSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRfiling@csglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 38356	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed in: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. RITUAL FINANCING STATEMENT FILE NUMBER	1d. <input type="checkbox"/> THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD
OH0017192381011/19/2013	File: <input type="checkbox"/> Amend: <input type="checkbox"/> Addition: <input type="checkbox"/> (From UCC205) and provide Debtor's name in item 13

2. <input type="checkbox"/> TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.
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3. <input type="checkbox"/> ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 7d.
For partial assignment, complete items 7 and 8 and also indicate affected collateral in item 9

4. <input type="checkbox"/> CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law
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5. <input type="checkbox"/> PARTY INFORMATION CHANGE: Check one of these three boxes to: AND Check one of these three boxes to:	
This Change affects <input type="checkbox"/> Debtor or <input type="checkbox"/> Secured Party of record	<input type="checkbox"/> CHARGE: name and/or address. Complete item 7a or 7b, and item 7c or 7d
<input type="checkbox"/> Party information change: provide only one	<input type="checkbox"/> DELETED name: One record name 7a or 7b, and item 7c or 7d

6. <input type="checkbox"/> CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one
File: ORGANIZATION'S NAME

OR	6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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7. <input type="checkbox"/> CHANGED OR ADDED INFORMATION: Complete for Assignment of Party Information Change - provide only one (item 7a or 7b) and one (item 7c or 7d) and one (item 7e or 7f) and one (item 7g or 7h) and one (item 7i or 7j) and one (item 7k or 7l) and one (item 7m or 7n) and one (item 7o or 7p) and one (item 7q or 7r) and one (item 7s or 7t) and one (item 7u or 7v) and one (item 7w or 7x) and one (item 7y or 7z) and one (item 7aa or 7ab) and one (item 7ac or 7ad) and one (item 7ae or 7af) and one (item 7ag or 7ah) and one (item 7ai or 7aj) and one (item 7ak or 7al) and one (item 7am or 7an) and one (item 7ao or 7ap) and one (item 7aq or 7ar) and one (item 7as or 7at) and one (item 7au or 7av) and one (item 7aw or 7ax) and one (item 7ay or 7az) and one (item 7ba or 7bb) and one (item 7bc or 7bd) and one (item 7be or 7bf) and one (item 7bg or 7bh) and one (item 7bi or 7bj) and one (item 7bk or 7bl) and one (item 7bm or 7bn) and one (item 7bo or 7bp) and one (item 7bq or 7br) and one (item 7bs or 7bt) and one (item 7bu or 7bv) and one (item 7bw or 7bx) and one (item 7by or 7bz) and one (item 7ca or 7cb) and one (item 7cc or 7cd) and one (item 7ce or 7cf) and one (item 7cg or 7ch) and one (item 7ci or 7cj) and one (item 7ck or 7cl) and one (item 7cm or 7cn) and one (item 7co or 7cp) and one (item 7cq or 7cr) and one (item 7cs or 7ct) and one (item 7cu or 7cv) and one (item 7cw or 7cx) and one (item 7cy or 7cz) and one (item 7da or 7db) and one (item 7dc or 7dd) and one (item 7de or 7df) and one (item 7dg or 7dh) and one (item 7di or 7dj) and one (item 7dk or 7dl) and one (item 7dm or 7dn) and one (item 7do or 7dp) and one (item 7dq or 7dr) and one (item 7ds or 7dt) and one (item 7du or 7dv) and one (item 7dw or 7dx) and one (item 7dy or 7dz) and one (item 7ea or 7eb) and one (item 7ec or 7ed) and one (item 7ee or 7ef) and one (item 7eg or 7eh) and one (item 7ei or 7ej) and one (item 7ek or 7el) and one (item 7em or 7en) and one (item 7eo or 7ep) and one (item 7eq or 7er) and one (item 7es or 7et) and one (item 7eu or 7ev) and one (item 7ew or 7ex) and one (item 7ey or 7ez) and one (item 7fa or 7fb) and one (item 7fc or 7fd) and one (item 7fe or 7ff) and one (item 7fg or 7fh) and one (item 7fi or 7fj) and one (item 7fk or 7fl) and one (item 7fm or 7fn) and one (item 7fo or 7fp) and one (item 7fq or 7fr) and one (item 7fs or 7ft) and one (item 7fu or 7fv) and one (item 7fw or 7fx) and one (item 7fy or 7fz) and one (item 7ga or 7gb) and one (item 7gc or 7gd) and one (item 7ge or 7gf) and one (item 7gg or 7gh) and one (item 7gi or 7gj) and one (item 7gk or 7gl) and one (item 7gm or 7gn) and one (item 7go or 7gp) and one (item 7gq or 7gr) and one (item 7gs or 7gt) and one (item 7gu or 7gv) and one (item 7gw or 7gx) and one (item 7gy or 7gz) and one (item 7ha or 7hb) and one (item 7hc or 7hd) and one (item 7he or 7hf) and one (item 7hg or 7hh) and one (item 7hi or 7hj) and one (item 7hk or 7hl) and one (item 7hm or 7hn) and one (item 7ho or 7hp) and one (item 7hq or 7hr) and one (item 7hs or 7ht) and one (item 7hu or 7hv) and one (item 7hw or 7hx) and one (item 7hy or 7hz) and one (item 7ia or 7ib) and one (item 7ic or 7id) and one (item 7ie or 7if) and one (item 7ig or 7ih) and one (item 7ii or 7ij) and one (item 7ik or 7il) and one (item 7im or 7in) and one (item 7io or 7ip) and one (item 7iq or 7ir) and one (item 7is or 7it) and one (item 7iu or 7iv) and one (item 7iw or 7ix) and one (item 7iy or 7iz) and one (item 7ja or 7jb) and one (item 7jc or 7jd) and one (item 7je or 7jf) and one (item 7jg or 7jh) and one (item 7ji or 7jj) and one (item 7jk or 7jl) and one (item 7jm or 7jn) and one (item 7jo or 7jp) and one (item 7jq or 7jr) and one (item 7js or 7jt) and one (item 7ju or 7jv) and one (item 7jw or 7jx) and one (item 7jy or 7jz) and one (item 7ka or 7kb) and one (item 7kc or 7kd) and one (item 7ke or 7kf) and one (item 7kg or 7kh) and one (item 7ki or 7kj) and one (item 7kk or 7kl) and one (item 7km or 7kn) and one (item 7ko or 7kp) and one (item 7kq or 7kr) and one (item 7ks or 7kt) and one (item 7ku or 7kv) and one (item 7kw or 7kx) and one (item 7ky or 7kz) and one (item 7la or 7lb) and one (item 7lc or 7ld) and one (item 7le or 7lf) and one (item 7lg or 7lh) and one (item 7li or 7lj) and one (item 7lk or 7ll) and one (item 7lm or 7ln) and one (item 7lo or 7lp) and one (item 7lq or 7lr) and one (item 7ls or 7lt) and one (item 7lu or 7lv) and one (item 7lw or 7lx) and one (item 7ly or 7lz) and one (item 7ma or 7mb) and one (item 7mc or 7md) and one (item 7me or 7mf) and one (item 7mg or 7mh) and one (item 7mi or 7mj) and one (item 7mk or 7ml) and one (item 7mm or 7mn) and one (item 7mo or 7mp) and one (item 7mq or 7mr) and one (item 7ms or 7mt) and one (item 7mu or 7mv) and one (item 7mw or 7mx) and one (item 7my or 7mz) and one (item 7na or 7nb) and one (item 7nc or 7nd) and one (item 7ne or 7nf) and one (item 7ng or 7nh) and one (item 7ni or 7nj) and one (item 7nk or 7nl) and one (item 7nm or 7nn) and one (item 7no or 7np) and one (item 7nq or 7nr) and one (item 7ns or 7nt) and one (item 7nu or 7nv) and one (item 7nw or 7nx) and one (item 7ny or 7nz) and one (item 7oa or 7ob) and one (item 7oc or 7od) and one (item 7oe or 7of) and one (item 7og or 7oh) and one (item 7oi or 7oj) and one (item 7ok or 7ol) and one (item 7om or 7on) and one (item 7oo or 7op) and one (item 7oq or 7or) and one (item 7os or 7ot) and one (item 7ou or 7ov) and one (item 7ow or 7ox) and one (item 7oy or 7oz) and one (item 7pa or 7pb) and one (item 7pc or 7pd) and one (item 7pe or 7pf) and one (item 7pg or 7ph) and one (item 7pi or 7pj) and one (item 7pk or 7pl) and one (item 7pm or 7pn) and one (item 7po or 7pp) and one (item 7pq or 7pr) and one (item 7ps or 7pt) and one (item 7pu or 7pv) and one (item 7pw or 7px) and one (item 7py or 7pz) and one (item 7qa or 7qb) and one (item 7qc or 7qd) and one (item 7qe or 7qf) and one (item 7qg or 7qh) and one (item 7qi or 7qj) and one (item 7qk or 7ql) and one (item 7qm or 7qn) and one (item 7qo or 7qp) and one (item 7qq or 7qr) and one (item 7qs or 7qt) and one (item 7qu or 7qv) and one (item 7qw or 7qx) and one (item 7qy or 7qz) and one (item 7ra or 7rb) and one (item 7rc or 7rd) and one (item 7re or 7rf) and one (item 7rg or 7rh) and one (item 7ri or 7rj) and one (item 7rk or 7rl) and one (item 7rm or 7rn) and one (item 7ro or 7rp) and one (item 7rq or 7rr) and one (item 7rs or 7rt) and one (item 7ru or 7rv) and one (item 7rw or 7rx) and one (item 7ry or 7rz) and one (item 7sa or 7sb) and one (item 7sc or 7sd) and one (item 7se or 7sf) and one (item 7sg or 7sh) and one (item 7si or 7sj) and one (item 7sk or 7sl) and one (item 7sm or 7sn) and one (item 7so or 7sp) and one (item 7sq or 7sr) and one (item 7ss or 7st) and one (item 7su or 7sv) and one (item 7sw or 7sx) and one (item 7sy or 7sz) and one (item 7ta or 7tb) and one (item 7tc or 7td) and one (item 7te or 7tf) and one (item 7tg or 7th) and one (item 7ti or 7tj) and one (item 7tk or 7tl) and one (item 7tm or 7tn) and one (item 7to or 7tp) and one (item 7tq or 7tr) and one (item 7ts or 7tt) and one (item 7tu or 7tv) and one (item 7tw or 7tx) and one (item 7ty or 7tz) and one (item 7ua or 7ub) and one (item 7uc or 7ud) and one (item 7ue or 7uf) and one (item 7ug or 7uh) and one (item 7ui or 7uj) and one (item 7uk or 7ul) and one (item 7um or 7un) and one (item 7uo or 7up) and one (item 7uq or 7ur) and one (item 7us or 7ut) and one (item 7uu or 7uv) and one (item 7uw or 7ux) and one (item 7uy or 7uz) and one (item 7va or 7vb) and one (item 7vc or 7vd) and one (item 7ve or 7vf) and one (item 7vg or 7vh) and one (item 7vi or 7vj) and one (item 7vk or 7vl) and one (item 7vm or 7vn) and one (item 7vo or 7vp) and one (item 7vq or 7vr) and one (item 7vs or 7vt) and one (item 7vu or 7vv) and one (item 7vw or 7vx) and one (item 7vy or 7vz) and one (item 7wa or 7wb) and one (item 7wc or 7wd) and one (item 7we or 7wf) and one (item 7wg or 7wh) and one (item 7wi or 7wj) and one (item 7wk or 7wl) and one (item 7wm or 7wn) and one (item 7wo or 7wp) and one (item 7wq or 7wr) and one (item 7ws or 7wt) and one (item 7wu or 7wv) and one (item 7ww or 7wx) and one (item 7wy or 7wz) and one (item 7xa or 7xb) and one (item 7xc or 7xd) and one (item 7xe or 7xf) and one (item 7xg or 7xh) and one (item 7xi or 7xj) and one (item 7xk or 7xl) and one (item 7xm or 7xn) and one (item 7xo or 7xp) and one (item 7xq or 7xr) and one (item 7xs or 7xt) and one (item 7xu or 7xv) and one (item 7xw or 7xx) and one (item 7xy or 7xz) and one (item 7ya or 7yb) and one (item 7yc or 7yd) and one (item 7ye or 7yf) and one (item 7yg or 7yh) and one (item 7yi or 7yj) and one (item 7yk or 7yl) and one (item 7ym or 7yn) and one (item 7yo or 7yp) and one (item 7yq or 7yr) and one (item 7ys or 7yt) and one (item 7yu or 7yv) and one (item 7yw or 7yx) and one (item 7yy or 7yz) and one (item 7za or 7zb) and one (item 7zc or 7zd) and one (item 7ze or 7zf) and one (item 7zg or 7zh) and one (item 7zi or 7zj) and one (item 7zk or 7zl) and one (item 7zm or 7zn) and one (item 7zo or 7zp) and one (item 7zq or 7zr) and one (item 7zs or 7zt) and one (item 7zu or 7zv) and one (item 7zw or 7zx) and one (item 7zy or 7yz)
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8. <input checked="" type="checkbox"/> COLLATERAL CHANGE: Also check one of these three boxes: <input type="checkbox"/> ADD collateral <input type="checkbox"/> DELETE collateral <input checked="" type="checkbox"/> RESTATE covered collateral <input type="checkbox"/> ASSIGN collateral
Indicate collateral: See Exhibit A attached hereto, and make a part hereof.

9. NAME OF PARTY OR RECORD AUTHORIZING THIS AMENDMENT: Provide only one name (the or 9b) (name of Assignor, if this is an Assignment)
OPTIONAL: Provide name of Debtor, check here <input type="checkbox"/> and provide name of authorizing Debtor
OPTIONAL: Provide name of Agent

10. OPTIONAL FILER REFERENCE DATA: Debtor: LAKELAND FACILITY OPERATIONS, LLC
2290 38356

**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.



"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

"Lockbox Account" means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid.

"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
GSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRffiling@csoglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 38216	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed in: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. RITUAL FINANCING STATEMENT FILE NUMBER 0H00259992395 02/01/2022

2. TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.

3. ASSIGNMENT (full or partial): Provide name of Assignee in Item 7a or 7b, and address of Assignee in Item 7c and name of Assignor in Item 7d. For partial assignment, complete items 7 and 8 and also indicate affected collateral in Item 9.

4. CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

5. PARTY INFORMATION CHANGE: Check one of these three boxes to: AND Check one of these three boxes to: ☐ Debtor is ☐ Secured Party of record ☐ CHARGE: name and/or address. Complete Item 7a or 7b, and Item 7c and Item 7d. ☐ DELETED name. One record name ☐ CHARGE: name and/or address. Complete Item 7a or 7b, and Item 7c and Item 7d. ☐ DELETED name. One record name ☐ CHARGE: name and/or address. Complete Item 7a or 7b, and Item 7c and Item 7d. ☐ DELETED name. One record name

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one. ☐ Debtor's name ☐ Secured Party's name ☐ CHARGE: name and/or address. Complete Item 7a or 7b, and Item 7c and Item 7d. ☐ DELETED name. One record name ☐ CHARGE: name and/or address. Complete Item 7a or 7b, and Item 7c and Item 7d. ☐ DELETED name. One record name

7. CHANGED OR ADDED INFORMATION: Complete for Assignment of Party Information Change - provide only one (a or b or c or d or e or f or g or h or i or j or k or l or m or n or o or p or q or r or s or t or u or v or w or x or y or z or aa or ab or ac or ad or ae or af or ag or ah or ai or aj or ak or al or am or an or ao or ap or aq or ar or as or at or au or av or aw or ax or ay or az or ba or bb or bc or bd or be or bf or bg or bh or bi or bj or bk or bl or bm or bn or bo or bp or bq or br or bs or bt or bu or bv or bw or bx or by or bz or ca or cb or cc or cd or ce or cf or cg or ch or ci or cj or ck or cl or cm or cn or co or cp or cq or cr or cs or ct or cu or cv or cw or cx or cy or cz or da or db or dc or dd or de or df or dg or dh or di or dj or dk or dl or dm or dn or do or dp or dq or dr or ds or dt or du or dv or dw or dx or dy or dz or ea or eb or ec or ed or ee or ef or eg or eh or ei or ej or ek or el or em or en or eo or ep or eq or er or es or et or eu or ev or ew or ex or ey or ez or fa or fb or fc or fd or fe or ff or fg or fh or fi or fj or fk or fl or fm or fn or fo or fp or fq or fr or fs or ft or fu or fv or fw or fx or fy or fz or ga or gb or gc or gd or ge or gf or gg or gh or gi or gj or gk or gl or gm or gn or go or gp or gq or gr or gs or gt or gu or gv or gw or gx or gy or gz or ha or hb or hc or hd or he or hf or hg or hh or hi or hj or hk or hl or hm or hn or ho or hp or hq or hr or hs or ht or hu or hv or hw or hx or hy or hz or ia or ib or ic or id or ie or if or ig or ih or ii or ij or ik or il or im or in or io or ip or iq or ir or is or it or iu or iv or iw or ix or iy or iz or ja or jb or jc or jd or je or jf or jg or jh or ji or jj or jk or jl or jm or jn or jo or jp or jq or jr or js or jt or ju or jv or jw or jx or jy or jz or ka or kb or kc or kd or ke or kf or kg or kh or ki or kj or kl or km or kn or ko or kp or kq or kr or ks or kt or ku or kv or kw or kx or ky or kz or la or lb or lc or ld or le or lf or lg or lh or li or lj or lk or ll or lm or ln or lo or lp or lq or lr or ls or lt or lu or lv or lw or lx or ly or lz or ma or mb or mc or md or me or mf or mg or mh or mi or mj or mk or ml or mm or mn or mo or mp or mq or mr or ms or mt or mu or mv or mw or mx or my or mz or na or nb or nc or nd or ne or nf or ng or nh or ni or nj or nk or nl or nm or nn or no or np or nq or nr or ns or nt or nu or nv or nw or nx or ny or nz or oa or ob or oc or od or oe or of or og or oh or oi or oj or ok or ol or om or on or oo or op or oq or or or os or ot or ou or ov or ow or ox or oy or oz or pa or pb or pc or pd or pe or pf or pg or ph or pi or pj or pk or pl or pm or pn or po or pp or pq or pr or ps or pt or pu or pv or pw or px or py or pz or qa or qb or qc or qd or qe or qf or qg or qh or qi or qj or qk or ql or qm or qn or qo or qp or qq or qr or qs or qt or qu or qv or qw or qx or qy or qz or ra or rb or rc or rd or re or rf or rg or rh or ri or rj or rk or rl or rm or rn or ro or rp or rq or rr or rs or rt or ru or rv or rw or rx or ry or rz or sa or sb or sc or sd or se or sf or sg or sh or si or sj or sk or sl or sm or sn or so or sp or sq or sr or ss or st or su or sv or sw or sx or sy or sz or ta or tb or tc or td or te or tf or tg or th or ti or tj or tk or tl or tm or tn or to or tp or tq or tr or ts or tt or tu or tv or tw or tx or ty or tz or ua or ub or uc or ud or ue or uf or ug or uh or ui or uj or uk or ul or um or un or uo or up or uq or ur or us or ut or uu or uv or uw or ux or uy or uz or va or vb or vc or vd or ve or vf or vg or vh or vi or vj or vk or vl or vm or vn or vo or vp or vq or vr or vs or vt or vu or vv or vw or vx or vy or vz or wa or wb or wc or wd or we or wf or wg or wh or wi or wj or wk or wl or wm or wn or wo or wp or wq or wr or ws or wt or wu or wv or ww or wx or wy or wz or xa or xb or xc or xd or xe or xf or xg or xh or xi or xj or xk or xl or xm or xn or xo or xp or xq or xr or xs or xt or xu or xv or xw or xx or xy or xz or ya or yb or yc or yd or ye or yf or yg or yh or yi or yj or yk or yl or ym or yn or yo or yp or yq or yr or ys or yt or yu or yv or yw or yx or yy or yz or za or zb or zc or zd or ze or zf or zg or zh or zi or zj or zk or zl or zm or zn or zo or zp or zq or zr or zs or zt or zu or zv or zw or zx or zy or zz

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FILED OFFICE COPY - UCC FINANCING STATEMENT AMENDMENT (Form UCC3) (Rev. 04/2011)

2290 38216



**EXHIBIT A  
TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

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**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.

**FOLLOW INSTRUCTIONS**

A. NAME & PHONE OF CONTACT AT FILER (optional)  
CSC 1-800-858-5294

B. E-MAIL CONTACT AT FILER (optional)  
SPRfiling@cscojdoeb.com

C. SEND ACKNOWLEDGMENT TO: (Name and Address)  
[ 2290 38020  
CSC  
801 Adlai Stevenson Drive  
Springfield, IL 62703  
[ ]

Filed in: Ohio  
(S.O.S.)

**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

18. INITIAL FINANCING STATEMENT FILE NUMBER OH00717925167 11/19/2013	19. THE FINANCING STATEMENT ASSIGNMENT (S) TO BE FILED (or RECORD) (or recorded) IN THE REAL ESTATE RECORDS File: attach Amendment Addendum (Form UCC9a) and provide Debtor's name in item 13.
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2. ☐ **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to the security interests of Secured Party authorizing this Termination Statement.

3. ☐ **ASSIGNMENT** (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignee in item 7d. For partial assignment, complete items 7 and 8 and also indicate affected collateral in item 8.

4. ☐ **CONTINUATION.** Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party in the assets described in this Continuation Statement is confirmed for the additional period provided by applicable law.

5 ☐ PARTY INFORMATION CHANGE: AND Check side of these three boxes to:

**CURRENT RECORD INFORMATION:** Complete for Party information. Change or provide only one of the following.

This Change affects ☐ Debtor & ☐ Second Party of record

☐ **CHANGE name and/or address.** Complete item 6a or 6b, and then 7a or 7b.

☐ **DELETE name.** Give record name to be deleted in item 6b or 6d.

6b. ORGANIZATION'S NAME

OR 8B. INDIVIDUAL'S SURNAME	FIRST PERSON NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

**7. CHANGED OR ADDED INFORMATION:** Complete for Assignment of Policy Information Change - provide only the information to use word, number, or otherwise any part of the Doctor's name;  
**7a ORGANIZATION'S NAME**

OR  
7b. INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S) INITIAL(S)	SUFFIX

CITY	STATE	POSTAL CODE	COUNTRY

[illegible]

☒ COLLEGE GRADUATE: YES ☐ NO

☐ CDDA (COLLEGE DEGREE ATTENDING)

☐ DUE DATE: COMING

☒ RES (AT LEAST ONE ROOM)

☐ ASSIGN (ROOMS)

2

6

**7**

**9. NAME OF PARTY OR RECORD AUTHORIZING THIS AMENDMENT:** Provide only SGLS name (a) or (b) (name of assignor, if this is an assignment) and provide name of assignee, if applicable. If you are a debtor, check here ☐ and provide name of authorizing Debtor.

OR	DATE RECEIVED	BY CLIENT/NAME	REQUEST PERSON/NAME	APPROVAL NAME/INITIALS	SIGNATURE

[illegible]

**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and
- (f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.



"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

"Lockbox Account" means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid.

"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
CSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRffiling@csglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 37901	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed In: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. RITUAL FINANCING STATEMENT FILE NUMBER	1d. <input type="checkbox"/> THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD
OH00171922020 11/19/2013	File: <input type="checkbox"/> Amend <input type="checkbox"/> Addition (Form UCC205) and provide Debtor's name in item 13

2. <input type="checkbox"/> TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.
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3. <input type="checkbox"/> ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 7d.
For partial assignment, complete items 7 and 8 and also indicate affected collateral in item 9

4. <input type="checkbox"/> CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law
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5. <input type="checkbox"/> PARTY INFORMATION CHANGE: Check one of these three boxes to: AND Check one of these three boxes to:	
This Change affects <input type="checkbox"/> Debtor or <input type="checkbox"/> Secured Party of record	<input type="checkbox"/> CHARGE: name and/or address. Complete item 7a or 7b, item 7c or 7d, and item 7e or 7f
<input type="checkbox"/> Party name	<input type="checkbox"/> Party name: Only record name
<input type="checkbox"/> Party address	<input type="checkbox"/> Party address: Only record address

6. <input type="checkbox"/> CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one.
File: ORGANIZATION'S NAME

OR	6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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7. <input type="checkbox"/> CHANGED OR ADDED INFORMATION: Complete for Assignment or Change - provide only one (item 7c or 7d) (use item 7e or 7f for name, 80 for one, and 81 for all other parts of the Debtor's name)
7a. ORGANIZATION'S NAME

OR	7b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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INDIVIDUAL'S FIRST PERSONAL NAME
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INDIVIDUAL'S ADDITIONAL NAME(S) (INITIALS)
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7c. MAILING ADDRESS
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CITY	STATE	POSTAL CODE	COUNTRY
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8. <input checked="" type="checkbox"/> COLLATERAL CHANGE: Also check one of these three boxes: <input type="checkbox"/> ADD collateral <input type="checkbox"/> DELETE collateral <input checked="" type="checkbox"/> RESTATE covered collateral <input type="checkbox"/> ASSIGN collateral
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Indicate collateral:
See Exhibit A attached hereto, and make a part hereof.

9. NAME OF PARTY OR RECORD AUTHORIZING THIS AMENDMENT: Provide only one (item 9a or 9b) (name of Assignor, if this is an Assignment)
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10. OPTIONAL FILER REFERENCE DATA: Debtor: BAYONET POINT FACILITY OPERATIONS, LLC
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2290 37901
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OR	9b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA: Debtor: BAYONET POINT FACILITY OPERATIONS, LLC
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2290 37901
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**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.

"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

"Lockbox Account" means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid.

"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
GSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRfiling@csoglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 37747	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed in: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. RITUAL FINANCING STATEMENT FILE NUMBER	1d. <input type="checkbox"/> THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD
OH00171923898 11/19/2013	File: <input type="checkbox"/> Amend <input type="checkbox"/> Addition (Form UCC205) and provide Debtor's name in item 13

2. <input type="checkbox"/> TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.
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3. <input type="checkbox"/> ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 7d.
For partial assignment, complete items 7 and 8 and also indicate affected collateral in item 9

4. <input type="checkbox"/> CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law
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5. <input type="checkbox"/> PARTY INFORMATION CHANGE: Check one of these three boxes to: AND Check one of these three boxes to:	
This Change affects <input type="checkbox"/> Debtor or <input type="checkbox"/> Secured Party of record	<input type="checkbox"/> CHARGE: name and/or address. Complete item 7a or 7b, and item 7c or 7d
<input type="checkbox"/> Party name	<input type="checkbox"/> Party name: Only record name
<input type="checkbox"/> Party address	<input type="checkbox"/> Party address: Only record address

6. <input type="checkbox"/> CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one.
File: ORGANIZATION'S NAME

OR	6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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7. <input type="checkbox"/> CHANGED OR ADDED INFORMATION: Complete for Assignment of Party Information Change - provide only one (item 7c or 7d) (use item 7a or 7b for one party of the Debtor's name)
7a. ORGANIZATION'S NAME

OR	7b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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INDIVIDUAL'S FIRST PERSONAL NAME
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INDIVIDUAL'S ADDITIONAL NAME(S) (INITIALS)
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7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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8. <input checked="" type="checkbox"/> COLLATERAL CHANGE: Also check one of these three boxes: <input type="checkbox"/> ADD collateral <input type="checkbox"/> DELETE collateral <input checked="" type="checkbox"/> RESTATE covered collateral <input type="checkbox"/> ASSIGN collateral	
Indicate collateral:	See Exhibit A attached hereto, and make a part hereof.

9. NAME OF PARTY OR RECORD AUTHORIZING THIS AMENDMENT: Provide only one (use item 9a or 9b) (name of Assignor, if this is an Assignment)
9a. ORGANIZATION'S NAME: MidCap Funding IV Trust, as Agent

OR	9b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA: Debtor: KISSIMMEE FACILITY OPERATIONS, LLC
2290 37747

**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

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"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

"Lockbox Account" means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid.

"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
CSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRfiling@csglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 37537	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed In: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILER NUMBER

1b. ☐ THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD ONLY. ☐ THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED FOR RECORD AND TO PROVIDE NOTICE OF THE AMENDMENT TO THE SECURED PARTY. (Rev. 04/2011)

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.

3. ☐ ASSIGNMENT (full or partial): Provide name of Assignee in Item 7a or 7b, and address of Assignee in Item 7c and name of Assignor in Item 7d.

4. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party is continued for the additional period provided by applicable law.

5. ☐ PARTY INFORMATION CHANGE: Check one of these three boxes to: AND Check one of these three boxes to: ☐ Debtor is ☐ Secured Party of record ☐ Change name and/or address. Complete Item 7a or 7b and Item 7c or 7d and Item 7e or 7f. ☐ Delete name. Give record name in Item 7a or 7b and Item 7c or 7d and Item 7e or 7f. ☐ To be deleted in Item 7a or 7b.

6. ☐ CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one.

7a. ORGANIZATION'S NAME

OR 7b. INDIVIDUAL'S SURNAME

7c. CHANGED OR ADDED INFORMATION: Complete for Assignment of Party Information Change - provide only one (a or b or c or d or e or f or g or h or i or j or k or l or m or n or o or p or q or r or s or t or u or v or w or x or y or z or AA or AB or AC or AD or AE or AF or AG or AH or AI or AJ or AK or AL or AM or AN or AO or AP or AQ or AR or AS or AT or AU or AV or AW or AX or AY or AZ or BA or BB or BC or BD or BE or BF or BG or BH or BI or BJ or BK or BL or BM or BN or BO or BP or BQ or BR or BS or BT or BU or BV or BW or BX or BY or BZ or CA or CB or CC or CD or CE or CF or CG or CH or CI or CJ or CK or CL or CM or CN or CO or CP or CQ or CR or CS or CT or CU or CV or CW or CX or CY or CZ or DA or DB or DC or DD or DE or DF or DG or DH or DI or DJ or DK or DL or DM or DN or DO or DP or DQ or DR or DS or DT or DU or DV or DW or DX or DY or DZ or EA or EB or EC or ED or EE or EF or EG or EH or EI or EJ or EK or EL or EM or EN or EO or EP or EQ or ER or ES or ET or EU or EV or EW or EX or EY or EZ or FA or FB or FC or FD or FE or FF or FG or FH or FI or FJ or FK or FL or FM or FN or FO or FP or FQ or FR or FS or FT or FU or FV or FW or FX or FY or FZ or GA or GB or GC or GD or GE or GF or GG or GH or GI or GJ or GK or GL or GM or GN or GO or GP or GQ or GR or GS or GT or GU or GV or GW or GX or GY or GZ or HA or HB or HC or HD or HE or HF or HG or HH or HI or HJ or HK or HL or HM or HN or HO or HP or HQ or HR or HS or HT or HU or HV or HW or HX or HY or HZ or IA or IB or IC or ID or IE or IF or IG or IH or II or IJ or IK or IL or IM or IN or IO or IP or IQ or IR or IS or IT or IU or IV or IW or IX or IY or IZ or JA or JB or JC or JD or JE or JF or JG or JH or JI or JJ or JK or JL or JM or JN or JO or JP or JQ or JR or JS or JT or JU or JV or JW or JX or JY or JZ or KA or KB or KC or KD or KE or KF or KG or KH or KI or KJ or KK or KL or KM or KN or KO or KP or KQ or KR or KS or KT or KU or KV or KW or KX or KY or KZ or LA or LB or LC or LD or LE or LF or LG or LH or LI or LJ or LK or LL or LM or LN or LO or LP or LQ or LR or LS or LT or LU or LV or LW or LX or LY or LZ or MA or MB or MC or MD or ME or MF or MG or MH or MI or MJ or MK or ML or MM or MN or MO or MP or MQ or MR or MS or MT or MU or MV or MW or MX or MY or MZ or NA or NB or NC or ND or NE or NF or NG or NH or NI or NJ or NK or NL or NM or NN or NO or NP or NQ or NR or NS or NT or NU or NV or NW or NX or NY or NZ or OA or OB or OC or OD or OE or OF or OG or OH or OI or OJ or OK or OL or OM or ON or OO or OP or OQ or OR or OS or OT or OU or OV or OW or OX or OY or OZ or PA or PB or PC or PD or PE or PF or PG or PH or PI or PJ or PK or PL or PM or PN or PO or PP or PQ or PR or PS or PT or PU or PV or PW or PX or PY or PZ or QA or QB or QC or QD or QE or QF or QG or QH or QI or QJ or QK or QL or QM or QN or QO or QP or QQ or QR or QS or QT or QU or QV or QW or QX or QY or QZ or RA or RB or RC or RD or RE or RF or RG or RH or RI or RJ or RK or RL or RM or RN or RO or RP or RQ or RR or RS or RT or RU or RV or RW or RX or RY or RZ or SA or SB or SC or SD or SE or SF or SG or SH or SI or SJ or SK or SL or SM or SN or SO or SP or SQ or SR or SS or ST or SU or SV or SW or SX or SY or SZ or TA or TB or TC or TD or TE or TF or TG or TH or TI or TJ or TK or TL or TM or TN or TO or TP or TQ or TR or TS or TT or TU or TV or TW or TX or TY or TZ or UA or UB or UC or UD or UE or UF or UG or UH or UI or UJ or UK or UL or UM or UN or UO or UP or UQ or UR or US or UT or UY or UZ or VA or VB or VC or VD or VE or VF or VG or VH or VI or VJ or VK or VL or VM or VN or VO or VP or VQ or VR or VS or VT or VU or VV or VW or VX or VY or VZ or WA or WB or WC or WD or WE or WF or WG or WH or WI or WJ or WK or WL or WM or WN or WO or WP or WQ or WR or WS or WT or WY or WZ or XA or XB or XC or XD or XE or XF or XG or XH or XI or XJ or XK or XL or XM or XN or XO or XP or XQ or XR or XS or XT or XU or XV or XW or XX or XY or XZ or YA or YB or YC or YD or YE or YF or YG or YH or YI or YJ or YK or YL or YM or YN or YO or YP or YQ or YR or YS or YT or YU or YV or YW or YX or YY or YZ or ZA or ZB or ZC or ZD or ZE or ZF or ZG or ZH or ZI or ZJ or ZK or ZL or ZM or ZN or ZO or ZP or ZQ or ZR or ZS or ZT or ZU or ZV or ZW or ZX or ZY or ZZ

7d. ORGANIZATION'S NAME

OR 7e. INDIVIDUAL'S SURNAME

7f. COLLATERAL CHANGE: Also check one of these three boxes: ☐ ADD collateral ☐ DELETE collateral ☒ RESTATE covered collateral ☐ ASSIGN collateral

7g. MAILING ADDRESS

7h. INDIVIDUAL'S FIRST PERSONAL NAME

7i. INDIVIDUAL'S ADDITIONAL NAME(S) (INITIALS)

7j. CITY

7k. STATE

7l. POSTAL CODE

7m. COUNTRY

7n. SUFFIX

9. NAME OF PARTY OR RECORD AUTHORIZING THIS AMENDMENT: Provide only one (a or b or c or d or e or f or g or h or i or j or k or l or m or n or o or p or q or r or s or t or u or v or w or x or y or z or AA or AB or AC or AD or AE or AF or AG or AH or AI or AJ or AK or AL or AM or AN or AO or AP or AQ or AR or AS or AT or AU or AV or AW or AX or AY or AZ or BA or BB or BC or BD or BE or BF or BG or BH or BI or BJ or BK or BL or BM or BN or BO or BP or BQ or BR or BS or BT or BU or BV or BW or BX or BY or BZ or CA or CB or CC or CD or CE or CF or CG or CH or CI or CJ or CK or CL or CM or CN or CO or CP or CQ or CR or CS or CT or CU or CV or CW or CX or CY or CZ or DA or DB or DC or DD or DE or DF or DG or DH or DI or DJ or DK or DL or DM or DN or DO or DP or DQ or DR or DS or DT or DU or DV or DW or DX or DY or DZ or EA or EB or EC or ED or EE or EF or EG or EH or EI or EJ or EK or EL or EM or EN or EO or EP or EQ or ER or ES or ET or EU or EV or EW or EX or EY or EZ or FA or FB or FC or FD or FE or FF or FG or FH or FI or FJ or FK or FL or FM or FN or FO or FP or FQ or FR or FS or FT or FU or FV or FW or FX or FY or FZ or GA or GB or GC or GD or GE or GF or GG or GH or GI or GJ or GK or GL or GM or GN or GO or GP or GQ or GR or GS or GT or GU or GV or GW or GX or GY or GZ or HA or HB or HC or HD or HE or HF or HG or HH or HI or HJ or HK or HL or HM or HN or HO or HP or HQ or HR or HS or HT or HU or HV or HW or HX or HY or HZ or IA or IB or IC or ID or IE or IF or IG or IH or II or IJ or IK or IL or IM or IN or IO or IP or IQ or IR or IS or IT or IU or IV or IW or IX or IY or IZ or JA or JB or JC or JD or JE or JF or JG or JH or JI or JJ or JK or JL or JM or JN or JO or JP or JQ or JR or JS or JT or JU or JV or JW or JX or JY or JZ or KA or KB or KC or KD or KE or KF or KG or KH or KI or KJ or KK or KL or KM or KN or KO or KP or KQ or KR or KS or KT or KU or KV or KW or KX or KY or KZ or LA or LB or LC or LD or LE or LF or LG or LH or LI or LJ or LK or LL or LM or LN or LO or LP or LQ or LR or LS or LT or LU or LV or LW or LX or LY or LZ or MA or MB or MC or MD or ME or MF or MG or MH or MI or MJ or MK or ML or MM or MN or MO or MP or MQ or MR or MS or MT or MU or MV or MW or MX or MY or MZ or NA or NB or NC or ND or NE or NF or NG or NH or NI or NJ or NK or NL or NM or NN or NO or NP or NQ or NR or NS or NT or NU or NV or NW or NX or NY or NZ or OA or OB or OC or OD or OE or OF or OG or OH or OI or OJ or OK or OL or OM or ON or OO or OP or OQ or OR or OS or OT or OU or OV or OW or OX or OY or OZ or PA or PB or PC or PD or PE or PF or PG or PH or PI or PJ or PK or PL or PM or PN or PO or PP or PQ or PR or PS or PT or PU or PV or PW or PX or PY or PZ or QA or QB or QC or QD or QE or QF or QG or QH or QI or QJ or QK or QL or QM or QN or QO or QP or QQ or QR or QS or QT or QU or QV or QW or QX or QY or QZ or RA or RB or RC or RD or RE or RF or RG or RH or RI or RJ or RK or RL or RM or RN or RO or RP or RQ or RR or RS or RT or RU or RV or RW or RX or RY or RZ or SA or SB or SC or SD or SE or SF or SG or SH or SI or SJ or SK or SL or SM or SN or SO or SP or SQ or SR or SS or ST or SU or SV or SW or SX or SY or SZ or TA or TB or TC or TD or TE or TF or TG or TH or TI or TJ or TK or TL or TM or TN or TO or TP or TQ or TR or TS or TT or TU or TV or TW or TX or TY or TZ or UA or UB or UC or UD or UE or UF or UG or UH or UI or UJ or UK or UL or UM or UN or UO or UP or UQ or UR or US or UT or UY or UZ or VA or VB or VC or VD or VE or VF or VG or VH or VI or VJ or VK or VL or VM or VN or VO or VP or VQ or VR or VS or VT or VU or VV or VW or VX or VY or VZ or WA or WB or WC or WD or WE or WF or WG or WH or WI or WJ or WK or WL or WM or WN or WO or WP or WQ or WR or WS or WT or WY or WZ or XA or XB or XC or XD or XE or XF or XG or XH or XI or XJ or XK or XL or XM or XN or XO or XP or XQ or XR or XS or XT or XU or XV or XW or XX or XY or XZ or YA or YB or YC or YD or YE or YF or YG or YH or YI or YJ or YK or YL or YM or YN or YO or YP or YQ or YR or YS or YT or YU or YV or YW or YX or YY or YZ or ZA or ZB or ZC or ZD or ZE or ZF or ZG or ZH or ZI or ZJ or ZK or ZL or ZM or ZN or ZO or ZP or ZQ or ZR or ZS or ZT or ZU or ZV or ZW or ZX or ZY or ZZ

10. OPTIONAL FILER REFERENCE DATA: Debtor: SARASOTA FACILITY OPERATIONS, LLC

2290 37537

FILING OFFICE COPY - UCC FINANCING STATEMENT AMENDMENT (Form UCC3) (Rev. 04/2011)



**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.

**FOLLOW INSTRUCTIONS**

A. NAME & PHONE OF CONTACT AT FILER (optional)  
CSC 1-800-858-5294

B. E-MAIL CONTACT AT FILER (optional)  
SPRFiling@cscglobal.com

C. SEND ACKNOWLEDGMENT TO: (Name and Address)  
[2290 37404  
CSC  
801 Adlai Stevenson Drive  
Springfield, IL 62703]

Filed In: Ohio  
(S.O.S.)

**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

18. INITIAL FINANCING STATEMENT FILE NUMBER OH00171922131 11/19/2013	19. THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED [or record] [or recorded] in the REAL ESTATE RECORDS For: <u>attchd Amendment Addendum (from UCC3d)</u> and provide Debtor's name in Item 13
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2. ☐ **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to the security interests of Secured Party authorizing this Termination Statement.

3. ☐ **ASSIGNMENT** (full or partial): Provide name of Assignee in Item 7a or 7c and address of Assignee in Item 7c and name of Assignee in Item 7d. For partial assignment, complete items 7 and 9 and also indicate affected collateral in Item 8.

4. ☐ **CONTINUATION.** Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party in the assets of the Debtor is confirmed for the additional period provided by applicable law.

5 ☐ PARTY INFORMATION CHANGE:  
Check one of these two boxes:

AND Check one of these three boxes to:

**CURRENT RECORD INFORMATION:** Complete for Party Information (Name & provide only one) (Do not provide more than one)

This Change affects ☐ Debtor & ☐ Second Party of record

**CHANGE:** Name and/or address. Complete item 6a or 6b, and item 7a or 7b and item 7c

☐ ADD ☐ DELETE ☐ CHANGE

Complete item 6a or 6b, and item 7a or 7b and item 7c

**DELETE:** Name. Give record name to be deleted in item 6c or 6d

6b. ORGANIZATION'S NAME  


OR BB: INDIVIDUAL'S SURNAME	FIRST PERSON NAME	ADDITIONAL NAME(S) INITIAL(S)	SUFFIX
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7. CHANGED OR ADDED INFORMATION: Complete for assignment of Policy Information Change; provide only the information to be added. Do not omit, modify or abbreviate any part of the child's name.

OR  
THE INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S) INITIAL(S)	SUFFIX

CITY	STATE	POSTAL CODE	COUNTRY

[illegible]

See Exhibit A attached hereto, and make it a part hereof.

Indicate cost attempt:

☒ COLLATERAL CHARGE    ☐ ADD OTHER COLLATERAL CHARGES    ☐ ADD CREDITORS

☐ DEBIT TO CREDITORS    ☒ RESTATE FILE (DRAWING COLLATERAL)    ☐ ASSIGN CREDITORS

2

6

2

9. NAME \_\_\_\_\_ PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only SGLI name (the or 9b) (name of Assignor, if this is an Assignment)

[illegible]

B0, INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ACTIONIAL NAME(S) INITIALS)	SUFFIX
PENNY, A LLOYD JR.	LLOYD	JR.	

10. OPTIONAL FILER REFERENCE DATA: Debtor: BRANDON FACILITY OPERATIONS, LLC  
2290 3740

**EXHIBIT A  
TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.



"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

"Lockbox Account" means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid.

"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

# UCC FINANCING STATEMENT AMENDMENT

## FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
CSC 1-800-858-6294	
B. E-MAIL CONTACT AT FILER (optional)	
SPRffiling@csoglobal.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
2290 37284	
CSC	
801 Adia Stevenson Drive	
Springfield, IL 62703	
Filed In: Ohio (S.O.S.)	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. RITUAL FINANCING STATEMENT FILE NUMBER  
OH00171924822 11/19/2013

1d. ☐ THIS FINANCING STATEMENT AMENDMENT is to be filed for record.  
Filer: ☐ Amend (Amendment Number From UCC205) and provide Debtor's name in item 13

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement.

3. ☐ ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 7d.  
For partial assignment, complete items 7 and 8 and also indicate affected collateral in item 8

4. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5. ☐ PARTY INFORMATION CHANGE:

Check ONE of these two boxes:

AND Check ONE of these three boxes to:

This Change affects ☐ Debtor or ☐ Secured Party of record

☐ CHANGE name and/or address. Complete item 7a or 7b, and item 7c or 7d

☐ ADD new party. Complete item 7a or 7b, and item 7c or 7d

☐ DELETE name. Only record name to be deleted in item 7a or 7b

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only ONE

File: ORGANIZATION'S NAME

OR

File: INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME ADDITIONAL NAME(S) (INITIALS) SUFFIX

7. CHANGED OR ADDED INFORMATION: Complete for Assignment of Party Information Change - provide only ONE (item 7a or 7b) and name of Assignor, if this is an Assignment

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME ADDITIONAL NAME(S) (INITIALS) SUFFIX

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S) (INITIALS)

7c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

8. ☒ COLLATERAL CHANGE: Also check ONE of these three boxes: ☐ ADD collateral ☐ DELETE collateral ☒ RESTATE covered collateral ☐ ASSIGN collateral  
Indicate collateral: See Exhibit A attached hereto, and make it a part hereof.

9. NAME OF PARTY OR RECORD AUTHORIZING THIS AMENDMENT: Provide only ONE name (the or 9b) (name of Assignor, if this is an Assignment)  
Name of Debtor: MidCap Funding IV Trust, as Agent

OR

9b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME ADDITIONAL NAME(S) (INITIALS) SUFFIX

10. OPTIONAL FILER REFERENCE DATA: Debtor: MELBOURNE FACILITY OPERATIONS, LLC

2290 37284

FILING OFFICE COPY - UCC FINANCING STATEMENT AMENDMENT (Form UCC3) (Rev. 04/2011)

V77#54978888.1



**EXHIBIT A**  
**TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and Instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

**"Deposit Account"** means a "deposit account" (as defined in Article 9 of the UCC), an investment account, or other account in which funds are held or invested for credit to or for the benefit of Debtor.

**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.

**FOLLOW INSTRUCTIONS**

A. NAME & PHONE OF CONTACT AT FILER (optional)  
CSC 1-800-858-5294

B. EMAIL CONTACT AT FILER (optional)  
SPRFiling@cscojglobal.com

C. SEND ACKNOWLEDGMENT TO: (Name and Address)  
[ 2290 36538  
CSC  
801 Adlai Stevenson Drive  
Springfield, IL 62703  
[ ]

Filed in: Ohio  
(S.O.S.)

**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

18. INITIAL FINANCING STATEMENT FILE NUMBER OH00171926280 11/19/2013	19. THIS FINANCING STATEMENT AMENDMENT IS TO BE FILED (or record) (or recorded) in the REAL ESTATE RECORDS File: <u>Attchd Amendment Addendum (Form UCC3d)</u> and provide Debtor's name in Item 13
---	---

2. ☐ **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to the security interests of Secured Party authorizing this Termination Statement.

3. ☐ **ASSIGNMENT** (full or partial): Provide name of Assignee in Item 7a or 7c and address of Assignee in Item 7c and name of Assignee in Item 7d. For partial assignment, complete items 7 and 9 and also indicate affected collateral in Item 8.

4. ☐ **CONTINUATION.** Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party in the assets of the Debtor is confirmed for the additional period provided by applicable law.

5 ☐ PARTY INFORMATION CHANGE:  
Check one of these two boxes:

AND Check one of these three boxes to:

**CURRENT RECORD INFORMATION:** Complete for Party Information (Name & provide only one) (Do not provide more than one)

This Change affects ☐ Debtor & ☐ Second Party of record

**CHANGE:** Name and/or address. Complete item 6a or 6b, and item 7a or 7b and item 7c

☐ ADD ☐ DELETE ☐ CHANGE

Complete item 6a or 6b, and item 7a or 7b and item 7c

**DELETE:** Name. Give record name to be deleted in item 6c or 6d

6b. ORGANIZATION'S NAME  


OR BB: INDIVIDUAL'S SURNAME	FIRST PERSON NAME	ADDITIONAL NAME(S) INITIAL(S)	SUFFIX

7. CHANGED OR ADDED INFORMATION: Complete for assignment of Policy Information Change; provide only the information to be added. Do not omit, modify or abbreviate any part of the doctor's name.

OR  
THE INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S) INITIAL(S)	SUFFIX

CITY	STATE	POSTAL CODE	COUNTRY

[illegible]

See Exhibit A attached hereto, and make it a part hereof.

Indicate cost attempt:

☒ COLLATERAL CHARGE ☐ ADD OTHER COLLATERAL CHARGES ☐ ADD COLLATERAL CHARGE

☐ DEBIT CARD CHARGE ☒ REPAIR (FILE CHARGED COLLATERAL) ☐ ASSIGN COLLATERAL

2

6

2

9. NAME \_\_\_\_\_ PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only SGLI name (the or 9b) (name of Assignor, if this is an Assignment)

[illegible]

BO, INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIALS)	SUFFIX
BRADY, JAMES A.	JAMES	A.	

**EXHIBIT A  
TO UCC FINANCING STATEMENT**

**Restated Collateral Description**

The Collateral consists of all of Debtor's right, title and interest in and to the following, whether now owned or hereafter created, acquired or arising, and all proceeds and products of the following, but solely to the extent arising from services provided or goods sold prior to 12:00:01 a.m. (local time) on April 1, 2022:

- (a) all of Debtor's Accounts, and all of Debtor's money, contract rights, chattel paper, documents, Deposit Accounts, securities accounts, securities, investment property and instruments with respect thereto, and all of Debtor's rights, remedies, security, Liens and supporting obligations, in, to and in respect of the foregoing, including, without limitation, rights of stoppage in transit, replevin, repossession and reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, guarantees or other contracts of suretyship with respect to the Accounts, deposits or other security for the obligation of any Account Debtor, and credit and other insurance;
- (b) to the extent not listed above, all of Debtor's money, securities, investment property, Deposit Accounts, Securities Accounts, Instruments and other property and the proceeds thereof that are now or hereafter held or received by, in transit to, in possession of, or under the control of Secured Party or a bailee or Affiliate of Secured Party, whether for safekeeping, pledge, custody, transmission, collection or otherwise;
- (c) to the extent not listed above, all of Debtor's now owned or hereafter acquired Deposit Accounts or Securities Accounts into which Accounts or the proceeds of Accounts are deposited, including the Lockbox Account and all signature cards, account agreements and other documents relating to the Deposit Accounts or Securities Accounts;
- (d) all of Debtor's right, title and interest in, to and in respect of all goods relating to, or which by sale or consumption have resulted in, Accounts, including, without limitation, all goods described in invoices or other documents or instruments with respect to, or otherwise representing or evidencing, any Account, and all returned, reclaimed or repossessed goods;

- (e) all of Debtor's Healthcare Permits; and

(f) all of Debtor's general intangibles (including, without limitation, payment intangibles) and other property of every kind and description with respect to, evidencing or relating to its Accounts, including, without limitation, all of Debtor's rights in any interim management agreement and/or operations transfer agreement, all existing and future customer lists, chooses in action, claims, books, records, ledger cards, contracts, licenses, formulae, tax and other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer programs, tapes, programs, discs, information, software, records, and data, all computers, word processors, printers, switches, interfaces, source codes, mask works, software, web servers, website service contracts, internet connection contract or line lease, website hosting service contract, website license agreements, back-up copies of website content, contracts with website advertisers, scripts, codes or Active-X controls, technology escrow agreements, website

content, development agreements, all rights, of whatever form, in and to domain names, instructional material, and connectors and all parts, accessories, additions, substitutions, or options together with all property or equipment used in connection with any of the above or which are used to operate or cause to operate any features, special applications, format controls, options or software of any or all of the above-mentioned items as the same relates to the Accounts or is otherwise necessary or helpful in the collection thereof or realization thereon.

**"Account Debtor"** means "account debtor", as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

**"Accounts"** means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any "account" (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any "health-care-insurance receivables" (as defined in the UCC), any "payment intangibles" (as defined in the UCC) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, "general intangibles" (as defined in the UCC), intellectual property, rights, remedies, guarantees, "supporting obligations" (as defined in the UCC), "letter-of-credit rights" (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under any document, instrument or agreement between Debtor and Secured Party in respect of the foregoing, (d) all information and data compiled or derived by Debtor or to which Debtor is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

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**"Healthcare Laws"** means all applicable laws relating to the possession, control and distribution of pharmaceuticals, the operation of medical or senior housing facilities (such as, but not limited to, nursing homes, skilled nursing facilities, assisted living facilities, rehabilitation hospitals, intermediate care facilities and adult care facilities), patient healthcare, patient healthcare information, patient abuse, the quality and adequacy of medical care, rate setting, equipment, personnel, operating policies, fee splitting, including, without limitation, (a) all federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), (b) TRICARE, (c) CHAMPVA, (d) HIPAA, (e) Medicare, (f) Medicaid, (g) the Patient Protection and Affordable Care Act (P.L. 111-148), (h) The Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), (i) quality, safety and accreditation standards and requirements of all applicable state laws or regulatory bodies, (j) all laws, policies, procedures, requirements and regulations pursuant to which Healthcare Permits are issued, and (k) any and all other applicable health care laws, regulations, manual provisions, policies and administrative guidance, each of (a) through (k) as may be amended from time to time.

**"Healthcare Permit"** means a Permit issued or required under Healthcare Laws applicable to the business of Debtor.



"Instrument" means "instrument", as defined in Article 9 of the UCC.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset.

"Lockbox Account" means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid.

"Lockbox Bank" means a United States depository institution designated from time to time by Secured Party.

"Permits" means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of Debtor required under all applicable laws and required for Debtor in order to carry on its business as now conducted.

"Securities Account" means a "securities account" (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of Debtor.

**Exhibit C**  
**to**  
**Operations Transfer Agreement**

[Facility Name]

Form of Bill of Sale

This BILL OF SALE (this "Instrument") dated as of \_\_\_\_\_, is made and delivered pursuant to, and subject to the terms of, that certain Operations Transfer Agreement dated as of \_\_\_\_\_, 2022 (as amended and restated from time to time, the "OTA"), by and among \_\_\_\_\_ ("Current Operator"), \_\_\_\_\_ ("New Operator") and certain other parties named therein relating to the transfer of certain assets set forth in the OTA and the business and operations of the applicable Facility. Capitalized terms used but not defined herein shall have the meaning provided in the OTA.

**WITNESSETH:**

WHEREAS, New Operator has the right to acquire the Assigned Assets related to the Facility from Current Operator under the OTA, which includes substantially all of the assets used in the operation of the applicable Facility; and

WHEREAS, New Operator and Current Operator desire to evidence and effectuate the transfer and conveyance of the applicable Assigned Assets to New Operator.

NOW THEREFORE, subject to the terms and conditions of the OTA and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, New Operator and Current Operator hereby agree as follows:

1. Current Operator does hereby convey, transfer, assign and deliver to New Operator all of Current Operator's right, title and interest in and to the Assets free of all liens, encumbrances and security interests, and New Operator hereby accepts from Current Operator all of the Assigned Assets.
2. Subject to the terms of the OTA, New Operator hereby assumes all liabilities and obligations related to the Assets with respect to periods from and after the date hereof.
3. This Instrument shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Current Operator for itself, its successors and assigns, hereby covenants and agrees that, at any time and from time to time upon the written request of New Operator, Current Operator will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney, and assurances as may be reasonably required by New Operator in order to assign, transfer, set over, convey, assure, and confirm unto and vest in New Operator, its successors and assigns, title to the assets sold, conveyed, and transferred by this Instrument.



4. This Instrument may not be amended, modified or changed nor shall any waiver of any provision hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.
5. This Instrument will be construed, performed and enforced in accordance with the laws of the State of Florida without regard to conflict of laws rules.
6. This Instrument may be executed in any number of counterparts, whether original or by facsimile or portable document format (.pdf), each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

[Execution Page to Follow]

IN WITNESS WHEREOF, the undersigned has executed and delivered this Instrument as of the date set forth above.

**BRANDON FACILITY OPERATIONS, LLC**

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

**BRANDON HEALTH OPFCO, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Signature Page to Bill of Sale]

**Exhibit D**  
**to**  
**Operations Transfer Agreement**

*[Facility Name]*

**Form Assignment and Assumption Agreement**

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Instrument") dated as of \_\_\_\_\_, is made and delivered pursuant to, and subject to the terms of, that certain Operations Transfer Agreement dated as of \_\_\_\_\_, 2022 (as amended and restated from time to time, the "OTA"), by and among \_\_\_\_\_ ("Current Operator"), \_\_\_\_\_ ("New Operator") and certain other parties named therein relating to the transfer of certain assets set forth in the OTA and the business and operations of the Facility. Capitalized terms used but not defined herein shall have the meaning provided in the OTA.

WITNESSETH:

WHEREAS, in accordance with the OTA, Current Operator has agreed to assign to New Operator, and New Operator has agreed to accept and assume from Current Operator, the Assignable Licenses and Permits, the Care Agreements, the Assigned Agreements (including Current Operator's rights and interest under the Medicare provider agreement), and trademarks, service marks or internet domain names, and similar indicia of source of origin, all registrations and applications for registration thereof used in operation of the Facility (the "Assigned Property"), as more fully provided in the OTA; and

WHEREAS, New Operator and Current Operator desire to evidence and effectuate the assignment of the same to New Operator.

NOW THEREFORE, subject to the terms and conditions of the OTA and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, New Operator and Current Operator hereby agree as follows:

1. Current Operator does hereby convey, transfer, assign and deliver to New Operator all of Current Operator's right, title and interest in and to the Assigned Property, and the New Operator hereby accepts from Current Operator the same.
2. Subject to the terms of the OTA, New Operator hereby assumes the duties and obligations of Current Operator with respect to the Assigned Property, which duties and obligations arise and accrue from and after the date hereof. For the avoidance of doubt, New Operator assumes no duties or obligations of Current Operator with respect to any Assigned Property that arose or accrued prior to the date hereof, and such duties and obligations remain the sole and exclusive responsibility of Current Operator. Each of the parties hereto shall execute and deliver, at the reasonable request of the other party hereto, such additional documents, instruments, conveyances and assurances and take such further actions as such other party may reasonably request to carry out the provisions hereof and give effect to the transactions contemplated by this Instrument.

3. This Instrument may not be amended, modified or changed nor shall any waiver of any provision hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.

4. This Instrument will be construed, performed and enforced in accordance with the laws of the State of Florida, without regard to conflict of laws rules.

5. This Instrument may be executed in any number of counterparts, whether original or by facsimile or portable document format (.pdf), each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

[Execution Page to Follow]

IN WITNESS WHEREOF, the undersigned has executed and delivered this Instrument as of the date set forth above.

**BRANDON FACILITY OPERATIONS,  
LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BRANDON HEALTH OP CO, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Signature Page to Assignment and Assumption Agreement]

**EXHIBIT C**

**2024 Brandon Complaint**



IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,  
IN AND FOR ORANGE COUNTY, FLORIDA  
BUSINESS COURT

CREA BRANDON-C LLC and  
BRANDON HEALTH OPCO, LLC,

Plaintiffs,

vs.

CASE NO.  
DIVISION 43

POURLESSOINS, LLC, d/b/a SYNERGY  
HEALTHCARE SERVICES and  
JARED ELLIOTT,

Defendants.

---

**COMPLAINT FOR DAMAGES**

Plaintiffs, CREA Brandon-C LLC and Brandon Health OpCo, LLC, sue  
Defendants Pourlessoins, LLC, d/b/a Synergy Healthcare Services, and Jared Elliott,  
and state:

1. This complaint arises from the purchase of a skilled nursing facility located at 701 Victoria Street, Brandon, FL 33510. Plaintiff CREA Brandon-C LLC through its affiliate purchased the Brandon facility for \$17,400,000. Prior to the purchase, Defendants or their affiliates managed the Brandon facility. Defendants grossly mismanaged the Brandon facility. Following the sale, Plaintiffs discovered that Defendants ran the Brandon facility into the ground, resulting in the

government-mandated removal and relocation of most facility residents around the end of June 2022. For many months continuing to the present, the Brandon facility has had few residents or revenues. Defendants' negligence proximately caused Plaintiffs to suffer damages, losses and diminution in value amounting to many millions of dollars, for which recovery is sought.

### **PARTIES AND RELATED ENTITIES**

2. Plaintiff CREA Brandon-C LLC is a foreign limited liability company with its principal address in New York, NY, that is authorized to conduct business in Florida. Since on or about April 1, 2022, CREA Brandon-C LLC has been the owner and landlord of the Brandon facility.

3. Plaintiff Brandon Health OpCo, LLC is a foreign limited liability company with its principal address at 701 Victoria Street, Brandon, FL 33510, that is authorized to conduct business in Florida. Due to Defendants' mismanagement of the Brandon facility as more fully described below, Plaintiff Brandon Health OpCo, LLC did not become the licensee of the Brandon facility until December 5, 2022. Since December 5, 2022, Plaintiff Brandon Health OpCo, LLC has operated the Brandon facility.

4. The Brandon facility has had several trade names during the period relevant to this lawsuit. Before December 15, 2021, the Brandon facility was known as Consulate Health Care of Brandon. From December 15, 2021 through December

5, 2022, the Brandon facility was known as Raydiant Health Care of Brandon. Since December 5, 2022, when the Florida Agency for Health Care Administration approved Plaintiff Brandon Health OpCo, LLC's application for a change of ownership, the Brandon facility has been operated under the trade name Brandon Center for Nursing and Rehabilitation pursuant to a lease with Plaintiff CREA Brandon-C LLC.

5. Defendant Pourlessoins, LLC, d/b/a Synergy Healthcare Services ("Synergy HCS"), is a foreign limited liability company with an office at 800 Concourse Parkway South, Maitland, FL 32751, that is authorized to conduct business in Florida. Defendant Synergy HCS performed management services and provided legal representation for the Brandon facility during 2022. At all times relevant to this case, Defendant Synergy HCS knew that its management and legal services were necessary for the protection of Plaintiffs and their property.

6. Defendant Jared Elliott is a resident of Florida. Mr. Elliott was responsible for oversight of the Brandon facility operations and management from January 31, 2022 until April 1, 2022, knowing that his services were necessary for the protection of Plaintiffs and their property.

### **JURISDICTION AND VENUE**

7. This is an action for damages in excess of \$50,000, exclusive of interest, costs, and attorneys' fees.

8. Venue is proper in Orange County, Florida, as that is where Defendants reside, maintain an office, and where the causes of action accrued.

### **FACTUAL BACKGROUND**

9. In 2021, the largest nursing home chain in Florida, Consulate Health Care, including the Brandon facility, experienced financial difficulties. Those difficulties resulted from a \$258 million federal False Claims Act judgment and the COVID-19 pandemic. In March 2021, a unit of Consulate Health Care filed for Chapter 11 bankruptcy protections. As part of Consulate Health Care's rebranding effort, on December 15, 2021, the Brandon facility's name was changed from Consulate Health Care of Brandon to Raydiant Health Care of Brandon.

10. An affiliate of Plaintiff CREA Brandon-C purchased the Brandon facility on January 31, 2022. On that same day, Defendants Synergy HCS and Mr. Elliott began performing management services for the Brandon facility.

11. Brandon Health OpCo applied to the Florida Agency for Health Care Administration ("AHCA") for a license to operate the Brandon facility, but AHCA delayed action on the application due to pending administrative proceedings against the prior licensee. In those administrative proceedings, AHCA alleged that the prior licensee committed numerous legal violations while operating the Brandon facility and sought imposition of administrative fines, revocation of its nursing home license, and other administrative remedies.



12. Government regulatory agencies frequently cited the Brandon facility for non-compliance with legal standards. The May 14, 2021 federal survey resulted in ten (10) deficiencies. Six months later, AHCA, which licenses nursing homes, conducted a complaint survey, found additional deficiencies, and determined the facility to be out of compliance with federal law. The non-compliance continued for several months. Shortly thereafter, a resident eloped from the facility and the prior licensee misreported the incident to AHCA.

13. On AHCA's February 2022 resurvey, the Brandon facility remained out of compliance with legal requirements. Defendant Elliott called the facility administrator and informed her the facility had been sold. The administrator expressed concern about the uncorrected deficiencies. Defendant Elliott informed the facility administrator that if the deficiencies were not corrected, a \$20,000,000 deal would go down the tubes. Defendants Synergy HCS and Mr. Elliott did not correct the deficiencies and failed to inform Plaintiffs of the uncorrected deficiencies or pending administrative remedies.

14. On or about March 10, 2022, the Brandon facility received notice of denial of payment for new admissions. Defendants Synergy HCS and Mr. Elliott failed to notify the Plaintiffs of this notice despite their duty to do so.

15. On or about April 1, 2022, Defendants Synergy HCS and Mr. Elliott abandoned the Brandon facility and ceased performing any services creating

foreseeable risk, requiring the Defendants to lessen the risk or see that sufficient precautions were taken to protect Plaintiffs from the harm that the risk posed.

16. At all times material to this complaint, Defendants Synergy HCS and Mr. Elliott breached their duty of care to Plaintiffs by grossly mismanaging the Brandon facility and failing to correct known deficiencies and protect Plaintiffs and their property from damages caused by their negligence and mismanagement, resulting in substantial damages to Plaintiffs and their property.

17. In April 2022, AHCA conducted additional surveys and investigated the resident elopement. The Brandon facility was again found to be out of compliance. AHCA notified the prior licensee that the facility had not operated in substantial compliance with applicable laws since December 21, 2021, that the findings revealed immediate jeopardy for residents, and that substandard quality of care was being provided. As a result, AHCA recommended administrative remedies, including civil money penalties, denial of payment for new Medicare and Medicaid admissions, and termination of the facility's Medicare agreement.

18. In June, AHCA investigated additional complaints and found numerous deficiencies that arose before April 1, 2022.

19. Based on the June 2022 survey, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services ("CMS"), imposed several remedies upon the Brandon facility, including:

- a. Involuntary termination of the Medicare provider agreement on July 6, 2022;
- b. Denial of payment for new admissions remains in effect as of March 10, 2022;
- c. Civil money penalty of \$1,630 per day effective June 8, 2022 until termination of Medicare provider agreement on July 6, 2022; and
- d. Keeping previously imposed civil monetary penalties in effect, specifically:
  - i. \$19,530 effective February 10, 2022
  - ii. \$22,320 effective April 22, 2022

Defendant Synergy HCS was unsuccessful in appealing CMS's decision to terminate the Medicare provider agreement.

20. CMS terminated the Brandon facility's Medicare provider agreement on July 6, 2022, triggering termination of its Medicaid provider agreement. Termination of these agreements eliminated the major sources of residents and income for Plaintiffs, and those losses have continued to the present.

21. On July 19, 2022, AHCA filed a 109-page administrative complaint against the Brandon facility seeking, among other remedies, revocation of the prior licensee's nursing home license.

22. The prior licensee settled AHCA's administrative complaint in November 2022, by agreeing to pay \$35,000 in administrative fines and imposition of a conditional license retroactive to December 21, 2021.

23. Plaintiffs have retained the law firm of Nelson Mullins Riley & Scarborough LLP to bring this action and have agreed to pay the firm a reasonable fee for its services. Plaintiffs seek an award of their attorneys' fees and costs in this action pursuant to applicable provisions of Florida law, including § 57.105, Florida Statutes.

24. All conditions precedent to the initiation and maintenance of this complaint have been performed, have occurred, are futile, are excused, or have been waived.

### **COUNT I – NEGLIGENCE AGAINST SYNERGY HCS**

25. Plaintiffs, CREA Brandon-C LLC and Brandon Health OpCo, LLC, reallege and reincorporate paragraphs 1 through 25 above as if fully stated here.

26. At all times material to this case, Defendant Synergy HCS knew its management services, including legal representation, for the Brandon facility, were necessary for the protection of Plaintiffs and their property. Defendant Synergy HCS therefore owed a duty to Plaintiffs to exercise reasonable care in the performance of these services.



27. The mismanagement of the Brandon facility by Defendant Synergy HCS created foreseeable risks, requiring it to lessen the risk or see that sufficient precautions were taken to protect Plaintiffs from the harm that the risk posed.

28. Defendant Synergy HCS breached its duties owed to Plaintiffs by failing to correct deficiencies, failing to inform Plaintiffs of the uncorrected deficiencies or pending administrative remedies, and by abandoning the facility on or about April 1, 2022 without rectifying the regulatory and legal issues it caused.

29. The negligence and failure to act by Defendant Synergy HCS have injured Plaintiffs Brandon Health OpCo and CREA Brandon-C in the form of compensatory damages amounting to \$25,000,000, lost revenue and lost profits, diminution of property and leasehold value, loss of professional standing and position, and damage to reputation, all of which are continuing and permanent.

## **COUNT II – NEGLIGENCE AGAINST JARED ELLIOTT**

30. Plaintiffs, CREA Brandon-C LLC and Brandon Health OpCo, LLC, reallege and reincorporate paragraphs 1 through 25 above as if fully stated here.

31. At all times material to this case, Defendant Mr. Elliott knew the management services he oversaw for the Brandon facility were necessary for the protection of Plaintiffs and their property. Defendant Mr. Elliott therefore owed a duty to Plaintiffs to exercise reasonable care in the performance of management services.

32. The mismanagement of the Brandon facility by Defendant Mr. Elliott created foreseeable risks, requiring him to lessen the risk or see that sufficient precautions were taken to protect Plaintiffs from the harm that the risk posed.

33. Defendant Mr. Elliott breached his duties owed to Plaintiffs by failing to correct deficiencies, failing to inform Plaintiffs of the uncorrected deficiencies or pending administrative remedies, and by abandoning the facility on or about April 1, 2022 without rectifying the regulatory and legal issues he oversaw.

34. The negligence and failure to act by Defendant Mr. Elliott have injured Plaintiffs Brandon Health OpCo and CREA Brandon-C in the form of compensatory damages amounting to millions of dollars, lost revenue and lost profits, diminution of property and leasehold value, loss of professional standing and position, and damage to reputation, all of which are continuing and permanent.

WHEREFORE, Plaintiffs, Brandon Health OpCo, LLC and CREA Brandon-C LLC, demand judgment in their favor and against Defendants Pourlessoins, LLC, d/b/a Synergy Healthcare Services, and Jared Elliott, for damages amounting to \$25,000,000, together with prejudgment interest, costs, and any other relief the Court deems just and proper.

**COUNT III – TORTIOUS INTERFERENCE WITH A BUSINESS  
RELATIONSHIP AGAINST SYNERGY HCS**

35. Plaintiff, Brandon Health OpCo, LLC, realleges and reincorporates paragraphs 1 through 8 above as if fully stated here.

36. At all times relevant to this action there existed a business relationship between Brandon Health OpCo, LLC and Brandon Facility Operations, LLC, as evidenced by various agreement, including an operations transfer agreement (“OTA”).

37. Under the OTA, Brandon Health OpCo, LLC had legal rights including, but not limited to, the right to the immediate possession of at least \$389,782.52.

38. At all times material to this case, Synergy HCS had actual or constructive knowledge of the business relationship and OTA between Brandon Health OpCo, LLC and Brandon Facility Operations, LLC.

39. Synergy HCS has intentionally and without justification interfered with the relationship between Plaintiff Brandon Health OpCo, LLC and Brandon Facility Operations, LLC and the OTA by refusing to deliver \$389,782.52 it received that was owed to Brandon Health OpCo, LLC, which conduct has induced or otherwise caused Brandon Facility Operations, LLC not to perform its OTA obligations.

40. Synergy HCS’s actions and Brandon Facility Operations, LLC’s resulting failure to perform has caused damages to Brandon Health OpCo, LLC including, but not limited to, the loss of at least \$389,782.52, exclusive of interest.

WHEREFORE, Plaintiff Brandon Health OpCo, LLC demands judgment in its favor against Defendant Pourlessoins, LLC, d/b/a Synergy Healthcare Services, for damages amounting to \$25,000,000, together with prejudgment interest, costs, and any other relief the Court deems just and proper.

**COUNT IV – CONVERSION AGAINST SYNERGY HCS**

41. Plaintiff, Brandon Health OpCo, LLC, realleges and reincorporates paragraphs 1 through 8 and 36 above as if fully stated here.

42. Under the OTA, Brandon Health OpCo, LLC had an immediate right to possess specific and identifiable money in the amount of at least \$389,782.52, exclusive of interest.

43. In 2023, Synergy HCS:

a. Made the decision to deprive Brandon Health OpCo, LLC of \$389,782.52 that was due to be delivered under the OTA;

b. Held \$389,782.52 owed to Brandon Health OpCo, LLC for its own use and benefit or the use and benefit of its agent(s); and

c. Wrongfully asserted dominion and control over \$389,782.52 owed to Brandon Health OpCo, LLC.

44. Brandon Health OpCo, LLC demanded that Synergy HCS deliver the money due under the OTA. Synergy HCS has wrongfully refused to deliver



\$389,782.52 owed to Brandon Health OpCo, LLC and has otherwise committed unauthorized acts that deprive Brandon Health OpCo, LLC of its money.

45. Synergy HCS's conversion of Brandon Health OpCo, LLC's money has injured Brandon Health OpCo, LLC in the form of compensatory damages, including, but not limited to, the loss of at least \$389,782.52, exclusive of interest.

WHEREFORE, Plaintiff Brandon Health OpCo, LLC demands judgment in its favor against Defendant Pourlessoins, LLC, d/b/a Synergy Healthcare Services, for damages amounting to \$25,000,000, together with prejudgment interest, costs, and any other relief the Court deems just and proper.

**JURY TRIAL DEMAND**

Plaintiffs demand a trial by jury on all issues so triable.

DATED: September 5, 2024

Respectfully submitted,

**NELSON MULLINS RILEY &  
SCARBOROUGH LLP**

By: /s/ Michael J. Bittman  
MICHAEL J. BITTMAN  
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390 North Orange Avenue, Suite 1400  
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*Attorneys for Plaintiffs CREA Brandon-C  
LLC and Brandon Health OpCo, LLC*

**EXHIBIT D**

**D&O Letter**

**CREA BRANDON-C LLC  
BRANDON HEALTH OPCO, LLC**

c/o Topaz Fiscal Services  
6085 Strickland Avenue  
Brooklyn, NY 11234  
Hbrecher@topazfs.com  
(516) 316-2465

June 30, 2023

VIA CERTIFIED MAIL

Beazley Insurance Company, Inc.  
30 Batterson Park Road  
Farmington, CT 06032

Beazley America Insurance Company, Inc.  
30 Batterson Park Road  
Farmington, CT 06032

Re: Policies: V215DA180201; V21643180201 (Time-Sensitive Correspondence)

Dear Sir or Madam:

By way of introduction, CREA Brandon-C LLC and Brandon Health OpCo, LLC are claimants that own and operate, respectively, a Florida licensed nursing home located at 701 Victoria Street, Brandon, FL 33510-4100. CREA Brandon-C LLC and Brandon Health OpCo, LLC sustained substantial damages as a result of actions and inactions by several companies that may be covered under the policies referenced above or other policies issued by Beazley.

The companies causing damages and their known directors, officers, or managers responsible for the wrongful acts include without limitation:

**Brandon Facility Operations, LLC, an OH LLC**

- Chris Bryson
- Greg Hayes
- Jared Elliott

**LaVie Care Centers, LLC, a DE LLC**

- Timothy H. Lehner

**Pourlessoins, LLC, d/b/a Synergy Healthcare Services, a GA LLC**

- Chris Bryson
- Greg Hayes

Pursuant to Florida Statutes, Section 627.4137, demand is hereby made for the disclosure of liability insurance information. Specifically, each insurer which does or may provide liability insurance coverage to pay all or a portion of any claim which might be made shall provide, within thirty (30) days of this written request, a statement, under oath, of a corporate officer or the insurer's claims manager or superintendent setting forth the following information with regard to each known policy of insurance, including excess or umbrella insurance:

- (a) The name of the insurer;
- (b) The name of each insured;
- (c) The limits of liability coverage;
- (d) A statement of any policy or coverage defense which such insurer reasonable believes is available to such insurer at the time of filing such statement; and
- (e) A copy of the policy.

Furthermore, and as stated in the above-referenced statute, please disclose the name and coverage of each known insurer and forward this request for information to all affected insurers, who are then to supply the information required by the statute to us within thirty (30) days of receipt of such request.

Please forward the requested information to my attention at the address set forth above within thirty (30) days. Your prompt attention to this matter will be appreciated.

Sincerely,

 AUTHORIZED SIGNATORY  
Hal Brecher

c: Mr. Yossy Markowitz



**EXHIBIT E-1**

**LaVie Operating Agreement**

**SECOND AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY OPERATING AGREEMENT  
OF  
LAVIE CARE CENTERS, LLC**

This Limited Liability Company Operating Agreement (this “Agreement”) of **LaVie Care Centers, LLC**, a Delaware limited liability company (the “Company”), is dated as of the 14th day of December, 2015, by the member set forth on **Schedule A** (together with any other Person who hereafter becomes an additional or substitute Member, together with their successors and permitted assigns, the “Members”).

W I T N E S S E T H:

WHEREAS, the Company was formed upon the filing of the Certificate of Formation (the “Articles”) with the Delaware Secretary of State (the “Secretary”);

WHEREAS, the Member entered into that certain Limited Liability Company Agreement, dated as of September 27, 2011;

WHEREAS, the Member subsequently entered into that certain Amended and Restated Limited Liability Company Agreement, dated as of July 31, 2015, which amended and restated the prior agreement;

WHEREAS, the Member wishes to amend and restate the previous agreement to set forth the terms and conditions pursuant to which the affairs of the Company and the conduct of its business shall be governed; and

WHEREAS, capitalized terms used but not defined in this Agreement shall have the meaning set forth on **Schedule B**, which schedule is hereby incorporated into and made part of this Agreement by this reference.

NOW, THEREFORE, in accordance with the Delaware Limited Liability Company Law, as amended from time to time (the “Act”), the Members hereby agree as follows:

1. Name. The name of the limited liability company is:

**LaVie Care Centers, LLC**

2. Term. The Company shall have perpetual existence, unless the Company is dissolved and its business and affairs wound up in accordance with the provisions of this Agreement or the Act.

3. Purpose. The nature of the business and purpose of the Company shall be to engage in any lawful act permitted by the Act and approved by the Board (the “Company’s Business”).

4. Principal Business Office. The principal business office of the Company shall be located at such place as designated by the Board.

5. Commercial Registered Office Provider and Registered Office. The Company shall have a registered agent in the state and may change such registered agent from time to time in its discretion.

6. Certificates.

(a) Execution of Certificates. The Member shall execute, deliver and file any other certificates and other filings (and any amendments and/or restatements thereof) necessary or desirable for the Company to qualify to do business in any jurisdiction in which the Company may wish to conduct business.

(b) Certificate of Cancellation. The Company shall continue in existence as a separate legal entity until dissolved and a Certificate of Cancellation is filed with the Secretary in accordance with Section 18 below.

7. Member.

(a) Members Generally. The Member is the sole member of the Company and, unless and until any additional member(s) are admitted in accordance with the provisions of this Agreement and the Act, the Member owns all of the limited liability company interests of the Company. The name and business address of the Member is set forth in **Schedule A**.

(b) Limited Liability. All debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company and no Member shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member.

8. Management.

(a) Management of the Company Generally. (i) The Company's Business shall be managed by or under the direction of a Board of Managers (the "Board"), and (ii) the Board shall have full and complete authority, power and discretion to direct, manage and control the business, affairs and properties of the Company, to make and/or delegate as the Board may elect all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's Business. To the extent of the powers, statutory or otherwise, held by the Board under the Act or set forth in this Agreement, the actions of the Board taken in accordance with such powers shall bind the Company. In the event of any inconsistency between any terms and conditions contained in this Agreement and any non-mandatory provisions of the Act, the terms and conditions contained in this Agreement shall govern, and in the event of any inconsistency between any items and conditions contained in this Agreement and any mandatory provisions of the Act, the terms and conditions of the Act shall govern. The Board shall consist of no fewer than one (1) manager (a "Manager"). For all such times that the Company has one and only one Manager, all action taken by such Manager on behalf of the Company shall be deemed approved by the Board and shall be binding on the Company without the need for further evidence of approval of such action by such Manager.

The Managers shall be appointed by the Member. A Manager shall serve on the Board until such Manager's disability, death, resignation, removal or replacement. A Manager may resign from the Board at any time and for any reason by written notice to the Company and the Board. A Manager may be removed by the Member at any time, for any reason or no reason whatsoever.

(b) Authority to Bind the Company. Unless authorized to do so by this Agreement or by the Board, no attorney-in-fact, employee, officer or agent of the Company other than the Board shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable pecuniarily for any purpose.

(c) Manner of Acting. Whenever any Company action is to be taken by a vote of the Board, it shall be authorized upon receiving a majority vote of the Board. Any action of the Company which may be taken at a meeting of the Board may be taken without a meeting by written consent upon the execution of such consent by the number of Managers that would be necessary to authorize or take such action at a meeting at which all the Managers on the Board were present and voted.

(d) Authority and Certain Powers of the Board. Without limiting the generality of Section 8(a) above, the Board shall have power and authority, on behalf of the Company:

(i) Acts. To do and perform all acts as may be necessary or appropriate to the conduct of the Company's Business;

(ii) Property. To purchase, hold, sell, exchange, transfer and otherwise acquire and dispose of and exercise all rights, powers, privileges and other incidents of ownership or possession with respect to real and personal property, whether tangible or intangible, held by the Company;

(iii) Insurance. To purchase liability and other insurance to protect the Company's property and the Company's Business;

(iv) Loans. To borrow money and to execute and deliver documents and instruments authorizing the confession of judgment against the Company;

(v) Officers. To appoint from time to time such officers, committees, employees or other agents as the Company's Business may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in this Agreement, or as the Board may from time to time determine. The Board may delegate to any committee the power to elect subordinate officers and to retain or appoint employees or other agents, or committees thereof, and to prescribe the authority and duties of such subordinate officers, committees, employees or other agents. The salaries or other compensation of any other officers, employees and other agents shall be fixed from time to time by the Board or the committee to which the power to elect such officers or to retain or appoint such employees or other agents has been delegated pursuant to this Section 8.

(vi) Documents. To execute, and to authorize Persons to execute, on behalf of the Company all instruments and documents, including, without limitation, checks,



drafts, notes and other negotiable instruments, mortgages or deeds of trust, security agreements, financing statements, guaranties, documents providing for the acquisition, mortgage or disposition of the Company's property, assignments, deeds, bills of sale, leases, partnership agreements, operating agreements of other limited liability companies, including without limitation, of any Affiliate, and any other instruments or documents necessary or advisable, in the opinion of the Board, to the Company's Business;

(vii) Experts. To employ or otherwise engage, employees, accountants, legal counsel, managing agents, or other experts or consultants to perform services for the Company and to compensate them from Company funds; and

(viii) Other Agreements. To authorize the entering into of any and all other agreements on behalf of the Company, with any other Person for any purpose, in such forms as the Board may approve.

(e) Reliance by Third Parties. Persons dealing with the Company shall be entitled to rely on a certificate of any officer of the Company as conclusive evidence of the incumbency of any officer of the Company and its authority to take action on behalf of the Company and shall be entitled to rely on a copy of any resolution or other action taken by the Board, certified by any officer of the Company, as conclusive evidence of such action and of the authority of the officer referred to in such resolution or other action to bind the Company to the extent set forth therein.

(f) Limited Liability.

(i) Management. Each Manager shall perform his managerial duties in good faith, in a manner reasonably believed to be in the best interests of the Company, and with such care and business judgment as an ordinarily prudent person in a like position would use under similar circumstances. Each Manager shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any of its officers, employees or committees of the Company, or by any other person, as to matters such Manager reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the Company or any other facts pertinent to the existence and amount of assets from which distributions to the Member might properly be made.

(ii) No Personal Liability. Except as otherwise expressly provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and no Manager shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Manager.

(iii) Duty of Manager. No Manager, acting in the capacity of a manager of the Company, shall be liable to the Company for money damages for breach of fiduciary duty except to the extent such Manager could be held liable under the Delaware

General Corporation Law if the Company were a Delaware corporation and the Managers were directors.

(g) Bank Accounts. The Board may from time to time open bank accounts in the name of the Company, and any officer of the Company designated by the Board, as may be determined from time to time by the Board, shall be the sole signatory or signatories thereon, unless the Board determines otherwise.

(h) Compensation. The Company shall reimburse each Manager for such Manager's reasonable expenses incurred in connection with its services to the Company.

9. Additional Contributions. The Member is not required to make any additional capital contributions to the Company.

10. Allocation of Profits and Losses. The Company's profits and losses shall be allocated to the Member.

11. Membership Interests Un-certificated. Limited liability membership interests in the Company shall be un-certificated.

12. Tax Treatment. It is intended that so long as the Company has a single equity owner for U.S. federal income tax purposes, the Company shall be disregarded as an entity separate from that sole owner, and if the Company has more than one equity owner for U.S. federal income tax purposes, the Company shall be classified as a partnership for U.S. federal income tax purposes. Neither the Company nor any member shall make any election to classify the Company in a manner other than as a disregarded entity or partnership, as just described, without the consent of all the Members, and shall not take any position on any tax return that is inconsistent with the treatment of the Company as a disregarded entity or partnership, as just described.

13. Distributions. Distributions shall be made to the Member at the times and in the aggregate amounts as determined by the Member. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not be required to make a distribution to the Member on account of its interest in the Company if such distribution would violate the Act or any other applicable law.

14. Transfer of Membership Interest. The Member may transfer, sell, convey and assign, in whole or in part, its limited liability company interest in the Company as it may determine in its sole discretion. Any permitted transferee shall be admitted to the Company as a member of the Company effective upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Any such transferee may receive an interest in the Company without making a contribution or being obligated to make a contribution to the Company. If a member transfers all of its limited liability company interest in the Company pursuant to this Section 14, such member shall cease to be a member of the Company effective immediately following consummation of such transfer and the transferee's execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement. Notwithstanding anything in this Agreement to the contrary, any successor to the Member by

merger or consolidation shall, without further act, be the Member hereunder, and such appointment shall not constitute an assignment for purposes of this Agreement and the Company shall continue without dissolution.

15. Resignation of the Member. Any member of the Company may resign from the Company at any time by giving thirty (30) days' written notice to the Company. If the Member resigns pursuant to this Section 15, an additional member of the Company designated by the Member shall be admitted to the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Such admission shall be deemed effective immediately prior to the resignation and, immediately following such admission, the resigning Member shall cease to be a member of the Company. If any member resigns pursuant to this Section 15, it shall not have the right to receive any payment or other distribution at the time of such resignation (including, without limitation, the fair value of its limited liability company interest), other than any distribution to which such member is otherwise entitled, as of the date of resignation, to receive under Section 13.

16. Admission of Additional Member(s). One or more persons may be admitted as additional members of the Company from time to time with the consent of the Member. Each such person shall be admitted as an additional member of the Company at the time such person (i) executes this Agreement or a counterpart of this Agreement (or an amendment and restatement of this Agreement which is also executed by all other members) and (ii) is named as a member of the Company on **Schedule A** hereto or thereto. If the Company is or becomes taxable as a partnership, the Member agrees to cooperate in good faith to amend and restate this Agreement in consideration of the applicable partnership tax rules.

17. Indemnification.

(a) Definitions. For the purposes of this Section 17, the following terms shall have the following meanings:

(i) "Indemnified Capacity" means any and all past, present and future service by an Indemnified Representative in one or more capacities as a member, manager, officer, employee or agent of the Company, or, at the request of the Company, as a member, manager, officer, employee, agent, fiduciary or trustee of another limited liability company, corporation, partnership, joint venture, trust, employee benefit plan or other entity or enterprise.

(ii) "Indemnified Representative" means any and all members, managers, officers, employees and agents of the Company and any other person designated as an Indemnified Representative by the Member (which may, but need not, include any person serving at the request of the Company, as a member, manager, officer, employee, agent, fiduciary or trustee of another limited liability company, corporation, partnership, joint venture, trust, employee benefit plan or other entity or enterprise).

(iii) "Liability" means any damage, judgment, amount paid in settlement, fine, penalty, punitive damages, excise tax assessed with respect to an employee

benefit plan, or cost or expense of any nature (including, without limitation, reasonable attorneys' fees and disbursements).

(iv) "Proceeding" means any threatened, pending or completed action, suit, appeal or other proceeding of any nature, whether civil, criminal, administrative or investigative, whether formal or informal, and whether brought by or in the right of the Company, a class of its members, or security holders or otherwise.

(b) Indemnification by the Company.

(i) Expenses. Unless limited by the Articles, an Indemnified Representative who has been successful, on the merits or otherwise, in the defense of any Proceeding, or in the defense of any claim, issue or matter in the Proceeding, shall be indemnified against reasonable expenses incurred by the Indemnified Representative in connection with the Proceeding, claim, issue or matter in which the Indemnified Representative was successful.

(ii) In General. The Company shall indemnify an Indemnified Representative against any Liability incurred in connection with any Proceeding in which the Indemnified Representative may be involved as a party or otherwise by reason of the fact that such person is or was serving in an Indemnified Capacity, including, without limitation, any Liability resulting from any actual or alleged breach or neglect of duty, error, misstatement or misleading statement, negligence, gross negligence or act giving rise to strict or products liability, except:

- (A) where such indemnification is expressly prohibited by applicable law;
- (B) where it has been finally determined:
  - (1) that the act or omission of the Indemnified Representative was material to the matter giving rise to the Proceeding; and
    - (i) was committed in bad faith; or
    - (ii) was the result of active and deliberate dishonesty; or
  - (2) that the Indemnified Representative actually received an improper personal benefit in money, property or services; or
  - (3) in the case of any criminal Proceeding, that the Indemnified Representative had reasonable cause to believe that the act or omission was unlawful; or



(C) to the extent such indemnification has been finally determined in a final adjudication to be otherwise unlawful.

(iii) Partial Indemnification. If an Indemnified Representative is entitled to indemnification in respect of a portion, but not all, of any Liability to which such Indemnified Representative may be subject, the Company shall indemnify such Indemnified Representative to the maximum extent for such portion of that Liability.

(iv) Settlement. Except as provided in clause (v) below, the termination of a Proceeding by judgment, order or settlement shall not create a presumption that the Indemnified Representative is not entitled to indemnification.

(v) Termination of a Proceeding. The termination of a Proceeding by conviction, or a plea of nolo contendere or its equivalent, or an entry of an order of probation prior to judgment, creates a rebuttable presumption that the Indemnified Representative is not entitled to indemnification.

(vi) Successful Defense Indemnified. To the extent that an Indemnified Representative of the Company has been successful on the merits or otherwise in defense of any Proceeding or in defense of any claim, issue or matter therein, such Indemnified Representative shall be indemnified against expenses (including attorneys' fees and disbursements) actually and reasonably incurred by such Indemnified Representative in connection therewith.

(c) Proceedings Initiated by Indemnified Representatives. Notwithstanding any other provision of this Section 17, the Company shall not indemnify under this Section 17 an Indemnified Representative for any Liability incurred in a Proceeding initiated (which shall not be deemed to include counterclaims or affirmative defenses) or participated in as an intervenor or *amicus curiae* by such Indemnified Representative seeking indemnification except for a proceeding brought to enforce indemnification under this Section 17 or unless such initiation of or participation in the Proceeding is authorized, either before or after its commencement, by the Board. This paragraph does not apply to reimbursement of expenses incurred in successfully prosecuting or defending the rights of an Indemnified Representative granted by or pursuant to this Section 17.

(d) Advancing Expenses. The Company may pay the expenses (including reasonable attorneys' fees and disbursements) incurred in good faith by an Indemnified Representative in advance of the final disposition of a Proceeding described in Section 17(b) or the initiation of or participation in such Proceeding which is authorized pursuant to Section 17(c) upon receipt by the Company of (i) a written affirmation by the Indemnified Representative of the Indemnified Representative's good faith belief that the standard of conduct necessary for indemnification by the Company has been met; and (ii) of an undertaking by or on behalf of the Indemnified Representative to repay the amount if it is ultimately determined that such Indemnified Representative is not entitled to be indemnified by the Company pursuant to this Section 17. The financial ability of an Indemnified Representative to repay an advance shall not be a prerequisite to the making of such advance.

(e) Securing of Indemnification Obligations. To further effect, satisfy or secure the indemnification obligations provided in this Section 17 or otherwise, the Company may maintain insurance, obtain a letter of credit, act as self-insurer, create a reserve, trust, escrow, cash collateral or other fund or account, enter into indemnification agreements, pledge or grant a security interest in any assets or properties of the Company, or use any other mechanism or arrangement whatsoever in such amounts, at such costs, and upon such other terms and conditions as the Board shall deem appropriate. Absent fraud, the determination of the Board with respect to such amounts, costs, terms and conditions shall be conclusive against the present and future members of the Company and all security holders and officers of the Company and shall not be subject to voidability.

(f) Payment of Indemnification. An Indemnified Representative shall be entitled to indemnification within 30 days after a written request for indemnification has been delivered to the secretary of the Company. The indemnification pursuant to this Section 17 shall be made only from the assets of the Company and no Manager or Member shall be personally liable therefor.

(g) Contribution. If the indemnification provided for in this Section 17 or otherwise is unavailable for any reason in respect of any Liability or portion thereof, the Company shall contribute to the Liabilities to which the Indemnified Representative may be subject in such proportion as is appropriate to reflect the intent of this Section 17 or otherwise.

(h) Contract Rights; Amendment or Repeal. All rights under this Section 17 shall be deemed a contract between the Company and each Indemnified Representative pursuant to which the Company and each Indemnified Representative intend to be legally bound. Any repeal, amendment or modification hereof shall be prospective only and shall not affect any rights or obligations then existing.

(i) Scope of this Section. The rights granted by this Section 17 shall not be deemed exclusive of any other rights to which those seeking indemnification, contribution or advancement of expenses may be entitled under any statute, agreement or otherwise, both as to action in an Indemnified Capacity and as to action in any other capacity. The indemnification, contribution and advancement of expenses provided by or granted pursuant to this Section 17 shall continue as to a person who has ceased to be an Indemnified Representative in respect of matters arising prior to such time, and shall inure to the benefit of the heirs, executors, administrators and personal representatives of each such person.

(j) Reliance on Provisions. Each person who shall act as an Indemnified Representative shall be deemed to be doing so in reliance upon the rights of indemnification, contribution and advancement of expenses provided by this Section 17.

(k) Exculpation. Notwithstanding any other provisions of this Agreement, whether express or implied, or any obligation or duty at law or in equity, none of the Indemnified Representatives shall be liable to the Company or any other Person for any act or omission (in relation to the Company, its property or the conduct of its business or affairs, this Agreement, any related document or any transaction or investment contemplated hereby or thereby) taken or omitted by an Indemnified Representative in the reasonable belief that such act or omission is in

or is not contrary to the best interests of the Company and is within the scope of authority granted to such Indemnified Representative by this Agreement, provided such act or omission does not constitute fraud, willful misconduct, bad faith or gross negligence.

18. Dissolution.

(a) In General. The Company shall be dissolved, and its affairs shall be wound up upon the first to occur of the following: (i) the termination of the legal existence of the last remaining member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining member of the Company in the Company unless the Company's Business is continued in a manner permitted by this Agreement or the Act, (ii) the determination of the Board to dissolve the Company or (iii) the entry of a decree of judicial dissolution under the Act.

(b) Bankruptcy or Insolvency of Member. Notwithstanding any other provision of this Agreement or the Act, the bankruptcy or insolvency of any member of the Company shall not cause such member to cease to be a member of the Company and upon the occurrence of such an event, the Company's Business shall continue without dissolution.

(c) Company Waiver. Notwithstanding any other provision of this Agreement or the Act, each member of the Company waives any right it might have to agree in writing to dissolve the Company upon the bankruptcy or insolvency of such member or any other member of the Company or the occurrence of any other event that causes such member or any other member of the Company to cease to be a member of the Company.

(d) Winding Up of the Company. In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, set forth in the Act.

(e) Termination of the Company's Existence. The Company shall terminate when (i) all of the assets of the Company, after payment of or due provision for all debts, liabilities and obligations of the Company shall have been distributed to the Member in the manner provided for in this Agreement and (ii) the Articles shall have been dissolved and canceled by the filing of a Certificate of Cancellation in the manner required by the Act.

19. Title to Property. All property owned by the Company shall be owned by the Company as an entity and no Member shall have any ownership interest in such property in its individual name, and the Member's interest in the Company shall be personal property for all purposes. The Company shall hold title to all of its property in the name of the Company and not in the name of the Member.

20. Rights of Agent.

(a) Notwithstanding anything to the contrary set forth in this Agreement, the membership interests issued hereunder or covered hereby may be pledged to MidCap Funding IV Trust, a Delaware statutory trust (together with any successor thereto, the "Agent"), for the benefit of the Agent and Lenders (as defined in the Pledge Agreement referred to below)

pursuant to that certain Pledge Agreement (as may be amended, restated, supplemented or otherwise modified from time to time, the "Pledge Agreement") among Agent, the Company, the Member and any other parties named therein. The pledge of such membership interests shall not cause the Member to cease to be a Member or, except as otherwise provided in such Pledge Agreement or other Financing Documents (as defined in the Pledge Agreement), to have the power to exercise any rights or powers of the Member and neither Agent nor any Lender shall have any liability as a result of such pledge.

(b) The right of Agent to enforce its rights and remedies under Pledge Agreement and other Financing Documents hereby is acknowledged and any such action taken in accordance therewith shall be valid and effective for all purposes under this Agreement (regardless of any restrictions herein contained) and any assignment, sale or other disposition of the membership interests by Agent pursuant to the Pledge Agreement or other Financing Documents in connection with the exercise of Agent's rights and powers shall be valid and effective for all purposes, including, without limitation, under Sections 18-702 and 18-704 of the Delaware Limited Liability Company Act and this Agreement, to transfer all right, title and interest of the applicable Member hereunder to Agent or any other Person (each a "Transferee"), including, without limitation, the rights to participate in the management of the business and the business affairs of the Company, to share profits and losses, to receive distributions and to receive allocation of income, gain, loss, deduction, credit or similar item, and such Transferee shall be a Member of the Company, with all rights and powers of a Member. Such assignment shall not constitute an event of dissolution or cause the termination of the Company under this Agreement. Further, neither Agent nor any such Transferee shall be liable for the obligations of the Member assignor to make contributions. Any limitations contained in this Agreement inconsistent with the provisions of the Pledge Agreement or this Article shall be deemed waived, void and of no further force and effect until all of the Obligations (as defined in the Pledge Agreement) have been fully and indefeasibly paid. The Member approves the foregoing and agrees that no further approval shall be required for the exercise of any rights or remedies under the Pledge Agreement or other Financing Documents.

21. Inurement. This Agreement shall be binding on, and inure to the benefit of, all parties hereto, their successors and assigns to the extent, but only to the extent, that assignment is made in accordance with, and permitted by, the provisions of this Agreement.

22. Severability of Provisions. Each provision of this Agreement shall be considered severable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement which are valid, enforceable and legal.

23. Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof.

24. Amendments. This Agreement may be amended from time to time by a written agreement executed by the Member.



25. Governing Law. This Agreement shall be governed by, and construed under, the laws of the State of Delaware (without regard to its conflicts of laws principles), all rights and remedies being governed by said laws.

26. Construction. Whenever the context requires, references in this Agreement to the singular number shall include the plural, and words denoting gender shall include the masculine, feminine and neuter. The recitals above and the schedules attached hereto are true, correct and complete in all respects and are hereby made a part of this Agreement and are deemed incorporated herein in full.

27. Headings. The headings in this Agreement are for convenience only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any of its provisions.

28. Waiver. The failure of any party to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Agreement shall not prevent a subsequent act that would have originally constituted a violation from having the effect of an original violation.

29. Cumulative Remedies. The rights and remedies provided under this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right of such party to use any or all other remedies. Such rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

30. Notices. Any notices required to be delivered hereunder shall be in writing and personally delivered, mailed by registered or certified mail, return receipt requested, postage prepaid, or delivered to a recognized overnight courier service with guaranteed next day delivery or sent by telecopy, electronic mail or other similar form of rapid transmission (with confirmation received), and shall be deemed to have been duly given upon receipt (a) in the case of the Company, to:

c/o LaVie Care Centers, LLC  
800 Concourse Parkway S.  
Maitland, FL, 32751  
Attention: Daniel Dias  
Chief Corporate Counsel  
Consulate Health Care  
Phone: 407.571.1550

With a copy to:

c/o LaVie Care Centers, LLC  
3500 Lenox Rd, Suite 510  
Atlanta, GA 30326  
Attn: Asset Management – LaVie Portfolio  
Facsimile: 770.754.3085

With a copy to:

c/o LaVie Care Centers, LLC  
3500 Lenox Rd, Suite 510  
Atlanta, GA 30326  
Attn: Compliance  
Facsimile: 770.754.3085

(b) in the case of any member of the Company, to such member at its address as listed on **Schedule A** and (c) in the case of either of the foregoing, at such other address as may be designated by written notice to the other party.

31. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. Any signature delivered by electronic or facsimile transmission shall be deemed to be an original signature page to this Agreement.

*[Signature Page Follows]*

*{Signature Page to Second Amended and Restated Limited Liability Company Operating Agreement of LaVie Care Centers, LLC}*

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has duly executed this Agreement as of the date first written above.

**LV OPERATIONS II, LLC**

By: Scott Brown  
Name: Scott Brown  
Title: Manager

**Schedule A**

**Sole Member**

<b>Name</b>	<b>Mailing Address</b>	<b>Percentage Interest</b>
LV Operations II, LLC	3500 Lenox Road, Suite 510 Atlanta, GA 30326	100%



## **Schedule B**

### **Definitions**

“Affiliate” shall mean as to any Person any other Person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with such first Person.

“Control” (including, with correlative meanings, the terms “controlled by” and “under common control with”) means the ownership or control of securities possessing at least 50% of the voting power of all outstanding voting securities of a Person or the power to otherwise direct or cause the direction of the management, policies and/or decision making of such a Person, whether through the ownership of voting stock or similar rights or otherwise.

“Person” shall mean any individual, limited liability company, corporation, partnership, joint venture, trust, employee benefit plan or other entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person as the context may require.

**EXHIBIT E-2**

**Brandon Operating Agreement**

**AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY OPERATING AGREEMENT  
OF  
BRANDON FACILITY OPERATIONS, LLC**

This Limited Liability Company Operating Agreement (this “Agreement”) of **Brandon Facility Operations, LLC**, an Ohio limited liability company (the “Company”), is dated as of the 14th day of December, 2015, by the member set forth on **Schedule A** (together with any other Person who hereafter becomes an additional or substitute Member, together with their successors and permitted assigns, the “Members”).

W I T N E S S E T H:

WHEREAS, the Company was formed upon the filing of the Articles of Organization (the “Articles”) with the Secretary of State of Ohio (the “Secretary”);

WHEREAS, the Member entered into that certain Limited Liability Company Operating Agreement, dated as of June 23, 2006;

WHEREAS, the Member wishes to amend and restate the previous agreement to set forth the terms and conditions pursuant to which the affairs of the Company and the conduct of its business shall be governed; and

WHEREAS, capitalized terms used but not defined in this Agreement shall have the meaning set forth on **Schedule B**, which schedule is hereby incorporated into and made part of this Agreement by this reference.

NOW, THEREFORE, in accordance with the Ohio Limited Liability Company Act, as amended from time to time (the “Act”), the Members hereby agree as follows:

1. Name. The name of the limited liability company is:

**Brandon Facility Operations, LLC**

2. Term. The Company shall have perpetual existence, unless the Company is dissolved and its business and affairs wound up in accordance with the provisions of this Agreement or the Act.

3. Purpose. The nature of the business and purpose of the Company shall be to engage in any lawful act permitted by the Act and approved by the Member (the “Company’s Business”).

4. Principal Business Office. The principal business office of the Company shall be located at such place as the Member may from time to time designate.

5. Commercial Registered Office Provider and Registered Office. The Company shall have a registered agent in the state and may change such registered agent from time to time in its discretion.

6. Certificates.

(a) Articles. At the direction of the Member, an “authorized person,” within the meaning of the Act, executed, delivered and filed the Articles with the Secretary and the Articles are hereby approved and ratified in all respects. The Member shall execute, deliver and file any other certificates and other filings (and any amendments and/or restatements thereof) necessary or desirable for the Company to qualify to do business in any jurisdiction in which the Company may wish to conduct business.

(b) Certificate of Cancellation. The Company shall continue in existence as a separate legal entity until dissolved and a Certificate of Cancellation is filed with the Secretary in accordance with Section 18.

7. Member. The Member is the sole member of the Company and, unless and until any additional member(s) are admitted in accordance with the provisions of this Agreement and the Act, the Member owns all of the limited liability company interests of the Company. The name and business address of the Member is set forth in **Schedule A**.

8. Management.

(a) Management of the Company Generally. (i) The Company’s Business shall be managed by or under the direction of the Member, and (ii) the Member shall have full and complete authority, power and discretion to direct, manage and control the business, affairs and properties of the Company, to make and/or delegate as the Member may elect all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company’s Business. The Company shall not have “managers”, as such term is used in the Act. To the extent of the powers, statutory or otherwise, held by the Member under the Act or set forth in this Agreement, the Member is the agent of the Company for the purpose of the Company’s Business, and the actions of the Member taken in accordance with such powers shall bind the Company. In the event of any inconsistency between any terms and conditions contained in this Agreement and any non-mandatory provisions of the Act, the terms and conditions contained in this Agreement shall govern, and in the event of any inconsistency between any items and conditions contained in this Agreement and any mandatory provisions of the Act, the terms and conditions of the Act shall govern.

(b) Authority to Bind the Company. Unless authorized to do so by this Agreement or by the Member, no attorney-in-fact, employee, officer or agent of the Company other than the Member shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable pecuniarily for any purpose.

(c) Delegation. The Member may delegate at any time and from time to time its authority, power and discretion hereunder and/or under the Act (or any portion thereof) to one or more officers of the Company or such other Person designated by the Member. The Member is responsible for supervising the officers or other representatives of the Company.



(d) Authority and Certain Powers of the Member. Without limiting the generality of Section 8(a) above, the Member shall have power and authority, on behalf of the Company:

(i) Acts. To do and perform all acts as may be necessary or appropriate to the conduct of the Company's Business;

(ii) Property. To purchase, hold, sell, exchange, transfer and otherwise acquire and dispose of and exercise all rights, powers, privileges and other incidents of ownership or possession with respect to real and personal property, whether tangible or intangible, held by the Company;

(iii) Insurance. To purchase liability and other insurance to protect the Company's property and the Company's Business;

(iv) Loans. To borrow money and to execute and deliver documents and instruments authorizing the confession of judgment against the Company;

(v) Officers. To appoint from time to time such officers, committees, employees or other agents as the Company's Business may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in this Agreement, or as the Member may from time to time determine. The Member may delegate to any committee the power to elect subordinate officers and to retain or appoint employees or other agents, or committees thereof, and to prescribe the authority and duties of such subordinate officers, committees, employees or other agents. The salaries or other compensation of any other officers, employees and other agents shall be fixed from time to time by the Member or the committee to which the power to elect such officers or to retain or appoint such employees or other agents has been delegated pursuant to this Section 8.

(vi) Documents. To execute, and to authorize Persons to execute, on behalf of the Company all instruments and documents, including, without limitation, checks, drafts, notes and other negotiable instruments, mortgages or deeds of trust, security agreements, financing statements, guaranties, documents providing for the acquisition, mortgage or disposition of the Company's property, assignments, deeds, bills of sale, leases, partnership agreements, operating agreements of other limited liability companies, including without limitation, of any Affiliate, and any other instruments or documents necessary or advisable, in the opinion of the Member, to the Company's Business;

(vii) Experts. To employ or otherwise engage, employees, accountants, legal counsel, managing agents, or other experts or consultants to perform services for the Company and to compensate them from Company funds; and

(viii) Other Agreements. To authorize the entering into of any and all other agreements on behalf of the Company, with any other Person for any purpose, in such forms as the Member may approve.

(e) Reliance by Third Parties. Persons dealing with the Company shall be entitled to rely on a certificate of any officer of the Company as conclusive evidence of the

incumbency of any officer of the Company and its authority to take action on behalf of the Company and shall be entitled to rely on a copy of any resolution or other action taken by the Member, certified by any officer of the Company, as conclusive evidence of such action and of the authority of the officer referred to in such resolution or other action to bind the Company to the extent set forth therein.

(f) Limited Liability.

(i) Management. The Member shall perform its managerial duties in good faith, in a manner reasonably believed to be in the best interests of the Company, and with such care and business judgment as an ordinarily prudent person in a like position would use under similar circumstances. The Member shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any of its officers, employees or committees of the Company, or by any other person, as to matters the Member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the Company or any other facts pertinent to the existence and amount of assets from which distributions to the Member might properly be made.

(ii) No Personal Liability. Except as otherwise expressly provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and no Member shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member.

(iii) Duty of Managing Member. The Member, acting in the capacity of a manager of the Company, shall not owe any fiduciary duties to the Company.

(g) Bank Accounts. The Member may from time to time open bank accounts in the name of the Company, and any officer of the Company designated by the Member, as may be determined from time to time by the Member, shall be the sole signatory or signatories thereon, unless the Member determines otherwise.

(h) Compensation. The Company shall reimburse the Member for its reasonable expenses incurred in connection with its services to the Company.

9. Additional Contributions. The Member is not required to make any additional capital contributions to the Company.

10. Allocation of Profits and Losses. The Company's profits and losses shall be allocated to the Member.

11. Membership Interests Un-certificated. Limited liability membership interests in the Company shall be un-certificated.

12. Tax Treatment. It is intended that so long as the Company has a single equity owner for U.S. federal income tax purposes, the Company shall be disregarded as an entity

separate from that sole owner, and if the Company has more than one equity owner for U.S. federal income tax purposes, the Company shall be classified as a partnership for U.S. federal income tax purposes. Neither the Company nor any member shall make any election to classify the Company in a manner other than as a disregarded entity or partnership, as just described, without the consent of all the Members, and shall not take any position on any tax return that is inconsistent with the treatment of the Company as a disregarded entity or partnership, as just described.

13. Distributions. Distributions shall be made to the Member at the times and in the aggregate amounts as determined by the Member. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not be required to make a distribution to the Member on account of its interest in the Company if such distribution would violate the Act or any other applicable law.

14. Transfer of Membership Interest. The Member may transfer, sell, convey and assign, in whole or in part, its limited liability company interest in the Company as it may determine in its sole discretion. Any permitted transferee shall be admitted to the Company as a member of the Company effective upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Any such transferee may receive an interest in the Company without making a contribution or being obligated to make a contribution to the Company. If a member transfers all of its limited liability company interest in the Company pursuant to this Section 14, such member shall cease to be a member of the Company effective immediately following consummation of such transfer and the transferee's execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement. Notwithstanding anything in this Agreement to the contrary, any successor to the Member by merger or consolidation shall, without further act, be the Member hereunder, and such appointment shall not constitute an assignment for purposes of this Agreement and the Company shall continue without dissolution.

15. Resignation of the Member. Any member of the Company may resign from the Company at any time by giving thirty (30) days' written notice to the Company. If the Member resigns pursuant to this Section 15, an additional member of the Company designated by the Member shall be admitted to the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Such admission shall be deemed effective immediately prior to the resignation and, immediately following such admission, the resigning Member shall cease to be a member of the Company. If any member resigns pursuant to this Section 15, it shall not have the right to receive any payment or other distribution at the time of such resignation (including, without limitation, the fair value of its limited liability company interest), other than any distribution to which such member is otherwise entitled, as of the date of resignation, to receive under Section 13.

16. Admission of Additional Member(s). One or more persons may be admitted as additional members of the Company from time to time with the consent of the Member. Each such person shall be admitted as an additional member of the Company at the time such person (i) executes this Agreement or a counterpart of this Agreement (or an amendment and restatement

of this Agreement which is also executed by all other members) and (ii) is named as a member of the Company on **Schedule A** hereto or thereto. If the Company is or becomes taxable as a partnership, the Member agrees to cooperate in good faith to amend and restate this Agreement in consideration of the applicable partnership tax rules.

17. Indemnification.

(a) Definitions. For the purposes of this Section 17, the following terms shall have the following meanings:

(i) "Indemnified Capacity" means any and all past, present and future service by an Indemnified Representative in one or more capacities as a member, manager, officer, employee or agent of the Company, or, at the request of the Company, as a member, manager, officer, employee, agent, fiduciary or trustee of another limited liability company, corporation, partnership, joint venture, trust, employee benefit plan or other entity or enterprise.

(ii) "Indemnified Representative" means any and all members, managers, officers, employees and agents of the Company and any other person designated as an Indemnified Representative by the Member (which may, but need not, include any person serving at the request of the Company, as a member, manager, officer, employee, agent, fiduciary or trustee of another limited liability company, corporation, partnership, joint venture, trust, employee benefit plan or other entity or enterprise).

(iii) "Liability" means any damage, judgment, amount paid in settlement, fine, penalty, punitive damages, excise tax assessed with respect to an employee benefit plan, or cost or expense of any nature (including, without limitation, reasonable attorneys' fees and disbursements).

(iv) "Proceeding" means any threatened, pending or completed action, suit, appeal or other proceeding of any nature, whether civil, criminal, administrative or investigative, whether formal or informal, and whether brought by or in the right of the Company, a class of its members, or security holders or otherwise.

(b) Indemnification by the Company.

(i) Expenses. Unless limited by the Articles, an Indemnified Representative who has been successful, on the merits or otherwise, in the defense of any Proceeding, or in the defense of any claim, issue or matter in the Proceeding, shall be indemnified against reasonable expenses incurred by the Indemnified Representative in connection with the Proceeding, claim, issue or matter in which the Indemnified Representative was successful.

(ii) In General. The Company shall indemnify an Indemnified Representative against any Liability incurred in connection with any Proceeding in which the Indemnified Representative may be involved as a party or otherwise by reason of the fact that such person is or was serving in an Indemnified Capacity, including, without limitation, any Liability resulting from any actual or alleged breach or neglect of duty, error, misstatement or



misleading statement, negligence, gross negligence or act giving rise to strict or products liability, except:

- (A) where such indemnification is expressly prohibited by applicable law;
- (B) where it has been finally determined:
  - (1) that the act or omission of the Indemnified Representative was material to the matter giving rise to the Proceeding; and
    - (i) was committed in bad faith; or
    - (ii) was the result of active and deliberate dishonesty; or
  - (2) that the Indemnified Representative actually received an improper personal benefit in money, property or services; or
  - (3) in the case of any criminal Proceeding, that the Indemnified Representative had reasonable cause to believe that the act or omission was unlawful; or
- (C) to the extent such indemnification has been finally determined in a final adjudication to be otherwise unlawful.

(iii) Partial Indemnification. If an Indemnified Representative is entitled to indemnification in respect of a portion, but not all, of any Liability to which such Indemnified Representative may be subject, the Company shall indemnify such Indemnified Representative to the maximum extent for such portion of that Liability.

(iv) Settlement. Except as provided in clause (v) below, the termination of a Proceeding by judgment, order or settlement shall not create a presumption that the Indemnified Representative is not entitled to indemnification.

(v) Termination of a Proceeding. The termination of a Proceeding by conviction, or a plea of nolo contendere or its equivalent, or an entry of an order of probation prior to judgment, creates a rebuttable presumption that the Indemnified Representative is not entitled to indemnification.

(vi) Successful Defense Indemnified. To the extent that an Indemnified Representative of the Company has been successful on the merits or otherwise in defense of any Proceeding or in defense of any claim, issue or matter therein, such Indemnified Representative shall be indemnified against expenses (including attorneys' fees and disbursements) actually and reasonably incurred by such Indemnified Representative in connection therewith.

(c) Proceedings Initiated by Indemnified Representatives. Notwithstanding any other provision of this Section 17, the Company shall not indemnify under this Section 17 an Indemnified Representative for any Liability incurred in a Proceeding initiated (which shall not be deemed to include counterclaims or affirmative defenses) or participated in as an intervenor or *amicus curiae* by such Indemnified Representative seeking indemnification except for a proceeding brought to enforce indemnification under this Section 17 or unless such initiation of or participation in the Proceeding is authorized, either before or after its commencement, by the Member. This paragraph does not apply to reimbursement of expenses incurred in successfully prosecuting or defending the rights of an Indemnified Representative granted by or pursuant to this Section 17.

(d) Advancing Expenses. The Company may pay the expenses (including reasonable attorneys' fees and disbursements) incurred in good faith by an Indemnified Representative in advance of the final disposition of a Proceeding described in Section 17(b) or the initiation of or participation in such Proceeding which is authorized pursuant to Section 17(c) upon receipt by the Company of (i) a written affirmation by the Indemnified Representative of the Indemnified Representative's good faith belief that the standard of conduct necessary for indemnification by the Company has been met; and (ii) of an undertaking by or on behalf of the Indemnified Representative to repay the amount if it is ultimately determined that such Indemnified Representative is not entitled to be indemnified by the Company pursuant to this Section 17. The financial ability of an Indemnified Representative to repay an advance shall not be a prerequisite to the making of such advance.

(e) Securing of Indemnification Obligations. To further effect, satisfy or secure the indemnification obligations provided in this Section 17 or otherwise, the Company may maintain insurance, obtain a letter of credit, act as self-insurer, create a reserve, trust, escrow, cash collateral or other fund or account, enter into indemnification agreements, pledge or grant a security interest in any assets or properties of the Company, or use any other mechanism or arrangement whatsoever in such amounts, at such costs, and upon such other terms and conditions as the Member shall deem appropriate. Absent fraud, the determination of the Member with respect to such amounts, costs, terms and conditions shall be conclusive against the present and future members of the Company and all security holders and officers of the Company and shall not be subject to voidability.

(f) Payment of Indemnification. An Indemnified Representative shall be entitled to indemnification within 30 days after a written request for indemnification has been delivered to the secretary of the Company. The indemnification pursuant to this Section 17 shall be made only from the assets of the Company and no Member shall be personally liable therefor.

(g) Contribution. If the indemnification provided for in this Section 17 or otherwise is unavailable for any reason in respect of any Liability or portion thereof, the Company shall contribute to the Liabilities to which the Indemnified Representative may be subject in such proportion as is appropriate to reflect the intent of this Section 17 or otherwise.

(h) Contract Rights; Amendment or Repeal. All rights under this Section 17 shall be deemed a contract between the Company and each Indemnified Representative pursuant to which the Company and each Indemnified Representative intend to be legally bound. Any

repeal, amendment or modification hereof shall be prospective only and shall not affect any rights or obligations then existing.

(i) Scope of this Section. The rights granted by this Section 17 shall not be deemed exclusive of any other rights to which those seeking indemnification, contribution or advancement of expenses may be entitled under any statute, agreement or otherwise, both as to action in an Indemnified Capacity and as to action in any other capacity. The indemnification, contribution and advancement of expenses provided by or granted pursuant to this Section 17 shall continue as to a person who has ceased to be an Indemnified Representative in respect of matters arising prior to such time, and shall inure to the benefit of the heirs, executors, administrators and personal representatives of each such person.

(j) Reliance on Provisions. Each person who shall act as an Indemnified Representative shall be deemed to be doing so in reliance upon the rights of indemnification, contribution and advancement of expenses provided by this Section 17.

(k) Exculpation. Notwithstanding any other provisions of this Agreement, whether express or implied, or any obligation or duty at law or in equity, none of the Indemnified Representatives shall be liable to the Company or any other Person for any act or omission (in relation to the Company, its property or the conduct of its business or affairs, this Agreement, any related document or any transaction or investment contemplated hereby or thereby) taken or omitted by an Indemnified Representative in the reasonable belief that such act or omission is in or is not contrary to the best interests of the Company and is within the scope of authority granted to such Indemnified Representative by this Agreement, provided such act or omission does not constitute fraud, willful misconduct, bad faith or gross negligence.

## 18. Dissolution.

(a) In General. The Company shall be dissolved, and its affairs shall be wound up upon the first to occur of the following: (i) the termination of the legal existence of the last remaining member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining member of the Company in the Company unless the Company's Business is continued in a manner permitted by this Agreement or the Act, (ii) the determination of the Member to dissolve the Company or (iii) the entry of a decree of judicial dissolution under the Act.

(b) Bankruptcy or Insolvency of Member. Notwithstanding any other provision of this Agreement or the Act, the bankruptcy or insolvency of any member of the Company shall not cause such member to cease to be a member of the Company and upon the occurrence of such an event, the Company's Business shall continue without dissolution.

(c) Company Waiver. Notwithstanding any other provision of this Agreement or the Act, each member of the Company waives any right it might have to agree in writing to dissolve the Company upon the bankruptcy or insolvency of such member or any other member of the Company or the occurrence of any other event that causes such member or any other member of the Company to cease to be a member of the Company.

(d) Winding Up of the Company. In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, set forth in the Act.

(e) Termination of the Company's Existence. The Company shall terminate when (i) all of the assets of the Company, after payment of or due provision for all debts, liabilities and obligations of the Company shall have been distributed to the Member in the manner provided for in this Agreement and (ii) the Articles shall have been dissolved and canceled by the filing of a Certificate of Cancellation in the manner required by the Act.

19. Title to Property. All property owned by the Company shall be owned by the Company as an entity and no Member shall have any ownership interest in such property in its individual name, and the Member's interest in the Company shall be personal property for all purposes. The Company shall hold title to all of its property in the name of the Company and not in the name of the Member.

20. Rights of Agent.

(a) Notwithstanding anything to the contrary set forth in this Agreement, the membership interests issued hereunder or covered hereby may be pledged to MidCap Funding IV Trust, a Delaware statutory trust (together with any successor thereto, the "Agent"), for the benefit of the Agent and Lenders (as defined in the Pledge Agreement referred to below) pursuant to that certain Pledge Agreement (as may be amended, restated, supplemented or otherwise modified from time to time, the "Pledge Agreement") among Agent, the Company, the Member and any other parties named therein. The pledge of such membership interests shall not cause the Member to cease to be a Member or, except as otherwise provided in such Pledge Agreement or other Financing Documents (as defined in the Pledge Agreement), to have the power to exercise any rights or powers of the Member and neither Agent nor any Lender shall have any liability as a result of such pledge.

(b) The right of Agent to enforce its rights and remedies under Pledge Agreement and other Financing Documents hereby is acknowledged and any such action taken in accordance therewith shall be valid and effective for all purposes under this Agreement (regardless of any restrictions herein contained) and any assignment, sale or other disposition of the membership interests by Agent pursuant to the Pledge Agreement or other Financing Documents in connection with the exercise of Agent's rights and powers shall be valid and effective for all purposes, to transfer all right, title and interest of the applicable Member hereunder to Agent or any other Person (each a "Transferee"), including, without limitation, the rights to participate in the management of the business and the business affairs of the Company, to share profits and losses, to receive distributions and to receive allocation of income, gain, loss, deduction, credit or similar item, and such Transferee shall be a Member of the Company, with all rights and powers of a Member. Such assignment shall not constitute an event of dissolution or cause the termination of the Company under this Agreement. Further, neither Agent nor any such Transferee shall be liable for the obligations of the Member assignor to make contributions. Any limitations contained in this Agreement inconsistent with the provisions of the Pledge Agreement or this Article shall be deemed waived, void and of no further force and effect until



all of the Obligations (as defined in the Pledge Agreement) have been fully and indefeasibly paid. The Member approves the foregoing and agrees that no further approval shall be required for the exercise of any rights or remedies under the Pledge Agreement or other Financing Documents.

21. Inurement. This Agreement shall be binding on, and inure to the benefit of, all parties hereto, their successors and assigns to the extent, but only to the extent, that assignment is made in accordance with, and permitted by, the provisions of this Agreement.

22. Severability of Provisions. Each provision of this Agreement shall be considered severable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement which are valid, enforceable and legal.

23. Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof.

24. Amendments. This Agreement may be amended from time to time by a written agreement executed by the Member.

25. Governing Law. This Agreement shall be governed by, and construed under, the laws of the State of Ohio (without regard to its conflicts of laws principles), all rights and remedies being governed by said laws.

26. Construction. Whenever the context requires, references in this Agreement to the singular number shall include the plural, and words denoting gender shall include the masculine, feminine and neuter. The recitals above and the schedules attached hereto are true, correct and complete in all respects and are hereby made a part of this Agreement and are deemed incorporated herein in full.

27. Headings. The headings in this Agreement are for convenience only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any of its provisions.

28. Waiver. The failure of any party to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Agreement shall not prevent a subsequent act that would have originally constituted a violation from having the effect of an original violation.

29. Cumulative Remedies. The rights and remedies provided under this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right of such party to use any or all other remedies. Such rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

30. Notices. Any notices required to be delivered hereunder shall be in writing and personally delivered, mailed by registered or certified mail, return receipt requested, postage prepaid, or delivered to a recognized overnight courier service with guaranteed next day delivery or sent by telecopy, electronic mail or other similar form of rapid transmission (with

confirmation received), and shall be deemed to have been duly given upon receipt (a) in the case of the Company, to:

c/o LaVie Care Centers, LLC  
800 Concourse Parkway S.  
Maitland, FL, 32751  
Attention: Daniel Dias  
Chief Corporate Counsel  
Consulate Health Care  
Phone: 407.571.1550

With a copy to:

c/o LaVie Care Centers, LLC  
3500 Lenox Rd, Suite 510  
Atlanta, GA 30326  
Attn: Asset Management – LaVie Portfolio  
Facsimile: 770.754.3085

With a copy to:

c/o LaVie Care Centers, LLC  
3500 Lenox Rd, Suite 510  
Atlanta, GA 30326  
Attn: Compliance  
Facsimile: 770.754.3085

(b) in the case of any member of the Company, to such member at its address as listed on **Schedule A** and (c) in the case of either of the foregoing, at such other address as may be designated by written notice to the other party.

31. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. Any signature delivered by electronic or facsimile transmission shall be deemed to be an original signature page to this Agreement.

*[Signature Page Follows]*

*{Signature Page to Amended and Restated  
Limited Liability Company Operating Agreement of Brandon Facility Operations, LLC}*

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby,  
has duly executed this Agreement as of the date first written above.

**LV CHC HOLDINGS I, LLC**

By: 

Name: Daniel Dias

Title: Chief Corporate Counsel

**Schedule A**

**Sole Member**

<b>Name</b>	<b>Mailing Address</b>	<b>Percentage Interest</b>
LV CHC Holdings I, LLC	c/o LaVie Care Centers, LLC 800 Concourse Parkway S. Maitland, FL, 32751	100%



## **Schedule B**

### **Definitions**

“Affiliate” shall mean as to any Person any other Person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with such first Person.

“Control” (including, with correlative meanings, the terms “controlled by” and “under common control with”) means the ownership or control of securities possessing at least 50% of the voting power of all outstanding voting securities of a Person or the power to otherwise direct or cause the direction of the management, policies and/or decision making of such a Person, whether through the ownership of voting stock or similar rights or otherwise.

“Person” shall mean any individual, limited liability company, corporation, partnership, joint venture, trust, employee benefit plan or other entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person as the context may require.

**EXHIBIT F**

**Administrative Services Agreement**

## **AMENDED AND RESTATED ADMINISTRATIVE SERVICES AGREEMENT**

THIS AMENDED AND RESTATED ADMINISTRATIVE SERVICES AGREEMENT (the “Agreement”) is made and entered into as of May 1, 2023 (the “Effective Date”), by and between LIDENSKAB, LLC d/b/a Raydiant Health Care, a Florida limited liability company (“Company”), and POURLESSOINS, LLC d/b/a SYNERGY HEALTHCARE SERVICES a Georgia limited liability company (“SSCo”).

### **WITNESSETH:**

**WHEREAS**, Company is engaged in the business of providing management services to certain skilled nursing facilities (the “Facilities”);

**WHEREAS**, SSCo and Company entered into that certain Administrative Services Agreement dated December 1, 2021 (as has been further amended and modified, the “Original Agreement”) pursuant to which SSCo provides certain administrative services to Company; and

**WHEREAS**, SSCo and Company desire to amend and restate the Original Agreement, in its entirety, in accordance with the terms and conditions herein set forth.

**NOW, THEREFORE**, in consideration of the mutual covenants, conditions and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

### **ARTICLE I**

#### **TERM**

The initial term of this Agreement shall commence on the Effective Date and shall continue for a period of one (1) year thereafter (the “Initial Term”). If this Agreement is not earlier terminated pursuant hereto, upon the expiration of the Initial Term, this Agreement shall automatically renew for successive one year terms (each, a “Renewal Term”) unless either party delivers to the other, at least sixty (60) days prior to the expiration of the Initial Term or any Renewal Term, written notice of such party’s intent not to renew this Agreement. The entire term of this Agreement, including the Initial Term and any and all Renewal Terms, is hereinafter referred to as the “Term.”

### **ARTICLE II**

#### **RETENTION OF SSCO**

**2.1 Control Retained by Company.** All management company responsibilities for the Facilities will remain with Company. SSCo shall perform the duties herein required to be performed by it as the agent of Company and in accordance with the policies and directives from time to time adopted by Company.

**2.2 Data Ownership.** All data, records and reports relating to the Company's business (collectively, the "Records"), whether in existence at the Effective Date or compiled thereafter by SS Co in the course of performing its administrative services to Company hereunder, shall be treated by SS Co as the exclusive property of the Company. Neither the Company's grant of access to Records to SS Co, nor the furnishing of Records by SS Co to Company, shall grant any express or implied license to SS Co related to such Records other than that which is necessary for SS Co to perform and provide the administrative services to the Company. Upon request by the Company, and without regard to the default or other status of the parties under this Agreement, SS Co shall promptly deliver to Company the requested Records in electronic format and in such hard copy as exists on the date of the request by Company.

**2.3 Relationship of Parties.** The parties hereto acknowledge that SS Co is at all times acting and performing hereunder as an independent contractor, and that nothing contained in this Agreement shall constitute or be construed to be or to create a partnership, joint venture or lease between Company and SS Co nor is it intended that any third parties have any benefits from this Agreement nor any rights not expressly stated herein.

### **ARTICLE III**

#### **DUTIES AND OBLIGATIONS**

During the Term and subject to the terms and conditions hereof, SS Co shall provide the following services to Company:

##### **3.1 Accounting.**

(a) SS Co shall assist Company in coordinating and preparing schedules and other information reasonably requested by Company's outside independent certified public accountants in connection with the preparation of fiscal year-end financial statements for Company and/or Facilities.

(b) SS Co shall deliver or cause to be delivered to Company, at Company's expense, the following financial statements and other information related to it or the Facilities:

(i) within thirty (30) days following the end of each calendar month, an unaudited profit and loss statement and balance sheet (both prepared on an accrual basis in accordance with United States generally accepted accounting principles, as in effect from time to time ("GAAP")) reflecting the results of Company's operations and financial position of the Company for such calendar month and the year-to-date;

(ii) within one hundred and twenty (120) days after the close of each fiscal year, if required by Company, an audited balance sheet and related statement of profit and loss certified by an independent certified public accounting firm and prepared in accordance with GAAP, reflecting the financial position and the results of Company's operations during the preceding twelve (12) months then ended. All items related to the annual audit, such as actuarial analysis and accountants' fees, shall be at Company's sole expense; and



(iii) other financial services, analyses, reports and information reasonably requested by Company.

**3.2 Tax Services.** SS Co shall, on behalf of Company and Facilities, and at Company's sole expense, prepare and process all taxes, assessments and charges of every kind imposed upon Company or Facilities by any governmental authority, including but not limited to monthly sales and use taxes, annual property taxes, and annual income taxes ("Taxes"). SS Co shall cause all Taxes, including interest and penalties thereon, to be paid by Company Funds when due, except that SS Co shall not cause such payment to be made if: (i) such Taxes are being contested in good faith by Company at its sole expense and without cost to SS Co; (ii) enforcement thereof is stayed; and (iii) Company shall have given SS Co written notice of such contest and stay and authorized the non-payment thereof. Interest or penalty payments shall be reimbursed by SS Co to Company if imposed upon Company by reason of negligence on the part of SS Co in making the payment. SS Co shall also prepare an annual filing and, if necessary, remittance due for any unclaimed property pursuant to state law.

**3.3 Cash Management.**

- (a) SS Co shall provide cash management services to Company, including the initiation of approved wire transfers, stop payments and returned items and the creation of reports relating to operating capital and cash analysis.
- (b) SS Co shall establish a deposit account or accounts, in the name of Company, in a banking institution that is a member of the Federal Deposit Insurance Corporation. Company authorizes SS Co, as agent for Company, to manage all funds for and on behalf of Company, and to disburse and pay the same from said accounts on behalf and in the name of Company, subject to any direction from Company.
- (c) All funds received from the Company's operations shall be deposited in a bank account or accounts established in Company's name. Company shall designate the signatory or signatories required on all checks or other documents of withdrawal for the accounts.

**3.4 Operational Finance.** SS Co shall assist Company with targeted analytics on an as-needed basis, including but not limited to preparation of strategic business models, census and marketing, labor and staffing, expense management, and general projections and financial forecasting. SS Co will also coordinate quarterly payroll based journal submissions and respond to any related audit requests.

**3.5 Benefits.** SS Co shall manage for Company, at Company's sole expense, all aspects of Company's employee benefits program that may be offered to employees of Company from time to time.

**3.6 Books and Records.** SS Co shall keep accurate records as required by applicable law or as reasonably requested by the Company in connection with its business operations. SS Co shall maintain a complete audit trail for all financial and non-financial transactions arising from or in connection with this Agreement in such a manner as required by the records management policies of the Company and GAAP. SS Co will maintain such audit trail for such periods of time as may

be specified in the records management policies of the Company or, if no such period is specified, for such period as the parties may agree. SS Co shall provide to Company, its consultants, its auditors (including internal audit staff and external auditors), regulators and other representatives as Company may from time to time designate in writing, access at all reasonable times to SS Co's systems, data, records, policies and procedures and other information relating to provision of administrative services hereunder for the purpose of providing consulting services to, or performing audits, inspections or surveys of, either SS Co or Company.

### **3.7 Clinical Services.**

(a) SS Co will consult on the development of, and provide guidance on the Company's standards, procedures and policies for admitting, discharging and treating residents, for charging residents for services, and for collecting payments from residents or third parties.

(b) SS Co will provide Company with standards, procedures and policies that will assist Company with implementing its own standards, procedures, and policies concerning social services, advanced directives, activities, dining, pharmacy, infection control and restorative nursing that will be substantially the same as standards, procedures and policies generally prevailing in the industry.

(c) SS Co shall timely provide to Company all updates and amendments to such standards, procedures and policies. Company shall have the right to use any such SS Co standards, procedures and policies only for its own internal use on a royalty-free basis and only during the Term hereof.

(d) SS Co will assist Company with survey preparedness and provide tools such as a pre-survey score tool, survey best practices, regulatory coaching program, and risk management.

(e) SS Co will consult and assist Company with clinical education on CMS regulations, industry trend responses, pharmacy regulations and trends, disease management, nursing competency (e.g., CHF, COPD, palliative care, stroke, etc.), nursing ethics, return to hospital, QAPI/RCA, and other topics as requested by Company.

(f) SS Co will provide consultation to Company on any of the subjects referenced in this **Section 3.7** on an as-needed basis.

### **3.8 Information Technology Services.**

(a) SS Co will provide overall direction and supervision of information technology services for Company and the Facilities and will arrange to provide to Company and the Facilities information technology services as required for Company's operation of the Company.

(b) SS Co will advise the Company on solutions to meet the telecommunication needs of the Company and Facilities, including telephone systems, email, WIFI, cable programming and internet connections and will manage the relationships with the chosen vendors (e.g., telecom carriers and service providers for voice and data transmission).

(c) SS Co will advise Company on the selection and provisioning/setup of hardware (e.g., computers, thin clients, laptops, tablets, monitors, computer accessories, printers, telecopy

machines, etc.) to meet their information technology needs and will support the relationship with the chosen hardware vendors. Hardware purchased by Company will remain the sole and exclusive property of Company, unless otherwise agreed to by Company.

(d) SS Co will provide full support and maintenance of the Facilities' electronic medical records application.

(e) SS Co will provide information technology security solutions such as data protection and malicious website/software protection, and will provision user accounts and manage rights to IT resources and applications.

(f) SS Co will organize, store, backup and manage data of Company and the Facilities, including the provision of redundancy systems to avoid (or minimize the impact of) outages and downtimes for IT services.

(g) SS Co will manage and optimize the provisioning, deployment, maintenance, utilization and disposal of software applications.

(h) SS Co will provide 24-7 support services directly accessible to Company employees to assist with and support all of the services provided in this **Section 3.8.**

(i) SS Co will provide, as part of the Administrative Service Fee, certain hardware (e.g., data center servers, modems, routers, switches and other network equipment for accessing those data center servers) and related software to be used by Company and Facilities, Company shall not retain ownership interests in such hardware and software.

### **3.9 Labor and Employment Matters.**

(a) SS Co will assist Company and the Facilities in the handling and settlement of all significant employee relations matters, union and non-union, and will negotiate, on Company's behalf, with any labor union lawfully entitled to represent the employees, provided that any settlement, collective bargaining agreement or labor contract resulting therefrom must first receive Company approval, and the Company shall be the only person authorized to execute the same.

(b) SS Co will consult Company with the development and implementation of a strategy to recruit talent, including: (i) training and support on recruitment functions such as job posting, development of job descriptions and applicant tracing, (ii) serving as a liaison to third-party recruitment vendors approved by Company (e.g., iCims, Career Builder, etc.), and (iii) assisting Company with its participation in school partnerships, job fairs and trade shows.

(c) SS Co will consult with Company on any HR regulatory and compliance audits.

(d) SS Co will consult with Company on employee relations, retention, engagement, policy development, investigation guidance, performance management and leadership training.

**3.10 Concessionaires, etc.** SS Co shall assist in the contracting process, including the negotiation and consummation, in the name of and for the account of Company and the Facilities,

contracts or arrangements with concessionaires, licensees, tenants, and other intended users of the Company. Any revenue derived from concessions, licenses or tenants will inure to the Company.

### **3.11 Ancillary Support Services.**

(a) SS Co shall assist in identifying, contracting with and managing an independent pharmacy service and shall serve as the liaison to that service provider. SS Co shall also monitor services provided for contractual compliance and will provide support to Company to address applicable regulations, diversion and other medication-related concerns, and will provide assistance with formulary and therapeutic interchange.

(b) SS Co shall assist in the contracting process for Company and the Facilities, including the negotiation and consummation, in the name of and for the account of Company or Facilities, of all ancillary services, utilities, concessions, supplies and other services as may be needed from time to time for the maintenance and operation of the Company, including, without limitation, food, transportation, resident care equipment, and mobile diagnostic services. All out-of-pocket fees, expenses and charges incurred in connection with the provision of ancillary supplies and services to the residents of the Company and all utility fees, charges and expenses shall be Company Expenses.

### **3.12 Physical Plant Management & Safety Services.**

(a) SS Co will use reasonable commercial efforts to assist in the contracting process to cause to be made or installed in the name of and for the account of Company or Facilities any proper repairs, replacements, additions and improvements in and to the Company or Facilities and the furnishings and equipment thereof as necessary in order to keep and maintain the same in good repair, working order and condition, and outfitted and equipped for the proper operation thereof in accordance with:

- (i) the Capital Budget;
- (ii) general industry standards;
- (iii) all applicable statutes, ordinances, laws, rules, regulations, or orders of any governmental authority over the Company or Facilities, where the failure to comply will have a material adverse effect on the Company or Facilities;
- (iv) the terms and conditions of any lease, mortgage or other financing arrangement identified in writing to SS Co;
- (v) all applicable requirements of insurers and insurance policies related to the Company or Facilities; and
- (vi) Medicare, Medicaid and any other governmental, public or private payment or reimbursement program.



(b) SS Co will consult with Company and assist with the development and implementation of life safety strategies, policies and best practices, including development and implementation of an emergency management program.

(c) SS Co will also assist with capital improvement projects and any necessary construction management associated with any of the foregoing services.

(d) Notwithstanding the foregoing, except to the extent set forth in and otherwise specifically agreed to in writing by SS Co, no landlord or Company mortgagee shall have any rights whatsoever under this Agreement.

### **3.13 Licenses, Permits and Certifications.**

(a) SS Co will assist Company in timely obtaining and maintaining, on behalf of Company and the Facilities, all necessary bed allocations, licenses, permits, certifications and approvals required in connection with the management and operation of the Company and Facilities to comply with all applicable requirements.

(b) Company will cooperate with SS Co in applying for, obtaining, and maintaining such licenses and permits as referenced herein. SS Co will make available, upon request by Company, a copy of each Medicaid or Medicare report and all supplemental materials filed with a governmental authority for the Company.

(c) Company will promptly make available to SS Co, upon request, all complaint, licensure and certification surveys taken by federal and state health and life safety code agencies (including, without limitation, HCFA 2567 Forms and related correspondence and plans of correction) upon receipt or issuance. SS Co will make available to Company the final drafts of all cost reports or similar filings with any governmental authority prior to the due date for such report or filing with the applicable governmental authority. The Company shall have the right to review and make modifications to all such drafts, reports and filings; and SS Co shall make such modifications or ensure that such modifications are made by any third-party preparing such reports or filings.

(d) SS Co will assist, if requested, in the preparation and submission of applicable plans of correction to the licensing authority and any other applicable state survey/certification agencies and coordinate such plans of correction with Company when requested to do so.

### **3.14 Insurance.**

(a) SS Co will apply for, obtain, maintain and manage on Company's behalf at all times during the Term of this Agreement such policies of insurance as Company deems appropriate and designates in writing to SS Co. SS Co will submit to Company all quotes for coverage, retention of coverage and premiums for coverage prior to issuance of a binder for coverage on new or renewal policies, upon request. SS Co will provide to Company all policies and certificates evidencing such insurance. In addition, SS Co will provide Company the current name, address and telephone numbers of all the insurance brokers for all the insurance policies.

(b) All insurance provided for under this **Section 3.14** must be affected by policies issued by insurance companies that are compliant with leases and loan agreements. If SS Co cannot obtain

the insurance coverage as contemplated by **Section 3.14(a)** at usual and reasonable market rates, SS Co will immediately notify Company so that Company may consider alternative acceptable coverage.

(c) All liability insurance policies will be carried in the name of Company and any losses payable under such policies will be payable to Company. If instructed by Company, the landlord of the Company and any Company mortgagee designated by Company and SS Co, shall be named as mortgagee and additional insured on the property insurance and the comprehensive general liability insurance policies.

(d) Company and any officer, partner, director, shareholder or employee of Company and/or SS Co, to the extent permissible, will be named as additional insureds under any policy of: (i) property insurance or fire and extended coverage insurance, (ii) comprehensive general liability insurance, (iii) professional liability insurance, (iv) auto liability insurance, (v) workers' compensation insurance, (vi) umbrella liability insurance, and (vii) crime insurance coverage maintained with respect to the Company.

(e) Unless otherwise permitted by Company, any employee of Company or of SS Co responsible for handling of any funds of Company will be bonded by a fidelity bond or otherwise covered by insurance in an amount to be determined annually by Company, the cost of which shall be a Company Expense.

### **3.15 Legal Actions: Contests.**

(a) SS Co will, with Company approval, institute, in its own name or in the name of Company, supervise the institution, prosecution or defense of any and all legal actions or proceedings necessary or desirable for the Company, including without limitation:

(i) to defend any claims asserted by any third-party against the Company, SS Co, or Company, or the officers, directors, employees and affiliates of SS Co or Company, or to defend any claims asserted by any third-party for which Company may be liable for indemnification;

(ii) to collect charges, rent, or other sums due the Company or Facilities;

(iii) to lawfully oust or dispossess residents, tenants or other persons in possession, or lawfully cancel, modify, or terminate any resident agreement, lease, license, or concession agreement for the breach thereof or default thereunder by the tenant, licensee, or concessionaire thereunder; or

(iv) to contest the validity or application of any agreement, law, ordinance, rule, ruling, regulation, order or requirement of any governmental authority having jurisdiction over the Company or the operation of the Facilities, or to appeal any action taken by any governmental authority against the Company or Facilities, including, without limitation, enforcement actions initiated against the Company, SS Co, or Facilities for alleged violations of applicable laws; provided that such contest or appeal will not result in the suspension of the Company or Facilities; and provided further, that Company shall have no obligation to secure and protect SS Co from any loss, cost, damage or expense that is ultimately determined to have arisen out of SS Co willful misconduct, bad faith, fraud, violation of law or gross negligence in the performance of its obligations under this Agreement.

- (b) SS Co will, with Company approval, supervise and direct the legal actions necessary to protect, settle and/or litigate to final judgment in any appropriate court any such dispute, proceeding, violation, order or contest affecting the Company or the Facilities.
- (c) SS Co will supervise and direct the processing of all third-party payment claims and appeals for the services provided by the Company or the Facilities, including without limitation, exhaustion of all applicable administrative proceedings or procedures, adjustment and denials by any governmental authority or their fiscal intermediaries and other third-party payors.
- (d) Any counsel to be engaged by SS Co, on behalf of Company, for any reason in fulfillment of its duties under this Agreement will be subject to timely Company approval.
- (e) SS Co will diligently conduct all legal actions, proceedings and contests it is required to conduct in good faith and Company will reasonably cooperate with SS Co under this section.

### **3.16 Patient and Payor Billing and Collection.**

- (a) SS Co will consult and assist with the development and implementation of Company's procedures for the issuance of bills or invoices for services and advise on the Company's procedures for collection of accounts receivable, maintenance of accounting, billing, resident and collection records and all other necessary or desirable applications, reports and claims related to revenue production.
- (b) SS Co shall provide central billing services for claims transmission for Medicare, Medicaid and Insurance/HMO payors, including electronic remittance capture and posting to the accounts receivable system and the collection of related balances.
- (c) SS Co shall provide assistance from a qualified chart audit review team for payor audits for medical necessity and, with approval of Company, appeals of claims that are denied through Medicare or Insurance and HMO payors.
- (d) SS Co shall process and post all bad debt write-off requests consistent with Company policy, including ensuring that Medicare and Medicaid dual eligible (MXA) write off criteria are satisfied for cost report reimbursement.
- (e) SS Co shall liaison with outside collection agencies, legal resources, payors and other entities as may be necessary to assist in Company's billing and collection efforts.
- (f) SS Co shall provide access to its internally developed software tools and reports for use by Company, including Medicare Reimbursable Bad Debt Write off Portals, Asset Searches, Month-End closing checklists, and tools for processing accounts receivable refunds, tracking medical necessity audits and denials, and tracking of electronic remits.
- (g) SS Co shall not be responsible for the routine billing and collecting of private pay, hospice, Veterans Administration, workers compensation, or hospital payors, or for the generation and mailing of monthly statements. Month-end closing in the accounts receivable system and the posting of checks or cash received at the facility will also remain the responsibility of Company.

(h) Upon SS Co request, Company shall timely execute all such applications, reports and claims. Company expressly constitutes and appoints SS Co, to the extent permitted by the applicable requirements, as Company's agent to direct and supervise the processing and collection, on Company's behalf and in its name, of all private party insurance, Medicare, Medicaid and other receivables.

### **3.17 Collection and Disbursement of Funds.**

(a) SS Co will supervise the deposit by Company personnel into an account in the name of Company or Facilities with one or more institutions, each of which must be a member of the Federal Deposit Insurance Corporation and receive Company approval, all monies arising from and received in connection with the operation of the Company or Facilities or otherwise received by SS Co for and on behalf of Company (the "**Company Funds**").

(b) Company may establish and utilize (or require SS Co to establish and utilize) a cash management system in accordance with procedures, systems and controls as determined by Company for the Company's use.

(c) In the event the applicable requirements require the deposit of monies from Medicare and/or Medicaid in an account solely owned and controlled by Company or Facilities, and with respect to which SS Co has no withdrawal or disbursement rights, then Company shall establish a separate account for the deposit of such funds with a standing instruction to sweep, on a daily basis, the funds deposited in such account to one or more of the accounts of Company or Facilities.

(d) SS Co shall have authority to access such accounts and will disburse and pay from said accounts, on behalf of Company or Facilities and as a Company Expense, in the order of priority permitted under the Company's or Facilities' ground lease and loan financing obligations, including any intercreditor agreement entered into in connection therewith. SS Co hereby covenants that to the extent SS Co receives any funds from any third-party payor after the termination of this Agreement which is attributable to the Term of this Agreement or collected by SS Co on behalf of Company or Facilities for the periods prior to the date of this Agreement, SS Co will deliver such funds to Company promptly following receipt of such funds.

(e) The covenants set forth in the foregoing **Section 3.17** will survive the termination of this Agreement.

### **3.18 Payment of Expenses.**

(a) SS Co shall provide accounts payable services including, without limitation, the following: (i) process payments as directed by Company; (ii) maintain vendor and payable files; (iii) establish payment terms; (iv) maintain and process IRS Form 1099s; (v) review vouchers for appropriate authorizations, invoice information and coding; (vi) expedite payment of "priority" vendors, such as employee expenses, Taxes and utilities; and (vii) petty cash management.

(b) SS Co shall provide payroll services for Company, including the processing of payroll for employees of the Company and Facilities.



- (c) Unless otherwise stated in this Agreement, all direct, out-of-pocket fees, expenses and charges incurred in connection with Article III shall be Company Expenses (“**Company Expenses**”). SSCO is authorized to pay all Company Expenses from Company Funds.
- (d) Company will pay directly (or reimburse SSCO promptly if SSCO advances funds for) any Company Expenses not paid from Company Funds.
- (e) If Company Funds are not available to pay Company Expenses, SSCO will notify Company by submitting a fund request form (such form to be subject to Company approval and will contain such information as Company may reasonably require) to Company and Company will supply the requested funds within ten (10) days after written request by SSCO.
- (f) Notwithstanding anything to the contrary herein, SSCO shall have no obligation to advance any funds hereunder if Company Funds are unavailable unless such unavailability is due to SSCO’s failure to perform its obligations under this Agreement.
- (g) Except for Company Expenses, all fees, expenses and charges incurred by SSCO in connection with its duties and obligations under this Agreement (including, without limitation, fees, expenses and charges incurred due to delegation of any duty or obligation herein to subcontractors, third-party consultants and professionals and not specifically described as a Company Expense) are for SSCO’s account (“**SSCO Expenses**”).
- (h) SSCO will promptly reimburse the Company for any SSCO Expenses paid by the Company.
- (i) SSCO shall not be in default under this Agreement if SSCO’s failure to comply with the terms of this Agreement is due to the lack of adequate Company Funds.
- (j) Notwithstanding anything to the contrary provided herein, SSCO’s direct, out-of-pocket expenses shall not include an allocation of costs and salaries of SSCO’s or its affiliate’s home office personnel unless such allocation is specifically set forth in the budgets which have received Company approval.

**3.19 Reimbursement Services.** SSCO shall consult and advise on reimbursement matters affecting the Company or the Facilities including:

- (a) The preparation of state and federally required cost reports and, once approved by Company, the filing of the same.
- (b) Review applicable reimbursement rates and Medicare bad debt reporting and resulting advice on achieving the accurate reimbursement.
- (c) Budget preparation support, including projection of anticipated Medicare or Medicaid reimbursement rates and provider taxes.
- (d) Review of consolidated billing invoices and transportation costs to ensure accurate billing and advice on cost containment where appropriate.

**3.20 Payor Strategy Services.** SS Co shall utilize its existing relationships with third-party payors and cultivate new ones to assist Company with the development of reimbursement strategies, contracting opportunities, and the resolution of claims, including:

- (a) The development, implementation, and maintenance of reimbursement strategies, including value based purchasing such as accountable care organizations, the advanced bundled payment for care improvement program and the comprehensive joint replacement initiative.
- (b) Responding to requests for proposals from hospitals for value payment initiatives and the related assistance to Company with redesigned workflows necessary for participation.
- (c) Training and guidance to Company in responding to managed care and value based initiative workflows as well as assistance with grievance and complaint processes with payors.
- (d) Payor contracting services, including solicitation of new contracts, amendments thereto, creation of contract summaries and roll out of health plan program updates. Assistance will also be provided for escalating claims issues of Company or Facilities to payors.
- (e) Assistance with the credentialing and re-credentialing of Company or Facilities with payors.
- (f) Coordinate directly with health plans to facilitate communication in all facets of reporting that is required for participation, including attendance at ACO and bundled payment collaborative meetings necessary to achieve and maintain preferred status in those programs.

**3.21 Rehabilitation Support Services.** SS Co shall monitor and consult on rehabilitation services delivered to Company or Facilities, including:

- (a) Identification and engagement of Company approved third-party rehabilitation provider.
- (b) Serving as a liaison to the rehabilitation provider and assisting with the monitoring of its rehabilitation standards through site visits, audits, and the establishment and review of metrics to ensure that the Company's clinical and operational goals are being met.
- (c) Managing therapy revenue and expense through collaboration with the third-party provider and Company.

**3.22 MDS Services.**

- (a) SS Co shall assist Company with developing and implementing auditing procedures to improve and maintain care plan accuracy, achieve compliance and resolve survey issues that may arise.
- (b) SS Co shall assist Company with the identification of trends and areas of opportunity in Medicare and managed care utilization including, establishment of processes, training and support to ensure accurate billing related to MDS RUG and level based plans and assistance with certification and recertification

(c) SS Co shall assist Company in evaluating and improving quality metric/five-star scores for each of its facilities and related training.

(d) SS Co shall consult and advise Company and Facilities on Minimum Data Set (“MDS”) and case management training and education, including accurate coding, ICD 10 codes, regulatory updates, root cause analysis on survey tags, current trends, and additional training as may be requested by Company.

### **3.23 Communication & Marketing Services.**

(a) SS Co will assist Company with the development and implementation of a communication and marketing strategy that will include digital media (website, social media, blog), Reputational Management (online listening and response), Special Events Planning and Marketing, PR & Media Relations, Issues/Crisis Management, and advertising.

(b) SS Co will also assist Company in the design, production or acquisition of branded promotional (e.g., hats, pens, shirts) items and marketing materials (e.g., stationary, posters, vehicle wraps, exterior signs).

### **3.24 Corporate Compliance Services.**

- a. SS Co will provide overall direction and supervision of Company’s corporate compliance department and arrange to be provided to Company corporate compliance services as required for Company’s operation.
- b. SS Co will develop and implement a corporate compliance plan that satisfies the conditions of participation.
- c. SS Co will provide a corporate compliance officer and a corporate compliance committee to administer the Company’s corporate compliance plan, provide guidance on compliance related issues, and to ensure that all potential compliance matters are appropriately investigated, resolved, and reported as necessary.
- d. SS Co will develop and implement standards, policies, and procedures to enable Company to comply with the conditions of participation related to corporate compliance programs, the HIPAA and HITECH Acts, and the Fraud, Waste, and Abuse Statutes.
- e. SS Co will create and administer necessary compliance education and training on Fraud, Waste and Abuse, HIPAA and HITECH, the Elder Justice Act and abuse, neglect and misappropriation reporting obligations, and the Company’s corporate compliance programs, including the code of ethics and policies and procedures.
- f. SS Co will provide monitoring, auditing, and internal reporting systems.
- g. SS Co will provide standards and procedures for administering disciplinary and remedial measures when incidences of non-compliance are identified.

- h. SS Co will provide employee screening of the OIG Exclusion List and GSA Debarment List through a third-party vendor.
- i. SS Co will utilize a third-party vendor to administer the Company's anonymous compliance hotline. SS Co will review all reports and ensure that they are appropriately investigated and resolved.

**3.25 Additional Services.** SS Co agrees that any specialized or additional services requested by Company (application development and other non-routine projects) may be performed for a separate fee as agreed upon by Company and SS Co. If SS Co provides any such service, such fee shall not be in excess of such amount as would be charged by a third-party, negotiating at arm's length, for the performance of such service. Additionally, services provided by outside consultants for services not covered under this Agreement will be the sole responsibility of Company and not SS Co.

**3.26 HIPAA Addendum.** If SS Co, in connection with its provision of administrative services to Company under this Agreement, constitutes a Business Associate, (as defined in HIPAA and/or its implementing privacy regulations at 45 C.F.R. Parts 160-164 (the "HIPAA Privacy Rule")) and uses Protected Health Information (as defined in HIPAA and/or the HIPAA Privacy Rule) that has been generated or entrusted to Company, then the terms of Exhibit A shall apply with respect to SS Co's provision of administrative services under this Agreement. Company shall provide notice to SS Co of changes in HIPAA and/or the HIPAA Privacy Rule relevant to the performance of the administrative services with respect to SS Co's compliance with HIPAA and the HIPAA Privacy Rule in accordance with Exhibit A.

## **ARTICLE IV**

### **COMPENSATION**

Commencing upon the Effective Date and continuing until the end of the Term, Company shall pay to SS Co a service fee equal to \$822,167.00 per month (the "Administrative Service Fee"). Payment shall be made to SS Co via either of the following methods, at the Company's option:

- (a) Upon the Effective Date, Company shall pay to SS Co a deposit equal to one month of the Administrative Service Fee, and thereafter shall pay the Administrative Service Fee to SS Co monthly in arrears; or
- (b) Company shall pay a prorated weekly portion of the Administrative Service Fee to SS Co each week, in arrears.

Notwithstanding the foregoing, and at any time, SS Co shall have the right to increase the Administrative Service Fee by providing Company with thirty (30) days written notice.



## **ARTICLE V**

### **REPRESENTATIONS AND WARRANTIES OF COMPANY**

**5.1 Organization and Standing of Company.** Company is a limited liability company duly organized, validly existing and in good standing under the laws of the state of its formation. Copies of the certificate of formation and limited liability company agreement of Company, and all amendments thereof to date, have been, if requested, delivered to SS Co and are complete and correct.

**5.2 Absence of Conflicting Agreements.** Neither the execution or delivery of this Agreement nor the performance by Company of the transactions contemplated hereby, conflicts with, or constitutes a breach of or a default or requires the consent of any third-party under: (i) the certificate of formation or limited liability company agreement of Company, (ii) to the best of Company's knowledge, any applicable law, rule, judgment, order, writ, injunction, or decree of any court, currently in effect, (iii) to the best of Company's knowledge, any applicable rule or regulation of any administrative agency or other governmental authority currently in effect, or (iv) any agreement, indenture, contract or instrument to which Company is now a party or by which the assets of Company are bound.

**5.3 Consents.** No authorization, consent, approval, license, exemption by, filing or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, is or will be necessary in connection with the execution, delivery and performance of this Agreement by Company.

## **ARTICLE VI**

### **REPRESENTATIONS AND WARRANTIES OF SS Co**

**6.1 Organization and Standing of SS Co.** SS Co is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Georgia. Copies of the certificate of formation and limited liability company agreement of SS Co, and all amendments thereof to date, have been, if requested, delivered to Company and are complete and correct.

**6.2 Absence of Conflicting Agreements.** Neither the execution or delivery of this Agreement nor the performance by SS Co of the transactions contemplated hereby, conflicts with, or constitutes a breach of or a default or requires the consent of any third-party under: (i) the certificate of formation or limited liability company agreement of SS Co, (ii) to the best of SS Co's knowledge, any applicable law, rule, judgment, order, writ, injunction, or decree of any court, currently in effect, (iii) to the best of SS Co's knowledge, any applicable rule or regulation of any administrative agency or other governmental authority currently in effect, or (iv) any agreement, indenture, contract or instrument to which SS Co is now a party or by which the assets of SS Co are bound.

**6.3 Consents.** No authorization, consent, approval, license, exemption by, filing or registration with any court or governmental department, commission, board, bureau, agency or

instrumentality, domestic or foreign, is or will be necessary in connection with the execution, delivery and performance of this Agreement by SSCO.

## **ARTICLE VII**

### **TERMINATION RIGHTS**

**7.1 Termination by Company.** If, at any time or from time to time during the Term, SSCO shall fail to keep, observe, or perform any material covenant, agreement, term or provision of this Agreement to be kept, observed, or performed by SSCO, and such default shall continue for a period of sixty (60) days after written notice thereof by Company to SSCO, then this Agreement may be terminated by Company upon ten (10) days' written notice to SSCO.

**7.2 Termination by SSCO.** If, at any time or from time to time during the Term, either of the following events shall occur and not be remedied within the applicable period of time herein specified, then this Agreement may be terminated by SSCO upon ten (10) days' written notice to Company:

(a) Company shall fail to keep, observe, or perform any material covenants, agreement, term or provision of this Agreement to be kept, observed, or performed by Company and such default shall continue for a period of sixty (60) days after written notice thereof by SSCO to Company;

(b) Company fails to pay any Administrative Service Fee due to SSCO, regardless of whether payments are due weekly or monthly.

**7.3 Termination by Either Party.** This Agreement may be terminated, except as to liabilities or claims of either party that explicitly survive the Term of the Agreement, at any time for any reason by providing the other party sixty (60) days written notice.

**7.4 Surviving Rights Upon Termination.** If either party exercises its option to terminate pursuant to this Article VII, each party shall forthwith account for and pay to the other all sums due and owing pursuant to the terms of this Agreement. Without limiting the generality of the foregoing, upon any termination of this Agreement, Company shall be obligated fully and immediately to pay to SSCO all accrued and unpaid Administrative Service Fees and Company Expenses described herein. All other rights and obligations of the parties under this Agreement shall terminate (except as otherwise set forth herein).

## **ARTICLE VIII**

### **INDEMNIFICATION**

**8.1 Indemnification.** SSCO and Company shall indemnify and hold each other and their respective officers, directors, members, employees and affiliates (each, an "Protected Party") harmless from any and all claims, losses, judgments, actions, proceedings, damages, expenses and liabilities whatsoever incurred by a Protected Party, including reasonable attorneys' fees, arising out of a material breach of this Agreement or any third-party claims which are caused in whole or in part by any negligent act or omission of the other party in connection with the performance of its duties under this Agreement. However, SSCO's obligation to indemnify the Company Protected

Parties shall not extend to any Medicare or Medicaid cost disallowances. The obligations under this **Section 8.1** shall survive termination or expiration of this Agreement.

**8.2 Control of Defense of Indemnifiable Claims.** A party seeking indemnification under this Article VIII shall give the other party prompt written notice of the claim for which it seeks indemnification. Failure of the party seeking indemnification to give such prompt notice shall not relieve the other party of its indemnification obligation; provided, however, that such indemnification obligation shall be reduced by any damages suffered by such other party resulting from a failure to give prompt notice hereunder. The party receiving the aforementioned notice: (i) shall provide the defense of such claim, including, without limitation, retention and payment of attorneys, and (ii) shall not agree to a settlement of any claim which provides for any relief other than the payment of monetary damages.

## **ARTICLE IX**

### **CONFIDENTIALITY; NON-SOLICITATION**

**9.1 Non-Disclosure of Confidential Information.** Company acknowledges that SSCo's business involves the development and use of Confidential Information (defined below) and that SSCo will make available such Confidential Information to Company in connection with SSCo's duties under this Agreement. Except as Company and SSCo may disclose in fulfillment of their duties and responsibilities under this Agreement, as may be required to be disclosed by Company and SSCo by law, or as the parties may elect to disclose in response to surveys or data gathering efforts of trade associations in which Company is a member, the parties and their respective members, officers, directors, employees or agents shall not, at any time during or after the Term, divulge, furnish or make accessible Confidential Information to any person or entity for any purpose whatsoever. "Confidential Information" means, with respect to any party, any confidential or proprietary information, including, without limitation, manuals, forms, policies and procedures, computer programs, system documentation and related software, patient records and patient information, and any other information of any kind with respect to the finances, business plans or business operations of such party; provided, however, that "Confidential Information" shall not include any information which (i) becomes generally available to the public other than as a result of disclosure by the receiving party or its agents or representatives, or (ii) becomes available to the receiving party on a non-confidential basis from a source other than the disclosing party or its agents or representatives, provided that such a source lawfully obtained such information and is not bound by, or subject to, confidentiality obligations to the disclosing party.

**9.2 Non-Use of Materials.** Effective upon the termination of this Agreement for any reason whatsoever, the parties and their respective members, officers, directors, employees or agents shall not use any Confidential Information for any purpose whatsoever.

**9.3 Proprietary Material.** Company acknowledges and agrees that, except as otherwise provided herein, the systems, methods, programs, software, brochures, manuals, forms, data, procedures, and related information used by SSCo in the performance of SSCo's obligations under this Agreement are proprietary in nature, shall be and remain (along with any corresponding copyrights or similar rights) the sole property of SSCo and shall not at any time be directly or indirectly used, distributed, disclosed, copied or otherwise employed by Company during the

Term. Upon termination of this Agreement, Company shall return to SS Co all such proprietary materials and information and all documents (including all copies thereof) containing such information in Company's possession or within its control, and shall use its best efforts to ensure that its employees have not retained any such materials, information or documents or copies thereof and, upon request by SS Co, confirm compliance with the foregoing in writing.

SS Co acknowledges and agrees that the systems, methods, programs, software, brochures, manuals, forms, data, procedures, and related information used by or acquired on behalf of Company, which are not the proprietary material of SS Co, are proprietary in nature, and shall be and remain (along with any corresponding copyrights or similar rights) the sole property of Company and shall not at any time be directly or indirectly used, distributed, disclosed, copied or otherwise employed by SS Co. Upon termination of this Agreement, SS Co shall return to Company all such proprietary materials and information and all documents (including all copies thereof) containing such information in SS Co's possession or within its control, and use its best efforts to ensure that its employees have not retained any such materials, information or documents or copies thereof and, upon request by Company, confirm compliance with the foregoing in writing.

## **ARTICLE X**

### **SUCCESSORS AND ASSIGNS**

SS Co, without the consent of Company, shall have the right to assign this Agreement to a wholly or majority owned subsidiary or to an affiliate of SS Co under common ownership with SS Co and SS Co's parent. In the event that all or substantially all the assets of SS Co or all its limited liability company interests shall during the Term be acquired by another corporation or other limited liability company or other entity (hereinafter referred to as the "Acquiring Entity") as a result of a merger, consolidation, reorganization, or other transaction, and the Acquiring Entity assumes all of the obligations of SS Co then accrued hereunder, if any, then SS Co shall be relieved of all such obligations. Except as otherwise permitted herein, SS Co shall have no right to assign this Agreement.

## **ARTICLE XI**

### **MISCELLANEOUS PROVISIONS**

**11.1 Notices.** All notices or other communications hereunder shall be in writing and shall be deemed given (a) one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid), or (b) three (3) days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, to the parties at the following addresses:

**To Company:**  
Lidenskab, LLC  
1120 West Donegan Avenue  
Kissimmee, FL 34741  
Attention: Jared Elliott



**To SSCO:**  
Pourlessoins, LLC  
1040 Crown Pointe Parkway, Suite 600  
Atlanta, GA 30338

or to such other address, and to the attention of such other person or officer as either party may designate in writing by notice.

**11.2 No Partnership or Joint Venture.** Nothing contained in the Agreement shall constitute or be construed to be or create a partnership or joint venture between Company, its successors, or assigns on the one part and SSCO, its successors, or assigns on the other part. Notwithstanding the foregoing, the parties hereby agree that they shall each have a duty to act in good faith and to deal fairly with the other party hereto.

**11.3 Modifications and Changes.** This Agreement cannot be changed or modified except by another agreement in writing signed by the party sought to be charged therewith or by its duly authorized agent.

**11.4 Headings.** The article and paragraph headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope of intent of any provision of this Agreement.

**11.5 Governing Law.** This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of Florida.

**11.6 Enforceability.** Should any provision of this Agreement be unenforceable as between the parties, such unenforceability shall not affect the enforceability of the other provisions of this Agreement.

**11.7 Counterparts.** This Agreement may be executed and delivered (including by facsimile transmission) in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Administrative Services Agreement effective as of the day and year first above written.

**Company:**

**Lidenskab, LLC d/b/a Raydiant Health Care**

By: 

Name: Jared Elliott

Title: Manager

*[Signature Page to Amended and Restated Administrative Services Agreement]*

SSCo:  
Pourlessoins, LLC d/b/a Synergy  
Healthcare Services

By:   
Name: Gregory Hayes  
Title: Authorized Signatory

*[Signature Page to Amended and Restated Administrative Services Agreement]*

**EXHIBIT A**

**AMENDED AND RESTATED BUSINESS ASSOCIATE AGREEMENT  
PRIVACY AND SECURITY OF PROTECTED HEALTH INFORMATION**

This Amended and Restated Business Associate Agreement ("Agreement") is made effective May 1, 2023 ("Effective Date"), by and between **NSPRMC, LLC d/b/a Coquina Care Partners**, the Covered Entity ("CE"), located at 3920 Rosewood Way, Orlando, FL 32808, and **Pourlessoins, LLC d/b/a Synergy Healthcare Services**, the Business Associate ("BA"), located at 1040 Crown Point Parkway, Suite 600, Atlanta, GA 30338.

**Recitals**

**WHEREAS**, CE and BA are parties to that certain Administrative Services Agreement dated December 1, 2021, which was further amended and restated on May 1, 2023 (the "ASA");

**WHEREAS**, in connection with the ASA, CE and BA entered into that certain Business Associate Agreement dated December 1, 2021 (the "BAA"); and

**WHEREAS**, CE and BA desire to amend and restate the BAA in its entirety, in accordance with the terms and conditions herein set forth.

**NOW, THEREFORE**, in consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

**I. DEFINITIONS**

For purposes of this Agreement, the terms used herein, whether or not capitalized, unless otherwise specifically defined, shall have the same meanings as used in the Health Insurance Portability and Accountability Act of 1996, and any amendments or implementing regulations ("HIPAA", inclusive of the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Parts 160 and 164), and the Health Information Technology for Economic and Clinical Health Act ("HITECH", Title XIII of the American Recovery and Reinvestment Act of 2009), and any amendments or implementing regulations. A reference in this Agreement to any provision of a law or regulation means the provision as then in effect, amended, or implemented via regulation. In the event of a conflict between the definitions in this Agreement and the definitions contained in HIPAA and HITECH, the definitions contained in HIPAA and HITECH shall be applied.

Availability means that data or information is accessible and useable upon demand by an authorized person.

BA "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this Agreement, shall mean the Business Associate referenced above.

CE "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this Agreement, shall mean the Covered Entity referenced above.

Confidentiality means that data or information is not made available or disclosed to unauthorized persons or processes.

Data Aggregation means, with respect to PHI created, received, maintained, or transmitted by an BA in its capacity as a business associate of a CE, the combining of such PHI by the BA with the PHI received by the BA in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.

Disclose or Disclosure means the release, transfer, provision of access to, or divulging in any other manner of PHI to parties outside the BA's organization.

HIPAA means the Health Insurance Portability and Accountability Act of 1996.



HITECH means the Health Information Technology for Economic and Clinical Health Act.

Individual means the person who is the subject of PHI and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

Integrity means that data or information has not been altered or destroyed in an unauthorized manner.

Privacy Rule means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR 160 and 164, Subparts A and E, as amended by HITECH.

Protected Health Information (“PHI”) has the same meaning as this term has in 45 CFR 160.103 (as amended by the HITECH Act), limited to the information created, received, maintained, or transmitted by BA from or on behalf of CE. It includes PHI that is transmitted by or maintained in any electronic media known as Electronic Protected Health Information.

Required By Law means a mandate contained in the law that compels a covered entity to make a use or disclosure of PHI and that it is enforceable in a court of law.

Secretary means the Secretary of the Department of Health and Human Services (“HHS”) or any other officer or employee of HHS to whom the authority involved has been delegated.

Security Incident means the attempted or successful unauthorized access, Use, Disclosure, modification, or destruction of PHI or interference with information system operations that contains PHI.

Security Rule means the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR 160 and 164, Subparts A and C.

Use means the sharing, employment, application, utilization, examination, or analysis of PHI within the BA’s organization.

## **II. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE**

1. Nondisclosure. BA shall not Use or Disclose CE's PHI otherwise than as permitted or required by this Agreement or as Required By Law.

2. Minimum Necessary. BA shall Use or further Disclose PHI only in the minimum amount and to the minimum number of individuals necessary to achieve the purpose of the services being rendered to or on behalf of CE.

3. Safeguards. BA shall develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the Confidentiality, Integrity, and Availability of PHI that BA creates, receives, maintains, or transmits on CE’s behalf as required by the Privacy and Security Rules. In doing so, BA shall comply with Subpart C of 45 CFR 164 with respect to electronic protected health information, to prevent Use or Disclosure of PHI other than as provided for by this Agreement.

4. Reporting of Unauthorized Disclosures. BA shall report to CE within three (3) calendar days any Use or Disclosure of PHI not provided for by this Agreement of which it becomes aware, including breaches of unsecured PHI as required at 45 CFR 164.410, and any Security Incident of which it becomes aware. This provision applies regardless of whether such unauthorized Use or Disclosure was by BA, its agents or subcontractors, or any third party.

5. Mitigation. BA shall mitigate, to the extent practicable, any harmful effect that is known to BA of a Use or Disclosure of PHI by BA in violation of the requirements of this Agreement.

6. BA's Agents and Subcontractors. In accordance with 45 CFR 164.502(e)(1)(ii), 164.308(b)(2) and 164.314(a), if applicable, BA shall ensure that any subcontractors or agents that create, receive, maintain, or transmit PHI on behalf of BA, agree to the same restrictions, conditions, and requirements that apply to BA through this Agreement with respect to such PHI. BA may Disclose PHI to those of its agents and subcontractors who have been previously approved by CE, have executed an agreement containing a provision substantially conforming to the Confidentiality and other related terms of this Agreement, and who reasonably need to know such information in order to perform obligations under this Agreement and, in such case, shall only disclose the minimum amount of such PHI as is necessary. BA shall make such agreements with its agents and subcontractors available upon request of CE. The acts or omissions of BA's agent and/or subcontractors shall be deemed the acts and omissions of BA.

7. Access to PHI. In order for CE to satisfy its obligations under 45 CFR 164.524 and as otherwise required by law, BA shall provide CE access to PHI upon request, in the time and manner designated by CE. In the event any Individual delivers directly to BA a request for access to PHI, BA shall promptly forward such request to CE. This provision applies only to PHI received or created by BA pursuant to this Agreement, if BA possesses such PHI.

8. Documentation of Disclosures. BA shall document such Disclosure of PHI and information related to such Disclosure as would be required for CE to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

9. Accounting of Disclosures. BA shall document disclosures of PHI and information related to such disclosures as would be required for CE to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. BA shall provide to CE, in a time and manner designated by CE, information documented in accordance with this section, to permit CE to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

10. Amendment of PHI. BA shall make available any PHI in its possession at the request of CE for any amendments to such PHI pursuant to 45 CFR 164.526, and in the time and manner designated by CE. This provision applies only to PHI received or created by CE and BA pursuant to this Agreement, if BA possesses such PHI. In the event any Individual delivers directly to BA a request for amendment to PHI, BA shall promptly forward such request to CE for further direction.

11. Internal Practices. BA shall make its internal practices, books and records relating to the Use and Disclosure of PHI received from CE, or created, received, maintained, or transmitted by BA on behalf of CE, available to the CE, or to the Secretary, for purposes of the Secretary determining CE's compliance with HIPAA.

12. HITECH. BA acknowledges that, pursuant to HITECH, it is responsible for compliance with the HIPAA Privacy and Security Rules in the same manner as a Covered Entity. BA acknowledges and agrees to abide by these requirements.

13. Privacy of Individually Identifiable Health Information. To the extent the BA is to carry out one or more of CE's obligation(s) under Subpart E of 45 CFR Part 164, BA shall comply with the requirements of Subpart E that apply to CE in the performance of such obligation(s).

### **III. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE**

1. Permitted Uses and Disclosures. Except as otherwise limited in this Agreement, BA may Use or Disclose PHI to perform functions, activities, or services for, or on behalf of CE, provided such Use or Disclosure would not violate the Privacy Rule if done by the CE. BA may also Use or Disclose PHI as

Required By Law. BA may not Use or Disclose PHI in a manner that would violate the Privacy Rule if done by CE, except for the specific uses and disclosures set forth below in Section III (2), (3), (4), (5), and (6). Any Use or Disclosure of PHI by BA shall be consistent with the Minimum Necessary requirement set forth in Section II (2) of this Agreement.

2. Use for Management and Administration. Except as otherwise limited in this Agreement, BA may Use PHI for the proper management and administration of the BA or to carry out the legal responsibilities of the BA.

3. Disclosure for Management and Administration. Except as otherwise limited in this Agreement, BA may Disclose PHI for the proper management and administration of the BA or to carry out the legal responsibilities of the BA, provided that:

a. Disclosures are Required By Law; or

b. BA obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and

c. The person notifies the BA of any instances of which it is aware in which the Confidentiality of the information has been breached.

4. Data Aggregation. Except as otherwise limited in this Agreement, BA may Use PHI to provide Data Aggregation services to CE relating to the health care operations of the CE as permitted by 45 CFR 164.504(e)(2)(i)(B).

5. Other Permitted Uses. Except as otherwise limited in this Agreement, BA may Use or Disclose PHI for the limited purposes provided for in any other current and future contracts between the BA and CE, so long as that use does not violate HIPAA. Should any limited purposes of the Use or Disclosure of PHI, in any current or future contract between the BA and CE, be more restrictive than the permitted Uses and Disclosures contained in this Agreement, then the more restrictive language contained in such contract shall apply.

6. Report Violations of Law. Except as otherwise limited in this Agreement, BA may Use PHI to report actual or suspected conduct that is unlawful or otherwise violates professional or clinical standards, or that endangers patients, workers or the public, to appropriate Federal and State authorities consistent with 45 CFR 164.502(j)(1).

#### **IV. OBLIGATIONS OF COVERED ENTITY**

1. Notice of Privacy Practices. Upon request, CE shall provide BA with the notice of privacy practices that CE produces in accordance with 45 CFR 164.520, as well as any changes to such notice.

2. Changes in Permission. CE shall notify BA of any changes in, or revocation of, permission by an Individual to Use or Disclose his or her PHI, to the extent that such changes may affect BA's Use or Disclosure of PHI.

3. Notification of Restrictions. CE shall notify BA of any restriction to the Use or Disclosure of PHI that CE has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect BA's Use or Disclosure of PHI.

#### **V. PERMISSIBLE REQUESTS BY COVERED ENTITY**

1. Requests by Covered Entity. CE shall not request BA to Use or Disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR 164 if done by CE, unless BA is to Use or Disclose PHI for data aggregation, management and administration, or legal responsibilities of the BA.

2. Audits, Inspection and Enforcement. From time to time upon reasonable notice, CE may inspect the facilities, systems, books, and records of BA to monitor compliance with this Agreement. BA shall promptly remedy any violation of any provision of this Agreement to the satisfaction of CE in CE's sole discretion, and shall certify the same to CE in writing. The fact that CE inspects, or fails to inspect, or has the right to inspect, BA's facilities, systems and procedures does not relieve BA of its responsibility to comply with this Agreement, nor does CE's (i) failure to detect or (ii) detection.

## **VI. TERM AND TERMINATION**

1. Term. The Term of this Agreement shall be effective as of the Effective Date and shall remain in effect as long as BA or any of BA's agents and/or subcontractors retains CE's PHI or on the date CE terminates for cause as authorized in Section VI(2).

2. Termination for Cause. Upon CE's knowledge that BA or any of BA's agents and/or subcontractors has violated a material term of HIPAA or this Agreement, CE may either:

a. Give written notice of such breach or violation and provide a reasonable time period for BA to cure the breach or end the violation, and if BA does not cure the breach or end the violation within the time specified by CE, terminate this Agreement; or,

b. Immediately terminate this Agreement and the underlying contract if BA has breached a material term of this Agreement or failed to meet its HIPAA obligations; or,

c. Report the violation to the Secretary if neither cure of the breach or violation nor termination of this Agreement are feasible.

3. Obligations of Business Associate Upon Termination. Upon termination of this Agreement for any reason, BA shall return to CE or, if agreed to by CE, securely destroy all PHI received from CE, or created, maintained, received, or transmitted by BA on behalf of CE, that the BA and/or its agents and subcontractors, still maintains in any form, has recorded on any medium, or stored in any storage system. BA and/or its agents and subcontractors shall retain no copies of the PHI.

## **VII. INDEMNIFICATION**

BA shall indemnify and hold CE harmless from and against all claims, damages, liabilities, judgments, fines, assessments, penalties, awards, or other expenses of any kind or nature whatsoever, including without limitation, attorney's fees, costs, and expenses relating to or arising out of any breach or alleged breach of this Agreement or Disclosure of PHI in violation of applicable law or regulation.

## **VIII. MISCELLANEOUS**

1. Amendment. Both BA and CE agree to take such action as is necessary to amend this Agreement from time to time for CE to comply with the requirements of HIPAA and any other applicable law.

2. Survival. The respective rights and obligations of BA under Section VI(3) and VII of this Agreement shall survive the termination of this Agreement.

3. Interpretation. A reference in this Agreement to the HIPAA or HITECH Rules shall mean the section in effect as of the Effective Date as it may be amended from time to time. This Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA and applicable state laws. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that permits CE to comply with HIPAA and applicable state laws.

4. Assistance in Litigation or Administrative Proceedings. BA shall make itself, and any subcontractors, employees or agents assisting BA in the performance of its obligations under this Agreement, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees, based upon claimed violation of the Security Rule and/or the Privacy Rule, except where BA or its subcontractor, employee or agent is a named adverse party.

5. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than CE or BA, any rights, remedies, obligations, or liabilities whatsoever.

6. Notices. Any notice or other communication required to be provided by or to either party herein shall be in writing and may be delivered by (i) a nationally recognized courier/overnight delivery service, or (ii) by certified mail with return receipt requested. If notices are delivered by courier/overnight delivery, it will be deemed delivered as of the next business day. If notices are delivered by certified mail, it will be deemed delivered three (3) days from the date of mailing. Notices may be sent to the respective addresses set forth in the beginning of this Agreement, c/o Legal Department.

7. Independent Contractor Status. In the performance of its duties and obligations pursuant to this Agreement, BA shall at all times be acting and performing as an independent contractor of CE.

**[Remainder of Page Intentionally Left Blank – Signature Page Follows]**



**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement as of the Effective Date.

**COVERED ENTITY**

By: \_\_\_\_\_

Print Name: Craig Robinson

Title: Manager

*[Signature Page to Amended and Restated Business Associate Agreement]*

**BUSINESS ASSOCIATE**

By: \_\_\_\_\_

Print Name: Gregory Hayes

Title: Authorized Signatory

*[Signature Page to Amended and Restated Business Associate Agreement]*