

KAREN A. YARBROUGH
COOK COUNTY CLERK

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JEFFREY P. ALLSTEADT
CLERK OF COURT

By Deputy Clerk
Dated 12-26-2023

IN RE: § Chapter 11
§
EVANGELICAL RETIREMENT § Case No. 23-07541
HOMES OF GREATER CHICAGO, §
INCORPORATED d/b/a FRIENDSHIP §
VILLAGE OF SCHAUMBURG, § Hon. Timothy A. Barnes
§
FFIN: 36-2815382, §
§
Debtor. §

ORDER (A) APPROVING ASSET PURCHASE AGREEMENT BETWEEN THE DEBTOR AND THE SUCCESSFUL BIDDER; (B) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS; (C) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF DESIGNATED CONTRACTS; AND (D) GRANTING RELATED RELIEF

Upon consideration of the *Debtor's Motion for Entry of (I) an Order (A) Approving Bid Procedures in connection with the Sale of Substantially All of the Debtor's Assets, (B) Approving the Form and Manner of Notice thereof, (C) Scheduling an Auction and Sale Hearing, (D) Approving Procedures for the Assumption and Assignment of Contracts, and (E) Granting Related Relief; and (II) an Order (A) Approving the Asset Purchase Agreement Between the Debtor and the Successful Bidder, (B) Authorizing the Sale of Substantially All of the Debtor's Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (C) Authorizing the Assumption and Assignment of Contracts, and (D) Granting Related Relief* [Docket No. 45] (the "**Sale Motion**") filed by the debtor and debtor-in-possession (the "**Debtor**") in the above-captioned case (the "**Chapter 11 Case**"), pursuant to sections 105(a), 363, 365, 503(b), and 507(a)(2) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "**Bankruptcy Code**"), and Rules 2002, 6004, and 6006(a) of the Federal Rules of Bankruptcy Procedure, which requests entry of an order (this "**Sale Order**") that, *inter alia*, authorizes and approves: (a) the Asset Purchase Agreement (including all

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related exhibits and schedules) (the “**Agreement**”)¹ among the Debtor and IL CCRC LLC (the “**Purchaser**”), which provides for, effective as of the Closing Date, the Debtor’s sale, grant, assignment, transfer, conveyance and delivery of substantially all of the Debtor’s assets identified therein (collectively, the “**Assets**”) to Purchaser free and clear of all Interests (defined below) except the Permitted Liens (the “**Sale**”); and (b) the assumption and assignment by the Debtor of certain unexpired leases and executory contracts (the “**Assigned Contracts**”) to the Purchaser as referenced in the Agreement or in one or more subsequent filings authorized by an order of this Court as contemplated by the Agreement; it appearing that the relief requested in the Sale Motion is in the best interests of the Debtor’s estate, its creditors, and other parties in interest; it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and it appearing that the Sale Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); this Court having found that it may enter a final order consistent with Article III of the United States Constitution; this Court having found that venue of this proceeding and the Sale Motion in this District is proper pursuant to 28 U.S.C. § 1408; adequate notice of the Sale Motion and opportunity for objection having been given; adequate notice with respect to the assumption and assignment of the Assigned Contracts having been given; this Court having reviewed and considered the Sale Motion and any written and oral objections thereto; this Court having heard statements of counsel and the evidence presented in support of the relief requested by the Debtor in the Sale Motion at a hearing before this Court (the “**Sale Hearing**”) upon the full record of the Chapter 11 Case; it appearing that no other notice need be given; it further appearing that the legal and factual bases set forth in the Sale Motion and the record made at the Sale Hearing establish good, just and sufficient cause for the

¹ Except as otherwise defined herein, capitalized terms that are used but not defined herein shall have the meanings ascribed to them in the Agreement, a copy of which is attached hereto as **Exhibit 1** and incorporated herein by reference.

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relief granted herein and that such relief is in the best interests of the Debtor, its creditors, the estate, and other parties in interest; and after due deliberation and sufficient cause therefor:

THE COURT FINDS AND CONCLUDES THAT:

Jurisdiction, Final Order, and Statutory Predicates

A. The findings and conclusions set forth in here constitute the Court's findings of fact and conclusions of law pursuant to Rule 7052 of the Bankruptcy Rules, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334.

C. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

D. Venue is proper in this District pursuant to 28 U.S.C. § 1408.

E. The bases for the relief requested in the Sale Motion are Bankruptcy Code sections 105(a), 363, 365, 503(b), and 507(a)(2) and Bankruptcy Rules 2002, 6004, and 6006(a).

F. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, the Court expressly finds for good cause shown that there is no cause or legitimate reason for delay in the implementation of this Sale Order, particularly given the lengthy and diligent efforts made by the Debtor to find another buyer for the Assets, and waives any stay or delay as set forth herein, including the stays provided for in Bankruptcy Rules 6004(h) and 6006(d).

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Retention of Jurisdiction

G. It is necessary and appropriate for the Court to retain jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Sale Order and the Agreement, including its related documents, all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtor is a party or which has been assigned by the Debtor to Purchaser, and to adjudicate, if necessary, any and all disputes involving the Debtor concerning or relating in any way to, or affecting, the Sale or the transactions contemplated in the Agreement, and related documents.

Corporate Authority; Consents and Approvals

H. The Debtor has, to the extent necessary or applicable, (a) the full corporate power and authority to execute and deliver the Agreement and all other documents contemplated thereby, (b) all corporate authority necessary to consummate the transactions contemplated by the Agreement, and (c) taken all corporate action necessary to authorize and approve the Agreement and the consummation of the transactions contemplated thereby. The Sale has been duly and validly authorized by all necessary corporate action. No internal consents or approvals, other than those expressly provided for in the Agreement, are required for the Debtor to consummate the Sale, the Agreement, or the transactions contemplated thereby, other than regulatory approvals required under applicable Illinois law.

Notice of Sale, Auction, Agreement, and Assumption and Assignment

I. Actual written notice of the Sale Motion, the Sale, the Auction, the Sale Hearing, and the transactions contemplated thereby, and a reasonable opportunity to object or be heard with respect to the Sale Motion and the relief requested therein, has been afforded to all known interested entities and parties, including, without limitation, the following entities and parties: (a) the Office of the United States Trustee for the Northern District of Illinois, 219 South Dearborn

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Street, Room 873, Chicago, IL 60604 (the “U.S. Trustee”); (b) counsel to the Bond Trustee; (c) the counterparties to the Assigned Contracts (the “Contract Counterparties”); (d) all parties who have expressed a written interest in the Assets; (e) all parties who are known or reasonably believed, after reasonable inquiry, to have asserted any lien, encumbrance, claim, or interest in the Assets; (f) the Internal Revenue Service; (g) the Illinois Department of Revenue; (h) all other applicable state and local taxing authorities; (i) all current residents and former residents with known claims against the Debtor; (j) the Debtor’s other creditors; (k) each governmental agency that is an interested party with respect to the Sale and transactions proposed thereunder; (l) all parties that have requested to receive notice; and (m) all parties that are required to receive notice pursuant to Bankruptcy Rule 2002.

J. In accordance with the provisions of the *Order (A) Approving Bid Procedures in connection with the Sale of Substantially All of the Debtor’s Assets, (B) Approving the Form and Manner of Notice Thereof, (C) Scheduling an Auction and a Sale Hearing, (D) Approving Procedures for the Assumption and Assignment of Contracts, and (E) Granting Related Relief* [Docket No. 153] (the “**Bid Procedures Order**”), the Debtor provided notice to the Contract Counterparties: (a) that the Debtor could potentially assume and assign the Assigned Contracts and the relevant Cure Amounts (as defined below) with respect thereto; and (b) of the Purchaser’s designation of the Assigned Contracts and the Debtor’s related intention to assume and assign such Assigned Contracts to the Purchaser on the Closing Date.

K. Service of such notices was good, sufficient, and appropriate under the circumstances, and no further notice need be given in respect of establishing a Cure Amount for the Assigned Contracts. Each of the Contract Counterparties has had an opportunity to object to

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the Cure Amounts set forth in the notice and to the assumption and assignment to Purchaser of the applicable Assigned Contracts.

L. The notice of the Auction and the Sale Hearing provided all creditors and other interested parties with timely and proper notice of the Sale, the Auction, and the Sale Hearing.

M. The Debtor has articulated and established good and sufficient cause and reasons for this Court to grant the relief requested in the Sale Motion regarding the sales process, including, without limitation: (i) determination of final Cure Amounts; and (ii) approval and authorization to serve notice of the Auction and Sale Hearing.

N. As evidenced by the certificates of service previously filed with the Court, proper, timely, adequate, and sufficient notice of the Sale Motion, the Sale, the Auction, the Sale Hearing, and the transactions contemplated thereby, including, without limitation, the assumption and assignment of the Assigned Contracts to Purchaser, has been provided in accordance with the Bid Procedures Order; Bankruptcy Code sections 105(a), 363, and 365; and Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014. The notices described herein were good, sufficient, and appropriate under the circumstances, and no other or further notice of the Sale Motion, the Sale, the Auction, the Sale Hearing, or the assumption and assignment of the Assigned Contracts to Purchaser is or shall be required.

O. The disclosures made by the Debtor concerning the Sale Motion, the Agreement, the Auction, the Sale Hearing, the Sale, and the assumption and assignment of the Assigned Contracts to Purchaser were good, complete, and adequate. To the extent necessary, the Sale Motion and the *Declaration of Mike Flynn, Chief Executive Officer of the Debtor in support of the Debtor's First Day Pleadings* [Docket No. 16] together contain sufficient notices of the type of

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disclosure that would be required if the proposed sale were embodied in a plan of reorganization under Bankruptcy Code section 1125.

P. A reasonable opportunity to object and be heard with respect to the Sale and the Sale Motion, and the relief requested therein (including, without limitation, the assumption and assignment of the Assigned Contracts to Purchaser and any Cure Amounts relating thereto), has been afforded to all interested persons and entities, including the Notice Parties; *provided, however*, notwithstanding any provision to the contrary in this Sale Order, Morrison Management Specialists, Inc. (“Morrison”) shall be provided a reasonable opportunity to object and be heard pursuant to the Objection filed by Morrison [Docket No. 309] (the “Morrison Objection”), the pleadings related thereto and the continued proceedings set forth in the Court’s *Order Scheduling Briefing* [Docket No. 329] entered on November 8, 2023, or any subsequent orders of the Court.

Auction

Q. The Auction process set forth in the Bid Procedures Order afforded a full, fair, and reasonable opportunity for any entity to make a higher or otherwise better offer to purchase the Assets. The Auction was duly noticed and a reasonable opportunity has been given to any interested party to make a higher and better offer for the Assets. The Debtor received multiple Qualified Bids. Accordingly, pursuant to the Bid Procedures Order, the Auction commenced on October 20, 2023 and was adjourned and ultimately closed on October 24, 2023 after the Debtor announced that the Purchaser was determined to be the Successful Bidder and Lapis Municipal Opportunities Fund was designated as the backup bidder.

Good Faith of Purchaser

R. As demonstrated by the representations of counsel and other evidence proffered or adduced at the Sale Hearing, the Debtor and its advisors marketed the Assets to secure the highest and best offer. The terms and conditions set forth in the Agreement are fair, adequate, and

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reasonable, including the amount of the Purchase Price, which is found to constitute reasonably equivalent and fair value.

S. Purchaser is not an “insider” of the Debtor, as that term is defined in Bankruptcy Code section 101(31). No officer, director, manager, or other insider of the Debtor holds any interest in or is otherwise related to Purchaser.

T. The Debtor and Purchaser extensively negotiated the terms and conditions of the Agreement in good faith and at arm’s length. Purchaser is purchasing the Assets and has entered into the Agreement in good faith and is a good faith buyer within the meaning of Bankruptcy Code section 363(m), and is therefore entitled to the full protection of that provision, and otherwise has proceeded in good faith in all respects in connection with this proceeding in that, *inter alia*: (i) Purchaser recognized that the Debtor was free to deal with any other party interested in purchasing the Assets; (ii) Purchaser agreed to subject its bid to competitive bidding; (iii) all payments to be made by Purchaser and other agreements or arrangements entered into by Purchaser in connection with the Sale have been disclosed; (iv) Purchaser has not violated Bankruptcy Code section 363(n) by any action or inaction; (v) no common identity of directors or controlling stockholders exists between Purchaser and the Debtor; and (vi) the negotiation and execution of the Agreement was at arm’s length and in good faith.

U. Neither the Debtor nor Purchaser have engaged in any conduct that would cause or permit the Agreement to be avoided under Bankruptcy Code section 363(n). The Debtor and Purchaser were represented by their own respective counsel and other advisors during such arm’s length negotiations in connection with the Agreement and the Sale.

V. No party has objected to the Sale, the Agreement, or the Auction on the grounds of fraud or collusion.

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W. Accordingly, Purchaser is purchasing the Assets in good faith and is a good-faith buyer within the meaning of Bankruptcy Code section 363(m). Purchaser is therefore entitled to all protections afforded under Bankruptcy Code section 363(m).

Highest and Best Offer

X. The Debtor conducted a sale process in accordance with, and has otherwise complied fully in all respects with, the Bid Procedures Order. The sale process set forth in the Bid Procedures Order afforded a full, fair, and reasonable opportunity for any person or entity to make a higher or otherwise better offer to purchase the Assets. The Auction was duly noticed in a non-collusive, fair, and good-faith manner, and a reasonable opportunity has been given to any interested party to make a higher and better offer for the Assets.

Y. The Agreement constitutes the highest and best offer for the Assets and will provide a greater recovery for the Debtor's estate than would be provided by any other available alternative. The Debtor's determination that the Agreement constitutes the highest and best offer for the Assets constitutes a valid and sound exercise of the Debtor's business judgment.

Z. The Agreement represents a fair and reasonable offer to purchase the Assets under the circumstances of the Chapter 11 Case. No other entity or group of entities has offered to purchase the Assets and assume liabilities for greater overall value to the Debtor's estate than Purchaser.

AA. Approval of the Sale Motion and the Agreement and the consummation of the transactions contemplated thereby are in the best interests of the Debtor's estate, its creditors, and other parties in interest.

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BB. The Debtor has demonstrated compelling circumstances and a good, sufficient, prudent and sound business purpose and justification for the Sale prior to a plan of reorganization.

No Fraudulent Transfer or Merger

CC. The consideration provided by Purchaser pursuant to the Agreement (a) is fair and reasonable, (b) is the highest or best offer for the Assets, and (c) constitutes reasonably equivalent value (as defined in each of the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act, and Bankruptcy Code section 548).

DD. Purchaser is an independent legal entity separate and distinct from the Debtor. There are no common equity holders, directors, managers or officers. Both Debtor and Purchaser will continue to exist following the Closing. Purchaser is not a mere continuation of the Debtor or its estate, and there is no continuity of enterprise between Purchaser and the Debtor. Purchaser is not holding itself out to the public as a continuation of the Debtor. Purchaser is not a successor to the Debtor or its estate, and the Sale is not a consolidation, merger, or *de facto* merger of Purchaser and the Debtor under applicable non-bankruptcy law.

Validity of Transfer

EE. The consummation of the Sale and other transactions contemplated by the Agreement do not constitute a fraudulent or avoidable transfer of the Assets under the Bankruptcy Code or under the laws of the United States, any of its states, territories, or possessions, or the District of Columbia. Among other things, the Agreement was entered into openly and in accordance with the Bankruptcy Code and was not entered into for the purpose of hindering, delaying, or defrauding creditors. Neither the Debtor nor Purchaser are entering into the transactions contemplated by the Agreement fraudulently or for the purposes of statutory and common law fraudulent conveyance and fraudulent transfer claims.

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FF. The Debtor is the sole and lawful owner of the Assets. Subject to Bankruptcy Code section 363(f) (addressed below), the transfer of the Assets to Purchaser will be, as of the Closing Date, a legal, valid, and effective transfer of the Assets, which transfer vests or will vest Purchaser with all right, title, and interest of the Debtor to the Assets free and clear of any interest in such property of any entity or person (collectively, “**Interests**”) with such Interests attaching to the proceeds of the Sale to the same validity, priority and extent as existed prior to the Closing, including, without limitation: (a) all liens and encumbrances relating to, accruing, or arising at any time prior to the Closing Date, including but not limited to mechanics and other statutory liens (collectively, the “**Liens**”); and (b) all debts arising under, relating to, or in connection with any act of the Debtor or any claims (as defined in Bankruptcy Code section 101(5)), liabilities, obligations, demands, guarantees, options in favor of third parties, rights, contractual commitments, restrictions, interests, and matters of any kind and nature, whether arising prior to or subsequent to the commencement of the Chapter 11 Case, and whether imposed by agreement, understanding, law, equity, or otherwise (collectively, the “**Claims**”).

GG. For the avoidance of doubt, the terms “Liens” and “Claims,” as used in this Sale Order, include, without limitation, rights with respect to any Liens and Claims:

- (1) that purport to give any party a right of setoff or recoupment against, or a right or option to affect any forfeiture, modification, profit-sharing interest, right of first refusal, purchase or repurchase writer option, or termination of, any of the Debtor’s or Purchaser’s interest in the Assets, or any similar rights; or
- (2) in respect of taxes, restrictions, rights of first refusal, charges of interest of any kind and nature, if any, and including, without limitation, any restriction

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of use, voting, transfer, receipt of income, or other exercise of any of the attributes of ownership relating to, accruing, or arising at any time prior to the Closing Date, with the exception of Permitted Liens and Assumed Liabilities (as those terms are defined in the Agreement) that are expressly assumed by Purchaser pursuant to the Agreement.

I(H) For the further avoidance of doubt, Purchaser is expressly assuming responsibility for, and the Assets will be transferred subject to, the Cure Amounts due under executory contracts expressly assumed by Purchaser and any obligations thereunder arising at or after the Closing Date under the Assigned Contracts, as set forth in the Agreement, but no other executory contracts or other documents.

Section 363(f) Is Satisfied

II. The conditions of Bankruptcy Code section 363(f) have been satisfied in full; therefore, the Debtor may sell the Assets free and clear of any Interests in the property other than any Permitted Liens and Assumed Liabilities, subject to the terms contained herein.

JJ. Purchaser would not have entered into the Agreement, and would not consummate the transactions contemplated thereby, if the Sale of the Assets to Purchaser and the assumption of any Assumed Liabilities by Purchaser were not free and clear of all Interests, other than Permitted Liens and the Assumed Liabilities, or if Purchaser would, or in the future could, be liable for any of such Interests (other than the Permitted Liens and the Assumed Liabilities). Unless otherwise expressly included in the Permitted Liens, Assumed Contracts, or the Assumed Liabilities, or herein, Purchaser shall not be responsible for any Interests against the Debtor, its estate, or any of the Assets, including in respect of the following: (a) any labor or employment agreement; (b) any and all mortgages, deeds of trust, and other security interests, liens, attachments

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and other encumbrances, including but not limited to mechanics and other statutory liens; (c) intercompany loans and receivables among the Debtor and any of its affiliates (as defined in Bankruptcy Code section 101(2)); (d) any other environmental, employee, workers' compensation, occupational disease, or unemployment- or temporary disability-related claim, including, without limitation, claims that might otherwise arise under or pursuant to: (i) the Employee Retirement Income Security Act of 1974, as amended; (ii) the Fair Labor Standards Act; (iii) Title VII of the Civil Rights Act of 1964; (iv) the Federal Rehabilitation Act of 1973; (v) the National Labor Relations Act ("NLRA"); (vi) the Worker Adjustment and Retraining Notification Act of 1988; (vii) the Age Discrimination and Employee Act of 1967 and the Age Discrimination in Employment Act, as amended; (viii) the Americans with Disabilities Act of 1990; (ix) the Consolidated Omnibus Budget Reconciliation Act of 1985; (x) state discrimination laws; (xi) the unemployment compensation laws or any other similar state laws; or (xii) any other state or federal benefits or claims relating to any employment with the Debtor or its predecessor, if any; (xiii) Claims or Liens arising under any Environmental Law (as defined in the Agreement) with respect to the Debtor's business, Excluded Liabilities (as defined in the Agreement), the Assets, the Excluded Assets (as defined in the Agreement), or any assets owned or operated by the Debtor or any corporate predecessor of the Debtor, at any time prior to the Closing Date; (xiv) any bulk sales or similar law; (xv) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended; and (xvi) any statutory or common-law bases for successor liability.

KK. The Debtor may sell the Assets free and clear of all Interests in such property of any entity subject to the terms of this Order, including, without limitation, any Liens and Claims against the Debtor, its estate, or any of the Assets (other than the Permitted Liens and Assumed

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Liabilities) because, in each case, one or more of the standards set forth in Bankruptcy Code section 363(f)(1)-(5) has been satisfied. Those holders of Interests in the Assets, including, without limitation, holders of Liens and Claims against the Debtor, its estate, or any of the Assets, who did not object, or who withdrew their objections, to the Sale or the Sale Motion are deemed to have consented pursuant to Bankruptcy Code section 363(f)(2). All other holders of Interests (except to the extent that such Interests are Permitted Liens or Assumed Liabilities) are adequately protected by having their Interests, if any, in each instance against the Debtor, its estate, or any of the Assets, attached to the proceeds of the sale less reasonable, customary closings costs, not including (i) any closing costs that the Purchaser has expressly agreed to pay under the Agreement or (ii) any costs of the estate's professionals to the extent such professional is required to seek separate Bankruptcy Court approval of professional fees pursuant to 11 U.S.C. § 327 (the "Net Proceeds") received by the Debtor ultimately attributable to the Assets in which such party alleges an Interest, in the same order of priority, with the same validity, force, and effect that such Interests had prior to the Closing, subject to any claims and defenses the Debtor and its estate may possess with respect thereto. In addition, the Assets can be sold pursuant to Bankruptcy Code sections 363(f)(1), 363(f)(2), 363(f)(3), 363(f)(4) and 363(f)(5), as applicable.

Assumption and Assignment of the Assigned Contracts

LL. The assumption and assignment of the Assigned Contracts, which are listed on Exhibit 2 attached, pursuant to the terms of this Sale Order and the Agreement is integral to the Sale and is in the best interest of the Debtor and its estate, its creditors, and all of the parties in interest, and represents the reasonable exercise of sound and prudent business judgment by the Debtor.

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MM. Unless otherwise agreed and stated on the record at the Sale Hearing, the respective amounts set forth in the *Second Amended Notice to Counterparties to Executory Contracts and Unexpired Leases that May Potentially Be Assumed and Assigned and Regarding Cure Amounts with respect thereto* [Docket No. 227] (the “**Cure Notice**”) hereto reflects the sole amounts necessary under Bankruptcy Code section 365(b) to cure all monetary defaults and pay all pecuniary losses under the Assigned Contracts (collectively, the “**Cure Amounts**”), and no other amounts are or shall be due or may be charged by a Contract Counterparty in connection with the assumption by the Debtor in the assignment to Purchaser of the Assigned Contracts.

NN. Pursuant to the terms of the Agreement, Purchaser shall: (a) to the extent necessary, cure or provide adequate assurance of cure, of any default existing prior to the date hereof with respect to the Assigned Contracts, within the meaning of Bankruptcy Code sections 365(b)(1)(A) and 365(f)(2)(A); and (b) to the extent necessary, provide adequate assurance of compensation to any Contract Counterparty for any actual pecuniary loss to such party resulting from a default prior to the date hereof with respect to the Assigned Contracts, within the meaning of Bankruptcy Code sections 365(b)(1)(B) and 365(f)(2)(A).

OO. As of the Closing Date, subject only to the payment of the Cure Amounts, as determined in accordance with the procedures identified in the Bid Procedure Order and the Agreement, each of the Assigned Contracts will be in full force and effect and enforceable by Purchaser against any Contract Counterparty thereto in accordance with its terms and by the Contract Counterparty against the Purchaser; *provided, however*, if the Purchaser fails to satisfy Cure Amounts with respect to any Assigned Contracts on or before 14 days after the Closing Date, such contract(s) may be deemed rejected.

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PP. The Debtor has, to the extent necessary, satisfied the requirements of Bankruptcy Code sections 365(b)(1) and 365(f) in connection with the Sale, the assumption and assignment of the Assigned Contracts, and shall upon assignment thereto on the Closing Date, be relieved from any liability for any breach thereof.

QQ. Purchaser has demonstrated that it has the financial wherewithal to fully perform and satisfy the obligations under the Assigned Contracts as required by Bankruptcy Code sections 365(b)(1)(C) and 365(f)(2)(B). Pursuant to Bankruptcy Code section 365(f)(2)(B), Purchaser has provided adequate assurance of future performance of the obligations under the Assigned Contracts.

RR. Purchaser's promise to pay the Cure Amounts and to perform the obligations under the Assigned Contracts after the Closing Date constitutes adequate assurance of future performance within the meaning of Bankruptcy Code sections 365(b)(1)(C) and 365(f)(2)(B).

Sound Business Purpose for the Sale

SS. Good and sufficient reasons for approval of the Agreement and the Sale have been articulated. The relief requested in the Sale Motion is in the best interests of the Debtor, its estate, its creditors, and other parties in interest.

TT. The Debtor has demonstrated both (a) good, sufficient, and sound business purposes, reasons and justifications for approving the Agreement, and (b) compelling circumstances for the Sale outside the ordinary course of business, pursuant to Bankruptcy Code section 363(b).

Compelling Circumstances for the Sale Timing

UU. To maximize the value of the Assets and preserve the viability of the business to which the Assets relate, it is essential that the Sale of the Assets occur within the time constraints set forth in the Agreement and the *Final Order (I) Granting (A) Replacement Liens and*

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Superpriority Claims and (B) Adequate Protection; (II) Authorizing Use of Cash Collateral; (III) Modifying the Automatic Stay; and (IV) Granting Related Relief [Docket No. 207] (the “**Final Cash Collateral Order**”), which provides that the Debtor’s failure to meet the deadlines established by the Bid Procedures Order will constitute an event of default. Time is of the essence in consummating the Sale.

VV. Given all of the circumstances of the Chapter 11 Case and the adequacy and fair value of the Purchase Price under the Agreement, the proposed Sale of the Assets to Purchaser constitutes a reasonable, prudent, and sound exercise of the Debtor’s business judgment and should be approved.

WW. The consummation of the Sale and the assumption and assignment of the Assigned Contracts is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation Bankruptcy Code sections 105(a), 363(b), 363(f), 363(m), and 365, Bankruptcy Rule 6004 and all of the applicable requirements of such sections and rules have been complied with in all respects.

XX. The Sale does not constitute a *sub rosa* or *de facto* chapter 11 plan. The Sale does not propose to: (i) impair or restructure existing debt of, or equity interests in, the Debtor; (ii) impair or circumvent voting rights with respect to any future plan proposed by the Debtor; (iii) circumvent chapter 11 plan safeguards, such as those set forth in Bankruptcy Code sections 1125 and 1129; or (iv) classify claims or equity interests, compromise controversies, or extend debt maturities. Accordingly, the Sale neither impermissibly restructures the rights of the Debtor’s creditors, nor impermissibly dictates a liquidating chapter 11 plan for the Debtor.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED

THAT:

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General Provisions.

1. **Relief Granted.** The relief requested in the Sale Motion and the transactions contemplated thereby and by the Agreement are approved for the reasons set forth in and subject to the terms of this Sale Order and on the record of the Sale Hearing, which is incorporated herein as if fully set forth in this Sale Order.

2. **Objections Overruled.** Except as otherwise expressly provided in this Sale Order, all objections to the Sale Motion and the relief requested therein that have not been withdrawn, waived, or settled by announcement to the Court during the Sale Hearing or by stipulation filed with the Court, including, without limitation, any and all reservations of rights included in such objections or otherwise, are hereby denied and overruled on the merits, with prejudice. Those parties who did not object, or withdrew their objections, to the Sale Motion are deemed to have consented pursuant to Bankruptcy Code section 363(f)(2).

3. **Sale Order and Agreement Binding on All Parties.** This Sale Order and the Agreement shall be binding in all respects upon all creditors of and holders of equity interests in the Debtor (whether known or unknown), agents, trustees and collateral trustees, holders of Interests in, against, or on the Assets, or any portion thereof, all Contract Counterparties and any other non-Debtor parties to any contracts with the Debtor (whether or not assigned), all successors and assigns of the Debtor, and any subsequent trustees appointed in the Chapter 11 Case or upon a conversion of the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code and shall not be subject to rejection or unwinding. Nothing in any chapter 11 plan confirmed in the Chapter 11 Case, the confirmation order confirming any such chapter 11 plan, any order approving the wind down or dismissal of the Chapter 11 Case or any subsequent case under Chapter 7 of the Bankruptcy Code, or any order entered upon the conversion of the Chapter 11 Case to a case under

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chapter 7 of the Bankruptcy Code or thereafter or otherwise shall vacate, conflict with or derogate from the provisions of the Agreement or this Sale Order.

Approval of the Agreement

4. **Agreement Approved.** The Agreement and all other ancillary documents, and all of the terms and conditions thereof, are hereby approved.

5. **Authorization to Consummate Transactions.** Pursuant to Bankruptcy Code sections 363(b) and (f), the Debtor is authorized, empowered, and directed to use its best efforts to take any and all actions necessary or appropriate to (a) consummate the Sale pursuant to and in accordance with the terms and conditions of the Agreement, (b) close the Sale as contemplated in the Agreement and this Sale Order, and (c) execute and deliver, perform under, consummate, implement, and fully close the Agreement, including the assumption and assignment to Purchaser of the Assigned Contracts, in accordance with the procedures set forth in the Agreement, together with additional instruments and documents that may be reasonably necessary or desirable to implement the Agreement and the Sale.

Transfer of the Assets

6. **Transfer of the Assets Authorized.** Pursuant to Bankruptcy Code sections 105(a), 363(b), and 363(f), the Debtor is authorized and directed to transfer the Assets to Purchaser on or as soon as reasonably practicable after the Closing Date, and such transfer shall constitute a legal, valid, binding, and effective transfer of such Assets and shall vest Purchaser with title to the Assets.

7. **Surrender of Assets by Third Parties.** All persons and entities that are in possession of some or all of the Assets on the Closing Date are directed to surrender possession of such Assets to Purchaser or its assignee at the Closing. On the Closing Date, each of the Debtor's creditors are authorized and directed to execute such documents and take such other actions as may be reasonably necessary to release their Interests in the Assets, if any, as such Interests may

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have been recorded or may otherwise exist with such Interests attaching to the Net Proceeds in the same validity, priority and extent that existed prior to the Closing. All persons are hereby forever prohibited and enjoined from taking any action that would adversely affect or interfere with the ability of the Debtor to sell and transfer the Assets to Purchaser in accordance with the terms of the Agreement and this Sale Order.

8. **Net Proceeds.** All Net Proceeds will be held by the Debtor pending further order of the Court, with all Interests attaching to such proceeds with the same validity, priority, and extent as existed with respect to the Assets prior to the Closing; *provided, however*, that the Agreement provides for \$2,000,000 to be held in trust or deposited into escrow for the benefit of holders of claims based on residency agreements with former residents. Notwithstanding the foregoing or anything to the contrary herein, this Order does not limit, avoid, or expand any rights or interests that parties and creditors of the Debtor, including, without limitation, the Bond Trustee and LEAF Capital Funding, LLC, may have in such funds and all such rights and interests are preserved.

9. **Transfer Free and Clear of Interests.** Upon the Debtor's receipt of the Purchase Price, and other than Permitted Liens and Assumed Liabilities specifically set forth in the Agreement, the transfer of the Assets to Purchaser shall be free and clear of all Interests of any kind or nature whatsoever, including, without limitation, (a) successor or successor-in-interest liability, (b) Claims in respect of the Excluded Liabilities, and (c) any and all Contracts not assumed and assigned to Purchaser pursuant to the terms of the Agreement, with all such Interests to attach to Net Proceeds with the same validity, force, and effect, and in the same order of priority, which such Interests now have against the Assets, subject to any rights, claims, and defenses that the Debtor or its estate, as applicable, may possess with respect thereto.

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10. **Legal, Valid, and Marketable Transfer with Permanent Injunction.** The transfer of the Assets to Purchaser pursuant to the Agreement constitutes a legal, valid, and effective transfer of good and marketable title of the Assets, and vests, or will vest, Purchaser with all right, title, and interest to the Assets, free and clear of all Interests with such Interests attaching to the Net Proceeds with the same validity, priority, and extent as existed with respect to the Assets prior to the Closing. All entities or persons holding Interests or Claims of any kind or nature whatsoever against the Debtor or the Assets, the operation of the Assets prior to the Closing Date, or the Sale are hereby and forever barred, estopped, and permanently enjoined from asserting against Purchaser, its successors or assigns, its property, or the Assets, any Claim, Interest or liability existing, accrued, or arising prior to the Closing other than with respect to Permitted Liens, Assumed Liabilities and Assigned Contracts.

11. **Recording Offices and Releases of Interests.** On the Closing Date, this Sale Order shall be construed and shall constitute for any and all purposes a full and complete assignment, conveyance, and transfer of the Assets or a bill of sale transferring good and marketable title of the Assets to Purchaser subject to the terms hereof and the Agreement. This Sale Order is and shall be effective as a determination that, on the Closing Date, all Interests of any kind or nature whatsoever existing as to the Assets prior to the Closing Date, other than Permitted Liens, Assumed Contracts, and Assumed Liabilities shall have been unconditionally released, discharged, and terminated, with all such Interests attaching to the Net Proceeds with the same validity, priority, and extent as existed with respect to the Assets prior to the Closing, and that the conveyances described herein have been affected. This Sale Order is and shall be binding upon and govern the acts of the Debtor, the Purchaser, all creditors and other parties in interest and all other persons and entities, including, without limitation, all filing agents, filing officers, title

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agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, clerks of courts, administrative agencies, governmental departments, secretaries of state, federal and local officials, and all other persons who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing persons is hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Agreement. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Agreement. A certified copy of this Sale Order may be: (a) filed with the appropriate clerk; (b) recorded with the recorder; and/or (c) filed or recorded with any other governmental agency to act to cancel any Interests against the Assets, other than the Permitted Liens.

12. **Cancellation of Third-Party Interests.** If any person or entity which has filed statements or other documents or agreements evidencing Interests or in all or any portion of the Assets (other than with respect to Permitted Liens, Assumed Contracts, or Assumed Liabilities) has not delivered to the Debtor prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of liens and easements, and any other documents necessary for the purpose of documenting the release of all Interests which such person or entity has or may assert with respect to all or a portion of the Assets, the Debtor and Purchaser are authorized to execute and file such statements, instruments, releases and other documents on behalf of such person or entity with respect to the Assets. Notwithstanding the foregoing, the provisions of this Sale Order authorizing the transfer of the Assets free and clear

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of all Interests (except only for Permitted Liens, Assumed Contracts, and Assumed Liabilities) with the attachment of such Interests attaching to the Net Proceeds with the same validity, priority, and extent as existed with respect to the Assets prior to the Closing, shall be self-executing, and it shall not be, or be deemed, necessary for any person or entity to execute or file releases, termination statements, assignments, consents, or other instruments in order for the provisions of this Sale Order to be implemented.

Assumption and Assignment of Contracts

13. **Authorization to Assume and Assign.** Upon the Closing, the Debtor is authorized and directed, in accordance with Bankruptcy Code sections 105(a), 363, and 365, to assume and assign each of the Assigned Contracts to Purchaser free and clear of all Interests as of the Closing Date, subject to the terms of this Order, in accordance with the Agreement. The payment of the applicable Cure Amounts (if any) by Purchaser on account of an Assigned Contract shall (a) effect a cure or adequate assurance of cure of all defaults existing thereunder as of the date on which the Debtor filed its voluntary petitions for relief under chapter 11 of the Bankruptcy Code (the “**Petition Date**”), and (b) compensate for any actual pecuniary loss to such Contract Counterparty resulting from such default. Purchaser shall then have assumed the Assigned Contracts without any further pre-assumption duties, financial liabilities or other obligations and, pursuant to Bankruptcy Code section 365(f), the assignment by the Debtor of such Assigned Contracts shall not be a default thereunder. After the payment of the relevant Cure Amounts, neither the Debtor, nor Purchaser, shall have any further liabilities to the Contract Counterparties, other than Purchaser's obligations under the Assigned Contracts, that accrue and become due and payable on or after the Closing Date.

14. **Assignment Requirements Satisfied.** The Assigned Contracts shall be transferred to, and remain in full force and effect for the benefit of, Purchaser, in accordance with their

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respective terms, notwithstanding (a) any provision in any such Assigned Contract (including provisions of the type described in Bankruptcy Code sections 365(b)(2), (e)(1) and (f)(1)) which prohibits, restricts or conditions such assignment or transfer, or (b) any default by the Debtor prior to Closing under any such Assigned Contract or any disputes between the Debtor and a Contract Counterparty with respect to any such Assigned Contract arising prior to Closing. In particular, any provisions in any Assigned Contract that restrict, prohibit or condition the assignment of such Assigned Contract or allow the Contract Counterparty to such Assigned Contract to terminate, recapture, impose any penalty, condition on renewal or extension or modify any term or condition upon the assignment of such Assigned Contract, constitute unenforceable anti-assignment provisions that are void and of no force and effect.

15. **Consent to Assign.** The Contract Counterparties to each Assigned Contract shall be and hereby are deemed to have consented to such assumption and assignment under Bankruptcy Code section 365(c)(1)(B) or this Court has determined that no such consent is required, and Purchaser shall enjoy all of the rights and benefits under each such Assigned Contract as of the Closing Date without the necessity of obtaining the Contract Counterparty's written consent to the assumption and assignment thereof.

16. **Section 365(k).** Upon the Closing and the payment of the applicable Cure Amount with respect to an Assigned or assignable Contract, Purchaser shall be deemed to be substituted for the Debtor as a party to the Assigned Contracts as of the Closing Date and the Debtor and its estate shall be relieved, pursuant to Bankruptcy Code section 365(k), from any further liability under the Assigned Contracts.

17. **No Default.** Subject to the terms hereof with respect to the Cure Amounts, all defaults or other obligations of the Debtor under the Assigned Contracts arising or accruing prior

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to the Closing Date have been cured or shall promptly be cured by the Debtor in accordance with the terms hereof and the Agreement such that Purchaser shall have no liability or obligation with respect to any default or obligation arising or accruing under any Assigned Contract prior to the Closing Date, except to the extent expressly provided in the Agreement, except for Purchaser's payment of the Cure Amounts. Each party to an Assigned Contract is forever barred, estopped, and permanently enjoined from asserting against Purchaser or its property or affiliates, or successors and assigns, any breach or default under any Assigned Contract, any claim of lack of consent relating to the assignment thereof, or any counterclaim, defense, setoff, right of recoupment, or any other matter arising prior to the Closing Date for such Assigned Contract or with regard to the assumption and assignment therefore pursuant to the Agreement or this Sale Order. Upon the payment of the applicable Cure Amount, if any, the Assigned Contracts will remain in full force and effect, and no default shall exist under the Assigned Contracts nor shall there exist any event or condition which, with the passage of time or giving of notice, or both, would constitute such a default.

18. **Adequate Assurance Provided.** The requirements of Bankruptcy Code sections 365(b)(1) and 365(f)(2) are hereby deemed satisfied with respect to the Assigned Contracts based on Purchaser's evidence of its financial condition and wherewithal and without any further action by Purchaser, including but not limited to any other or further deposit. Pursuant to Bankruptcy Code section 365(f), Purchaser has provided adequate assurance of future performance of the obligations under the Assigned Contracts.

19. **No Fees.** There shall be no rent accelerations, assignment fees, increases or any other fees or other charges of any nature whatsoever assessed against or imposed on Purchaser or the Debtor because of the assumption and assignment of the Assigned Contracts.

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20. **Injunction.** Pursuant to Bankruptcy Code sections 105(a), 363, and 365, other than the right to payment of the Cure Amounts, if any, all Contract Counterparties are forever barred and permanently enjoined from raising or asserting against the Debtor or Purchaser any assignment fee, default, breach or claim, or pecuniary loss arising under or related to the Assigned Contracts existing as of the Petition Date or any assignment fee or condition to assignment arising by reason of the Closing.

21. **Resident Agreements.** Resident Agreements will be treated consistent with the terms of the Agreement. For the avoidance of doubt, any Residency Agreements between the Debtor and residents (i) who are currently residing at the Community as of the Closing Date will be assumed, on modified terms, so long as such residents agree to be bound by the modified terms; and (ii) who are not currently residing at the Community as of the Closing Date, and thus are “former residents”, will be rejected.

22. **Contract Objections.** Each Contract Counterparty is deemed to have consented to such Cure Amount. Each Contract Counterparty is deemed to have consented to the assumption and assignment, and Purchaser shall be deemed to have demonstrated adequate assurance of future performance with respect to, such Assigned Contracts pursuant to Bankruptcy Code sections 365(b)(1)(C) and 365(f)(2)(B). Nothing in this Sale Order, the Sale Motion, or in any notice or any other document is, or shall be, deemed an admission by the Debtor that any Assigned Contract is an executory contract or unexpired lease, or must be assumed and assigned pursuant to the Agreement in order to consummate the Sale.

23. **Reservation of Rights.** Notwithstanding anything herein to the contrary, and subject to the Agreement, within five (5) Business Days of the Closing Date, Purchaser may remove any contract or lease from **Exhibit 3** (and thereby exclude such executory contract from

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the definition of Assigned Contracts). The Debtor shall file a schedule of the Assigned Contracts reasonably promptly after the Closing Date and shall supplement such schedule from time to time in accordance with this Sale Order.

24. **No Further Debtor Liability.** Except as provided in the Agreement or in this Sale Order, after the Closing, the Debtor and its estate shall have no further liabilities or obligations with respect to any Assumed Liabilities, and all holders of such Claims are forever barred and estopped from asserting such Claims against the Debtor, its successors or assigns, its property, or the Debtor's estate.

25. **No Waiver of Rights.** The failure of the Debtor or Purchaser to enforce, at any time, one or more terms or conditions of any Assigned Contracts shall not be a waiver of any such terms or conditions, or of the Debtor's or Purchaser's rights to enforce every term and condition of the Assigned Contracts.

26. **Resolution with Cure Objection Parties.** This paragraph is intended to resolve pending cure objections of Morrison and the Estate of Raymond Jacobsen ("**Jacobsen Estate**") filed as Docket Numbers 231 and 232, respectively. The Debtor has determined that it will not assume the contract with Morrison and, notwithstanding any language to the contrary under the Agreement, upon the entry of this Order, the contract between the Debtor and such counterparty shall be deemed rejected as of the Closing Date and the Debtor will not have the right to assume the contract. To resolve the Jacobsen Estate's cure objection, the Debtor agrees that the contract between the Debtor and the former resident, Raymond Jacobsen, shall not be treated as an executory contract that may be rejected or assumed under Bankruptcy Code section 365.

27. **No Successor Liability.** Except for the Permitted Liens, Assumed Contracts, and Assumed Liabilities set forth in the Agreement, or as otherwise expressly provided for in this Sale

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Order or the Agreement, Purchaser shall not have any liability or other obligation of the Debtor arising under or related to any of the Assets for any reason or under any theory, including without limitation, alter ego, de facto merger, piercing the corporate veil or any other form of successor liability. Without limiting the generality of the foregoing, and except as otherwise expressly provided herein or in the Agreement, Purchaser shall not be liable for any Claims against the Debtor or any of its predecessors or affiliates, and Purchaser shall have no successor or vicarious liabilities of any kind or character, including, without limitation, under any theory of antitrust, environmental, successor, or transfer reliability, labor law, de facto merger, mere continuation, or substantial continuity, whether known or unknown as of the Closing Date, now existing, or hereafter arising, whether fixed or contingent, whether asserted or unasserted, whether legal or equitable, whether liquidated or unliquidated, including, without limitation, liabilities on account of warranties, intercompany loans, receivables among the Debtor and its affiliates, environmental liabilities, and any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of any of the Assets prior to the Closing; *provided, however*, that the release of prior liabilities in this paragraph is limited by what is permitted under applicable law.

28. **Actions Against Purchaser Enjoined.** Except with respect to Permitted Liens, Assumed Contracts, and Assumed Liabilities set forth in the Agreement, or as otherwise permitted by the Agreement or this Sale Order, all persons and entities, including, without limitation, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade creditors, litigation claimants, and other creditors, holding Interest of any kind or nature whatsoever against, or in, all or any portion of the Assets, arising under, out of, in connection with, or in any way relating to, the Debtor, the Assets, the operation of the Debtor's business prior to the Closing Date, or the transfer of the Assets to Purchaser, hereby are forever barred, estopped,

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and permanently enjoined from asserting against Purchaser, or any of its affiliates, successors, or assigns, or their property or the Assets, such persons' or entities' Interests in and to the Assets, including, without limitation, the following actions against Purchaser or its affiliates, or their successors, assets, or properties: (a) commencing or continuing in any manner any action or other proceeding; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or other order; (c) creating, perfecting, or enforcing any Lien or other Claim; (d) asserting any set off, right of subrogation, or recoupment of any kind; (e) commencing or continuing any action, in any manner or place, that does not comply or is inconsistent with the provisions of this Sale Order or other orders of this Court, or the agreements or actions contemplated or taken in respect thereof; or (f) revoking, terminating, or failing or refusing to transfer or renew any license, permit, or authorization to operate any of the Assets or conduct any of the business operated with the Assets.

29. Assumption and Assignment of Medicare Provider Agreements

a. *Assumption and Proposed Assignment of Medicare Provider Agreements.*

Per this Sale Order and the Agreement, Debtor shall assume the Medicare provider agreements of its skilled nursing facility ("SNF") and outpatient therapy clinic ("Clinic") at the Closing, and assign to Purchaser in accordance with this section. The sale of the SNF and Clinic to the Purchaser will constitute a Change of Ownership ("CHOW") within the meaning of 42 C.F.R. § 489.18, meaning that the Medicare provider agreements may be assigned to the successor owner without interruption in the SNF's and Clinic's Medicare participation subject to Medicare's requirements. Throughout the assumption, assignment, and CHOW process, Debtor and Purchaser will comply with all applicable Medicare

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program requirements as set forth in Title XVIII the Social Security Act, 42 U.S.C. § 1395 *et seq.* (“**Medicare Act**”), and all relevant rules and regulations.

b. ***Agreement in Lieu of Cure.*** Notwithstanding any other provision of the Sale Order or Agreement, Debtor shall assume and assign the above-referenced Medicare provider agreements to Purchaser and, in lieu of payment of a specific cure amount to cure any monetary defaults under these Medicare provider agreements (to the extent any such defaults exist), the Purchaser shall accept assignment in accordance with and subject to all terms and requirements incorporated in the Medicare provider agreements, including Medicare’s statutes, regulations, policies, and procedures, including CMS’s rights of recoupment and setoff of any overpayments. For the avoidance of doubt, each assigned Medicare Provider Agreement remains subject to all applicable statutes and regulations and to the terms and conditions under which it was originally issued, and the transfer thereof is not free and clear of all Medicare duties, obligations and liabilities thereunder. The United States, and its component agencies, the U.S. Department of Health and Human Services and Centers for Medicare & Medicaid Services (“**CMS**”), may collect such amounts in the manner provided for under the Medicare Act and federal law, notwithstanding any discharge or other relief provided to Debtor in the Chapter 11 Case, and irrespective of whether the amounts owed arose prior to or after Closing. In addition, to cure nonmonetary defaults (if any) and assure adequate future performance under the Medicare provider agreements, the Medicare providers, whether owned by Debtor or Purchaser, shall continue their participation in the Medicare program in the ordinary course of business in compliance with all applicable Medicare program requirements as set forth in the Medicare Act, as well as all relevant regulations, policies, and procedures.

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c. ***Timing of CHOW Approval and Arrangements Between Debtor and Purchaser.*** After the CHOW date occurs, CMS must determine whether to approve the CHOW in accordance with CMS's rules, regulations and procedures. If approved, the effective date of assignment would be the date of the CHOW within the meaning of 42 C.F.R. § 489.18. However, payment will not be made to the Purchaser until the relevant Medicare administrative contractor receives and implements a "tie in notice" confirming that CMS has approved the CHOW. Until that process is complete, Medicare payments may continue to be made to the Debtor as the Medicare providers of record. CMS is not a party to the Debtor's and Purchaser's terms of the sale and the allocation of Medicare overpayments and/or underpayments between themselves pursuant to the terms of the Sale Order or the Agreement. Because CMS is not a party to their arrangements, disagreements between the Debtor and the Purchaser regarding their rights and responsibilities under these arrangements may not affect CMS and its claims, rights and duties under Medicare statutes, rules, and regulations regarding Medicare providers, regardless of their ownership.

d. ***The Anti-Assignment Provisions of the Medicare Act.*** If any lender, creditor, or other entity were to seek direct payment from CMS or its Medicare contractors of reimbursement due the Medicare provider before, during or after the assumption and assignment of the Medicare provider agreements, that lender, creditor, or other entity must do so in accordance with the applicable anti-assignment provisions of the Medicare Act and CMS's implementing regulations. 42 U.S.C. §§ 1395g(c) & 1395u(b)(6); 42 C.F.R. §§ 424.73 & 424.90.

e. ***CMS Claims Unimpaired.*** All of CMS's claims shall pass through the Chapter 11 Case and the Sale unaffected and shall not be impaired within the meaning of

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11 U.S.C. § 1124, except as provided above with respect to the potential discharge of claims against the Debtor/Seller (but not the Purchaser). Any amounts due on CMS's claims may be collected from the Medicare providers in the ordinary course of business, and the United States, on behalf of CMS, shall not be required to file any separate claim in the bankruptcy to collect any amounts due to CMS under the Medicare program, whether via proof of claim, claim for cure, or administrative claim. Nothing in this Sale Order or the Agreement shall release or operate to enjoin any claim of the United States, on behalf of CMS, against the Debtor, the Purchaser, or any non-debtor.

f. ***The Medicare Act's Jurisdictional Limitations.*** Notwithstanding any other provisions of this Sale Order, the Sale Motion, the Plan, the Disclosure Statement, the Agreement, or any other sale-related documents, any disputes arising under the Medicare Act, 42 U.S.C. § 1395, *et seq.*, shall be governed exclusively by Medicare statutes, rules, regulations, and procedures for administrative and judicial review, without regard to the Bankruptcy Code or Bankruptcy Rules. Without regard to when the events giving rise to the issue or dispute occurred, the jurisdictional limitations of the Medicare Act shall apply. *E.g.*, 42 U.S.C. §§ 405(g),(h) & 1395ii. Such limitations include, but are not limited to presentment of claims and exhaustion of administrative remedies under the relevant statutory process for administrative review of Medicare provider enrollment, certification, reimbursement or other Medicare determinations. *See, e.g.*, 42 U.S.C. §§ 405(g), 1395cc(j)(8), 1395ff, 1395oo.

Provisions Pertaining to the State of Illinois

30. Nothing in this Order or the Agreement shall alter or modify obligations of the Debtor and Purchaser to comply with applicable state law, including, without limitation, Ill.

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Admin. Code tit. 77 Sections 295.400, 300.120, 300.150, and 295.1010, with respect to (a) review and approval of the Sale authorized by this Order or (b) the eligibility of any Purchaser to be a transferee of any license, permit, registration, or other authorization from the State of Illinois (the “**Permissions**”). The Purchaser shall be deemed to have acknowledged that review and necessary approvals or consents by the Illinois Department of Public Health are required for the Debtor to consummate the Sale and for a Closing to occur. Within three (3) Business Days of entry of this Order, the Purchaser shall file all applications and necessary documents to obtain Approvals of each applicable Governmental Authority. The Debtor acknowledges that, under Section 6.2 of the Agreement, obtaining the Approvals of each applicable Governmental Authority or assurances of issuance thereof, is a condition precedent to Purchaser’s obligation to affect a closing of the Sale unless such condition precedent is waived by the Purchaser.

31. The Purchaser shall further be deemed to have acknowledged that approvals may be required with respect to Permissions from the State of Illinois notwithstanding the listing or description of any Permits in the Agreement and that entry of this Order shall not authorize a transfer of Permissions, regardless of whether included within the definition of Permits in the Agreement, if, under applicable state law, the Purchaser is ineligible for or unqualified to receive such Permissions or, if qualified, has not satisfied all required conditions related thereto.

32. Notwithstanding anything to the contrary in the Agreement, any related documents, or this Order, nothing therein shall affect the State of Illinois’s rights of recoupment.

Provisions Pertaining to Morrison

33. Notwithstanding any other provision of this Sale Order or the Agreement, nothing in this Order or the Agreement shall alter or modify the rights of Morrison, if any, to or in any property or assets (collectively, the “**Morrison Objection Property**”) that are the subject of the

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Morrison Objection or any of the pleadings related thereto. Notwithstanding anything to the contrary in this Sale Order, any and all objections of Morrison set forth in the Morrison Objection or any of the pleadings related thereto are hereby preserved. Furthermore, to the extent that Morrison possesses any interests, liens or claims with respect to any of the assets or the Net Proceeds, such interests, liens, and claims are hereby preserved. Any resolution of the Morrison Objection shall be subject to approval by the Court and all parties-in-interest reserve all rights to object any such settlement. Notwithstanding anything to the contrary herein nothing in this Sale Order shall authorize the Debtor to sell any assets that do not constitute property of the Debtor's estate.

Other Provisions

34. **Effective Date.** The Debtor and Purchaser may consummate the Agreement at any time after entry of this Sale Order by waiving any and all closing conditions set forth in the Agreement that have not been satisfied and by proceeding to close the Sale without any notice to the Court, any prepetition or postpetition creditor of the Debtor and/or any other party in interest.

35. **Indemnity Holdback.** Following the Closing of the Sale, all of the Debtor's accounts receivable relating to periods ending on or before the Effective Time (as defined in Section 2.7 of the Agreement), and collected after the Effective Time (whether collected by the Debtor or Purchaser) shall be deposited into the Indemnity Escrow Account until a total of \$500,000 has been deposited into the Indemnity Escrow Account. The funds held in the Indemnity Escrow Account shall be maintained and disbursed in accordance with Section 5.11 of the Agreement. The Debtor or Plan Administrator shall provide Purchaser with copies of bank statements reflecting the balance of the Indemnity Escrow Account upon request.

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36. **Access to Books and Records.** Following the Closing of the Sale, the Purchaser shall have, and the Debtor shall provide, reasonable access to its books and records, to the extent they are included in the Purchased Assets (as defined in Section 2.1 of the Agreement).

37. **Bulk Sales Law.** No bulk sales law or any similar law of any state or other jurisdiction applies in any way to the Sale.

38. **Agreement Approved in Entirety.** The failure specifically to include any particular provision of the Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Agreement be authorized and approved in its entirety.

39. **Modifications to Agreement.** The Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto and in accordance with the terms thereof, in a writing signed by such parties, without further order of this Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtor's estate or its creditors and prior notice of such modification is provided to the Bond Trustee, the United States Attorney's Office for the Northern District of Illinois (as counsel for CMS), and the Official Committee of Unsecured Creditors.

40. **Standing.** The transactions authorized herein shall be of full force and effect, regardless of any Debtor's lack of good standing in any jurisdiction in which such Debtor is formed or authorized to transact business.

41. **Authorization to Effect Order.** The Debtor is authorized to take all actions necessary to effect the relief granted pursuant to this Sale Order in accordance with the Sale Motion.

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42. **Automatic Stay.** The automatic stay pursuant to Bankruptcy Code section 362 is hereby modified, lifted, and annulled with respect to the Debtor and Purchaser to the extent necessary, without further order of this Court, to (a) allow Purchaser to deliver any notice provided for in the Agreement, and (b) allow Purchaser to take any and all actions permitted under the Agreement in accordance with the terms and conditions thereof.

43. **No Other Bids.** No further bids or offers for the Assets shall be considered or accepted by the Debtor after the date hereof unless the Sale to Purchaser is not consummated or otherwise does not occur in accordance with the Agreement or its related documents.

44. **Order to Govern.** To the extent that this Sale Order is inconsistent with any prior order entered or pleading filed in the Chapter 11 Case, the terms of this Sale Order shall govern; *provided, however,* that nothing herein or in the Agreement shall alter, amend, modify, or vacate the Court's prior findings and/or rulings in the Final Cash Collateral Order solely with respect to the priority, validity, and extent of the Bond Trustee's security interest in, and liens on, the Assets, as applicable. To the extent there are any inconsistencies between the terms of this Sale Order and the Agreement (including all ancillary documents executed in connection therewith), the terms of this Sale Order shall govern.

Entered:



Date: November 22, 2023

Timothy A. Barnes,
Judge, United States Bankruptcy Court

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Exhibit 1 to Sale Order

COOK COUNTY
CLERK
RECORDING DIVISION

Property of Cook County Clerk's Office

COOK COUNTY
CLERK
RECORDING DIVISION

COOK COUNTY
CLERK
RECORDING DIVISION

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EXECUTION VERSION

Property of Cook County Clerk's Office

ASSET PURCHASE AGREEMENT

BY AND BETWEEN

**EVANGELICAL RETIREMENT HOMES OF GREATER CHICAGO, INC. D/B/A FRIENDSHIP VILLAGE OF
SCHAUMBURG, AN ILLINOIS NOT-FOR-PROFIT CORPORATION,**

AND

IL CCRC LLC, A DELAWARE LIMITED LIABILITY COMPANY

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the “**Agreement**”) is made and entered into as of October 24, 2023 (the “**Execution Date**”), by and between Evangelical Retirement Homes of Greater Chicago, Inc. d/b/a Friendship Village of Schaumburg, an Illinois not-for-profit corporation (“**FVS**” or “**Seller**”), and IL CCRC LLC, a Delaware limited liability company (“**Buyer**” or “**Purchaser**”). Seller and Buyer are sometimes individually referred to as a “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, Seller owns and operates a licensed continuing care retirement community with 815 units, comprised of 537 independent living units, 169 skilled nursing units, and 109 assisted living units (the “**Facility**”) located on or about 350 W Schaumburg Rd, Schaumburg, IL 60194, comprising approximately 70 acres (the “**Premises**”);

WHEREAS, Seller has filed a voluntary petition for relief (the “**Chapter 11 Case**”) under the Bankruptcy Code with the United States Bankruptcy Court for the Northern District of Illinois (the “**Bankruptcy Court**”), and has received approval of bid procedures (the “**Bid Procedures**” or the “**Bid Procedures Order**”) by the Bankruptcy Court, that provide Seller the right to designate a Stalking Horse, subject to higher and better bids; and

WHEREAS, Buyer desires to acquire the Facility, the Premises, and substantially all of the assets owned by Seller and used in Seller’s operation of the Facility (the “**Business**”) on the terms and conditions contained in this Agreement, and desires to act as the stalking horse pursuant to the Bid Procedures.

NOW, THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties hereby agree as follows:

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ARTICLE 1

DEFINITIONS

As used herein, the following terms have the meanings set forth below:

(a) **“Accounts Receivable”** means accounts receivable for goods and services rendered by Seller to the residents of the Facility or related to the Business, which term shall include out-of-pocket (self-pay) payments and commercial insurance payments, as well as any promissory notes.

(b) **“Accrued PTO”** has the meaning set out in Section 5.7.

(c) **“Action”** means any action, cause of action, claim, demand, summons, subpoena, proceeding, litigation, arbitration, mediation, suit, investigation or inquiry of any nature (whether civil, criminal, administrative, regulatory or judicial), or any appeal therefrom or any demand letter threatening the initiation of any of the foregoing, whether at law or in equity.

(d) **“Affiliate”** means, as to the Person in question, any Person that directly or indirectly controls, is controlled by or is under common control with, such Person in question, where the term “control” (including the terms “controlled by” and “under common control with”) means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

(e) **“Alternative Transaction”** means if Seller selects a bid by someone other than Buyer or its designee as the “highest and best offer” in accordance with the Bid Procedures Order and the sale of the Business to such other bidder closes.

(f) **“Approvals”** means all consents and approvals from any Governmental Authority, including without limitation any Governmental Authority with regulatory oversight of healthcare organizations, charitable trusts, or continuing care retirement communities, which are necessary for the transfer of the Purchased Assets or the operation of the Business, and including to the extent applicable, without limitation, the regulatory licensure and change in control approvals under Illinois law, all as set forth on Schedule 5.4.

(g) **“Assumed Contracts”** means, collectively, all of the rights and interests of Seller in and to the Contracts that Buyer designates for assumption and assignment, as listed on Schedule 5.10(b), and including, to the extent assignable, Seller’s Medicare Provider Agreement.

(h) **“Assumed Liabilities”** has the meaning set forth in Section 2.3.

(i) **“Bankruptcy Code”** means Title 11 of the United States Code entitled “Bankruptcy”, as now in effect.

(j) **“Bankruptcy Court”** has the meaning set forth in the recitals.

(k) **“Benefit Plan”** means each material bonus, commission, deferred compensation, severance pay, salary continuation, benefits continuation, retention agreement, retention plan, change of control, retention benefit, pension, profit sharing, retirement, insurance, incentive compensation, stock option, tuition, tuition reimbursement, dependent care assistance, legal assistance, fringe benefit (cash or non-cash), disability, medical, health, dental, hearing, death, life, death benefit, other retiree benefits, accidental death or dismemberment, vacation, holiday, sick leave, insurance, workers’ compensation, welfare plan, supplemental unemployment or other fringe benefit plan, fund, program, policy, arrangement or practice, or any other

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“employee benefit plan,” as defined in Section 3(3) of ERISA (determined without regard to whether such plan is subject to ERISA), and any “nonqualified deferred compensation plan” as defined in Section 409A of the Code that is maintained, sponsored, or contributed or required to be contributed to by Seller or for which Seller could be liable for (directly or indirectly) with respect to any of their respective current or former employees, officers, directors or consultants employed or providing services for the dependents or beneficiaries thereof.

- (l) “**Bid Procedures**” shall have the meaning set out in the preamble.
- (m) “**Bonds**” means the Schaumburg Bonds, the Guaranteed Bonds, and any obligations owed by Seller under the Master Indenture.
- (n) “**Bondholders**” means the beneficial holders of the Schaumburg Bonds and the Guaranteed Bonds.
- (o) “**Books and Records**” means all books, records and lists of Seller relating to the Purchased Assets and the Business, including, without limitation, (i) for the four (4) year period prior to the Closing Date, all records relating to suppliers or the Business (including, without limitation, customer and mailing lists, and current (and, upon request, prior) employee and personnel records)(and including records of the Business in the possession of FSC as Manager), and (ii) for the seven (7) year period prior to the Closing Date, all records relating to Former Residents and Current Residents, past and present employees or other personnel of Seller, and all accounts, books, ledgers, files, logs, reports, plans, drawings and other records of Seller pertaining to or used in the operations of the Facility, including, with limitation, any resident census reports, background checks, drug test results, I-9s or other employee records produced and maintained by Seller or any third party vendors; provided, however, that “Books and Records” shall not include the originals of Seller’s minute books, stock books and Tax returns, or email files that are not formal records.
- (p) “**Break-Up Fee**” means an amount equal to One Million Five Thousand Dollars (\$1,005,000), which shall be no more than three percent (3.0%) of the Closing Cash Purchase Price.
- (q) “**Business**” has the meaning set forth in the recitals.
- (r) “**Business Day**” means any day other than any Saturday, Sunday or legal holiday in Chicago, Illinois.
- (s) “**Chapter 11 Case**” has the meaning set forth in the recitals.
- (t) “**Closing**” has the meaning set forth in Section 2.6.
- (u) “**Closing Date**” has the meaning set forth in Section 2.6.
- (v) “**COBRA**” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.
- (w) “**Code**” means the Internal Revenue Code of 1986, as amended.
- (x) “**Commitments**” shall have the meaning set forth in Section 5.13(a).
- (y) “**Confidentiality Agreement**” has the meaning set forth in Section 8.3.

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(z) “**Contract**” means agreements, contracts, commitments, personal property leases, real property leases, and other arrangements to which Seller is a party, including without limitation the Residency Agreements and Option Agreements.

(aa) “**Contract Party**” has the meaning set forth in Section 5.9.

(bb) “**Cure Amounts**” means the amount necessary pursuant to 11 U.S.C. Section 365 to cure defaults under Assumed Contracts.

(cc) “**Current Resident**” means any individual who is a resident of the Facility as of the Closing Date.

(dd) “**Deposit**” has the meaning set forth in Section 2.6(b) and shall include any interest earned thereon.

(ee) “**Effective Time**” has the meaning set forth in Section 2.6.

(ff) “**Eligible Current Entrance Fee Residents**” means Current Residents who (i) are parties to Residency Agreements under which they would be owed an Entrance Fee Obligation in the future; and (ii) agree to and enter into a Modified Residency Agreement in accordance with the terms set forth in this Agreement. The amount of any refund for which an Eligible Current Entrance Fee Resident is entitled to receive pursuant to this Agreement shall be based on a percentage of the actual entrance fee amounts owed to them at such time as they become eligible to receive payment of the refund.

(gg) “**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended.

(hh) “**ERISA Affiliate**” means any Person, trade or business (whether or not incorporated) that together with Seller would be deemed a “single employer” within the meaning of Section 414(b), (c), (m), or (o) of the Code or under “common control” within the meaning of Section 4001(a)(14) of ERISA.

(ii) “**Endowment**” has the meaning set forth in Section 2.2(r).

(jj) “**Entrance Fee And Option Deposits**” means (i) entrance fee deposits, including reservation deposits, subject to Residency Agreements, (ii) deferred entrance fee arrangements and promissory notes issued by any Prospective Resident or Resident for the payment of entrance fee or reservation deposits, subject to Residency Agreements, and (iii) Option Deposits subject to the Option Agreements, all as described in the VDR, and subject to modification from time to time to include any additional entrance fees deposits, Option Deposits or arrangements from the Execution Date through the Closing Date.

(kk) “**Entrance Fee Obligations**” means all obligations owed to Residents pursuant to the Residency Agreements, including any refund obligations.

(ll) “**Equipment**” means all furniture, fixtures, equipment, machinery, vehicles, inventory, and other tangible personal property attached to or appurtenant to and/or used in connection with the operation of the Facility and the Business and owned by Seller, and all furniture, fixtures, equipment, machinery and other tangible personal property related to all dining areas and food and beverage service locations used in the operation of the Facility and the Business (and notwithstanding anything else in this Agreement, without regard to whether owned by Seller).

(mm) “**Escrow Agent**” means the Title Company.

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- (nn) “**Excluded Assets**” has the meaning set forth in Section 2.2.
- (oo) “**Expense Reimbursement**” means out of pocket expenses of Purchaser in an amount up to Three Hundred Thirty Five Thousand Dollars (\$335,000), which shall not exceed one (1%) percent of the Closing Cash Purchase Price.
- (pp) “**Facility Employees**” has the meaning set out in Section 5.7(a).
- (qq) “**Former Resident**” means any individual who (i) was a resident of the Facility prior to the Closing Date but is not a resident of the Facility as of the Closing Date, and (ii) has an outstanding claim with respect to any Residency Agreement.
- (rr) “**FSO**” means Friendship Senior Options, NFP, an Illinois not-for-profit corporation, the sole corporate member of Seller.
- (ss) “**FSO Management Agreement**” means that certain Exclusive Administrative Services and Personnel Lease Agreement between FSO and Seller.
- (tt) “**Gift Annuity Account**” means that certain account at Morgan Stanley referred to as the Friendship Village of Schaumburg Gift Annuity that constitutes both restricted and unrestricted funds, (anticipated to be in the amount of approximately Three Hundred Fifty-Two Thousand Dollars (\$352,000.00) as of the Execution Date).
- (uu) “**Governmental Authority**” means the Bankruptcy Court, any tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, any foreign country or any domestic or foreign state, county, city or other political subdivision.
- (vv) “**Government Health Program**” means any federal health program as defined in 42 U.S.C. § 1320a-7b(f), including, but not limited to, (i) Titles XVIII and XIX of the Social Security Act and Title XXI of the Social Security Act, (ii) the health care programs offered by the U.S. Department of Veterans Affairs, (iii) the Civilian Health and Medical Program of Uniformed Services and TRICARE programs, and (iv) similar successor programs that are funded, in whole or in part, by the government of the United States.
- (ww) “**Guaranteed Bonds**” means the outstanding Friendship Senior Options, NFP Taxable Bonds, Series 2017A (GreenFields of Geneva Project), Series 2017B (GreenFields of Geneva Project), and Series 2017C Bonds (GreenFields of Geneva Project).
- (xx) “**Guaranteed Bonds Trustee**” means Wilmington Trust, National Association, as successor trustee for the Guaranteed Bonds, and its successors and assigns in such capacity.
- (yy) “**Indemnity Escrow Account**” has the meaning set out in Section 5.11(a).
- (zz) “**Intellectual Property**” means all rights, title and interest of Seller and its Affiliates in and to any and all intellectual property and proprietary rights of Seller, including, without limitation, (i) trademarks, service marks, trade dress, logos, trade names and corporate names and other indicia of origin and corporate branding, patents, trade secrets, inventions and confidential business information (including ideas, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, business and marketing plans and proposals), software, Internet addresses, domain names, websites and web pages, and (ii) goodwill related to all of the foregoing, in each case to the extent owned by Seller and its Affiliates and used in the operation of the Business or related to the Purchased Assets; *provided that*, for the avoidance of doubt, in

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the case of any of the foregoing that is subject to lease or license, then to the extent such lease or license is an Assumed Contract.

(aaa) “**Inventory**” means all inventory and supplies of any kind or nature owned by Seller (specifically including, but not limited to, all legally transferable pharmacy supplies, nursing supplies, medical supplies, housekeeping supplies, laundry supplies, maintenance supplies, office supplies, dietary supplies, other supplies and food), whether or not prepaid, located at the Facility or used in connection with the operation of the Facility.

(bbb) “**Knowledge of Seller**” or “**Knowledge**” means the actual knowledge of Mike Flynn after reasonable inquiry.

(ccc) “**Lien**” means any security interest, pledge, mortgage, lien, charge, adverse claim of ownership or use, restriction on transfer (such as a right of first refusal or other similar right), defect of title, encroachments, or other encumbrance of any kind or character.

(ddd) “**MAC**” shall mean either (i) if there has been a reduction of twenty percent (20%) or more, for any reason, when comparing the aggregate occupancy for independent living, memory care, and assisted living Residents at FVS from the Execution Date to the Closing Date, or (ii) the loss, revocation, or termination of any Permits necessary or material to operate the Business in the manner operated on the Execution Date, or the cessation of any material part of the Business.

(eee) “**Master Indenture**” means the Master Trust Indenture dated as of July 15, 2005, as supplemented and amended to date, between Seller, as the sole Member of the Obligated Group created thereunder, and the Master Trustee, for purposes of providing for the Master Indenture Obligations.

(fff) “**Master Indenture Obligations**” means the Obligations issued and Outstanding under and as defined in the Master Indenture which, on the Execution Date, are (i) Seller’s Direct Note Obligation, Series 2017 (UMB Bank, National Association – Friendship Senior Options, NFP Guaranty) relating to the Guaranteed Bonds and (ii) Seller’s Direct Note Obligation, Series 2017-2 (Illinois Financing Authority) relating to the Schaumburg Bonds.

(ggg) “**Master Trustee**” means UMB Bank, National Association, in its capacity as Master Trustee under the Master Indenture, together with its successors and assigns.

(hhh) “**Material Contracts**” means all Contracts listed on Seller’s Schedule G in the Chapter 11 Case or on Seller’s Cure Notice filed as of August 31, 2023 (docket #227).

(iii) “**Necessary Consents**” has the meaning set forth in Section 5.9(c).

(jjj) “**Option Agreements**” means the Option Deposit Agreements between Seller and each Resident or Prospective Resident, setting forth the terms and conditions for the return of the Option Deposits of such Residents or Prospective Residents, and Seller’s rights in any funds in any escrow agreement(s) related thereto.

(kkk) “**Option Deposits**” means the amounts paid under Option Agreements and held in escrow by TMI Trust Company.

(lll) “**Parking Parcel**” means that certain parcel owned by Seller with the address of 460 W. Schaumburg Rd., and identified on Schedule 3.10, which constitutes a parking lot and undeveloped land, and sitting to the northwest of the Facility.

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(mmm) **"Permits"** means to the extent transferrable, all licenses, permits (including occupancy permits), certificates, registrations, approvals, franchises, consents and other authorizations of Seller obtained from or filed with a Governmental Authority and used in connection with the Business.

(nnn) **"Permitted Liens"** means (i) statutory Liens for Taxes, assessments or other governmental charges not yet due and payable, (ii) workers', repairers', landlords' and similar Liens which arose or were incurred in the ordinary course of business and which secure obligations which are not yet due and payable and which do not exceed \$10,000 in the aggregate, (iii) Liens included in the Assumed Liabilities, (iv) Liens which are created by Buyer, (v) matters shown on or in the Commitments, the Survey and/or in any Title Update that become Permitted Liens in accordance with Section 5.13 of this Agreement and (vi) Liens, if any, expressly assumed in writing by Buyer in its sole discretion.

(ooo) **"Person"** means any natural person, corporation, limited liability company, general partnership, limited partnership, sole proprietorship, trust, union, association, Governmental Authority or other business organization or entity.

(ppp) **"Premises"** has the meaning set out in the recitals, and includes Seller's fee interest in any and all land, buildings, structures, improvements, fixtures or other interest in real property which is owned by Seller and used in the Business.

(qqq) **"Prospective Resident"** means any natural person who has entered into a Residency Agreement, Option Agreement, or deposit agreement with Seller under which there is any continuing obligation to either such natural person or Seller, including without limitation any such agreements under which an Entrance Fee Obligation is due now or may be in the future, who has not yet moved into his or her unit.

(rrr) **"PTO"** means paid time off and sick time allowed under the employment policies of FSO where the Facility Employees are currently employed.

(sss) **"Purchase Price"** has the meaning set forth in Section 2.6(a).

(ttt) **"Purchased Assets"** has the meaning set forth in Section 2.1.

(uuu) **"Related Agreements"** means a bill of sale, an assignment and assumption agreement, a special warranty deed, a closing certificate and officer's certificate from Purchaser, and a closing certificate from Seller, each substantially in the form attached hereto as Exhibits A, B, C, D, E, and F, respectively, and other agreements, documents, and instruments related to the transactions contemplated herein.

(vvv) **"Residency Agreements"** means the agreements identified on Schedule 1.1(uuu) hereto, including to the extent there are any continuing obligations to any party thereto, (i) the continuing care contracts executed between Seller and each Resident detailing the residential and other rights and obligations of the Resident and the rights and obligations of Seller, including without limitation lifecare obligations and Entrance Fee Obligations; (ii) deposit agreements executed between Seller and certain Prospective Residents pursuant to which a Prospective Resident has put down a deposit toward or paid an entrance fee on an independent living unit; and (iii) the occupancy contract executed between each Resident of the assisted living, memory care, or long term nursing care units and Seller detailing the rights and obligations of the Resident and the rights and obligations of Seller thereunder, including without limitation, any lifecare obligations or Entrance Fee Obligations. For the avoidance of doubt, Residency Agreements include all agreements with Residents and Prospective Residents under which Seller currently owes or will owe contractual obligations to such Residents (whether such obligation has already triggered or will trigger in the future) and will be updated as of Closing to reflect any changes between the Execution Date and Closing.

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(www) “**Resident**” means a Current Resident or Former Resident of the Facility who is a party to a Residency Agreement.

(xxx) “**Resident Trust Funds**” shall mean the funds held in trust by Seller or its Affiliates for Residents at the Facility (but, for the avoidance of doubt, excluding any funds related to Entrance Fee And Option Deposits).

(yyy) “**Retained Liabilities**” has the meaning set forth in Section 2.4.

(zzz) “**Sale Order**” means an order to be entered by the Bankruptcy Court in the Chapter 11 Case approving the consummation of the transactions contemplated in this Agreement pursuant to Sections 363(b), 363(f) and 365 of the Bankruptcy Code substantially in the form attached hereto as Exhibit G.

(aaa) “**Schaumburg Bonds**” means the outstanding Illinois Finance Authority Revenue Bonds, Series 2017 (Friendship Village of Schaumburg).

(bbb) “**Schaumburg Bonds Trustee**” means UMB Bank, National Association, as trustee for the Schaumburg Bonds, and its successors and assigns in such capacity.

(ccc) “**Survey**” means that survey issued by IG Consulting, Inc. dated as of June 9, 2023.

(ddd) “**Taxes**” means any and all taxes, fees, levies, duties, tariffs, import charges and other charges imposed by any taxing authority, together with any related interest, penalties or other additions thereto, or additional amounts imposed by any taxing authority, and without limiting the generality of the foregoing, shall include net income alternative or add-on minimum tax, gross income, gross receipts, sales, use, ad valorem, value added, franchise, profits, license, transfer, recording, escheat, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, windfall profit, environmental, custom, duty, or other tax, governmental fee or other like assessment or charge of any kind whatsoever.

(eee) “**Third-Party Payor**” means any Person, whether an employer, third party administrator or insurer/managed care plan or Government Authority that pays, or is responsible for paying for a patient on the basis of a contractual relationship with the patient or a member of his or her family or an employment relationship.

(fff) “**Title Company**” means Madison Title Company (or First American solely for purposes of the Commitments as of the date of this Agreement, if Madison Title Company has not yet produced and distributed the Commitments to Seller and Buyer).

(ggg) “**Title Bringdown**” shall have the meaning set forth in Section 5.13(a).

(hhh) “**Title Objection Notice**” shall have the meaning set forth in Section 5.13(c).

(iii) “**Title Policy**” shall have the meaning set forth in Section 5.13.

(jjj) “**VDR**” means that certain Real Capital Markets (RCM) virtual data room entitled “Grandbridge Real Estate Capital - Friendship Village – Schaumburg, IL,” including all documents and materials posted thereto as of the Closing Date for the Facility.

(kkk) “**WARN Act**” shall mean the Worker Adjustment and Retraining Notification Act, 29 U.S.C. Sections 2101-2109 and related regulations, as amended.

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ARTICLE 2

PURCHASE AND SALE OF ASSETS

2.1 Sale of Assets to Buyer. Upon the terms and subject to the conditions contained in this Agreement, at the Closing, Seller shall sell, assign, transfer, deliver and convey to Buyer, and Buyer shall purchase, acquire and accept from Seller pursuant to Sections 363 and 365 of the Bankruptcy Code, free and clear of all Liens except Permitted Liens, all of Seller's right, title and interest in and to all of the assets, properties and rights of every kind and nature, whether real, personal or mixed, tangible or intangible (including goodwill), wherever located and whether now existing or hereafter acquired (other than the Excluded Assets), which relate to, or are used or held for use in connection with, the Business that are owned by Seller (or leased or licensed by Seller, to the extent such lease or license is an Assumed Contract)(collectively, the "**Purchased Assets**"), including, without limitation, the following:

- (a) The Facility, the Premises and the improvements thereon;
- (b) the Books and Records;
- (c) the Assumed Contracts;
- (d) the Equipment;
- (e) the Inventory;
- (f) to the extent transferable under applicable law, the Permits;
- (g) all Resident Trust Funds;
- (h) Option Deposits and other deposits relating to the Business;
- (i) any and all prepaid fees and other amounts for room and service charges of Residents relating to periods on or after Closing;
- (j) all Intellectual Property, including, without limitation, community specific intellectual property, including domain name FriendshipVillage.org, as well as the name "Friendship Village of Schaumburg" and related logos and marketing materials;
- (k) subject to Buyer's establishment of a qualified vehicle on the Closing Date to accept or otherwise hold it (or an Affiliate of Seller qualified to accept or otherwise hold it, to the extent mutually agreeable between Buyer and Seller), the Gift Annuity Account and any endowment or donor-restricted funds held by Seller (collectively, the "**Endowment**"), to be used solely for charitable purposes as required therein; and
- (l) any and all other items of tangible and intangible personal property and assets required, used or useful for the operation of the Facility or the Business.

2.2 Excluded Assets. The Parties acknowledge that Seller shall not sell, assign, transfer or convey to Buyer, and Buyer shall not purchase, acquire or assume from Seller, the following assets (all such assets, the "**Excluded Assets**"):

- (a) the Entrance Fees;

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- (b) all cash and cash equivalents;
- (c) the operating checking account;
- (d) the Purchase Price and all rights under this Agreement;
- (e) the Accounts Receivable of the Business;
- (f) the debt service reserve funds, interest reserve funds, and any other funds or accounts held by the Master Trustee, the Guaranteed Bonds Trustee, and/or the Schaumburg Bonds Trustee in connection with the Bonds (unless otherwise specifically provided for herein);
- (g) all claims and causes of action, including avoidance actions under Chapter 5 of the Bankruptcy Code;
- (h) all set-off rights to claims filed or asserted in the Chapter 11 Case (except to the extent arising in connection with an Assumed Contract which is subject to a Cure Amount);
- (i) hold-backs and escrows for any prorations or Taxes being paid by Seller in connection with the Closing or afterward, and utility deposits;
- (j) all insurance policies of Seller, any prepaid insurance premiums and any rights or claims or proceeds arising from such policies, except those assigned to Buyer under Section 2.9 of this Agreement, and except any residual of the workers' compensation policy collateral following liquidation of claims;
- (k) all Tax refunds, credits (including the Employee Retention Credit, if any), rebates, and overpayments related to Seller's operation of the Business prior to Closing solely to the extent received by Seller prior to Closing or, if not yet received, applied for by Seller or its Affiliates prior to the Execution Date;
- (l) all (i) corporate seals, corporate organizational records, minute books, charter documents, record books, and stock transfer books pertaining to Seller, (ii) original Tax, accounting and financial records which pertain exclusively to the Excluded Assets, and (iii) such other files, books and records which pertain exclusively to the Excluded Assets or to the formation, existence, membership, or capitalization of Seller or its Affiliates;
- (m) all Inventory and Assets disposed of or exhausted through the Closing Date in the ordinary course of business; provided, that such Inventory and Assets are likewise replenished in the ordinary course of business;
- (n) all Rejected Contracts;
- (o) any records which Seller is legally required to retain in its possession and any records related to Excluded Assets or Retained Liabilities (as hereinafter defined);
- (p) all equipment and tangible property located at the Business but not owned by Seller, or subject to an equipment lease or vehicle lease or software license that is not an Assumed Contract, and all other assets, properties and rights not related to or used in the Business;
- (q) personnel records for Employees who are not Transferred Employees and, to the extent the transfer of such records (whether directly or by means of the sale of a Seller) to Buyer or its affiliates

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is prohibited by applicable law, for Transferred Employees, and all Organizational Documents and minute books of Seller; board designated, restricted and trustee-held or other escrowed funds (such as the debt service reserves, self-insurance trusts, workers compensation trusts, working capital trust assets, and assets and investments restricted as to use), donor restricted assets, beneficial interests in charitable trusts and accrued earnings on all of the foregoing;

(r) the Gift Annuity Account and any endowment or donor-restricted funds held by Seller (collectively, the “**Endowment**”);

(s) the FSO Management Agreement, and any intercompany obligations between Seller and FSO;

(t) all Benefit Plans and all trust agreements, services agreements, and assets attributable thereto;

(u) for the avoidance of doubt, the Huntley property that is approximately 15 miles away from the Facility which is subject to a separate sale motion; and

(v) Seller’s attorney-client and work-product privileges.

2.3 Assumed Liabilities. Upon the terms and subject to the conditions contained in this Agreement, at the Closing, Buyer shall assume or otherwise be responsible for (and indemnify Seller against), (collectively, the “**Assumed Liabilities**”) which amounts shall be in addition to the Purchase Price:

(a) all liabilities and obligations under the Purchased Assets arising from and after the Closing;

(b) all rights and obligations associated with the Assumed Contracts arising from and after Closing, and (ii) all Cure Amounts associated with such Assumed Contracts;

(c) certain unsecured liabilities for Entrance Fee Obligations owed to Residents, but only in the amounts, and according to the formulas set out on, Section 5.10;

(d) all liabilities with respect to Accrued PTO due to Transferred Employees as of the Closing Date;

(e) all liabilities arising from Option Deposits that are paid over to Buyer;

(f) all liabilities expressly required to be paid by Buyer pursuant to this Agreement (such as, without limitation, stamp and recording Taxes); and

(g) all liabilities with respect to the Permitted Liens.

Seller shall have no liability for any such liabilities or obligations. For the avoidance of doubt, Buyer is not assuming any liabilities with respect to Rejected Contracts.

2.4 Retained Liabilities. Except for the Assumed Liabilities, Buyer shall not assume and shall not be responsible to pay, perform or discharge any liabilities, obligations, debts or commitments of any nature or kind whatsoever, whether asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise, of Seller or any of its Affiliates (collectively, the “**Retained Liabilities**”). Seller shall deal with the satisfaction, discharge, or other treatment of all Retained Liabilities in

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the Chapter 11 case. Without limiting the generality of the foregoing, the Retained Liabilities shall include, but not be limited to, the following:

- (a) all Entrance Fee Obligations, except to the limited extent of the program set out on Section 5.10 of this Agreement;
- (b) all liabilities relating to or arising out of the Excluded Assets;
- (c) all liabilities in respect of any pending or threatened Action arising out of, relating to or otherwise in respect of the operation of the Business or the Purchased Assets to the extent such Action relates to such operation on or prior to the Closing;
- (d) all liabilities of Seller arising under or in connection with any Benefit Plan providing benefits to any present or former employee of Seller or the Business; and
- (e) all liabilities under the Rejected Contracts or any other Contracts (other than Assumed Contracts) and any Cure Amounts associated with Contracts that are not Assumed Contracts or as otherwise treated as part of the Chapter 11 case.

2.5 Provider Agreements; Interim Billing.

(a) As of the Closing Date and to the extent permitted by applicable law, Seller shall transfer and assign to Buyer, and Buyer shall accept assignment of, all of Seller's rights and interests in and to Seller's Medicare provider numbers and Medicare provider reimbursement agreements. The Parties acknowledge and agree that Buyer is not expected to have received its "tie in" notice from Centers for Medicare and Medicare Services ("CMS") with respect to Seller's Medicare provider agreements (collectively, the "Provider Agreements") as of the Closing Date. Until the earlier of (i) Buyer's receipt of its tie in notice and Provider Agreements or (ii) 180 days following Closing, Seller agrees that Buyer may bill for services performed following the Closing under Seller's Medicare and/or Medicaid provider number, as applicable, to the extent permitted by applicable law. Buyer may extend the 180 day period so long as Buyer is utilizing commercially reasonable efforts to become the certified Medicare and/or Medicaid provider, as applicable, at the Facility. Buyer shall indemnify and hold Seller harmless for any acts or omissions of Buyer in connection with the interim use of Seller's Provider Agreements under this paragraph for periods following the Closing Date.

(b) The Parties acknowledge and agree that Seller's managed care provider plans and agreements with other Third-Party Payors are not expected to have been updated with Buyer's provider information as of the Closing Date. From and after the Closing Date until such managed care provider plans and agreements with other Third-Party Payors are updated with Buyer's provider information, Seller agrees that Buyer may bill for services provided following the Closing under Seller's managed care provider plans and agreements with other Third-Party Payors using Seller's provider information, to the extent permitted by applicable law and the terms and conditions of the plans and agreements with the Third-Party Payors. Buyer shall indemnify and hold Seller harmless for any acts or omissions of Buyer for periods following the Closing Date in connection with the interim use of such plans and agreements.

(c) Any reimbursements from Medicare or Medicaid billed by Buyer for dates of service after the Closing Date which are paid into Seller's accounts shall be promptly forwarded by Seller to Buyer. Any reimbursements from Medicare or Medicaid for dates of service on or before the Closing Date which are paid to Buyer shall be forwarded by Buyer to Seller.

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(d) Seller shall indemnify and hold Buyer harmless for any acts or omissions of Seller in connection with the Seller's Provider Agreements for the period on or prior to the Closing Date, which obligation shall be secured by, and limited to, the amounts in the Indemnity Escrow Account (referenced in Section 5.11(a)).

2.6 Closing Proceedings.

(a) The purchase price for the Purchased Assets under this Agreement is estimated to be a value of One Hundred Fourteen Million Seven Hundred Sixty-Nine Thousand Two Hundred Sixty-Four Dollars (\$14,769,264), as adjusted in accordance with this Section 2.6 ("**Purchase Price**") and as otherwise provided in this Agreement, allocable as follows:

(i) At Closing, the Seller's estate will receive Thirty-Five Million Five Hundred Seventy-Four Thousand Dollars (\$35,574,000);

(ii) Former Residents will receive Two Million Dollars (\$2,000,000) (clauses (i) and (ii) and (iv), collectively, the "**Closing Cash Purchase Price**"), to be held in trust by Seller and paid out to such Former Residents on a pro rata basis;

(iii) Current Residents will be entitled to receive a value of up to Seventy-Six Million Five Hundred Sixty-Nine Thousand Two Hundred Fifty-Two Dollars (\$76,569,252) (such value is measured at a maximum 100% of the Entrance Fee Refund Amount as of the Closing Date) paid in the form of repayments of all or a portion of their entrance fees, as amortized and payable over time when triggered as described in Section 5.10; and

(iv) At Closing or the appropriate time required by law, Buyer will pay the Accrued PTO as provided in Section 5.8 (estimated at Six Hundred Twenty-Six Thousand Twelve Dollars (\$626,012) solely for purposes of calculating amounts that are based on the Closing Cash Purchase Price, such as the Break-Up Fee).

(b) Six Hundred Sixty Thousand Dollars (\$660,000) has been paid as an earnest money deposit (the "**Deposit**") to the Escrow Agent by the Stalking Horse deadline set out in the Bid Procedures, which will be held by Escrow Agent in accordance with the terms and conditions of this Agreement and the Escrow Agreement; provided, however, that if the Buyer is selected as the stalking horse, the Buyer agrees to increase the amount of the Deposit to a total of One Million Five Thousand Dollars (\$1,005,000) by making a payment to the Escrow Agent in the amount of Three Hundred Forty Five Thousand Dollars (\$345,000) on or prior to September 19, 2023; provided, further, that if Seller selects and approves the Buyer as the winning bidder in lieu of undertaking the auction process, Buyer agrees to increase the amount of the Deposit to a total of One Million Three Hundred Forty Thousand Dollars (\$1,340,000) by making a payment to the Escrow Agent in the amount of Three Hundred Thirty Five Thousand Dollars (\$335,000), payable within three (3) Business Days of written notice to the Buyer that the auction process was waived and Buyer was selected and approved as the winning bidder in lieu thereof. The Deposit will be credited against the Purchase Price at Closing and will otherwise be disbursed as provided in this Agreement, the Escrow Agreement and the Sale Order. Any interest on the Deposit shall follow the Deposit.

(c) The Accrued PTO shall be in addition to the Purchase Price at Closing. For the avoidance of doubt, the sum of the Option Deposits, deposits and Resident Trust Funds shall not be an adjustment to the Purchase Price.

(d) At the Closing, in addition to such other actions as may be provided for herein, Buyer shall pay to Seller, who shall in turn pay to the Bondholders and Former Residents in accordance with the

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allocations set forth in Section 2.6(a) above, in cash, an amount equal to the Closing Cash Purchase Price, by wire transfer of immediately available funds, with the Deposit being transferred to Seller and allocable portions of the Deposit credited to the Closing Cash Purchase Price as set forth in Section 2.6(a) above.

(e) At the Closing, Buyer shall assume the Assumed Liabilities (which shall be in addition to, and not a credit against, the Purchase Price,), and with regard to Assumed Contracts, shall pay to each Contract Party any Cure Amounts, at such time as may be required under such Assumed Contracts or pursuant to any agreements between Buyer and the Contract Parties or as designated by the Court in the Sale Order.

(f) Buyer agrees to pay the cost of: (i) all of the title premium attributable to any extended coverage and any endorsements to the Title Policy required by Buyer, (ii) the title premium and endorsement charges for any lender's policy requested by Buyer's lender, if any, (iii) the costs to record the deed and any mortgage or deed of trust securing Buyer's financing, if any, (iv) half of Title Company's escrow and closing fees, and (v) the cost of the Survey. Seller agrees to pay the cost of: (w) title search and examination fees, (x) the title premium for the Title Policy, (y) all real estate transfer stamps, taxes or the like due in connection with recording the deed, and (z) half of Title Company's escrow and closing fees. Each party shall pay the fees and costs of their respective counsel and other professional advisors. Any other closing costs shall be allocated according to the prevailing custom for commercial real estate in Cook County, Illinois.

(g) Except as otherwise set forth in this Agreement, all utility charges, rents or other payments under the Purchased Assets and all ad valorem, real property, personal property and similar Taxes with respect to the Purchased Assets shall be prorated as of the Closing Date. Real estate Taxes (excluding any transfer Taxes) shall be prorated based on 110% of the most recent tax bills available, with Seller responsible for any and all real estate Taxes accrued and unpaid through the Closing. All prorations shall be final. The prorations and adjustments provided for in this Section shall be made so that Seller shall receive the income and be charged with the expense of the operation of the Purchased Assets up to and including 11:59 p.m. on the Closing Date. Buyer shall receive a credit for all prorations due from Seller as of Closing, and Buyer shall pay all such expenses following the Closing Date; Buyer shall be charged for all prorations due from Buyer as of Closing which have already been paid to third parties by Seller prior to and including the Closing Date.

(h) At the Closing, the Parties will execute and deliver the Related Agreements.

2.7 Time and Place of Closing. Subject to the terms of this Agreement, the closing of the transactions contemplated hereby (the "**Closing**") shall take place at the offices of Polsinelli P.C., 150 N. Riverside Plaza, Suite 3000, Chicago, IL 60606, within seven (7) days after satisfaction or waiver of the conditions to Closing set out in Article 6 (the date the Closing actually occurs being the "**Closing Date**"), but in no event later than (i) ninety days following entry of the order by the Bankruptcy Court approving the sale, or (ii) if earlier, then February 9, 2024 (collectively, the "**Outside Closing Date**") (unless otherwise mutually agreed by the Parties (with the consent of the Master Trustee required with respect to any extension of the Outside Closing Date), including with regard to a remote closing). The transactions contemplated hereby shall take place pursuant to, and in accordance with, the terms and conditions hereof. The Closing shall be effective as of 11:59 p.m. on the Closing Date or such other date and time as the Parties may agree in writing (the "**Effective Time**").

2.8 Purchase Price Allocation. For tax purposes only, Buyer and Seller shall allocate the Purchase Price (together with Assumed Liabilities properly included, if any) among the Purchased Assets in a manner consistent with the fair market values determined in good faith and on a reasonable basis by Buyer, which shall be reasonably acceptable to Seller, prior to the Closing Date, provided that such allocation shall not be binding on any Party for any other purpose. Such allocation shall be consistent with Section 1060 of the Internal

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Revenue Code and the Treasury Regulations thereunder. Buyer and Seller covenant and agree that all filings with Governmental Authorities regarding Taxes will be consistent with such allocation.

2.9 Casualty. If any material part of the Purchased Assets is condemned, damaged or destroyed (whether by fire, theft, or other casualty event) prior to the Closing, Seller shall immediately notify Buyer of such condemnation, damage or destruction. In the event (a) Seller's reasonable estimate of such damage or destruction is in excess of \$4,000,000.00, (b) damage of at least \$1,000,000 is uninsured, or (c) such condemnation either (i) adversely affects the value of the Premises by more than \$4,000,000.00, as reasonably determined by Buyer, (ii) materially and adversely impairs access to the Premises and reasonable alternate access to the Premises is not available and/or is not provided to Buyer prior to Closing or (iii) results in the Premises no longer being in compliance with parking or zoning requirements and alternate parking reasonably acceptable to Buyer is not provided prior to Closing, then Buyer shall have the option to: (x) terminate this Agreement by written notice delivered to Seller within ten (10) days after Buyer's receipt of notice of such damage, destruction or condemnation, in which case the Deposit shall be returned to Buyer and the Parties shall have no further obligations hereunder, or (y) proceed with the transaction contemplated in this Agreement without reduction of the Purchase Price, in which case at and after Closing (i) all insurance and condemnation proceeds relating to such damage, casualty or condemnation shall be deemed to have been absolutely and irrevocably assigned to and be payable directly to Buyer less any actual amounts reasonably expended by Seller prior to Closing for partial restoration, (ii) Buyer shall have the right to conduct all settlement proceedings with respect to such insurance claims and condemnation proceedings, and (iii) Seller shall deliver to Buyer through escrow an unconditional assignment of all such insurance and condemnation proceeds. If this Agreement is not terminated, Seller shall not be obligated to repair any damage or destruction. Any notice or documents required to be provided pursuant to this Section shall be provided by the disclosing Party to counsel for the Master Trustee within one (1) Business Day of such required disclosure.

2.10 Completion of Diligence; Non-Refundable Deposit. Buyer has completed all diligence activities and the Deposit is nonrefundable except as set forth in Section 7.2.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF SELLER

In order to induce Buyer to enter into this Agreement, Seller makes the representations and warranties set forth below, each as of the Execution Date and as of the Closing Date.

3.1 Authority of Seller. Subject to entry of the Sale Order, Necessary Consents, and the Approvals, Seller has full power, authority and capacity to execute and deliver this Agreement and the Related Agreements and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby.

3.2 Execution and Delivery. Subject to entry of the Sale Order, Necessary Consents, and the Approvals, this Agreement has been duly and validly executed and delivered by Seller and constitutes, and upon the execution and delivery by Seller of the Related Agreements, the Related Agreements shall constitute, legal, valid and binding obligations of Seller enforceable against Seller in accordance with their terms.

3.3 Permits. To the Knowledge of Seller, the Facility is duly licensed in accordance with the applicable laws of the State of Illinois, and all other ancillary departments or services located at or operated for the benefit of, the Facility that are required to be separately licensed are duly licensed by the appropriate Governmental Authority. To the Knowledge of Seller, Seller has all Permits which are needed or required by applicable law to operate its business related to or affecting the Facility or any ancillary services related thereto

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as currently conducted. Schedule 3.3 is a true, complete and accurate list of all material Permits owned or held by or issued to Seller relating to the ownership or operation of the Facility or the Purchased Assets and such Permits constitute all material Permits necessary for the conduct of the Business and operation of the Facility as currently conducted and for the ownership of the Facility by Seller and operation and use of the Purchased Assets by Seller, all of which are in full force and effect.

3.4 Litigation Proceedings; Judgments. Schedule 3.4 is an accurate list of all pending litigation or proceedings with respect to the Facility and the Purchased Assets of which Seller has Knowledge. To Seller's Knowledge, except as set forth on Schedule 3.4 there are no claims, actions, suits, proceedings, or investigations, pending or threatened, against or related to Seller, the Facility or the Purchased Assets, at law or in equity. There are no judgments presently outstanding and unsatisfied against the Facility and Business, Seller or any of the Purchased Assets. Except as set forth on Schedule 3.4, Seller has not received any written notice or written claim of any tort or violation of any applicable order, or an investigation thereof with respect to its ownership or operation of the Facility or the Business.

3.5 Employee Relations. To the Knowledge of Seller, Seller is in compliance in all material respects with all applicable laws and contracts respecting employment and employment practices, labor relations, terms and conditions of employment, and timely payment of wages for all hours worked by Facility Employees. Except as set forth on Schedule 3.5, Seller has no Knowledge of any complaints before or claims brought by a Governmental Authority, whether threatened or asserted, regarding employment discrimination, harassment or unlawful practices, safety or other employment-related charges or complaints, wage and hour claims, unemployment compensation claims, workers' compensation claims or the like. Neither Seller nor FSO is a party to any collective bargaining agreement with any labor union or similar organization with respect to Facility Employees, nor does Seller or FSO have Knowledge of any such organization which represents or claims to represent any of the Facility Employees or intends to organize any of Seller's employees. Neither Seller nor any of its ERISA Affiliates maintains, sponsors, administers or contributes to (or is required to sponsor, maintain, administer or contribute to), or has maintained, sponsored or contributed to, or has any Liability under or with respect to, (i) any employee benefit plan subject to Section 412 or Section 430 of the Code or Title IV of ERISA, (ii) any multiemployer plan (as defined in Section 3(37) of ERISA), or (iii) any multiple employer plan (within the meaning of Section 210 of ERISA or Section 413(c) of the Code) or that is or has been subject to Section 4063 or 4064 of ERISA.

3.6 Compliance. Except as set forth on Schedule 3.6, to the Knowledge of Seller, Seller is in compliance in all material respects with all applicable statutes, rules, regulations, and requirements, including healthcare laws and regulations, of each Governmental Authority having jurisdiction over Seller and the Purchased Assets and the operations of the Facility and the Purchased Assets. To the extent of any material deficiencies determined during a healthcare survey by the appropriate Governmental Authority, Seller has corrected such deficiencies as of the Closing Date or has proposed a plan of correction which as of the Closing Date has been accepted or is reasonably anticipated to be accepted by the applicable Governmental Authority.

3.7 Broker. Except for the engagement of Grandbridge Real Estate Capital LLC whose fee shall be paid by Seller from the proceeds of the sale at Closing, neither Seller nor any of its Affiliates has incurred any liability for any fee or commission to any broker, finder, investment banker or other intermediary in connection with the transactions contemplated by this Agreement that would result in any liability, fee, expense or obligation being imposed on Buyer.

3.8 Environmental Matters. Except as set forth on Schedule 3.8: (a) there are no material environmental liabilities on or affecting any of the Premises or the Facility, (b) to the Knowledge of Seller, Seller has at all times operated the Facility and the Premises and conducted the Business and, during the period that Seller owned the Facility and the Premises and any third party operated any such Business, such third

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party operated the Business, in each case, in compliance with all applicable environmental laws and permits required thereunder or issued pursuant thereto; and (c) to Seller's Knowledge, there are no proceedings pending or threatened before any Governmental Authority with respect to Seller's ownership or operation of the Premises alleging violations of environmental laws, or claiming material remediation obligations under applicable environmental laws, and Seller has not received any written notice of any alleged or actual violation or non-compliance with any environmental law or of non-compliance with the terms or conditions of any environmental Permits, arising from, based upon, associated with or related to the Premises or the ownership or operation thereof.

3.9 Financial Information.

(a) The following financial statements and financial information have been made available in the VDR:

(i) audited financial statements of the Business for fiscal year ended March 31, 2020 (on a consolidated basis with Affiliates); and

(ii) Unaudited financial statements for fiscal years ended March 31, 2021 and March 31, 2022, and March 31, 2022.

With regard to information related to Seller, the foregoing financial statements are true, correct and complete in all material respects and have been prepared in accordance with past practice, applied on a consistent basis throughout the periods indicated except that the unaudited financial statements may not include required footnote disclosures or reflect normal year-end adjustments, including any future service obligation adjustment. Except as set forth on Schedule 3.9, with regard to information related to Seller, the foregoing financial statements present fairly, in all material respects, the financial condition of the Business as of the respective dates they were prepared and the results of the operations of the Business for the periods indicated.

3.10 Real Property.

(a) Schedule 3.10 contains an accurate and complete legal description, street address and tax parcel identification number for the Premises. Seller holds good and indefeasible fee simple title to all of the Premises and shall convey the Premises in accordance with the Sale Order free and clear of all Liens (other than the Permitted Liens).

(b) Seller has not received written notice from any Governmental Authority of (and otherwise has no Knowledge of): (i) any pending or threatened condemnation proceedings affecting the Premises or any part thereof; (ii) asserting or alleging any material violations or potential violations of any applicable laws (including zoning and land use ordinances, building codes and similar requirements) with respect to the Premises or any part thereof, which have not heretofore been cured; or (iii) any pending or threatened proceedings, nor any claims or actions against Seller or the Premises relating to the ownership, lease, use or occupancy of such Premises or any portion thereof which is reasonably likely to result in a material change in the condition of the Premises or the ownership or operation of the Premises. Seller has not received any written notice of any pending zoning or other land use change affecting the Premises.

(c) Seller has not received written notice that Seller or any other person is in violation of a condition or agreement contained in any easement, restrictive covenant or any similar instrument or agreement affecting any of the Premises in any material respect.

3.11 Insurance. Schedule 3.11 sets forth an accurate and complete list of all insurance policies or self-insurance funds maintained by Seller or FSO with respect to the Facility and Seller as of the Execution

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Date covering the ownership and operation of the Business, indicating the types of insurance, policy numbers, terms, identity of insurers and amounts and coverages (including applicable deductibles).

3.12 Intellectual Property. Seller owns or has the right to use all intellectual property used in connection with the ownership or operation of the Facility as listed on Schedule 3.12. Except as set forth on Schedule 3.12, the conduct of the Business does not infringe or otherwise violate any intellectual property or other proprietary rights of any other Person, and there is no action pending or, to the Knowledge of Seller, threatened, alleging any such infringement or violation or challenging Seller's rights in or to any of its intellectual property.

3.13 Tax Matters. Except as set forth on Schedule 3.13:

(a) All Taxes due and owing by Seller (whether or not shown on any tax return) have been timely paid when due (taking into account any applicable extensions), including all Taxes with respect to the Facility.

(b) There are no liens relating to Taxes on any of the Purchased Assets other than liens for Taxes not yet due and payable.

(c) Proper and accurate amounts have been withheld for Facility Employees in compliance with the payroll tax and other withholding provisions of all applicable laws, and all of such amounts have been timely remitted to the proper taxing authority.

(d) Seller has timely filed all tax returns required to be filed by it, including all tax returns relating to the Purchased Assets (all of which are true, complete and correct in all material respects). Seller has not waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a tax assessment or deficiency, which currently remains in effect. Seller is not currently the beneficiary of any extension of time within which to file any tax return.

(e) To Seller's Knowledge, no deficiencies for Taxes have been claimed, proposed or assessed by any Governmental Authority for which Seller may have any liability or which may attach to the Purchased Assets. There are no pending or, to Seller's Knowledge, threatened proceedings for or relating to any liability in respect of Taxes for which Seller may have any liability or which may attach to the Purchased Assets. There are no matters under discussion by Seller with any Governmental Authority with respect to Taxes that may result in an additional amount of Taxes for which Seller may have any liability or which may attach to the Purchased Assets. No Governmental Authority has notified Seller that it has conducted an audit of any Taxes that may be due and owing by Seller or as the result of the Business audited by Seller, which currently remains outstanding or unresolved.

3.14 Government Health Program Participation/Accreditation.

(a) Seller is a "provider" with valid and current Provider Agreements with one or more provider numbers with the Government Health Programs, and Seller (or the Facility, as applicable) is certified for participation in all such Government Health Programs. The Provider Agreements are each in full force and effect. Seller is in compliance with the conditions of participation for the Government Health Programs and any other Third-Party Payor programs in all material respects. There is no pending or, to the Knowledge of Seller, threatened proceedings, surveys, investigations or other Actions under or related to the Government Health Programs or any other Third-Party Payor programs involving Seller or the Facility. No validation review or program integrity review (including any recovery audit contract review) related to the Facility, the Business, or the consummation of the transactions contemplated hereby, has been conducted by any Governmental Authority in connection with the Government Health Programs or any other Third-Party Payor programs since

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December 31, 2020, and to the Knowledge of Seller, no such reviews are scheduled, pending or threatened against or affecting Seller with respect to the Facility, the Business, or the consummation of the transactions contemplated hereby. True, correct and complete copies of each Program Agreement (including all modifications, amendments and waivers thereto) have been made available to Buyer.

(b) To Seller's Knowledge, all billing practices of Seller with respect to the Facility and the Business to all Government Health Programs and Third-Party Payors, have been in compliance in all material respects with all applicable laws, the applicable requirements of the Government Health Programs or the Third-Party Payor programs, and the applicable Provider Agreements. There are no pending appeals, adjustments, audits, challenges, inquiries, investigations, claim reviews, recoupments or other actions with respect to any such billings, claims or other filings. Seller has not, and to Seller's Knowledge, no officer, director, employee or other Person providing services to or on behalf of Seller or the Facility has, taken any of the following actions: (i) knowingly submitted to any Government Health Program or Third-Party Payor program any false, fraudulent, abusive or improper claim for payment; (ii) knowingly billed any Government Health Program or Third-Party Payor program for any service not rendered or not rendered as claimed; or (iii) knowingly received and retained any material payment or reimbursement from any Government Health Program or Third-Party Payor program in excess of the proper amount allowed under applicable Provider Agreements. Seller has not engaged in false billing or a pattern of negligent billing with respect to any Government Health Program or Third-Party Payor program. Seller has not billed or received any payment or reimbursement in excess of amounts allowed by applicable law, except in nonmaterial amounts during the ordinary course of business and except as and to the extent that liability for such overpayment has already been satisfied in full.

3.15 Health Care Representations.

(a) The Facility is duly permitted/licensed as a Life Care Facility as required under the applicable laws of the State of Illinois. The Facility is duly permitted/licensed to own and operate 537 independent living units, and licensed bed capacity of 169 skilled nursing beds and 109 assisted living units.

(b) Seller owns and/or possesses, and holds free from restrictions or conflicts with the rights of others, all material Permits required for the operation of the Facility and will operate or cause the Facility to be operated in such a manner that such Permits shall remain in full force and effect, without restriction, curtailment, or condition. No such Permits with respect to the Facility are provisional, probationary, or restricted in any way, except in instances where a Governmental Authority has issued a provisional, probationary or restricted license, permit or certification in the ordinary course pending issuance of a final license, permit or certification, as set forth on Schedule 3.15(b) or pursuant to 210 ILCS 45/3-305(1) or (1.5).

(c) The Facility is and shall be, as of the Closing Date, licensed by the Governmental Authority to own and operate the Business as it is presently owned and operated, with the same number and type of units as are operating at the Facility on Execution Date. Such licenses are and shall on such Closing Date be unrestricted, unconditional, in good standing and in full force and effect and subject to no material waivers or limitations.

(d) Except as disclosed on Schedule 3.10(d), there are no outstanding inspections, surveys or plans of correction as of the Execution Date and no deficiencies exist in respect of any such inspections, surveys or plans of correction nor has Seller 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, or any license curtailments in effect with respect to the Facility, and no Action has been taken or recommended, nor, to Seller's Knowledge, is there any basis for any Action, by any Governmental Authority, either to revoke, withdraw or suspend the Seller's license to own or operate the Facility or to terminate or decertify any participation of the Facility in the Medicare or Medicaid programs other than with respect to any

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deficiencies cited in those certain inspections, surveys or plans of correction disclosed on Schedule 3.10(d), which Seller anticipates will be resolved with the applicable Governmental Authority prior to such Governmental Authority's revocation, withdrawal or suspension of the applicable license or termination or decertification of the Facility from the Medicare or Medicaid programs.

(e) No director or officer of Seller, nor to Seller's Knowledge, any employee or Person who provides professional services under agreements with Seller or for the benefit of the Business, acting alone or together, has directly or indirectly, engaged in any activities which are prohibited under federal Medicare and Medicaid statutes, 42 U.S.C. Sections 1320a-7, 1320a-7(a) and 1320a-7b, or the regulations promulgated pursuant to such statutes or related state or local statutes or regulations or which are prohibited by rules of professional conduct, including, without limitation: (1) given or taken any remuneration, rebates, payments, commissions, or promotional allowances to any customer, supplier, physician, or governmental employee with whom Sellers had done business; or (2) knowingly and willfully made any false statement of material fact in any application for a benefit or payment. Seller has not received, within the last three (3) years, any written notice of the commencement of any proceeding under the federal Medicare and Medicaid statutes regarding health professional self-referrals, 42 U.S.C. Section 1395nn and 42 U.S.C. Section 1396b, or the regulations promulgated pursuant to such statute, or similar state or local statutes or regulations.

(f) Seller has furnished Buyer with a summary of all surveys, inspection reports, any waivers of deficiencies, plans of correction, and any similar investigation or examination reports relating to any inspections, investigations or examinations by any Governmental Authority having jurisdiction over the Facility during the eighteen (18) month period preceding the Execution Date (collectively, the "**Facility Surveys**"), and such Facility Surveys do not contain any violations of any laws applicable to the Facility or the Business except as have been cured or addressed by a plan of corrective action or are expected to be corrected in the ordinary course of the survey process. All deficiencies and violations have been or will be corrected in the ordinary course of the survey process prior to Closing, or subject to a plan of correction that is in place prior to Closing (to be carried out at Seller's cost as reasonably determined by the Parties).

(g) Seller has not received, within the last three (3) years, any written notice of the commencement of any proceeding under federal Medicare and Medicaid statutes, 42 U.S.C. Sections 1320a-7, 1320a-7(a) and 1320a-7b, or the regulations promulgated pursuant to such statutes or related state or local statutes or regulations. Seller has not received, within the last three (3) years, written notice that with respect to the Facility it has been charged or implicated in any violation of any state or federal statute or regulation involving false, fraudulent or abusive practices relating to its participation in state or federally sponsored reimbursement programs, including but not limited to false or fraudulent billing practices. The Facility is currently certified to participate in any Third-Party Payor programs from which the Facility receives revenues, including, but not limited to, Medicare and Medicaid. No Third-Party Payor program has threatened or, to Seller's Knowledge, intends to terminate, cancel, modify or amend its provider agreement with Seller prior to Closing or within the twelve (12) month period following the Closing Date (except as expressly contemplated hereunder in connection with the consummation of the transactions hereunder). There is no pending, or to Seller's Knowledge, threatened proceeding or investigation, including any qui tam or False Claims Act proceeding or investigation, involving Seller or the Facility.

(h) Except as disclosed on Schedule 3.10(h), Seller has no material reimbursement or payment rate appeals, disputes or contested positions currently pending or threatened before any Governmental Authority or any administrator of any Third-Party Payor program with respect to the Facility.

(i) Neither Seller nor the Facility, nor to Seller's Knowledge, any owner, officer, director, partner, agent, managing employee or Person with a "direct or indirect ownership interest" (as that phrase is defined in 42 C.F.R. §1001.1001) in the Facility, is a party to, or bound by, any order, individual integrity

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agreement, corporate integrity agreement, corporate compliance agreement, deferred prosecution agreement, or similar formal or informal agreement with any governmental authority concerning compliance with Medicare, Medicaid, HIPAA, the HITECH Act or any other federal or state healthcare laws and regulations. Neither the Seller nor the Facility has made any voluntary disclosure to the Office of Inspector General, CMS, any Medicare Administrative Contractor, Medicaid program or other Governmental Authority relating to any potential, alleged or actual violation of Medicare or Medicaid regulations.

3.16 Contracts. True, correct and complete copies of the Material Contracts have been made available to Buyer for its review.

3.17 No Other Representation and/or Warranty. Except for the representations and warranties contained in this Article 3 (including the related portions of the Schedules), Seller has not made and does not make any other express or implied representation or warranty, either written or oral, on behalf of or with respect to Seller, the Purchased Assets, the Premises, the Facility or the Business, including any representation or warranty arising from statute or otherwise in law.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF BUYER

In order to induce Seller to enter into this Agreement, Buyer makes the representations and warranties set forth below.

4.1 Authority of Buyer. Buyer has full power, authority and capacity to execute and deliver this Agreement and the Related Agreements and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby.

4.2 Execution and Delivery. This Agreement has been duly and validly executed and delivered by Buyer and constitutes and, upon the execution and delivery by Buyer of the Related Agreements, the Related Agreements shall constitute, legal, valid and binding obligations of Buyer enforceable against Buyer in accordance with their terms.

4.3 Governmental Approvals and Filings. No consent, approval or action of, filing with or notice to any Governmental Authority on the part of Buyer is required in connection with the execution, delivery and performance of this Agreement or any of the Related Agreements or the consummation of the transactions contemplated hereby or thereby.

4.4 Brokers. Neither Buyer nor any of its Affiliates has incurred any liability for any fee or commission to any broker, finder, investment banker or other intermediary in connection with the transactions contemplated by this Agreement that would result in any liability, fee, expense or obligation being imposed on Seller.

4.5 Adequate Funds. At or before Closing, Buyer will have adequate funds available to it in order to consummate the transactions contemplated by this Agreement and the Related Agreements and to perform its obligations hereunder and thereunder, and this agreement is not subject to any financing contingency.

4.6 Fitness for Obtaining Permits and Approvals. Buyer has no knowledge of any material fact or other information related to Buyer or any of its Affiliates which could be reasonably expected to have a material and adverse impact on Buyer's ability to obtain the Permits or Approvals.

4.7 Condition of Assets; Disclaimers.

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(a) Other than as expressly set forth in this Agreement, Buyer acknowledges that it has fully inspected or waived the right to inspect the Purchased Assets prior to the execution of this Agreement and has made its own determinations as to the Purchased Assets. Buyer expressly acknowledges and warrants that, as of the Execution Date and Closing, Buyer is not aware that any representations or warranties made by Seller in Section 3 of this Agreement are untrue, and Buyer is accepting the Purchased Assets on the Closing Date in an "AS IS" "WHERE IS" "WITH ALL FAULTS CONDITION" and all latent or patent defects, with regard to all aspects of the Purchased Assets without warranty or representation of any kind by Seller or any of Seller's managers, members, officers, directors, employees, partners, agents, representatives, beneficiaries, attorneys, subsidiaries, Affiliates, contractors subcontractors, successors and assigns, except those expressly set forth in Section 3 of this Agreement. BUYER ACKNOWLEDGES THAT, EXCEPT AS OTHERWISE PROVIDED FOR IN THE REPRESENTATIONS AND WARRANTIES IN SECTION 3 OF THIS AGREEMENT, SELLER MAKES NO REPRESENTATIONS, WARRANTIES, OR GUARANTEES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO: ANY MATTER RELATED TO THE PURCHASED ASSETS (INCLUDING WITHOUT LIMITATION, INCOME TO BE DERIVED FROM OR EXPENSES TO BE INCURRED IN CONNECTION WITH THE PURCHASED ASSETS; THE PHYSICAL CONDITION OF THE PURCHASED ASSETS; THE PRESENCE OR ABSENCE OF ANY HAZARDOUS MATERIALS IN, ON OR ABOUT THE PURCHASED ASSETS OR ANY OTHER MATTER RELATED TO THE ENVIRONMENTAL CONDITION OF THE PURCHASED ASSETS; THE HABITABILITY OF THE PURCHASED ASSETS; THE ZONING OF THE PURCHASED ASSETS; THE POSSIBILITY OF DEVELOPING OR USING THE PURCHASED ASSETS IN THE MANNER CONTEMPLATED BY BUYER OR OBTAINING ANY CONSENTS, APPROVALS, PERMITS, AUTHORIZATIONS OR ENTITLEMENTS IN CONNECTION THEREWITH; THE VALUE OF THE PURCHASED ASSETS; THE MERCHANTABILITY OR FITNESS OF THE PURCHASED ASSETS FOR ANY PARTICULAR PURPOSE OR USE; THE ACCURACY, COMPLETENESS, OWNERSHIP OR TRANSFERABILITY OF ANY DOCUMENTS OR OTHER MATERIALS FURNISHED TO BUYER WITH RESPECT TO THE PURCHASED ASSETS (OR ANY PORTION THEREOF); OR ANY OTHER MATTER OR THING RELATED TO THE PURCHASED ASSETS). EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER AS EXPRESSLY SET FORTH IN SECTION 3 OF THIS AGREEMENT, BUYER ACKNOWLEDGES THAT BUYER HAS NOT RELIED, AND IS NOT RELYING, UPON ANY INFORMATION, DOCUMENT, SALES BROCHURES OR OTHER LITERATURE, MAPS OR SKETCHES, PROJECTIONS, PRO FORMAS, STATEMENTS, REPRESENTATIONS, GUARANTEES OR WARRANTIES (WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, OR MATERIAL OR IMMATERIAL) THAT MAY HAVE BEEN GIVEN BY OR MADE BY OR ON BEHALF OF SELLER.

ARTICLE 5

COVENANTS

5.1 Access to Books and Records. From and after the Closing, unless such other date is set by the Bankruptcy Court, each Party shall afford, for a period ending on the later of (i) three (3) years from the Closing Date and (ii) the date of the entry of a final decree or an order converting or dismissing the Chapter 11 Case, the other Party, its Affiliates and the Master Trustee reasonable access, during normal business hours, to the books, records and other data relating to the operation of the Business prior to the Closing in its possession to the extent that such access may be reasonably required by the requesting Party in connection with (a) the preparation of Tax returns, (b) the determination or enforcement of rights and obligations under this Agreement, (c) compliance with the requirements of any Governmental Authority, (d) in connection with any threatened or actual legal proceeding, (e) in connection with any audit of the Business for any pre-Closing period, or (f) in connection with administering the Chapter 11 Case, or any subsequent Chapter 7 case. During such period neither Party shall dispose of or destroy any books, records or other data relating to the operation of the Business prior to the Closing unless such Party gives the other Party thirty (30) days' prior written notice

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thereof and the option to retain such books, records or other data. Further, Buyer shall maintain all records including healthcare records for the periods required by law.

5.2 Cooperation; Approvals. Subject to the terms and conditions herein provided, the Parties shall use commercially reasonable efforts to bring about the satisfaction as soon as practicable of all the conditions (whether set forth in this Agreement or otherwise) necessary to effect the consummation of the transactions contemplated by this Agreement. From and after the Closing Date, at Buyer's sole cost with respect to third party out-of-pocket expenses, Seller agrees to reasonably cooperate with Buyer to submit any application in respect of any rebates, funds, grants or similar benefits sought by Buyer, or to reasonably support any application, including, without limitation, by providing any information and documentation reasonably requested by Buyer, submitted by Buyer directly for any rebates, funds, grants or similar benefits with respect to operation of the Facility and the Business. Nothing in this Section 5.2 shall require any Party to act in contravention of applicable laws.

5.3 Regulatory Filings. Within three (3) Business Days of entry of the Sale Order, Buyer shall promptly file all applications and documents which are necessary to obtain the Approvals of each applicable Governmental Authority as may be appropriate in connection with the transactions contemplated by this Agreement and Buyer shall, at the same time as filed, provide a copy to the Seller. Buyer shall diligently prosecute such applications and take any other actions which are or may be reasonable and appropriate in connection therewith. Buyer shall provide Seller with (a) copies of Buyer's responses to written requests for additional information from any Government Authority that in any way relates to the Business or Purchased Assets within two (2) Business Days after sending such responses, and (b) copies of all written correspondence from any Government Authority that in any way relates to the Business or Purchased Assets within two (2) Business Days after receiving such correspondence. Buyer will maintain in confidence all documents provided pursuant to this Section, unless public disclosure is required by applicable law, or is otherwise made to a Government Authority, in which case, to the extent practicable, the Parties will use their reasonable best efforts to reach mutual agreement prior to making such disclosure. Seller shall not be responsible for any costs required in connection with Buyer obtaining the Approvals. Notwithstanding the foregoing, any documents provided pursuant to this Section shall immediately be provided by Seller to counsel for the Master Trustee, but in no event later than two (2) Business Days from receipt from Buyer.

5.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, at Buyer's reasonable request and at Buyer's sole cost and expense with respect to third party out-of-pocket expenses, Seller will execute and deliver to Buyer such other instruments of sale, transfer, conveyance and assignment, provide such materials and information and take such other actions as Buyer may reasonably deem necessary or desirable in order more effectively to transfer, convey and assign to Buyer, and to confirm Buyer's title to, all of the Purchased Assets and to carry out any and all of the terms and provisions of this Agreement and the Related Agreements.

5.5 Buyer's Closing Deliveries. At the Closing, Buyer shall deliver the following to Seller:

- (a) the Purchase Price, net of the cash portion of the Deposit applied thereto;
- (b) the Related Agreements to which Buyer is a party, duly executed by Buyer;
- (c) a customary Operations Transfer Agreement consistent herewith to the extent reasonably necessary, duly executed by Buyer;
- (d) a certificate executed as of the Closing Date by a duly authorized representative of Buyer, certifying to Seller that all the conditions set forth in Section 6.1(a) of this Agreement have been satisfied;

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(e) a certificate of a duly authorized representative of Buyer (i) certifying that attached to such certificate are true and complete copies of (A) Buyer's organizational documents, each as amended through and in effect on the Closing Date and (B) resolutions of the board of directors, board of managers or other governing body of Buyer, authorizing the execution, delivery and performance of this Agreement and the Related Agreements to which Buyer is a party and the consummation of the transactions contemplated by this Agreement and the Related Agreements, and (ii) certifying as to the incumbency of the officer of Buyer or other authorized Person executing on behalf of Buyer this Agreement and the Related Agreements to which Buyer is a party;

(f) certificates of good standing for Buyer issued by the Secretary of State of the state in which Buyer is organized and by the Secretary of State of the state of Illinois, if different; and

(g) all instruments of transfer and/or assignment, certificates, deeds, bills of sale, evidence of filing and/or recording, and other documents as are reasonably necessary to effectuate the sale of the Purchased Assets, including customary documents required in order for the Title Policy to be issued by the Title Company to Buyer at Closing.

5.6 Seller's Closing Deliveries. At the Closing, Seller shall deliver the following to Buyer:

- (a) keys and passcodes to the Facility, appropriately tagged for identification;
- (b) the Books and Records;
- (c) the Inventory;
- (d) the Permits, to the extent transferable under applicable law;
- (e) the Related Agreements to which Seller is a party, duly executed by Seller;
- (f) a customary Operations Transfer Agreement consistent herewith to the extent reasonably necessary, duly executed by Seller;
- (g) a certificate executed as of the Closing Date by a duly authorized representative of Seller, certifying to Buyer that all the conditions set forth in Section 6.1(b) of this Agreement have been satisfied;
- (h) a certified copy of the Sale Order entered by the Bankruptcy Court providing authority for Seller to conduct the transactions hereunder and providing that the sale is free and clear of Liens;
- (i) a certificate of good standing for Seller issued by the Illinois Secretary of State; and
- (j) all instruments of transfer and/or assignment, certificates, deeds, bills of sale, evidence of filing and/or recording, and other documents as are reasonably necessary to effectuate the sale of, and vest in Buyer good, valid and marketable title to, the Purchased Assets, including customary documents required in order for the Title Policy to be issued by the Title Company to Buyer at Closing.

5.7 Employees.

- (a) Immediately prior to the Effective Time, Seller shall cause FSO to terminate all of its employees assigned to and working exclusively for Seller (the "**Facility Employees**").

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(b) As of the Closing Date, Buyer shall make written offers of employment to not fewer than ninety percent (90%) of Seller's hourly and salaried employees on an at-will basis and subject to Buyer's pre-employment screenings and employment practices, policies and procedures (all such employees that accept the employment offer are collectively, the "**Transferred Employees**"). If Buyer fails to offer immediate employment to a sufficient number of employees, Buyer agrees that it shall be responsible for any associated liabilities arising under the WARN Act or any comparable state or local laws. Buyer shall deliver to Seller no later than ten (10) days prior to the Closing Date, an updated schedule of Transferred Employees identifying to Seller all of the Facility Employees to whom Buyer anticipates making an offer of employment. Seller shall not take any action that would reasonably be anticipated to impede, hinder, interfere, or otherwise compete with Buyer's efforts to hire any of Seller's employees. For the avoidance of doubt, Buyer shall have no liability to Seller or any Transferred Employee for any accrued and unpaid obligations owing from Seller to such employee, other than the Accrued PTO as and to the extent set forth herein. Seller agrees to cause FSO to deliver to Buyer at Closing all employment records of Transferred Employees, all employee policies and procedures current as of the Effective Time, and as required prior to Closing employment records reasonably requested by Buyer to "on board" the Transferred Employees. Seller agrees to use its commercially reasonable efforts to make employment records and other related information reasonably requested by Buyer available to Buyer. Nothing in this paragraph shall create any right in favor of any person not a party hereto, including without limitation, the Facility Employees, or constitute an employment agreement or condition of employment for any employee of Seller or FSO.

(c) Following the Effective Time, Buyer shall, to the extent commercially feasible, provide industry standard benefits and other terms and conditions of employment to the Transferred Employees at industry standard levels (but excluding, for the avoidance of doubt, any defined benefit pension plans and long-term incentive programs), as determined in Buyer's sole discretion, with credit for prior service time and seniority for purposes of eligibility and vesting; provided however, that the credit for prior service time and seniority shall not result in the duplication of any benefits. Seller shall not make any material changes in the compensation or benefits of the Transferred Employees prior to the Effective Time other than consistent with past practice.

(d) Seller shall provide Buyer, at least thirty (30) days prior to the Closing Date, a schedule setting forth, for each Facility Employee, the amount of accrued but unused PTO (excluding any PTO beyond the applicable hour cap for employees based on seniority provided for in the existing employment policies applicable to the Facility Employees) for each Transferred Employee as of the Closing Date (collectively, "**Accrued PTO**") and the aggregate value of the Accrued PTO. Seller shall provide Buyer on the Closing Date with an updated version of such schedule reflecting Accrued PTO amounts (and the value of those amounts) as of the Closing Date (as so updated, the "**Accrued PTO Schedule**"). On the Closing Date, Buyer shall assume all Accrued PTO and allow each employee to receive it in cash as and when such Accrued PTO comes due at law. For the avoidance of doubt, Accrued PTO does not include similar amounts owed to any employee who is not a Transferred Employee, which obligation shall stay with FSO or Seller, as applicable.

(e) Not more than fifteen (15) days after the Execution Date, Seller shall provide Buyer with a list (the "**Schedule of Employees**") of all employees of Seller working at the Facility, including, for each listed employee, his or her name, date of hire, job title, full-time/part-time status, exempt/non-exempt status, bonus eligibility, commission eligibility, severance entitlement, current compensation paid or payable, and status (e.g., leave of absence, disability, layoff, active, temporary).

(f) As of the Closing, all such Transferred Employees shall be deemed to be the employees of Buyer and no longer to be the employees of FSO. Effective as of the Closing, Seller agrees to cause FSO to terminate the employment of all of the Transferred Employees.

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(g) Nothing herein, express or implied, shall confer upon any other Persons (including any current or former employee or contractor of Seller, Buyer or any of their respective Affiliates) any rights or remedies hereunder, including any right to employment or continued employment for any specified period or continued participation in any benefit plan or other benefit plan, or any nature or kind whatsoever under or by reason of this Agreement. Nothing herein restricts or precludes the right of Buyer to terminate the employment of any Transferred Employee after the Closing Date.

(h) At Buyer's sole cost and expense (other than for employee cost-sharing), Buyer shall be responsible for offering Transferred Employees group health plan coverage on and after the Closing Date sufficient to extinguish any rights a Transferred Employee may have to continuation of coverage under any of existing group health plans including, but not limited to, COBRA insurance coverage, if a Transferred Employee so elects such coverage. Buyer shall provide COBRA continuation coverage (within the meaning of Section 4980B of the Code and the Treasury regulations thereunder) to all individuals who are "M&A qualified beneficiaries" (within the meaning of Treasury Regulation Section 54.4980B-9, Q&A-4) with respect to the transaction contemplated herein for the duration of the period to which such individuals are entitled to such coverage.

(i) This Section 5.7 shall be binding upon and inure solely to the benefit of each of the Parties to this Agreement, and nothing in this Section 5.7, express or implied, shall confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Section 5.7. Nothing contained herein, express or implied, shall be construed to establish, amend or modify any benefit plan, program, agreement or arrangement. The Parties hereto acknowledge and agree that the terms set forth in this Section 5.7 shall not create any right in any Transferred Employee or any other Person to any continued employment with Buyer or any of its Affiliates or compensation or benefits of any nature or kind whatsoever.

5.8 Bankruptcy Matters.

(a) Following the Execution Date, Seller, with the consent of the Master Trustee, shall expeditiously file with the Bankruptcy Court a notice designating Buyer as the Stalking Horse under the Bid Procedures.

(b) Seller and the Master Trustee confirm that it is critical to the process of arranging an orderly sale of the Purchased Assets under the Bid Procedures to proceed by selecting Buyer to enter into this Agreement in order to present the Bankruptcy Court with arrangements for obtaining the highest and best price for the Purchased Assets and that, without Buyer having committed substantial time and effort to such process, Seller's estate would have to employ a less orderly process of sale and thereby incur higher costs and risk attracting lower prices. Seller acknowledges that Buyer would not be willing to enter into this Agreement if Buyer were not paid the Break-Up Fee and Expense Reimbursement, in the event that Buyer does not purchase the Purchased Assets due to the termination of this Agreement as a result of an Alternative Transaction. The Break-Up Fee and Expense Reimbursement shall become due and payable upon the conditions set forth in Section 7.2(a) herein.

(c) In the event that Buyer is not selected as the winning bidder at the auction contemplated by the Bid Procedures Order, Buyer understands and acknowledges that at Seller's election and consistent with the Bid Procedures Order, it may remain obligated hereunder as the "**Back-Up Bidder**" until termination by Seller or the closing of an Alternative Transaction.

(d) At an Auction, Seller will require that any initial overbid: (i) be at least Two Million Dollars (\$2,000,000) above the Closing Cash Purchase Price in this Agreement, in order to ensure cash to cover the Break-Up Fee and Expense Reimbursement, and as a bidding incentive to Buyer.

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5.9 Assumed and Assigned Contracts.

(a) Cure Process. Buyer shall assume all obligations under Assumed Contracts, and at such time as is required by the Court in the Sale Order, shall pay cash or other acceptable consideration to the third party (or parties) to the applicable Assumed Contract (each, a “**Contract Party**”) in order to cure the monetary defaults and satisfy any pecuniary obligations of Seller (or obtain waivers with respect thereto) with respect to the Assumed Contracts, and to provide any adequate assurance of future performance under the Assumed Contracts at the time required in connection with the Sale Hearing.

(b) Identification of Assumed Contracts. Schedule 5.9(b) identifies (i) all Contracts Buyer wishes to be assumed by Seller and assigned by the Seller to Buyer at Closing, (the “**Assumed Contracts**”); and (ii) all Contracts that Buyer will not be seeking to be assigned by Seller, including without limitation all Option Agreements (the “**Rejected Contracts**”); *provided, however*, notwithstanding the foregoing, all Assumed Contracts are subject to the assignment procedures to be set forth in the Bid Procedures. Seller shall move to assume and assign to Buyer, effective as of the Closing Date, any Assumed Contract. After the Effective Time, Seller shall be released from any further liability under such Assumed Contracts as provided for under Section 365(k) of the Bankruptcy Code. Up until five (5) days prior to the Closing, Buyer shall have the right to amend the Assumed Contracts list to remove Contracts at Buyer’s option.

(c) Non-Assignment of Assumed Contracts. Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to assign or transfer and shall not affect the assignment or transfer of any Purchased Asset if (a) an attempted assignment thereof without the approval, authorization or consent of, or granting or issuance of any license or permit by, any Government Authority thereto would constitute a breach thereof; or (b) the Bankruptcy Court shall not have approved assumption and assignment of any Assumed Contract for any reason (each such action in (a) and (b), a “**Necessary Consent**”). In such event, Seller and Buyer shall use their commercially reasonable efforts, to obtain the Necessary Consents with respect to any such Assumed Contract after the Closing; provided that the failure to obtain any Necessary Consent shall not delay the Closing or give rise to a reduction in the Purchase Price. Nothing in this Section 5.9 shall in any way diminish or enlarge (i) Buyer’s obligations hereunder to obtain the Approvals, or (y) the Parties’ obligations hereunder to obtain the Necessary Consents.

5.10 Residents and Partial Entrance Fee Refund Program.

(a) Modified Residency Agreements.

(i) Eligible Current Entrance Fee Residents will be entitled to enter into an amended and restated Residency Agreement (a “**Modified Residency Agreement**”). Upon execution and delivery to Buyer of a Modified Residency Agreement, Buyer shall assume the Modified Residency Agreement.

(ii) The Modified Residency Agreement for Eligible Current Entrance Fee Residents residing in independent living units shall provide, among other things, the following: (i) for such Eligible Current Entrance Fee Residents with existing Residency Agreements providing free care during the first sixty (60) days of care, the Residency Agreement will be modified to provide for a fifty percent (50%) discount on health care services provided by Buyer or its Affiliates during such period; (ii) for such Eligible Current Entrance Fee Residents with existing Residency Agreements providing for a monthly savings entitlement of \$1,000 for health care services, the Residency Agreement will be modified to provide for a monthly savings entitlement of \$500 for skilled nursing services; and (iii) for any such Eligible Current Entrance Fee Residents receiving a percentage discount on health care services, the Residency Agreement will be modified to provide for discounted skilled nursing services at the lesser of (A) such Eligible Current Entrance Fee Resident’s current discount and (B) thirty percent (30%). Furthermore, Buyer will make certain

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additional commitments to Current Residents, including granting priority access to level of care changes and unit choice to Current Residents over residents who are admitted following the Closing.

(b) Former Residents. Buyer shall have no responsibility for any obligations or liabilities, including, without limitation, Entrance Fee Obligations, to Former Residents or with respect to Residency Agreements of Former Residents.

(c) Current Resident Entrance Fee Refund Program.

(i) Eligible Current Entrance Fee Residents shall be entitled to participate in the Current Resident Entrance Fee Refund Program as provided in this Agreement. As consideration for the Buyer's purchase of the Facility, the Eligible Current Entrance Fee Residents will receive a refund of their entrance fees based on the following schedule:

Current Resident Entrance Fee Refund Liability Schedule	
Time of Discharge from Facility	Percentage of Entrance Fee Refund Liability Paid
During the period of time beginning on the Closing Date and ending on the day immediately prior to the three (3) year anniversary of the Closing Date. (i.e. months 0 - 36)	Twenty-Five Percent (25%)
During the period of time beginning on the three (3) year anniversary of the Closing Date and ending on the day immediately prior to the four (4) year anniversary of the Closing Date. (i.e., months 37 - 48)	Thirty-Five Percent (35%)
During the period of time beginning on the four (4) year anniversary of the Closing Date and ending on the day immediately prior to the seven (7) year anniversary of the Closing Date. (i.e., months 49 - 84)	Forty Percent (40%)
During the period of time beginning on the seven (7) year anniversary of the Closing Date and ending on the day immediately prior to the ten (10) year anniversary of the Closing Date. (i.e., months 85 - 120)	Fifty-Five Percent (55%)
During the period of time beginning on the ten (10) year anniversary of the Closing Date and ending on the day immediately prior to the thirteen (13) year anniversary of the Closing Date. (i.e., months 121 - 156)	Seventy-Five Percent (75%)
During the period of time beginning on the thirteen (13) year anniversary of the Closing Date and ending on the day immediately prior to the sixteen (16) year anniversary of the Closing Date. (i.e., months 157 - 192)	Eighty-Five Percent (85%)
During the period of time beginning on the sixteen (16) year anniversary of the Closing Date and thereafter. (i.e., month 193 and thereafter)	One Hundred Percent (100%)

(ii) The recovery reflected in the schedule in clause (i) above with respect to the period of time beginning on the Closing Date and ending on the day immediately prior to the three (3) year anniversary of the Closing Date shall be the base recovery available to Eligible Current Entrance Fee Residents who do not leave the Facility of their own volition (i.e., Eligible Current Entrance Fee Residents who are involuntarily discharged from the Facility) and shall be paid to the estate of any Eligible Current Entrance Fee Residents who becomes a former resident of the Facility during the aforementioned post-Closing period due to the involuntary discharge of such resident.

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(iii) All entrance fee refunds contemplated under this Section 5.10(c) will be made in accordance with the Residency Agreement then in effect at the time any such Eligible Current Entrance Fee Residents becomes eligible to receive a refund.

(d) Current Resident Rates. Current Residents at the Facility shall be entitled to the following treatment:

(i) Current monthly service fees, which will be converted into monthly base rental rates under new Modified Residency Agreements, for all Current Residents at the Facility residing in independent living units shall not increase by more than five percent (5%) per annum while they remain Residents in an independent living unit at the Facility.

(ii) Eligible Current Entrance Fee Residents shall be entitled to priority access to any higher level of care at the Facility over a prospective resident. All Eligible Current Entrance Fee Residents at the Facility that move to a higher level of care, shall from and after the Closing Date receive the following base rental rates through the calendar year 2024, which for illustrative purposes is shown as a comparison against the Seller's standard advertised base rental rates and may be incrementally adjusted for higher levels of care:

Willows - Assisted Living		
Floor Plan	FVS Standard Rate Care Level 1	Level 1 - Legacy Resident Rates 2024
Studio (275)	\$6,540	\$4,350
Alcove (415 - 450)	\$7,194	\$6,280
1-BR (555)	\$7,848	\$7,215
1-BR Special (700)	\$8,240	\$7,525
1-BR Deluxe (830 - 900)	\$8,764	\$7,785
2-BR (790)	\$9,116	\$7,900
2nd Person Fee	\$2,216	\$2,216

Reflections - Memory Care		
Floor Plan	FVS Standard Rate Care Level 2	Level 2 - Legacy Resident Rates 2024
Studio (275)	\$11,803	\$8,200
Alcove (415 - 450)	\$12,292	\$9,000
1-BR (555)	\$12,834	\$9,500
2nd Person Fee	\$4,446	\$4,446

(iii) Eligible Current Entrance Fee Residents that move to any higher level of care at the Facility shall be guaranteed that their monthly unit base rental rates will not be increased by more than five percent (5%) per annum while they are Residents at such higher levels of care at the Facility.

(iv) Eligible Current Entrance Fee Residents at the Facility residing in an assisted living or memory care unit shall maintain their current base rental rates and any applicable discounts in effect

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on the Execution Date; *provided*, that such discount does not exceed thirty percent (30%) off of the Seller's stated base rental rates.

(v) Eligible Current Entrance Fee Residents at the Facility residing in a skilled nursing unit shall maintain their current base rental rates and any applicable discounts in effect on the Execution Date; *provided*, that such discounts do not exceed thirty percent (30%) off of the Seller's stated base rental rates.

(e) Buyer intends to start a program that allows each Eligible Current Entrance Fee Resident who lives in an independent living unit at the Facility who transfers to either an assisted living unit or skilled nursing unit at the Facility to elect to trigger his or her entrance fee refund upon transfer to such new unit, in which case the refund will be provided to such Eligible Current Entrance Fee Resident solely in the form of a credit against future monthly market rate rent and health care services costs of such assisted living unit or skilled nursing unit, as applicable, until the refund amount is paid in full. The amount of any such monthly entrance fee repayment credit will be set at Buyer's discretion, taking into consideration other rent and health care services discounts provided to the applicable Eligible Current Entrance Fee Resident, so the total monthly discount does not exceed an established percentage (e.g., thirty percent (30%)) of those costs.

(f) Buyer is considering creating a hybrid structure at the Facility going forward, potentially with some units have entrance fees or credits toward care. With regard to the Option Agreements, Buyer and Seller will work together to give notice to the Residents subject to Option Agreements as provided therein in order to help retain those residents, with the Option Deposits to be returned to the Residents and their residency converted to rental unless they opt into any non-rental program under development by and offered by Buyer.

5.11 Accounts Receivable.

(a) Seller shall retain whatever right, title and interest it may have in and to all outstanding accounts receivable with respect to the Facility which relate to periods ending on or before the Effective Time; *provided*, that accounts receivable relating to periods ending on or before the Effective Time and collected after the Effective Time (whether collected by the Seller or Buyer) shall be paid into an escrow account (the "**Indemnity Escrow Account**") until a total of Five Hundred Thousand Dollars (\$500,000) has been deposited in the Indemnity Escrow Account. The Indemnity Escrow Account shall be used to secure Seller's obligations under Section 2.5(d) of this Agreement and amounts, if any, remaining in the Escrow Account on the one (1) year anniversary of the Effective Time, to the extent not subject to any good faith claim previously asserted by Buyer, shall be released to Seller.

(b) Payments received by Buyer after the Effective Time from Third-Party Payors including, but not limited to managed care and health insurance, shall be handled as follows:

(i) If such payments either specifically indicate on the accompanying remittance advice, or if Buyer and Seller agree, that such payments relate to the period ending before the Effective Time, they shall be forwarded by Buyer to Seller, along with the applicable remittance advice, within ten (10) days after receipt thereof; and

(ii) If such payments indicate on the accompanying remittance advice, or if Buyer and Seller agree, that such payments relate to the period from and after the Effective Time, they shall be retained by Buyer.

(c) Payments received by Seller after the Effective Time from third party payors including, but not limited to managed care and health insurance, shall be handled as follows:

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(i) If such payments either specifically indicate on the accompanying remittance advice, or if Buyer and Seller agree, that such payments relate to the period from and after the Effective Time, they shall be forwarded by Seller to Buyer, along with the applicable remittance advice, within ten (10) days after receipt thereof; and

(ii) If such payments indicate on the accompanying remittance advice, or if Buyer and Seller agree, that they relate to the period ending on or before the Effective Time, they shall be retained by Seller.

(d) If the remittance advice indicates or the Parties agree that any payment relates to periods both prior to and on or after the Effective Time, the Party receiving the payment shall forward the amount relating to the other Party's operation of the Business, along with the applicable remittance advice, within ten (10) days after receipt thereof. If the remittance advice does not indicate the period to which a payment relates or whether it is for Buyer or Seller, or if there is no accompanying remittance advice, or the payment is not otherwise identifiable using commercially reasonable efforts, and if the Parties do not otherwise agree as to how to apply such payment, then 100% of such payments received within the first one-hundred twenty (120) days after the Effective Time shall be deemed to have been collected in respect of Seller's Accounts Receivable due from the payee in respect of services provided on or prior to the Effective Time. All such payments received in excess of the amount of Seller's Accounts Receivables due from said payee and all such payments received one-hundred twenty (120) days after the Effective Time shall be deemed to belong to Buyer. If the party receiving the funds is not the party entitled to the funds hereunder, such party shall forward such funds to the other party within ten (10) days. For the avoidance of doubt, no party shall have the right to setoff or recoup against amounts it is required to send to the other party under this paragraph.

5.12 COVID-19 Funds.

(a) Seller or its Affiliates have received and may continue to receive after the Closing Date: (i) funds made available to Seller pursuant to the Coronavirus Aid, Relief and Economic Security Act ("**CARES Act Payments**"), (ii) advanced payments from CMS pursuant to the CMS Accelerated and Advance Payment Program related to COVID-19 ("**Medicare Advance Payments**"), and/or (iii) certain other stimulus funds related to COVID-19 which are not CARES Act Payments or Medicare Advance Payments ("**Other COVID-19 Funds**"). The Parties shall comply in all material respects with all laws applicable to the CARES Act Payments, Medicare Advance Payments and/or Other COVID-19 Funds in performance of their obligations hereunder.

(b) Seller or its Affiliates, as applicable, shall be entitled to retain any CARES Act Payments received prior to the Closing Date or received after the Closing Date for services rendered and/or performance prior to the Closing Date. In addition, Seller or its Affiliates, as applicable, shall be entitled to retain funds received after the Closing Date that constitute CARES Act Payments under the \$2 billion Provider Relief Fund (PRF) performance-based incentive payment distribution which relate to the performance of the Facility during any measurement period commencing prior to the Closing Date. Except as otherwise set forth in this Section 5.12(b), if Seller or its Affiliates receive additional CARES Act Payments after the Closing Date, all or a portion of which are required to be used for costs and expenses related to the Facility for the period on or following the Closing Date, Seller or its Affiliates, as applicable, shall return the applicable portion of such CARES Act Payments to CMS pursuant to the guidance and procedures set forth by CMS for return of such CARES Act Payments. Following the return of such CARES Act Payments, Seller or its Affiliates, as applicable, shall reasonably cooperate with Buyer in its applications to CMS for reissuance of such CARES Act Payments to Buyer. For the avoidance of doubt, in no event shall Seller or its Affiliates be obligated to transfer any CARES Act Payments to Buyer.

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(c) With respect to any Other COVID-19 Funds received by Seller or its Affiliates, Seller or its Affiliates, as applicable, shall reasonably cooperate with Buyer in good faith to address such Other COVID-19 Funds in accordance with applicable terms and conditions or other applicable laws. To the extent that any CARES Act Payments or Other COVID-19 Funds, which relate to the period prior to the Closing Date or are received under Seller's provider numbers or tax identification numbers, are received by Buyer after the Closing Date, to the extent permitted by applicable terms and conditions or other applicable laws, Buyer shall remit any such funds received by Buyer to Seller in the same manner as Seller's Accounts Receivable under Section 5.11. To the extent that Buyer is prohibited from remitting such funds to Seller pursuant to applicable terms and conditions or other applicable laws, Buyer will reasonably cooperate with Seller in good faith to address such funds in accordance with applicable terms and conditions or other applicable laws, including, without limitation, returning such funds to the applicable Governmental Authority if required by applicable terms and conditions or other applicable laws and reasonably cooperating with Seller in applying for or otherwise requesting the applicable Governmental Authority to reissue such funds to Seller.

(d) Neither Seller nor its Affiliates shall have any obligation to transfer to Buyer any Medicare Advance Payments received by Seller, whether received on or after the Closing Date. To the extent any such Medicare Advance Payments are required to be returned to CMS, such amounts shall be paid by or recouped from Buyer to the extent, and within the applicable timeframe, required by any applicable laws.

(e) Nothing in this Agreement shall be construed to prohibit Buyer from applying for and receiving any CARES Act Payments, Medicare Advance Payments or Other COVID-19 Funds with respect to its operation of the Facility. Seller agrees to reasonably cooperate with Buyer to submit any application for funds deemed appropriate by Buyer, or to reasonably support any application submitted by Buyer directly for CARES Act Payments, Medicare Advance Payments or Other COVID-19 Funds with respect to operation of the Facility on or after the Closing Date. Nothing in this Section 5.12 shall require any Party to act in contravention of applicable laws, or the terms and conditions applicable to CARES Act Payments, Medicare Advance Payments, or Other COVID-19 Funds.

5.13 Title and Survey Matters; Parking Parcel Title Objection Right; Title Update and Title Bringdown Objection Right.

(a) Buyer has received the Survey for a portion of the Premises, and title commitments listed in Schedule 5.13(a) (the "Commitments") from the Title Company for the Premises. The Commitments, together with any Title Updates with respect thereto, shall evidence the Title Company's commitment to issue at Closing an ALTA extended coverage owner's policy of title insurance (Form 2011) (the "Title Policy") insuring title to the Premises, together with improvements, buildings and fixtures thereon, unless otherwise noted in such Commitments, in the full amount of the Purchase Price, subject only to the Permitted Liens. Subject to and consistent with the Sale Order, Seller agrees to deliver any documents or information as may be reasonably required by the Title Company under the requirements section of the Commitments (or any Title Update with respect thereto) or otherwise in connection with the issuance of the Title Policy. Seller also agrees to provide a limited affidavit of title appropriate to the distressed circumstance surrounding the sale and/or such other information as the Title Company may reasonably require in order for the Title Company to insure over the "gap" (i.e., the period of time between the effective date of the title insurance company's last check-down of title to the Premises (a "Title Bringdown") and the Closing Date) and to remove any so-called "standard exceptions" from the Title Policy.

(b) Prior to the Closing, Buyer may order updates or continuations of, and supplements to, the Commitments and/or the Survey (each a "Title Update") for the Premises. Buyer shall instruct Title Company to simultaneously deliver directly to Buyer and Seller copies of each Title Update (including tax and

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departmental searches) ordered by Buyer or otherwise issued by Title Company and copies of all underlying documentation referenced as an exception in such Title Update as soon as and if reasonably available.

(c) Buyer is satisfied with the survey and Commitments regarding the Premises and the Parking Parcel. Buyer shall have the right to deliver one written notice to each Title Update (each, a “**Title Objection Notice**”) to Seller objecting to any items contained in a Title Update which are not Permitted Liens and which would materially or unreasonably interfere with the use or occupancy of the Premises or materially and adversely affect the value of the Premises if not removed or otherwise cured, such Title Objection Notice to be delivered prior to the earlier of (i) within ten (10) days after Buyer’s receipt of such Title Update, and (ii) twenty (20) days prior to the Closing Date. Failure of Buyer to provide a Title Objection Notice within such period (or to include any such matters in a timely delivered and valid Title Objection Notice) shall be deemed Buyer’s approval of all items contained in such Title Update. All such items that are not objected to by Buyer in a timely delivered and valid Title Objection Notice shall be deemed to be Permitted Liens. Seller shall use commercially reasonable efforts and expend such amounts as it deems appropriate in its commercially reasonable discretion to remove or cure prior to the Closing any title exceptions that meet the thresholds under this paragraph, are not Permitted Liens, and to which Buyer properly and timely objects to in the Title Objection Notice (which cure may, at Seller’s election, involve obtaining, at Seller’s expense, title insurance from Title Company acceptable to Buyer insuring against the effect of such exceptions). Seller shall not have any obligation to remove or cure any such exceptions or pay any amounts to cure or remove the same. Seller shall notify Buyer in writing within seven (7) days after receipt of Buyer’s Title Objection Notice whether Seller elects to attempt to remove or cure any such exceptions, and Seller’s failure to deliver such notice in a timely manner shall be deemed an election by Seller not to remove or cure such exceptions. If Seller notifies Buyer that Seller has elected to remove or cure any such exceptions and the removal or cure cannot be completed by the Closing, then Seller will execute an undertaking in connection with Closing covenanting to remove or cure such exceptions promptly following Closing and shall escrow appropriate amounts with the Title Company at Closing if any of the exceptions to be removed or cured by Seller after Closing are reasonably likely to result in monetary obligations of Seller. If Seller notifies Buyer that Seller has elected not to remove or cure any such exceptions (or is deemed to have elected not to remove or cure such exceptions), then so long as the exceptions qualify under this paragraph, Buyer may notify Seller within seven (7) days after receipt of such notice (or date of deemed election, as applicable) whether Buyer elects to proceed to the Closing, taking title subject to such exceptions, or not to proceed to the Closing (in which case, Buyer shall receive the Deposit). Failure of Buyer to provide such notice in a timely manner shall be deemed an election by Buyer to proceed to the Closing. If Buyer elects (or is deemed to have elected) to take title subject to any such exceptions under this Section 5.13 such exceptions shall become Permitted Liens and the Purchase Price shall not be reduced.

5.14 Interim Period Covenants of Seller. Between the Effective Date and the earlier to occur of the date this Agreement is terminated in accordance with its terms or the Closing Date, except as otherwise contemplated by this Agreement or to the extent Buyer otherwise consents in writing, Seller shall: (i) conduct the Business in the ordinary course, (ii) make no transfers of any Purchased Assets except as such may be exhausted in the ordinary course of business, (iii) use commercially reasonable efforts to maintain and preserve intact the organization and advantageous business relationships of the Business, (iv) take no action which would materially adversely affect or materially delay the ability of Buyer to obtain any approvals for the transactions contemplated hereby or to perform its covenants under this Agreement; and (v) take no action or omit to take any action which is reasonably likely to (i) adversely affect Buyer’s ability to acquire and operate the Purchased Assets and perform its obligations under this Agreement, or (ii) result in a breach of any of Seller’s covenants, representations or warranties set forth herein.

5.15 Resident Trust Funds. Prior to the Closing Date, Seller shall prepare a true, correct and complete accounting, properly reconciled, of any Resident Trust Funds then held by Seller or its Affiliates for Residents at the Facility. On the Closing Date, Seller shall transfer, or cause to be transferred, the Resident

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Trust Funds to bank accounts designated by Buyer, and Buyer shall, in writing, acknowledge receipt of and expressly assume all of Seller's or its Affiliate's, as applicable, financial and custodial obligations with respect to such Resident Trust Funds actually delivered by Seller or its Affiliate, as applicable, it being the intent and purpose of this provision that, at the Closing, Buyer will assume the fiduciary and custodial obligations with respect to such Resident Trust Funds actually delivered to Buyer and be directly accountable to the Current Residents with respect thereto. Within thirty (30) days following the Closing Date, Seller shall update such accounting, properly reconciled, as of the Closing Date. The provisions of this Section 5.15 shall survive the Closing.

5.16 Capital Improvements. Following the Closing, Buyer will invest Fifteen Million Dollars (\$15,000,000) in capital expenditures into the Facility to finance certain capital improvement projects during the two (2)-year period following the Closing.

5.17 Annual Financial Hardship Funding. Following the Closing, Buyer agrees to create a financial hardship fund named "Friendship Senior Options Fund" or a similar name that makes available to Residents annual financial hardship funding in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000) per year, subject to applicable terms and policies determined by Buyer.

5.18 Charitable Endeavors. Following the Closing, Buyer will cause the Business to fulfill the following charitable endeavors: (i) an aggregate amount of Fifty Thousand Dollars (\$50,000) per year in charitable contributions will be made to support regional charitable organizations as determined by Buyer; and (ii) an aggregate amount of Twenty-Five Thousand Dollars (\$25,000) per year will be made available to employees for educational assistance, including, but not limited to, tuition reimbursement purposes.

5.19 Facility Operations. Subject to obtaining the applicable Permits, Buyer agrees to serve as, or appoint an Affiliate of Buyer to serve as, the new licensed operator of the Facility.

ARTICLE 6

CONDITIONS TO CLOSING

6.1 Conditions to Obligations of Seller to Close. The obligation of Seller to effect the Closing of the transactions contemplated by this Agreement is subject to the satisfaction prior to or at the Closing Date of the following conditions (any of which may, in the sole discretion of Seller, be waived in whole or in part):

(a) **Bankruptcy Matters.** The Bankruptcy Court shall have entered the Sale Order in form reasonably satisfactory to Buyer, Seller and the Master Trustee, and it shall not be subject to a stay pending appeal.

(b) **Observance and Performance.** Buyer shall have performed and complied with, in all material respects, all covenants and agreements required by this Agreement to be performed and complied with by it prior to or as of the Closing, and all representations and warranties of Buyer shall remain true and correct in all material respects as of the Closing.

(c) **No Legal Actions.** No Action, law or order, decree, injunction or judgment issued, and not subsequently vacated, by a Governmental Authority shall operate to vacate, restrain, enjoin or otherwise prohibiting the consummation of the transactions contemplated by this Agreement.

(d) **Approvals.** Buyer shall have obtained the Approvals, or assurances of issuance thereof, so that Buyer is authorized to operate the Business.

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6.2 Conditions to Obligation of Buyer to Close. The obligation of Buyer to affect the closing of the transactions contemplated by this Agreement is subject to the satisfaction prior to or at the Closing of the following conditions (any of which may, in Buyer's sole discretion, be waived in whole or in part):

(a) Bankruptcy Matters. The Bankruptcy Court shall have entered the Sale Order in form reasonably satisfactory to Buyer and Seller, and it shall not be subject to a stay pending appeal.

(b) Observance and Performance. Seller shall have performed and complied with, in all material respects, all covenants and agreements required by this Agreement to be performed and complied with by it prior to or as of the Closing, and all representations and warranties of Seller shall remain true and correct in all material respects as of the Closing.

(c) Inventory. The Inventory shall be in a quantity sufficient to meet the needs of the Residents of the Facility for a period of not less than two (2) weeks (or such greater quantity as is required to be maintained by applicable law) following the Closing. The food supplies included in such Inventory shall be in a quantity sufficient to meet the needs of the Residents of the Facility for a period of not less than 3.5 days following the Closing, consistent with Seller's ordinary course practice; provided that Seller will obtain additional food inventory for up to a total of two (2) weeks with the difference to be at Buyer's cost funded at Closing.

(d) MAC. No MAC has occurred that Buyer has not waived by written notice to Seller.

(e) No Legal Actions. No Action, law or order, decree, injunction or judgment issued, and not subsequently vacated, by a Governmental Authority shall operate to vacate, restrain, enjoin or otherwise prohibiting the consummation of the transactions contemplated by this Agreement.

(f) Regulatory Actions. None of the following shall have occurred: (i) receipt by Seller of notice from any Government Authority of a termination, revocation, rescission, suspension or refusal to renew a Provider Agreement or state nursing facility license or other licenses required by Government Authorities for the legal use, occupancy and operation of the Facility, (ii) receipt by Seller of notice from any Government Authority of a so-called "fast track" decertification, (iii) a survey deficiency finding at the Facility at a scope and severity of level above "G" that is unabated, (iv) a denial of the Facility's right to admit Residents or to receive Medicare or Medicaid payments or reimbursements for existing Residents or for new admissions, which denial, if related to a minor survey violation, is ongoing for more than 7 days, or (*) receipt by Seller of notice that the Facility has been, will be, or is a candidate to be placed on the Special Focus Facility List maintained by CMS.

(g) Approvals. Buyer shall have obtained the Approvals, or assurances, of issuance thereof, so that Buyer is authorized to operate the Business.

(h) Title. The Title Company is prepared to issue, as of the Closing Date, the Title Policy, subject only to the Permitted Liens.

ARTICLE 7

TERMINATION

7.1 Termination. This Agreement may be terminated at any time before the Closing by written notice to the applicable Party:

(a) by mutual written agreement of Buyer and Seller;

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(b) by either Buyer or Seller, upon written notice to the other Party, if the other Party is in material breach or default of any provision of this Agreement, which breach is not cured within ten (10) Business Days after written notice thereof is received, provided, however, that the terminating party is not in material breach or default of this Agreement;

(c) by either Buyer or Seller if the sale is disapproved by the Bankruptcy Court, or there is an Alternative Transaction;

(d) by either Buyer or Seller if the Closing has not occurred by the Outside Closing Date by no fault of the Party terminating, and Buyer is not at that time the Back-Up Bidder;

(e) by Seller, if Buyer is not diligently pursuing the Closing such that the Closing can occur on or prior to the Outside Closing Date, in the reasonable discretion of Seller;

(f) by either Buyer or Seller, if, prior to Closing, the Sale Order, after being entered by the Bankruptcy Court, has subsequently been reversed, revoked, or voided by an order of a court of competent jurisdiction; or

(g) by Buyer pursuant to Section 2.9 or Section 5.13.

7.2 Remedies.

(a) Termination, plus any rights the Parties shall have under this Section regarding the Deposit, the Break-Up Fee, and the Expense Reimbursement shall be the sole remedy of the Parties for a breach of this Agreement, except for the Parties' rights under Section 8.16. Immediately upon the occurrence of any termination of this Agreement pursuant to Sections 7.1(a), 7.1(b) (where Buyer is the terminating Party), 7.1(d), 7.1(f), or 7.1(g), and provided that Buyer has not otherwise materially breached this Agreement, Seller shall refund the Deposit to Buyer. If the termination is pursuant to Section 7.1(c) as the result of an Alternative Transaction, then subject to and in accordance with the terms of the Bid Procedures Order and provided Buyer has not materially breached this Agreement, Seller shall, upon the closing of the Alternative Transaction, (i) refund the Deposit to Buyer and (ii) pay Buyer the Break-Up Fee and Expense Reimbursement from the proceeds of such Alternative Transaction. In all other circumstances, the Deposit shall be forfeited to Seller and Seller shall be released from all obligations to Buyer hereunder.

(b) The Parties intend that the Deposit constitutes compensation and not a penalty. The Parties acknowledge and agree that either Party's harm caused by the other Party's default or breach of this Agreement would be impossible or very difficult to accurately estimate as of the date of this Agreement, and that the Deposit (or return of the Deposit, as the case may be, and the Break-Up Fee and Expense Reimbursement in circumstances where applicable) is a reasonable estimate of the anticipated or actual harm that might arise from such a default or breach. The transfer and/or return of the Deposit (and payment of the Break-Up Fee and Expense Reimbursement in circumstances where applicable) is each Party's sole liability and entire obligation and the exclusive remedy for the other Party's default or breach of this Agreement. If the Closing does not occur on or before the Closing Date, the Deposit shall be disbursed in accordance with this Section 7.2.

(c) Article 7 and Article 8 shall survive any termination.

ARTICLE 8

MISCELLANEOUS

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8.1 Expenses. Except as specifically set forth in this Agreement or any Related Agreement, and except for the Break-Up Fee and Expense Reimbursement, the Parties shall bear their own expenses, including, without limitation, fees, disbursements and other costs of any attorneys, accountants and other advisors, in connection with this Agreement, the Related Agreements, and the transactions contemplated hereby and thereby. This Section shall not apply, if the Closing does not occur, to any existing or future litigation, if a right to attorneys' fees and expenses otherwise exists.

8.2 Notices. All notices, requests, demands and other communications made in connection with this Agreement shall be in writing and shall be (a) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, (b) transmitted by hand delivery, (c) sent by electronic means, or (d) sent by nationally recognized overnight courier for next Business Day delivery, addressed as follows:

Seller: Friendship Village of Schaumburg
350 W Schaumburg Rd
Schaumburg, IL 60194
Attention: Mike Flynn, Chief Executive Officer
Mike.Flynn@myfso.org

With simultaneous copies to (which shall not constitute notice):
Polsinelli PC
2950 N. Harwood, Suite 2100
Dallas, TX 75201
Attention: Trinitee Green; Jeremy Johnson; Bobby Guy;
Peter Peggars
jjohnson@polsinelli.com; bguy@polsinelli.com;
peggers@polsinelli.com; tgreen@polsinelli.com

Buyer: IL CCRC LLC
c/o Corporation Service Company
251 Little Falls Drive
Wilmington, Delaware 19803

With a simultaneous copy to: Cozen O'Connor
One Liberty Place
1650 Market Street, Suite 2800
Philadelphia, Pennsylvania 19103
Attention: Ira C. Gubernick
igubernick@cozen.com

If to the Master Trustee: UMB Bank, National Association
120 Sixth Street South, Suite 1400
Minneapolis, MN 55402
Attention: [REDACTED]
[REDACTED]

With copy to: Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111
Attention: Daniel Bleck

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dsbleck@mintz.com;

or, in each case, such other address as may be specified in writing to the other Party.

All such notices, requests, demands, waivers and other communications shall be deemed to have been received (w) if by first-class, registered or certified mail, on the fifth Business Day after the mailing thereof, (x) if by hand delivery, on the day after such delivery, (y) if by electronic means and the transmitting Party receives a transmission receipt dated the day of transmission, on the same day as the transmission, and (z) if by nationally recognized overnight courier, on the next Business Day after deposit with such courier.

With respect to any notice required under Sections 2.9 (Casualty), 5.1 (Access to Books and Records), 5.3 (Regulatory Filings), and 7.1 (Termination) hereof, the Parties shall also send notice to the Master Trustee.

8.3 Confidentiality. Buyer has previously entered into a Confidentiality Agreement (the “Confidentiality Agreement”) for the benefit of Seller, and that Confidentiality Agreement remains in place. The term of the Confidentiality Agreement, if coterminous with the signing of this Agreement, is extended until the earlier of (a) one year from the date hereof, or (b) the Closing between the Parties. Further, each Party hereto agrees that the provisions of this Agreement, all understandings, agreements and other arrangements between the Parties, and all other non-public information received from the other Party or otherwise relating to such other Party or (prior to Closing) the Premises, shall be confidential, and shall not be disclosed or otherwise released to any other Person, without the written consent of the other Party. The obligations of the Parties hereunder shall not apply to: (a) the extent that the disclosure of information otherwise determined to be confidential is anticipated hereunder or required by applicable law, including bankruptcy law, to be disclosed or filed with the Bankruptcy Court; (b) the disclosure of confidential information to any financial advisors, legal advisors, other professional advisors, shareholders, investors and lenders (both actual and potential) of a party who agree to hold confidential such information substantially in accordance with this Section or who are otherwise bound by a duty of confidentiality to such party; and (c) such disclosures as may be contained in any transaction-specific press release approved by both Purchaser and Seller, each party agreeing not to unreasonably withhold, condition or delay its approval.

8.4 Amendment; Waivers, Etc. No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the Party against whom enforcement of the amendment, modification, discharge or waiver is sought, and to the extent such amendment, modification, discharge or waiver is material, the Master Trustee has consented to such amendment, modification, discharge or waiver. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the Party granting such waiver in any other respect or at any other time.

8.5 Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

8.6 Assignment. Neither this Agreement nor any of the rights or obligations under this Agreement may be assigned by either Party without the prior written consent of the other Party and the Master Trustee, except that Buyer may assign its rights under this Agreement to a wholly-owned Affiliate with five (5) days’ notice to Seller and the Master Trustee. No permitted assignment of this Agreement by a Party will relieve the Party of any of its obligations under this Agreement.

8.7 Parties in Interest. This Agreement and the Related Agreements shall be binding upon and inure solely to the benefit of the Parties and their successors and permitted assigns, and nothing in this Agreement or any Related Agreement, expressed or implied, is intended to confer upon any other Person any

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rights or remedies of any nature under or by reason of this Agreement or any Related Agreement, except that FSO shall be a beneficiary of the protections provided to Seller in Section 5.8.

8.8 No Personal Liability. No individual officer, director, employee, manager, agent, or representative shall have personal liability for any of the obligations hereunder or claims of any kind in connection herewith.

8.9 Counterparts; Facsimile Signature. This Agreement may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which shall constitute one and the same instrument, and shall become effective when one or more counterparts have been signed by each of the Parties. Counterparts may be executed by hand or by any electronic signature complying with state or federal law, including the U.S. federal ESIGN Act of 2000, as amended (the "**ESIGN Act**"). Executed counterparts may be delivered via facsimile, electronic mail or other similar transmission method, and any executed counterpart so delivered shall be valid and effective for all purposes. No Party shall raise the use of any electronic signature that complies with the ESIGN Act (including www.docuSign.com), or the use of a facsimile machine, electronic mail or other similar transmission method as a means to deliver a signature to this Agreement or any amendment hereto as a defense to the formation or enforceability of a contract and each Party forever waives any such defense.

8.10 Governing Law. Except to the extent inconsistent with the Bankruptcy Code, this Agreement and the Related Agreements shall be governed by and construed and enforced in accordance with the laws of the State of Illinois, without regard to its conflicts of law rules.

8.11 Severability. If any provision of this Agreement is inoperative or unenforceable for any reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever, so long as this Agreement, taken as a whole, still expresses the material intent of the Parties. The invalidity of any one or more phrases, sentences, clauses, sections or subsections of this Agreement shall not affect the remaining portions of this Agreement.

8.12 Entire Agreement. This Agreement and the Related Agreements constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter hereof. There are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as set forth specifically herein.

8.13 Employees Not Third-Party Beneficiaries. Nothing in this Agreement or the Related Agreements is intended to confer upon any past, present or future employee of Seller or its Affiliates or his or her legal representatives or heirs any rights as a third-party beneficiary or otherwise or any other rights or remedies of any nature or kind whatsoever under or by reason of the transactions contemplated by this Agreement or by the Related Agreements, including any rights of employment, continued employment or any rights under or with respect to any employee benefit, welfare benefit, pension or other fringe benefit plan, fund, program or arrangement.

8.14 Bulk Sales or Transfer Laws. Buyer hereby waives compliance by Seller with the provisions of the bulk sales or transfer laws of all applicable jurisdictions.

8.15 No Inferences. Inasmuch as this Agreement is the result of negotiations between sophisticated parties of equal bargaining power represented by counsel, no inference in favor of, or against, either Party shall be drawn from the fact that any portion of this Agreement has been drafted by or on behalf of such Party.

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8.16 Enforcement Expenses. In the event any Party elects to incur legal expenses to enforce, defend or interpret any provision of this Agreement, as between it and any other Party, the prevailing Party shall be entitled to recover from the other Party such legal expenses, including reasonable attorneys' fees, costs and necessary disbursements, in addition to any other relief to which such Party may be entitled.

8.17 Survival of Representations and Warranties. None of the representations or warranties of Seller set forth in this Agreement, any Related Agreement, or in any other agreement or certificate executed in connection with, or delivered pursuant to, this Agreement shall survive the Closing. Other than the requirements of further assurances and actions specifically identified to be taken post-Closing, all other covenants of Seller shall expire upon Closing.

8.18 Interpretation. In this Agreement, unless the context otherwise requires: (a) references to this Agreement are references to this Agreement and to the Schedules and Exhibits hereto; (b) references to Articles and Sections are references to Articles and Sections of this Agreement; (c) references to any party to this Agreement shall include references to its respective successors, its designees, and permitted assigns; (d) references to a judgment shall include references to any order, writ, injunction, decree, determination or award of any court or tribunal; (e) the terms "hereof," "herein," "hereby," and any derivative or similar words will refer to this entire Agreement; (f) references to any document (including this Agreement) are references to that document as amended, consolidated, supplemented, novated or replaced by the parties thereof from time to time; (g) references to any law are references to that law as of the Closing Date, unless the context requires otherwise, and shall also refer to all rules and regulations promulgated thereunder, unless the context requires otherwise; (h) the word "including" shall mean including without limitation; (i) references to time are references to Central Standard or Daylight time (as in effect on the applicable day) unless otherwise specified herein; and (j) in the event the time for an act or notice falls on a day that is not a Business Day, the time will automatically be extended to the next Business Day. At any time, and from time to time on or prior to the Closing Date, Seller may supplement or amend the Schedules to this Agreement (collectively, a "**Disclosure Update**"). The representations, warranties, and Schedules will be deemed supplemented and amended by any Disclosure Update in order to cause the representations and warranties of Seller to be true as of the Closing.

8.19 SUBMISSION TO JURISDICTION. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, AND ANY APPELLATE COURT ARISING THEREFROM, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OF THE DOCUMENTS ENTERED INTO IN CONNECTION HERewith OR FOR THE RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH COURT. EACH OF THE PARTIES AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND BINDING ON SUCH PARTY. TO THE EXTENT THAT THE BANKRUPTCY COURT LACKS JURISDICTION, THEN THE REFERENCE ABOVE TO THE BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF ILLINOIS SHALL BE "THE ILLINOIS STATE TRIAL AND APPELLATE COURTS" WITH JURISDICTION OVER COOK COUNTY, ILLINOIS."

8.20 WAIVER OF JURY TRIAL. EACH PARTY TO THIS AGREEMENT HEREBY UNCONDITIONALLY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, ANY OF THE DOCUMENTS RELATED HERETO, ANY DEALINGS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT OR ANY RELATED TRANSACTIONS.

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8.21 Time of the Essence. Time is of the essence for purposes of this Agreement and the rights and obligations of the Parties hereunder.

[Signatures Follow on Next Page]

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COOK COUNTY
CLERK
RECORDING DIVISION

COOK COUNTY
CLERK
RECORDING DIVISION

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IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by their duly authorized representatives as of the date first above written.

**EVANGELICAL RETIREMENT HOMES OF GREATER CHICAGO,
INC. D/B/A FRIENDSHIP VILLAGE OF SCHAUMBURG:**

DocuSigned by:

Mike Flynn

33F7BBC313704E1...

By: Mike Flynn
Its: Chief Executive Officer

JL CCRC LLC:

By: Harry Barak
Its: Chief Operating Officer

Property of Cook County Clerk's Office

**COOK COUNTY
CLERK
RECORDING DIVISION**

UNOFFICIAL COPY

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by their duly authorized representatives as of the date first above written.

**EVANGELICAL RETIREMENT HOMES OF GREATER CHICAGO,
INC. D/B/A FRIENDSHIP VILLAGE OF SCHAUMBURG:**

By: Mike Flynn
Its: Chief Executive Officer

Property of

ELCCRC LLC:

DocuSigned by:

Harry Baraz
D265438E, C63463...

By: Harry Baraz
Its: Chief Operating Officer

Cook County Clerk's Office
**COOK COUNTY
CLERK
RECORDING DIVISION**

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Exhibit 2 to Sale Order

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Assigned Contracts²

Counterparty	Description of Assigned Contracts or Leases	Cure Amount
Health Care Service Corporation, A Mutual Legal Reserve Company (Blue Cross and Blue Shield of Illinois)	Medicare Advantage Agreement	\$0.00
Health Care Service Corporation, A Mutual Legal Reserve Company (Blue Cross and Blue Shield of Illinois)	Skilled Nursing Facility Agreement	\$0.00
Health Care Service Corporation, A Mutual Legal Reserve Company (Blue Cross and Blue Shield of Illinois)	PPO Medicare Advantage Agreement	\$0.00
Centers for Medicare and Medicaid/ Secretary of Health & Human Services	Nursing Facility Agreement	\$0.00
Humana Health Plan, Inc. and Humana Insurance Company	Ancillary Participation Agreement	\$0.00
Alexian Brothers Accountable Care Organization	Accountable Care Organization Other Entity Agreement	\$2,002.33
Aetna, Inc.	Provider Agreement	\$0.00
Schaumburg Bank & Trust N.A.	Bank space lease	\$0.00
Centers for Medicare & Medicaid/Health & Human Services	Medicare provider agreement for enrollment ending in 5541	\$0.00
Centers for Medicare & Medicaid/Health & Human Services	Medicare provider agreement for enrollment ending in 6745	\$0.00
All Residency Agreements (with current residents as of Sale Closing Date) ³		

² The presence of a contract or lease on this schedule does not constitute an admission by the Debtor that such contract is an executory contract or such lease is an unexpired lease pursuant to Bankruptcy Code section 365 or any other applicable law, and the Debtor reserves all rights to withdraw any proposed assumption and assignment or to reject any contract or lease at any time before the Closing Date.

³ Consistent with the terms of the APA approved by the Court's Sale Order, the Debtor intends to assume and assign to the Purchaser residency agreements between the Debtor and current residents, as of the Closing Date, so long as such residents agree to be bound by modified terms and enter into modified residency agreements.