

HEARING DATE: NOVEMBER 10, 2022 AT 10:00 A.M.
WEBEX VIRTUAL HEARING
PARTICIPANTS CONTACT COURT FOR DETAILS
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STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

)
PETER MUMMA, in his capacity as Chief)
Executive Officer and President of the)
Board of Directors of Phoenix Houses of)
New England, Inc.,)
Petitioner,)
)
v.)
)
PHOENIX HOUSES OF NEW ENGLAND,))
INC.,)
Respondent.)
_____)

C.A. No. PM-2021-00006

SPECIAL MASTER’S THIRD INTERIM REPORT AND FOURTH REQUEST FOR FEES, COSTS, AND EXPENSES

NOW COMES Jonathan N. Savage, Esq., solely in his capacity as Permanent Non-Liquidating Special Master (“Special Master”) of Phoenix Houses of New England, Inc. (“Phoenix House”) and hereby makes a report relative to Phoenix House, and requests that the Court review, approve, and authorize payment of the Special Master’s fees, costs, and expenses that have been incurred in connection with the administration of Phoenix House under the COVID-19 Business Recovery Plan.

BACKGROUND

1. This Third Interim Report and Fourth Request for Fees, Costs, and Expenses (“Report”) is made in succession to Phoenix House’s Petition to Sell Assets in the Ordinary Course; Special Master’s Petition for Instructions on Claim Process; and Special Master’s Second Interim Report and Third Request for Fees Costs, and Expenses (“Second Interim Report”), which is incorporated herein by reference.

2. By Order dated June 30, 2022 (“Order”), the Court approved the Second Interim Report in its entirety, including the establishment of a claims process, provided, however, that the Court reserved decision on the portion of the Second Interim Report that requested that the Court approved the sale of two parcels of property—specifically, 435 Western Avenue, Brattleboro, Vermont and 15 Mulberry Street, Springfield, Massachusetts (collectively, the “Properties”)—to RHMA1, LLC (“Buyer”). A copy of that Order is attached hereto as **Exhibit A**.

ACTIONS AFTER SECOND INTERIM REPORT

Claims Process

3. Consistent with the authorization provided in the Order, the Special Master initiated a claims process for all vendors, creditors, or other parties in interest to assert claims against the Special Mastership Estate on or before October 31, 2022 (“Claims Bar Date”). That process included the creation and subsequent mailing of a proof of claim form to approximately 440 parties.

4. After that mailing, the Special Master’s counsel and staff have responded to inquiries from parties regarding the process and helped coordinate submission of proofs of claims.

5. Throughout the claims process, the Special Master’s counsel has coordinated with Phoenix House’s staff to reconcile proofs of claim against liabilities on the financials of Phoenix House. Additionally, the Special Master’s counsel has reviewed proofs of claims in the course of their submission to catalogue the claimant’s claim, its priority, and whether the claim is properly substantiated and documented.

6. As of the filing of this Report, the Special Master has received approximately seventy five proofs of claims, cumulatively totaling approximately \$1.5 million.

7. After the Claims Bar Date passes, the Special Master will review all the claims received and make a recommendation to the Court on the approval or rejection of those claims.

Vendor Management, Termination, and Transfer

8. Since his appointment, the Special Master and his counsel and staff have fielded and responded to questions and inquiries from Phoenix House's vendors. The inquiries, which remain ongoing, relate to—among other things—the proof of claim process, the status of the Special Mastership Proceeding, and payment of claims. For example, the Special Master, through his counsel, has engaged with various creditors and former vendors to provide ongoing responses relating to the Special Mastership Proceeding and additional information concerning the timing and implementation of the proof of claim process.

9. Additionally, since being authorized to sell Phoenix House's Rhode Island facility, located at 251 Main Street, Exeter, Rhode Island ("RI Facility") to Zinnia Health, LLC ("Zinnia"),¹ the Special Master's counsel has coordinated the transfer of Phoenix House's prior vendors to Zinnia to provide services at the RI Facility.

10. Also since the Second Interim Report, the Special Master has continued to manage and coordinate the termination of various vendors utilized by Phoenix House. Specifically, the Special Master's counsel has overseen the communications and meetings with Effortless Office to cull services that are no longer necessary as Phoenix House continues to wind down. Counsel to the Special Master has negotiated with Effortless Office the terms and conditions of a new agreement for go-forward services and pricing with a focus on the necessary data, server capacity and pricing to allow the maintain and security of sensitive and confidential health care and

¹ The Court authorized Phoenix House's sale of the RI Facility to Zinnia in an order entered on December 3, 2021 ("RI Sale Order"), a copy of which is attached hereto as **Exhibit B**.

employment documentation and information. This also included the review and analysis of prior Effortless Office invoices compared against the appropriate allocation for those invoices Phoenix House or Zinnia, depending on their date of service. Additional vendors that have been terminated include, but are not limited to, Verizon Wireless, Broadvoice Communications and others.

Financials, True Ups, and Audit

11. Through his appointment, the Special Master's counsel have had standing, weekly meetings and calls with Phoenix House's finance team to monitor the entity's financials and cash flow as well as to review financial reports and statements. Weekly conferences also address time sensitive issues and monitor completion of large projects such as the completion of a financial audit, as discussed *infra*.

12. These meetings and reports pertain not only to monitoring Phoenix House's cash position during the ongoing winddown of its operations, but also include reconciliation of true ups to and from Zinnia Health. Pursuant to the RI Sale Order, the Court authorized Phoenix House and the Special Master to sell the RI Facility to Zinnia pursuant to an Agreement for Sale and Purchase ("ASP"), which included outlined terms of an interim management agreement ("IMA"). The IMA would allow Zinnia to immediately assume operational control of the RI Facility, under Phoenix House's licensure and until Zinnia obtained its own licensure, as of December 1, 2021 to stop the Special Mastership Estate's financial losses.

13. Carpenter Hall, LLC ("Carpenter"), an affiliate of Zinnia that operates the services provided at the RI Facility, and the Special Master entered into an Interim Services Agreement, as amended from time to time ("ISA"), dated as of December 1, 2021. The ISA required, among other things, that all operating revenues during the ISA be deposited into an account. The funds in that account would be utilized to pay all expenses of operations, and surplus funds, if any, would

be remitted to Carpenter. That process requires Carpenter, Phoenix House, and the Special Master to conduct “true ups” on revenue and expenses, which are ongoing.

14. Since the Second Interim Report, the Special Master’s counsel and staff have assisted with a required audit. Specifically, the Special Master coordinated and managed the retrieval and transmission of financial documentation necessary to facilitate completion of a required financial audit. When the RI Facility was sold, the majority, if not all, of Phoenix House’s financial documentation was transferred from the RI Facility to Jones Storage. As a result, counsel to the Special Master coordinated with Jones Storage as well as Withum, Phoenix House’s auditors, regarding the collection of pertinent financial documentation and production of that material to Withum.

Licensure and Survey

15. In May of 2022, the Special Master and Carpenter entered into an amended IMA that would allow Carpenter to take further control of the facility while they completed their licensure and payer credentialing process (discussed in the Second Report).

16. The next month, the Special Master completed the transition of management of the day to day operation of the facility to Carpenter, who, also at that time, completed its federal Substance Abuse and Mental Health Services Administration accreditation and received its Medicare/Medicaid number, verifying its certification as a provider. However, in order to operate the facility without the amended IMA, Carpenter also needed to complete credentialing with the State Medicaid Office to allow it to be enrolled as a Medicaid provider in Rhode Island. This process could not start until they received their federal accreditation. The Special Master engaged with the State’s Medicaid Office to assist in this process and ultimately, as of the week of October 24, 2022, Carpenter is credentialed and operating under its own licenses and payor agreements.

17. In mid-July, Carpenter (and thus Phoenix House) received the results of a Department of Behavioral Healthcare, Developmental Disabilities & Hospitals (“BHDDH”) six weeklong survey of the RI Facility. After the survey results were received, BHDDH issued a statement of violations. The Special Master worked with both Carpenter and BHDDH to ensure that Carpenter proposed an adequate plan of correction.

18. The result of these discussions was the installation of an independent monitor to oversee the operations at the RI Facility and to make recommendations for improvement of the provision of care. In the second week of October, the facility’s Commission on Accreditation of Rehabilitation Facilities accreditation survey was completed, and although the official report is forthcoming, the inspector commented in the exit interview that:

The organization is complemented in the way in which it prepared for the survey and for its dedication to accreditation. Org’s leadership is complemented in its support of the community to provide services to the underserved. Positive working relationships with stakeholders and involvement with state and community boards. Beautiful brick building and grounds. Complemented for planned service to the veteran’s community and for being a canned goods donation site for veterans . . .

I wish you lots of luck in your future endeavors. So few recommendations, very, very few.

Remaining Asset Evaluation

19. After the sale of the Properties,² Phoenix House will have limited, if any, remaining assets with value. The Special Master’s counsel has evaluated those remaining assets, including institutional domain names, telephone numbers, and fax number to determine (1) whether they have any value or, relatedly, whether that value is in excess of any administrative costs affiliated with the sale of those assets; and (2) whether there is a market for those remaining assets.

² The sale of the Properties has been scheduled before the Court on November 10, 2022.

20. During this process the Special Master assessed various communications assets including domain names, website contest, direct phone numbers, 800 phone numbers, and business listings, and online accounts, as well as the associated business accounts and/or associated hardware. After completing this diligence, including an investigation into the ownership of any intertwined intellectual property, the Special Master determined that the sale of these assets was impractical and that the administrative costs for the sale of the assets would likely outweigh any potential proceeds. For example, the sale of the Phoenix House's domain name wholly incorporated the federal Phoenix House trademark, as owned by the national Phoenix House organization and expressly subject to a multiparty trademark licensing agreement for which various approvals would be required to avoid potential infringement and/or breach liabilities.

REQUEST FOR FEES, COSTS, AND EXPENSES

21. As of the filing of this Report, the Special Master and members of the Special Master's law firm have devoted a cumulative total of approximately 256.6 hours to this matter and incurred \$68,389.00 in legal fees. Attorneys were billed at rates between \$295 and \$325 per hour, summer associates were billed at \$210 per hour, and paralegals were billed at rates between \$115 and \$150 per hour. The Special Master confirms that those fees were incurred as necessary for the benefit of the Special Mastership estate.

22. Additionally, the Special Master incurred \$5,158.38 in out-of-pocket expenses.

23. Accordingly, the Special Master requests that the Court approve the Special Master's legal fees and out-of-pocket costs and expenses, confirm that such fees, costs, and expenses were incurred for the benefit of the Special Mastership estate, and authorize the Special Master to pay such legal fees, costs, and expenses cumulatively totaling \$73,547.38. The Special

Master's invoice has been submitted to the Court for an in camera review. If so authorized by the Court, the Special Master will present such invoice to any party.

WHEREFORE, the Special Master respectfully requests that the Court:

- A. Set this Report down for hearing, and, after such hearing, approve this Report;
- B. Approve the Special Master's request for fees and out-of-pocket expenses in the amount of \$73,547.38;
- C. Find that the Special Master's fees and out-of-pocket expenses are reasonable and were incurred for the benefit of the Special Mastership estate;
- D. Approve and authorize the Special Master to pay his fees and out-of-pocket expenses from the Special Mastership estate;
- E. Approve, confirm, and ratify all the acts, doings, and disbursements of the Special Master as of the filing of this Report;
- F. Order that the Special Master and the Special Mastership shall remain in place until further order of the Court; and
- G. Order any and all other relief as the Court deems necessary and just.

JONATHAN N. SAVAGE, ESQ., SOLELY
IN HIS CAPACITY AS SPECIAL MASTER OF
PHOENIX HOUSES OF NEW ENGLAND, INC.

By his attorney,

/s/ Christopher J. Fragomeni

Christopher J. Fragomeni, Esq. (9476)
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chris@savagelawpartners.com

CERTIFICATE OF SERVICE

I hereby certify that, on the 31st day of October, 2022, I filed and served this document through the electronic filing system. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Christopher J. Fragomeni

EXHIBIT A

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

)
PETER MUMMA, in his capacity as Chief)
Executive Officer and President of the)
Board of Directors of Phoenix Houses of)
New England, Inc.,)
Petitioner,)

v.)

C.A. No. PM-2021-00006

)
PHOENIX HOUSES OF NEW)
ENGLAND, INC.,)
Respondent.)
_____)

ORDER

The above-captioned matter came before the Honorable Brian P. Stern on June 17, 2022 on Phoenix Houses of New England Inc.'s Petition to Sell Assets in the Ordinary Course; Special Master's Petition for Instruction on Claim Process; and Special Master's Second Interim Report and Third Request for Fees, Costs, and Expenses ("Petition"). After hearing, and without objection, it is hereby

ORDERED, ADJUDGED, AND DECREED

1. That the Court reserves decision on Phoenix Houses of New England, Inc.'s Petition to Sell Assets in the Ordinary Course, as set forth in the Petition;
2. That the Special Master's Second Interim Report and Third Request for Fees, Costs, and Expenses, as set forth in the Petition, is approved;
3. That all acts, doings, and disbursements of the Special Master as of the filing of the Petition are approved, ratified and confirmed;

4. That the Special Master's legal fees and out-of-pocket expenses as set forth in the Petition are hereby approved, and the Court finds that such fees, costs, and expenses were incurred for the benefit of the Special Mastership Estate;

5. That the Special Master is hereby authorized and directed to pay the Special Master's fees, costs, and expenses in the amount of \$290,689.33 from the Special Mastership Estate. Further, the Special Master is authorized and directed to pay to Ferrucci Russo Dorsey, P.C. the amount of \$13,055.00 from the Special Mastership Estate;

6. That the Special Master's Petition for Instructions on Claim Process is approved;


7. That all creditors or other claimants hereby are ordered to file under oath with the Special Master at 564 S. Water Street, Providence, RI 02903 on or before the 31st day of October, 2022, a statement setting forth their claims, including, but without limiting the generality of the foregoing, the name and address of the claimant, the nature and amount of such claim, a statement of any security or lien held by the claimant to which such claimant is or claim to be entitled, and also a statement as to any preference or priority which the claimant claims to be entitled to over the claims of any other or all other claimants or creditors;

8. That notice will be given of the entry of this Order by the Clerk of this Court by publication in the *Providence Journal* on the 22nd day of July, 2022, and by the Receiver mailing on the 22nd day of July, 2022, a copy of this order and a proof of claim form to each creditor holding claims against the Special Mastership known as such to the Special Master, or appearing as such on the books and records of Phoenix Houses of New England, Inc., addressed to each such creditor at last known address; and

9. That this proceeding shall remain open, pending further order of the Court.

ENTERED, as an Order of this Court this 30th day of June, 2022.

BY ORDER:


Brian P. Stern
Associate Justice

ENTER:

/s/ Carin Miley
Deputy Clerk I
June 30, 2022

Stern, J.

June 30, 2022

Clerk, Superior Court

Presented by:
Counsel to the Special Master,

/s/ Christopher J. Fragomeni
Christopher J. Fragomeni, Esq. (9476)
Savage Law Partners, LLP
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P: 401-238-8500 | F: 401-648-6748
chris@savagelawpartners.com

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of June, 2022, I filed and served this document through the electronic filing system on all registered parties. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Christopher J. Fragomeni

EXHIBIT B

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

)
PETER MUMMA, in his capacity)
as Chief Executive Officer and)
President of the Board of Directors)
of Phoenix Houses of New England,)
Inc.,)
Petitioner,)

v.)

C.A. No. PM-2021-00006

)
PHOENIX HOUSES OF NEW)
ENGLAND, INC.,)
Respondent.)
_____)

ORDER

The above-captioned matter came before the Honorable Brian P. Stern on November 16, 2021 and November 17, 2021 on the Petition for Instructions to Amend the March 1, 2021 Order Appointing Permanent Non-liquidating Special Master and Order Approving Operating Plan; Petition to Sell Real Estate and Assets Free and Clear; and Second Request for Fees, Costs, and Expenses (“Petition”) of Jonathan N. Savage, Esq., solely in his capacity as Permanent Special Master (“Special Master”) of Phoenix Houses of New England, Inc. (“Phoenix House”). After hearing and an auction conducted by the Special Master in connection with the Petition, it is hereby

ORDERED, ADJUDGED, AND DECREED

1. That the Petition is GRANTED;
2. That the Court’s March 1, 2021 order that appointed the Special Master as Permanent Special Master and approved Phoenix House’s operating plan is amended by adding the following paragraph:

“That said Special Master be and hereby is authorized and empowered to sell, transfer and convey the Special Master’s right, title, and interest and the right, title, and interest of Phoenix House in and to the real property commonly known as 251 Main Street, Exeter, Rhode Island 02822 (the “RI Real Property”) and all tangible and intangible personal property, wherever located, which relates exclusively to, or is used or held for use exclusively in connection with, the in-patient facility operated on the site of the RI Real Property commonly known as the Phoenix House Exeter Center (including all assets necessary or advisable for the continued operation of the business located thereon) for such sum or sums of money as to said Special Master appears reasonable and proper, at public or private sale or sales; provided, however, that approval is first given for such sale or sales by this Court on application by the Special Master, after such notice as the Court may require.”

3. That the Special Master is authorized to sell all his and Phoenix House’s right, title, and interest in the real estate commonly known as 251 Main Street, Exeter, Rhode Island 02822 (“Real Estate”) and the structures and assets thereon (collectively with the Real Estate, “Assets”) to Zinnia Health, LLC (“Purchaser”) pursuant to the Agreement for Sale and Purchase (“ASP”) attached hereto as **Exhibit A**.

4. That the Special Master and Phoenix House are authorized to enter into the ASP and to enter into any amendments thereto to consummate the transaction authorized therein.

5. That due and timely notice of the Petition has been given to all parties who have (1) recorded mortgages and/or liens against the Real Estate or Assets in the Land Evidence Records of the Town Exeter, as set forth on the Schedule of UCC Financing Statements and Real Estate Lien Recordings annexed to the Petition and hereby incorporated herein; (2) liens against the Assets at the Uniform Commercial Code Division of the Office of the Secretary of State for the State of Rhode Island, as set forth on the Schedule of UCC Financing Statements and Real Estate Lien Recordings annexed to the Petition and hereby incorporated herein; and (3) all other interested parties as set forth in the Affidavit of Notice filed by the Special Master.

6. That the Court finds that the sale herein is made in good faith by all parties involved in the transaction, is fair, is in the best interest of the special mastership estate (“Estate”) and its creditors, and is commercially and otherwise reasonable.

7. That the Special Master is hereby authorized to sell the Assets, as more particularly described in the Petition and the ASP, free and clear of any and all interests, claims, liens, and encumbrances, including, but not limited to, any and all statutory liens and claims of the Town of Exeter, to Purchaser upon the terms and conditions set forth in the ASP, and any and all interests, claims, liens, and encumbrances against the Assets, including, but not limited to, any and all statutory liens or other claims of the Town of Exeter and all other municipal authorities, are hereby transferred to the proceeds thereof in the same priority as prior to such transfer.

8. That the Special Master is hereby authorized to execute a Receiver’s Deed conveying all of his and Phoenix House’s right, title, and interest in and to the Real Estate, free and clear of any and all interests, claims, liens, and encumbrances, including, but not limited to, any and all statutory and other claims of the Town of Exeter and all other municipal authorities, to Purchaser upon the terms and conditions set forth in ASP, and to take all other measures reasonably necessary to effectuate the within authorized sale.

9. That the Special Master is hereby authorized to execute and deliver a Special Master’s Bill of Sale conveying all of his and Phoenix House’s right, title, and interest in and to the Assets, free and clear of any and all interests, claims, liens, and encumbrances, including, but not limited to, any and all statutory and other claims of the Town of Exeter, to Purchaser upon the terms and conditions set forth in ASP, and to take all other measures reasonably necessary to effectuate the within authorized sale.

10. That the Special Master is hereby authorized to execute and deliver the other documents or agreements as set forth in the ASP, and to take all other measures reasonably necessary to effectuate the within authorized sale.

11. That all parties who claim an interest, lien, or encumbrance against the Real Estate or Assets, including, but not limited to, those parties set forth on the Schedule of UCC Financing Statements and Real Estate Lien Recordings annexed to the Petition, including the Town of Exeter and all other municipal authorities, are hereby directed to execute and deliver to the Special Master, within seven (7) days of his written request, mortgage discharges, lien releases, tax lien discharges, UCC Financing Termination Statements, and any and all other documents necessary to evidence the release and discharge of such interests, claims, liens, or encumbrances against the Real Estate or Assets, as Special Master may determine in his sole discretion to be necessary. The Special Master, or any other party designated by the Special Master, including Purchaser, is hereby authorized to record such discharges in the appropriate land evidence records.

12. That all interests, claims, liens, and encumbrances asserted against the Real Estate and Assets, including, but not limited to, the interests, claims, liens and encumbrances asserted by those parties listed on the Schedule of UCC Financing Statements and Real Estate Lien Recordings annexed to the Petition, including the Town of Exeter and all other municipal authorities, are hereby declared to be released and discharged with respect to the Petition upon consummation of the aforesaid sale, and the recording of this Order with the Receiver's Deed shall constitute evidence of such release and discharge.

13. In the event of any party's non-compliance with paragraph 11, above, the Special Master is authorized to prepare and file/record any and all documents reasonably necessary to evidence and effectuate the release and discharge of any and all liens, security interests, claims,

encumbrances and other interests, as described in paragraphs 11 and 12 above, on behalf of any party that fails to deliver same as required per paragraph 11 above.

14. That the objection of Rhode Island Department of Behavioral Healthcare, Developmental Disabilities and Hospitals and Executive Office of Health and Human Services (collectively, “State”) to the Petition is, pursuant to representations of the State’s counsel on the record, withdrawn; provided, however, that


- a. The State has not waived or withdrawn any claim that it may have relative to claiming a lien on the proceeds of the sale of the Assets authorized herein; and
- b. For a period of ten (10) years after the closing of the sale of the Assets contemplated herein, the Purchaser shall make available at least forty (40) inpatient residential beds for Medicaid Services at the Facility (the “Medicaid Commitment”). In the event the Purchaser defaults in its obligation to provide the Medicaid Commitment, upon the Purchaser's failure to cure such default within its receipt of thirty (30) days written notice, the State may, but is not obligated to, repurchase the Real Estate for the sum of the purchase price of the Real Estate as set forth in the ASP plus the fair market value of any improvements on the Real Estate made after Closing, less \$975,000.

15. That the Special Master’s request for fees, costs, and expenses as set forth in the Petition is approved, and the Special Master is authorized to pay his fees, costs, and expenses from the Estate in the amount of \$130,509.99.

16. That the Special Master’s actions taken prior to the entry of this Order relative to the within described sale are hereby approved, ratified, and confirmed.

ENTERED as an Order of this Court this ~~_____ day of November, 2021.~~ December 3, 2021

ENTER:


Brian P. Stern
Associate Justice

Stern, J. December 3, 2021

BY ORDER:

/s/ Carin Miley
Deputy Clerk I
December 3, 2021

Clerk, Superior Court

Presented by:

Counsel to the Special Master,

/s/ Christopher J. Fragomeni
Christopher J. Fragomeni, Esq. (9476)
SAVAGE LAW PARTNERS, LLP
564 S. Water Street, Providence, RI 02903
P: 401-238-8500 | F: 401-648-6748
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CERTIFICATE OF SERVICE

I hereby certify that, on the 19th day of November, 2021, I filed and served this document through the electronic filing system upon all counsel of record. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Christopher J. Fragomeni

ORDER

EXHIBIT A

AGREEMENT FOR SALE AND PURCHASE

THIS AGREEMENT FOR SALE AND PURCHASE (this “**Agreement**”) is made and entered into as of November 5, 2021 (the “**Effective Date**”), by and between **Phoenix Houses of New England, Inc.** a Rhode Island non-profit corporation (“**Seller**”), acting by and through Jonathan N. Savage, Esq., as Permanent Special Master of Phoenix Houses New England, Inc. (the “**Special Master**”) and **Zinnia Health LLC, a Delaware limited liability company** (“**Buyer**”).

RECITALS:

A. Seller is engaged in the business of providing addiction or substance abuse treatment and/or rehabilitation services (the “**Business**”) and operates an in-patient facility in the State of Rhode Island commonly known as the Phoenix House Exeter Center (the “**Facility**”), located at 251, 252 & 253 Main Street, Exeter, Rhode Island 02822.

B. The Special Master is duly authorized to enter into this Agreement on behalf of Seller pursuant to a judicial appointment by the Rhode Island Superior Court in the action captioned *Muma v. Phoenix Houses of New England, Inc.*, C.A. No. PM-2021-00006 (the “**Receivership Proceeding**”).

C. Seller wishes to sell and assign to Buyer, and Buyer wishes to purchase and assume from Seller, substantially all the assets and liabilities of the Facility, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby covenant and agree as follows:

ARTICLE 1 DEFINED TERMS; RECITALS

1.1 Defined Terms. All capitalized terms used in this Agreement shall have the meanings ascribed to such terms in Exhibit A or as otherwise defined elsewhere in this Agreement.

1.2 Recitals. The recitals set forth in this Agreement are hereby incorporated into and made part of this Agreement.

ARTICLE 2 PURCHASE AND SALE.

2.1 Purchased Assets. Subject to the terms and conditions set forth herein, at the Closing, Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase from Seller, free and clear of any Liens, other than Permitted Exceptions, all of Seller’s right, title and interest in, to and under 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 exclusively to, or are used or held for use exclusively in connection with, the Facility (collectively, the “**Purchased Assets**”), including, without limitation, the following:

(a) the real property, including all right, title, and interest therein, upon which the Facility is situated, as more particularly described on **Schedule 2.1(a)** attached hereto, including, without limitation, the land, buildings and improvements directly related to the Facility and all fixtures and appurtenances thereto (collectively, the “**Real Property**”);

(b) all furniture, fixtures, equipment, vehicles, machinery, generators, apparatus, appliances, IT Systems and other articles of personal property located on or used in connection with the Facility, as well as all other tangible and intangible assets attributable to the Facility, including, without limitation, the Permits and the Provider Agreements that are related to the operations of the Facility (collectively, the “**Personal Property**”), including, without limitation, those items set forth on **Schedule 2.1(b)** hereto;

(c) all rights appurtenant to the Real Property, if any, including without limitation, any strips and gores abutting the Real Property, and any land lying in the bed of any street, road, or avenue in front of, or adjoining the Real Property, to the center line thereof and all other rights, privileges, easements, licenses, appurtenances, and hereditaments relating to the Real Property (together with the Real Property and Personal Property, collectively, the “**Property**”);

(d) all Contracts set forth on **Schedule 2.1(c)** hereto (collectively, the “**Assumed Contracts**”);

(e) all Contracts (“**Resident Contracts**”) governing the use and occupancy of the Facility by residents (“**Residents**”), including, without limitation, those set forth on **Schedule 2.1(d)**, together with all prepaid fees and all deposits, security or otherwise made by Residents under the Resident Contracts;

(f) all of Seller’s records relating to the Facility, including, without limitation, Residents’ admission, medical, financial and personal records, to the extent transferable under Applicable Law;

(g) all Permits and Provider Agreements issued to or executed by Seller in connection with the operation of the Facility (as applicable and to the extent assignable);

(h) all policy and procedure manuals, employee handbooks, operations procedures manuals, and similar documents used in operation of the Facility as well as the rights to all telephone and facsimile numbers and websites associated exclusively with the Facility (collectively, “**Intangibles**”); and

(i) all goodwill associated with any of the assets described in the foregoing clauses.

2.2 **Excluded Assets**. Notwithstanding anything to the contrary in Section 2.1 or elsewhere in this Agreement, all assets of Seller and/or its respective Affiliates (including any assets that are not related to the Facility), other than the Purchased Assets, are excluded from the transactions contemplated under this Agreement and the Transaction Documents, including without limitation the following (collectively, the “**Excluded Assets**”):

(a) all cash and, subject to Section 8.2(a), accounts receivable of Seller in connection with services rendered by the Facility on or prior to the IMA Date;

(b) any refunds, credits or rebates due and payable to Seller as of the Closing and that arise from the operation of the Facility prior to the IMA Date;

(c) all Contracts other than the Assumed Contracts, including, without limitation, any leases as well as any Contracts that are, by their terms, unable to be assigned (the “**Excluded Contracts**”);

(d) all employee benefit plans and assets attributable thereto;

(e) all of Seller’s insurance policies and rights thereunder;

(f) the assets, properties and rights specifically set forth on Schedule 2.2;

(g) the name “Phoenix House Exeter Center”; and

(h) the rights which accrue or will accrue to Seller under this Agreement and the other documents to be delivered pursuant hereto.

2.3 Assumed Liabilities. Subject to the terms and conditions set forth herein, Buyer shall assume and agree to pay, perform and discharge only the following Liabilities of Seller (collectively, the “**Assumed Liabilities**”), and no other Liabilities:

(a) all Liabilities in respect of the Assumed Contracts but only to the extent that such Liabilities thereunder are required to be performed after the Closing Date, were incurred in the ordinary course of business and do not relate to any failure to perform, improper performance, warranty or other breach, default or violation by Seller or any of its affiliates on or prior to the Closing Date;

(b) all Liabilities for (i) Taxes relating to the Facility, the Purchased Assets or the Assumed Liabilities for any taxable period (or any portion thereof) beginning after the Closing Date and (ii) Taxes for which Buyer is liable pursuant to this Agreement; and

(c) all other Liabilities arising out of or relating to the operation of the Facility and the Purchased Assets on or after the Closing Date.

2.4 Excluded Liabilities. Notwithstanding the provisions of Section 2.3 or any other provision in this Agreement to the contrary, Buyer shall not assume and shall not be responsible to pay, perform or discharge any Liabilities of Seller or any of its Affiliates of any kind or nature whatsoever other than the Assumed Liabilities, including, without limitation, any Liabilities arising out of or relating to the Seller’s 403(b) Retirement Savings Plan and/or any other Employee Plans or any termination(s) of Seller’s 403(b) Retirement Savings Plan and/or any other Employee Plans (the “**Excluded Liabilities**”). Seller shall, and shall cause each of its Affiliates to, pay and satisfy in due course all Excluded Liabilities which they are obligated to pay and satisfy.

2.5 Purchase Price.

(a) Purchase Price. The aggregate purchase price for the Purchased Assets shall be (collectively, the “**Purchase Price**”): (i) Buyer’s assumption of the Assumed Liabilities; (ii) the Deposit; and (iii) the Remaining Cash Consideration. For purposes of determining the Remaining Cash Consideration at the Closing, Buyer and Seller shall mutually, in good faith, agree to any proration and other adjustments in accordance with this Article 2.

(b) Payment of Remaining Cash Consideration. At the Closing, the Buyer shall pay to Seller by wire transfer of immediately available funds an amount equal to the Remaining Cash Consideration minus the Deposit.

(c) Allocation Schedule. Seller and Buyer agree that the Purchase Price and the Assumed Liabilities (plus other relevant items) shall be allocated among the Purchased Assets for all purposes (including tax and financial accounting) as shown on the allocation schedule attached hereto as Schedule 3.3 (the “**Allocation Schedule**”).

(d) Third Party Consents. Except for the Required Approvals, to the extent that Seller’s rights under any Assumed Contract or any other Purchased Asset, may not be assigned to Buyer without the consent of another Person which has not been obtained, this Agreement shall not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof or be unlawful, and Seller, at its expense, shall use its reasonable best efforts to obtain any such required consent(s) as promptly as possible. If any such consent shall not be obtained or if any attempted assignment would be ineffective or would impair Buyer’s rights under the Purchased Asset in question so that Buyer would not in effect acquire the benefit of all such rights, Seller, to the maximum extent permitted by law and the Purchased Asset, shall act after the Closing as Buyer’s agent in order to obtain for it the benefits thereunder and shall cooperate, to the maximum extent permitted by law and the Purchased Asset, with Buyer in any other reasonable arrangement designed to provide such benefits to Buyer.

2.6 Credits and Prorations.

(a) The following shall be apportioned with respect to the Purchased Assets as of the Closing Date, such that Buyer is responsible for amounts incurred on or after the Closing Date and Seller is responsible for amounts incurred prior to the Closing Date:

- (i) all Taxes related to or arising out of the Purchased Assets;
- (ii) any amounts prepaid or payable by the respective party under the Assumed Contracts;
- (iii) gas, electricity and other utility charges for which Seller is liable, if any, such charges to be apportioned at Closing on the basis of the most recent meter reading occurring prior to Closing; and
- (iv) any other operating expenses related to the Purchased Assets incurred during the month in which Closing occurs.

**ARTICLE 3
OMITTED**

**ARTICLE 4
CLOSING; CONDITIONS OF CLOSING; CLOSING DELIVERABLES.**

4.1 Closing Date. The closing of the transactions contemplated under this Agreement and the Transaction Documents (the “**Closing**”) is to take place on the first business day following the satisfaction of the conditions set forth in this Article 4, which must be satisfied (or waived by the applicable party in accordance with this Article 4) prior to Closing, at such place as agreed upon by the parties (including remotely by means of facsimile, electronic mail or other electronic means), or at such other time and place as agreed upon in writing by the parties. The Closing is to be deemed to occur at 12:01 a.m. (Eastern Time) on the Closing Date or at such other time as agreed upon in writing by the parties. The date on which the Closing is to occur is herein referred to as the “**Closing Date**”.

4.2 Time of the Essence. Time shall be of the essence with respect to Buyer’s and Seller’s obligation to consummate the Closing on the Closing Date.

4.3 Conditions to Closing.

(a) The obligations of Buyer to consummate the Closing are subject to the fulfillment of each of the following conditions (unless waived by Buyer in accordance with this Agreement):

(i) Buyer shall have received all Required Approvals, including, without limitation, all required approvals from the Rhode Island Department of Health in order for Buyer to operate the Facility on and after the Closing Date, provided, however, that if Buyer fails to submit complete applications for such Required Approvals in accordance with Section 8.1(a), below, this condition shall be deemed satisfied upon the satisfaction of the other conditions contained in this Section 4.3;

(ii) the Receivership Court shall have entered the Approval Order and such Approval Order shall have become a Final Order and such other orders of the Court reasonably required by the Buyer;

(iii) at the time of Closing, Jonathan N. Savage shall be the Special Master and the Receivership Proceeding shall not have been dismissed or otherwise discontinued for any reason at such time;

(iv) the representations and warranties of Seller contained in this Agreement, the Transaction Documents, other documents to be delivered pursuant hereto and any certificate or other writing delivered pursuant hereto shall be true and correct on and as of the Effective Date and on and as of the Closing Date with the same effect as though made at and as of such date;

(v) Seller shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement and the Transaction Documents to be delivered pursuant hereto to be performed or complied with by it prior to or on the Closing Date;

(vi) Seller and Buyer or an Affiliate of Buyer, shall have entered into the Interim Management Agreement and, prior to or simultaneously with the Closing of the transactions contemplated herein, Buyer and Seller shall have consummated the transactions contemplated pursuant to the Interim Management Agreement; and

(vii) other than the Receivership Proceeding, there shall be no material litigation or claim pending or threatened by any governmental or regulatory agency or any other person or entity against Seller or Buyer in connection with the transactions contemplated by this Agreement or the Transaction Documents or that seeks to prevent, delay, condition, restrict, or change the transactions hereby and thereby or that Buyer, in good faith and with the advice of counsel, believes could result in the payment of damages by Buyer; and

(viii) Seller shall have caused to be delivered to Buyer such documents and deliverables as required under Section 4.4.

(b) The obligations of Seller to consummate the Closing are subject to the fulfillment of each of the following conditions (unless waived by Seller in accordance with this Agreement):

(i) the representations and warranties of Buyer contained in this Agreement, the Transaction Documents, other documents to be delivered pursuant hereto and any certificate or other writing delivered pursuant hereto shall be true and correct on and as of the Effective Date and on and as of the Closing Date with the same effect as though made at and as of such date;

(ii) Buyer shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement and the Transaction Documents to be delivered pursuant hereto to be performed or complied with by it prior to or on the Closing Date;

(iii) Buyer shall have caused to be delivered to Seller such documents and deliverables as required under Section 4.4.

4.4 Closing Deliveries.

(a) Seller's Closing Deliveries. Seller shall deliver or cause to be delivered to Buyer the following at the Closing, except as otherwise specified below:

(i) One (1) original general warranty deed (the "**Deed**") in substantially the form attached hereto as **Exhibit B**, executed by Seller and acknowledged, and in recordable form, conveying to Buyer the Real Property, subject to the Permitted Exceptions.

(ii) a Bill of Sale and Assignment of Intangibles (the “**Bill of Sale and Assignment of Assets**”), in or substantially in the form attached hereto as **Exhibit C**, executed by Seller, conveying to Buyer good and marketable title to the Personal Property and the Intangibles, free and clear of all Liens;

(iii) copies of the Assignment and Assumption of Assumed Contracts (the “**Assignment of Contracts**”) in or substantially in the form attached hereto as **Exhibit D**, each executed by Seller and assigning to Buyer all of Seller’s right, title, and interest in the Assumed Contracts.

(iv) a certificate dated as of the Closing Date and signed by a duly authorized officer of Seller, certifying that each of the conditions set forth in Sections 4.3(a) and 4.3(b) have been satisfied;

(v) a certificate of the Secretary of State of the State of Rhode Island, dated no more than fifteen (15) days prior to the Closing Date, as to the existence and good standing of Seller;

(vi) a certificate signed by the secretary or other authorized officer of Seller and dated as of the Closing Date, certifying that the: (A) Governing Body of Seller have adopted resolutions and have taken all required actions under Applicable Law (including, but not limited to, any actions required under the Rhode Island Nonprofit Corporation Act) to approve and authorize the transactions contemplated by this Agreement and the Transaction Documents; and (B) a specimen signature of an officer duly authorized thereby to execute this Agreement and the Transaction Documents to be delivered in connection with Closing on behalf of Seller;

(vii) the Interim Management Agreement, duly executed by Seller; and

(viii) all other documents reasonably necessary or otherwise required by the Title Company to consummate the transactions contemplated by this Agreement.

(b) Buyer’s Closing Deliveries. Buyer shall deliver or cause to be delivered to Seller the following at the Closing, except as otherwise specified below:

(i) the Purchase Price (to the extent any amount is payable to Seller) as set forth in Section 2.5;

(ii) copies of the Assignment of Contracts, each executed by Buyer and assuming all of Seller’s obligations under the Assumed Contracts;

(iii) the Interim Management Agreement, duly executed by Buyer; and

ARTICLE 5

REPRESENTATIONS AND WARRANTIES OF SELLER.

Seller represents and warrants to Buyer as of the Effective Date and as of Closing Date as follows:

5.1 Organization. Seller is a nonprofit corporation duly formed, validly existing and in good standing under the laws of the State of Rhode Island, with all requisite power and authority to own, lease, and operate the Purchased Assets and to conduct its business as currently conducted. Seller is duly qualified to do business and is in good standing in the State of Rhode Island. Seller has no subsidiaries and holds no equity or ownership interest in any other entity. Each jurisdiction in which Seller is qualified to do business is listed on **Schedule 5.1**. Complete and accurate copies of the organizational documents of Seller have been made available to Buyer.

5.2 Authority. Seller has all requisite right, power and authority to execute, deliver and perform this Agreement, the Transaction Documents and each instrument, agreement or certificate contemplated by this Agreement or the Transaction Documents to be executed and delivered by Seller in connection with the consummation of the transactions contemplated hereby and thereby. The execution, delivery, and performance of this Agreement by Seller and the sale of the Purchased Assets as contemplated by this Agreement have been duly authorized by all necessary action by and on behalf of Seller. This Agreement has been duly executed and delivered by Seller and constitutes the valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms. The Person signing this Agreement on behalf of Seller is fully authorized to do so.

5.3 Consents and Approvals; No Violations. Except for the Required Approvals, the execution and delivery of this Agreement and the consummation of the transaction contemplated by this Agreement, (a) will not result in a violation of or a conflict with any provision of the articles of organization, operating agreement, or any other governing documents of Seller; (b) will not result in a breach of or default under any Contract to which Seller is a party or by which Seller's assets are bound; (c) will not result in a violation by Seller of any Applicable Laws that are applicable to Seller; (d) will not result in the creation or imposition of any Lien of any kind or give to any Person (other than Buyer) any interest or right in or with respect to any of the Purchased Assets; and (e) require any consent or approval by, notice to or registration with any Governmental Authority; provided however, that the execution and delivery of this Agreement and the consummation of the transaction contemplated by this Agreement are subject to the approval of the Receivership Court.

5.4 Taxes. Except as set forth in **Schedule 5.4**, Seller has timely filed all Tax Returns, required to be filed by it in respect of any Taxes and all Taxes currently due and payable by Seller have been paid. Except as set forth in **Schedule 5.4**, no written notice of any proposed Tax deficiency, assessment or levy has been received by or with respect to Seller. Seller has duly withheld from each payment from which such withholding is required by Applicable Law, the amount of all Taxes required to be withheld therefrom and has paid the same (to the extent due), or otherwise set aside, together with the employer's share of the same, if any, to the proper Tax receiving officers. There are no Tax Liens on any of the Purchased Assets. Seller has no Liability for the Taxes of any Person as a transferee or successor, by Contract or otherwise.

5.5 Assets; Title to Property.

(a) Except as set forth on **Schedule 5.5**, Seller has good and valid title to all of the Purchased Assets, free and clear of any and all Liens, except Permitted Exceptions. All of the rights and Purchased Assets being acquired by Buyer, whether owned or leased, are in the

possession and control of Seller and are located at the Facility currently used for the operation of the Facility.

(b) Seller's inventories of supplies, including office supplies, food service supplies, and nursing supplies, have been maintained in the ordinary course of business and are adequate for the conduct of the Facility's operations, consistent with past practices and experience.

5.6 Contracts.

(a) **Schedule 5.6(a)** to this Agreement lists all Contracts of any kind (except the Resident Contracts) to which Seller is a party or is bound or that affect the Purchased Assets. Seller has provided Buyer with a true and complete copy of each such Contract or a written summary if a complete copy is not available or is not in writing. Each listed Contract is in full force and effect. Except for any breaches arising out of or related to the Receivership Proceeding, none of the listed Contracts has been breached by Seller or, to the best of Seller's Knowledge, any other party thereto.

(b) Seller has made no prepayments or deposits under any Contract, or paid any fees in connection with the assignment of any Assigned Contract, except as set forth on **Schedule 5.6(c)**.

(c) Consummation of the transactions contemplated by this Agreement will not constitute a default under any Contract (including without limitation, the Assigned Contracts) nor will it trigger any other provision in a Contract that would result in a change in such Contract, including without limitation the requirement for a transfer fee or new deposit, or termination thereof.

5.7 Litigation. There is no Action of any kind pending or, to the best of Seller's Knowledge, threatened against Seller or against any portion of the Purchased Assets. There is no Judgment by a Governmental Authority pending or, to the best of Seller's Knowledge, threatened against Seller, which would have a material and adverse effect on the Purchased Assets or the ability of Seller to perform its Obligations under this Agreement.

5.8 Insurance. Since October 1, 2018, without any gaps in coverage, Seller and the Facility have been continuously covered by general liability, professional liability, errors and omissions, and workers' compensation insurance. Seller does not have any outstanding claims under any of the insurance policies except as specified in **Schedule 5.8**, and Seller has timely given all required notices and presented all potential or actual claims under the insurance policies. Seller has not been refused any insurance, nor has its coverage been limited, by an insurance carrier to which it has applied for insurance or with which it has carried insurance. Seller has fully disclosed to Buyer, and has fully complied with, all requests by insurance companies, or by any person having responsibility for safety from fire or other hazards, for the performance of any repairs, alterations, or other work.

5.9 Compliance; Healthcare Laws.

(a) Seller has complied with, and is in compliance in all material respects with, all Applicable Laws applicable to Seller's operation of the Facility. Seller has not received written or oral notice of any alleged pending or unresolved violations of any Applicable Law affecting the Purchased Assets, or of any damages, defects or outstanding repair requirements, and Seller is not under any investigation with respect to a possible violation of any Applicable Laws.

(b) Seller has delivered to Buyer a true and complete copy of each compliance plan and all policies and procedures in effect with respect to the Facility, if any.

(c) Seller has provided to Buyer true and complete copies of Seller's survey and inspection reports prepared by any Governmental Authority with respect to the Facility and delivered to Seller on or after October 1, 2018, if any, including, but not limited to, any survey and inspection reports prepared by the Rhode Island Department of Health and any similar Governmental Authority having authority with respect to the Facility. Seller has provided Buyer with true and complete copies of all responses to and plans of correction and material correspondence related to those reports and deficiencies and Seller has complied with and adhered to the conditions of any plan of correction submitted with respect to any deficiencies cited in any of the foregoing reports, and no waivers of any such deficiencies have been requested or granted or are in effect. All deficiencies, violations or other indications of non-compliance with Applicable Laws as set forth in such reports and deficiencies have been fully corrected and there are no bans or limitations in effect, pending or threatened with respect to admissions to the Facility nor any licensure curtailments in effect, pending or threatened with respect to the Facility or any Permit.

(d) Seller discloses and refunds to Payors, Residents and/or patients any known overpayments to which it knows it is not entitled in compliance in all material respects with all Applicable Laws.

5.10 Licenses and Permits.

(a) Seller has all Permits necessary to conduct the Business and to operate the Facility in the manner currently conducted and/or to receive payments from any Payors for furnishing addiction treatment services and other related services and is in compliance with all requirements applicable to such Permits. A list of all Permits related to the operations of the Facility are set forth on **Schedule 5.10(a)**. Except as set forth in **Schedule 5.10(a)**, each of the Permits set forth therein is valid and in full effect. There is no default by Seller under any of the Permits and Seller has not received any notice with respect to threatened, pending, or possible revocation, termination, suspension or limitation of any of such Permit, nor is Seller aware of any facts that may reasonably lead to such a revocation, termination, suspension or limitation. Except as set forth on **Schedule 5.10(a)**, all of the Permits are assignable to Buyer.

(b) Since January 1, 2018, at all times during which a Health Care Professional has provided any health care services on behalf of Seller in connection with the operations of the Facility (i) such Health Care Professional has held all material Permits used or necessary in the conduct of such Health Care Professional's services, (ii) such Permits were and are valid and in full force and effect and (iii) such Health Care Professional was in material compliance with the terms and conditions of such Permits. Seller has provided Buyer with complete copies of all such

Permits held by the Health Care Professionals. To the Knowledge of Seller, no event has occurred and no fact, circumstance or condition exists that has or reasonably may be expected to result in the denial, loss, revocation, or rescission of or to any such Permit.

5.11 Governmental Payment Programs.

(a) In connection with the operations of the Facility, Seller is a participating provider with, or otherwise authorized to render items and services to beneficiaries of, the Payors set forth in Schedule 5.11(a). Seller has delivered or made available to Buyer correct and complete copies of all Contracts with Payors that are related to the operations of the Facility.

(b) With respect to each Payor set forth in Schedule 5.11(a), there is no pending or, to the Knowledge of Seller, threatened Action under any program administered by a Payor involving Seller.

(c) Neither Seller nor any of its current officers, directors, or agents nor any Facility Employee has been excluded from participation with, or subject to sanction by, any Payor, including, without limitation, Medicare, Medicaid and any health care program administered by a Governmental Authority.

5.12 Intentionally left blank.

5.13 Benefit Plan Compliance with Provisions of Applicable Law.

(a) Except as described in Schedule 5.13(a), Seller, for the benefit of any of Facility Employees or Transferred Employees, does not maintain or contribute to, nor does Seller have any liability or responsibility with respect to, any Employee Plan. Seller has not incurred any Liability (other than normal claims for benefits under its welfare plans) under any provision of ERISA or other Applicable Law relating to any Employee Plan. Each Employee Plan has been established, maintained and administered in compliance with its terms and complies, both in form and operation, with the applicable provisions of ERISA (including without limitation the funding and prohibited transactions provisions thereof), the Code, and all other Applicable Laws.

(b) Except as described in Schedule 5.13(b), (i) no Employee Plan is funded through a trust intended to be exempt from Tax pursuant to Section 501 of the Code; (ii) neither Seller nor any ERISA Affiliate has ever maintained or contributed to any plan or arrangement subject to Title IV of ERISA or Section 412 of the Code, a multiemployer plan as described in Section 3(37) of ERISA or a "multiple employer plan" as described in Section 3(40) of ERISA or Section 413(c) of the Code, and Seller has never had any liability with respect to any such plan sponsored or maintained by an ERISA Affiliate; (iii) no Employee Plan provides benefits, including, without limitation, death or medical benefits (through insurance or otherwise) with respect to employees or former employees beyond their retirement or other termination of service other than coverage mandated by Applicable Law; (iv) no Employee Plan which is a group health plan, as described in Section 5000(b)(1) of the Code is self-insured; and (v) no Employee Plan liability, contingent or otherwise, shall affect any of the Purchased Assets, including but not limited to subjecting such Purchased Assets to attachment, forfeiture, seizure liquidation or use as collateral.

(c) **Schedule 5.13(c)** lists all Employee Plans that Seller or its ERISA Affiliates, sponsor, maintain, contribute or is obligated to contribute, or under which any Seller or its subsidiaries or their ERISA Affiliates, have or may have any liability, or which benefit any current or former director, employee, consultant or independent contractor of any Seller or its subsidiaries, or their ERISA Affiliates, or the beneficiaries or dependents of any such person (each, a "Seller Plan"). With respect to each Seller Plan, Seller has made available to Buyer true, complete and accurate copies of each of the following: (i) if the Seller Plan has been reduced to writing, the Seller Plan document together with all amendments to such Seller Plan, (ii) if the Seller Plan has not been reduced to writing, a written summary of all material terms of such Seller Plan, (iii) if applicable, copies of any trust agreements, custodial agreements, insurance policies, administrative agreements and similar agreements, and investment management or investment advisory agreements, (iv) copies of any summary plan descriptions, employee handbooks or similar employee communications, (v) in the case of any Seller Plan that is intended to be qualified under Section 401(a) of the Code, a copy of the most recent determination letter or opinion letter from the IRS and any related correspondence, and a copy of any pending request for such determination, (vi) in the case of any funding arrangement intended to qualify as a VEBA under Section 501(c)(9) of the Code, a copy of the IRS letter determining that such Seller Plan so qualifies and (vii) in the case of any Seller Plan for which Forms 5500 are required to be filed, a copy of the three most recently filed Forms 5500, with schedules attached.

5.14 Intellectual Property. **Schedule 5.14** sets forth a list of Intellectual Property owned, controlled or used by Seller, together in each case with a brief description of the nature of such right. All Seller owned fictitious or assumed business names, patents, copyrights and trademarks listed in **Schedule 5.14** are valid and in full force and all applications listed therein as pending have been prosecuted in good faith as required by Applicable Law and are in good standing. There has been no infringement by Seller or any of its Affiliates with respect to any Intellectual Property rights of others. Seller owns or possesses adequate licenses or other rights to use all Intellectual Property necessary or desirable to conduct Seller's Business as conducted, none of which rights will be impaired by the consummation of the transactions contemplated by this Agreement, and all of the rights of Seller thereunder will be enforceable by Buyer immediately after Closing without the consent or agreement of any other party. None of the Intellectual Property listed in **Schedule 5.14** is involved in any interference or opposition proceeding, and there has been no written notice received by Seller or any other indication that any such proceeding will hereafter be commenced. Seller has not granted any person or entity any right to use any of the Intellectual Property for any purpose.

5.15 Real Property.

(a) To Seller's Knowledge, there are no pending or threatened condemnation actions or special assessments of any nature with respect to the Real Property.

(b) Except as set forth in **Schedule 5.15(b)**, Seller has not granted to any party, any lease or other right to possess or occupy the Real Property, other than in the Grant Agreement.

(c) Seller has made no Contract of any kind, other than the Grant Agreement, which remains in force and effect and the performance of which by the other party thereto would give rise to any Lien on any of the Real Property.

(d) Neither Seller nor the Real Property is subject to any Contract, other than the Grant Agreement, which remains in force and effect, including, without limitation, any right of first refusal, option to purchase or lease granted to a third person, which could or would prevent Seller from completing or impair Seller's ability to complete the sale of any of the Purchased Assets to Buyer, which would bind Buyer subsequent to consummation of the transactions contemplated by this Agreement, or that would otherwise give rise to a Lien on the Real Property.

(e) Seller is not a foreign person, as that term is defined in Section 1445 of the Code.

5.16 Environmental Matters. Seller has never caused any Hazardous Materials to be placed, held, located or disposed of on, under or at the Real Property not any part thereof in violation of any Environmental Law. Seller has not been issued any written notices of violation of any Environmental Law with respect to the Real Property and neither the Real Property nor any part thereof has ever been used by Seller as a dump site or storage site, whether permanent or temporary, for any Hazardous Materials.

5.17 Coronavirus Relief Programs. Schedule 5.17 sets forth a list of each loan, exclusion, forgiveness, provider relief or assistance item to which Seller has applied to or received pursuant to any Coronavirus Relief Programs. For purposes of this Section 5.17, "Coronavirus Relief Programs" means the Paycheck Protection Program (pursuant to the CARES Act), any "Economic Stabilization Fund" loan or other SBA loan, any provider relief or assistance under the Centers for Medicare & Medicaid Services' Accelerated and Advance Payment Program or the Department of Health & Human Services' Provider Relief Fund or similar funds from federal, state, and local Governmental Authority relief programs established in response to the global coronavirus pandemic caused by COVID-19, as declared by the World Health Organization on March 11, 2020.

5.18 No Brokers. Neither Seller nor any Affiliate of Seller has employed, either directly or indirectly, or incurred any liability to, any broker, finder or other agent, other than legal counsel, in connection with the transactions contemplated by this Agreement.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as of the Effective Date and as of Closing Date as follows:

6.1 Authority, Validity and Binding Effect. Buyer has all necessary power and authority to carry on its business as it is now being conducted. Buyer is duly organized and in good standing under the laws of the State of New York. Buyer has all necessary power and authority to enter into this Agreement and to execute all documents and instruments referred to herein or contemplated hereby and all necessary action has been taken to authorize the individuals executing this Agreement to do so. This Agreement has been duly and validly executed and

delivered by Buyer and is enforceable against Buyer in accordance with its terms, except as limited by bankruptcy, insolvency, fraudulent conveyance, moratorium, liquidation, reorganization or other similar laws affecting the enforcement of creditors' rights in general.

6.2 No Defaults. The execution and delivery of this Agreement and any documents contemplated hereby by Buyer, and the performance of their obligations hereunder, does not and will not: (a) conflict with or result in any material breach of the provisions of, or constitute a default under the articles of organization or operating agreement of Buyer; (b) violate any material restriction to which Buyer is subject or, without the giving of notice, passage of time, or both, violate (or give rise to any right of termination, cancellation or acceleration under) any material license, authorization or permit or other material agreement or instrument to which Buyer is a party; or (c) constitute a violation of any applicable material resolution, rule, regulation, law, statute or ordinance of any administrative agency or Governmental Authority, or any Judgment of any court to which Buyer is subject or by which its assets are bound, or any credit agreement or other financing arrangement to which Buyer is a party.

ARTICLE 7 OMITTED

ARTICLE 8 COVENANTS

8.1 Pre-Closing Covenants.

(a) Permits; Receivership Approval.

(i) Except for any applications that can only be submitted by Buyer after the Closing, Buyer will submit complete applications for the Required Approvals within five (5) days of the Effective Date and thereafter, will diligently pursue its efforts, in good faith, to obtain all the Required Approvals and Permits that are necessary for Buyer's operation of the Facility after the Closing (the "**Buyer Permits**"), and to make all filings (including those with Governmental Authorities), as may be required to be obtained or filed by Buyer in connection with the consummation of the transactions contemplated under this Agreement and the Transaction Documents. Seller shall provide Buyer with such information as Buyer may reasonably request in connection with Buyer's efforts to obtain such consents.

(ii) Buyer and Seller shall, promptly following the Effective Date, cooperate and take all reasonably necessary actions in order to obtain and diligently pursue the entry by the Receivership Court of the Approval Order.

(iii) Buyer and Seller shall each cooperate with, and do all things reasonably practicable to assist, one another: (A) in the prompt preparation and filing of all required, proper or advisable filings to be made in connection with obtaining the Required Approvals, the Buyer Permits, the Approval Order as soon as practical following the Effective Date, and the parties shall cooperate with, and do all things reasonably practicable to assist each other in connection with the making of all such filings; (B) in determining whether action by or in respect of, or filing with, any Governmental Authority is required, proper or advisable; and (C) in seeking to timely obtain the Buyer Permits, the Required Approvals, the Approval Order and

to make any such filings required in connection therewith. The parties shall keep each other apprised of the status of any communications with, and any inquiries or requests for additional information from any applicable Governmental Authority with respect to any the Required Approvals, the Buyer Permits, the Approval Order and any related audits, inspections, reviews or investigations, and shall comply promptly with any such inquiry or request and shall promptly provide any supplemental information requested in connection with the filings made hereunder pursuant to any other Applicable Laws. Without limiting the generality of the foregoing, Buyer shall, using commercially reasonable efforts, promptly apply for and diligently pursue the receipt of all Required Approvals.

(b) Employee Matters.

(i) Offers of Employment. Provided business operations are not unreasonably disrupted, Buyer shall be permitted to interview the Facility Employees during the Interim Period to determine which Facility Employees may be offered employment by Buyer. Any offers of employment will be contingent on such Facility Employees satisfying Buyer's qualifications and conditions for employment, including appropriate licensure, background screening, and drug tests.

(ii) Employee Transition. During the Interim Period, Seller shall use reasonable efforts to assist Buyer in employing and retaining the Facility Employees as of the Closing Date and Seller shall provide Buyer access to the Facility Employees who elect to accept Buyer's offers of employment ("**Transferred Employees**"), to facilitate Buyer's entry of payroll information for such Transferred Employees into Buyer's payroll system. Seller shall terminate the employment of the Transferred Employees, such termination to be effective as of the Closing. Seller shall be responsible for providing all notices to Facility Employees that may be required by law in connection with the transactions contemplated by this Agreement and the Transaction Documents, including the termination or change of employment of any Facility Employees. Seller shall pay all severance pay obligations with respect to all Facility Employees whose employment is terminated on or prior to the Closing or as a consequence of the transactions contemplated by this Agreement or the Transaction Documents.

(iii) Accrued Paid Time Off and Other Benefits. Buyer shall assume no liability, obligation, or responsibility for any accrued paid time off ("**PTO**"), any and all compensation and wages to which the Facility Employees are entitled through and as of the Closing Date, or other employee benefits accrued on or before the Closing Date, and Buyer shall have no obligation to credit any Transferred Employees for any period of service prior to the Closing Date for purposes of calculating any entitlement to PTO or other employee benefits after the Closing.

(iv) Continuation Benefits. For so long as Seller (or a member of "Seller's Group" as defined in Q&A-2 of Treasury Regulation Section 54.4980B-2) maintains a group health plan after Closing, a group health plan maintained by Seller (or a member of Seller's Group) shall have the obligation to make continuation coverage available under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("**COBRA**") (or to provide COBRA continuation coverage, as the case may be) to all "M & A Qualified Beneficiaries" (as defined in Q-4/A-4(a) of Treasury Regulation Section 54.4980B-9) whose qualifying event occurred prior

to or in connection with the sale of assets described herein and who is, or whose qualifying event occurred in connection with, a covered employee whose last employment prior to the qualifying event was associated with the sale of assets described herein.

(v) No Third Party Rights. Nothing in this Agreement shall create any rights in favor of any person not a party to this Agreement, including the Facility Employees, or constitute an employment agreement or condition of employment for any employee of Seller or any of Seller's Affiliates.

(c) Seller's Operation of the Facility. Subject to the Interim Management Agreement, Seller covenants and agrees that between the date hereof and the Closing Date it shall perform or observe the following with respect to the Facility:

(i) Seller shall keep and maintain the Purchased Assets in their present condition (ordinary wear and tear excepted) and shall continue to operate the Facility diligently and in good faith, consistent with past practices, including by maintaining all insurance policies relating to the business of Seller in full force and effect and maintaining sufficient staffing levels in accordance with Seller's past practices;

(ii) Seller shall comply with its Obligations under or arising out of: (A) all Applicable Laws; (B) the Permits; and (C) the Contracts listed in Schedule 5.6(a) to the extent the same remain in force and effect.

(iii) Seller shall maintain inventories, supplies and other assets of Seller at customary operating levels consistent with past practices; maintain Seller's books, accounts and records in accordance with past practices; use reasonable efforts to preserve the goodwill of the Facility and its relationships with Residents, suppliers, employees, referral sources, and other persons having business relations with Seller; maintain insurance reasonably comparable to that in effect on a historical basis; pay all accounts payable as they become due in the ordinary course of business; not take or omit to take any action that would otherwise result in a breach of any of the representations, warranties or covenants made by Seller in this Agreement; not take any action or omit to take any action would reasonably be anticipated to have a material adverse effect on the Facility; and not increase the compensation, incentive arrangements or other benefits to any employee outside of the ordinary course of business.

(iv) Seller shall make available to Buyer and its representatives, during normal business hours and upon not less than forty-eight (48) hours prior request, any and all books, records, documents, and information (financial or otherwise) relating to the Facility and the Purchased Assets;

(v) Seller shall prepare and file all Tax Returns required to be filed by Seller on or before the Closing Date, including unemployment, social security, and withholding Taxes, and shall pay all Taxes that are due thereunder;

(vi) If required, Seller shall prepare and file all reports and remit all payments that Seller is required to file or remit in connection with Seller's participation with any Payor;

(vii) Seller will give any notices to third parties, and will use reasonable diligence to obtain any third-party consents, that may be required in connection with the sale and purchase of the Purchased Assets contemplated by this Agreement; and

(viii) Seller shall cooperate with Buyer in all reasonable respects and shall provide such information as is necessary for an orderly transition of the operation of the Facility to Buyer.

(d) Notification. From the Effective Date until the Closing Date, Seller shall promptly notify Buyer at such time that Seller becomes aware of the occurrence, or nonoccurrence, of any event the occurrence or nonoccurrence of which has caused (i) any representation or warranty of such party contained in this Agreement to be untrue or inaccurate, in each case that would give rise to a failure of any of the conditions set forth in Section 4.4 of this Agreement to be satisfied, or (ii) such party to fail to comply with or satisfy in any material respect any covenant, condition or agreement in each case that would give rise to a failure of any of the conditions set forth in Section 4.4 of this Agreement to be satisfied.

(e) Efforts to Close; Further Assurances. From the Effective Date until the Closing Date, Seller and Buyer shall:

(i) use their respective commercially reasonable efforts to cause the conditions in Section 4.4 of this Agreement to be satisfied; and

(ii) cooperate reasonably with each other and with their respective representatives in connection with any steps required to be taken as part of their respective obligations under this Agreement, and shall (A) furnish upon request to each other such further information, (B) execute and deliver to each other such other documents, and (C) do such other acts and things, all as the other party may reasonably request for the purpose of carrying out the intent of this Agreement and the Transaction Documents and the transactions contemplated hereby and thereby.

(f) Declaration Estoppels. If, prior to the Closing, Buyer requests an estoppel certificate with respect to any reciprocal easement agreement, declaration, or other covenant or restriction encumbering the Real Property, Seller shall cooperate with Buyer in promptly delivering to the appropriate parties to such an agreement an estoppel certificate in a form reasonably requested by Buyer. After delivery of any requested estoppel certificates to the applicable parties, Seller shall use commercially reasonable efforts to assist Buyer in obtaining executed copies of the same.

(g) Interim Management Agreement. Promptly following the Effective Date, the parties shall make best efforts to immediately negotiate in good faith the terms of a management and operations transfer agreement consistent with the terms set forth on Exhibit F attached hereto (the “**Interim Management Agreement**”) and on other customary terms, to be entered into by Buyer and Seller promptly upon the Effective Date.

8.2 Post-Closing Covenants.

(a) Billing and Accounts Receivable.

(i) Right to Bill and Collect. Buyer shall have the exclusive right to bill for all services provided by the Facility on and after the Closing Date and to receive and retain all fees and revenues for such services. To the extent permitted by Governmental Authorities administering a Payor program, Buyer is expressly authorized to bill for such post-Closing services provided for Residents eligible for such benefits using the provider numbers assigned to Seller, if any, and to receive and retain all fees and revenues for such services.

(ii) IMA Date Accounts Receivable and Prepayments. Subject to the terms and conditions set forth in the Interim Management Agreement with respect to the application of accounts receivable towards the operating expenses during the term thereof, Seller shall retain its right, title, and interest in and to all unpaid accounts receivable with respect to the operation of the Facility that relate to periods prior to the IMA Date.

(iii) Allocation of Payments. payments received by Seller or Buyer on or after the Closing Date with respect to the operation of the Facility shall be handled as follows:

(A) If the accompanying remittance advice correctly indicates, or if Buyer and Seller agree, that the payment relates solely to periods prior to the Closing Date, then: (i) if the payment is received by Buyer, Buyer shall promptly (and in any event, not later than ten (10) business days following its receipt of such payment) remit the payment to Seller, and until so remitted, the payment shall be held in trust for the benefit of Seller; and (ii) if the payment is received by Seller, then Seller shall retain the payment.

(B) If the accompanying remittance advice correctly indicates, or if Buyer and Seller agree, that the payment relates solely to periods on or after the Closing Date, then: (A) if the payment is received by Seller, Seller shall promptly (and in any event, not later than ten (10) business days following its receipt of such payment) remit the payment to Buyer, and until so remitted, the payment shall be held in trust for the benefit of Buyer; and (B) if the payment is received by Buyer, then Buyer shall retain the payment.

(C) If the accompanying remittance advice correctly indicates, or if Buyer and Seller agree, that the payment relates to periods both prior to and after the Closing Date, then Seller shall be entitled to that portion of the payment that relates to periods prior to the Closing Date and Buyer shall be entitled to that portion of the payment that relates to the periods on or after the Closing Date. For this purpose, the portion of such payments that relate to periods prior to the Closing Date shall be determined based on a ratio, the numerator of which is the number of days of service to which the payments apply that occurred prior to the Closing Date and the denominator of which is the total number of days of service to which the payments apply; and the portion of the payments that relate to periods on or after the Closing Date shall be determined based on a ratio, the numerator of which is the number of days of service to which the payments apply that occurred on or after the Closing Date and the denominator of which is the total number of service to which the payments apply. If such a payment is made to Buyer, then Buyer shall promptly (and in any event, not later than ten (10) business days following its receipt of such payment) remit to Seller the portion of such payment to which Seller is entitled, and until so remitted, the portion of the payment to which Seller is entitled shall be held in trust for the benefit of Seller. If such a payment is made to Seller, then Seller shall promptly (and in any event, not later than ten (10) business days following its receipt of such payment) remit to

Buyer the portion of such payment to which Buyer is entitled, and until so remitted, the portion of the payment to which Buyer is entitled shall be held in trust for the benefit of Buyer.

(b) Capital Commitment and Expansion.

(i) From and after the Closing, the Buyer shall commit no less than ONE MILLION DOLLARS (\$1,000,000) on the improvement and expansion of the Facility and, subject to its receipt of any and all appropriate and necessary federal, state and municipal approvals, shall expand the bed capacity of the Facility by adding an additional 16 beds, provided however that such expansion shall be net of any reduction of capacity effectuated by Buyer upon its purchase of the Facility so long as any such initial reduction is made in good faith and, based upon Buyer's sole opinion, for health and safety reasons or to improve the quality of care at the Facility.

(ii) From and after the Closing the Buyer shall make commercially reasonable efforts to secure such necessary governmental approvals required for the construction of at least one additional facility on or adjacent to the Real Property. Within thirty days of receipt of such approval, Buyer shall pay to Seller an additional ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000).

(c) Administrative Obligations: From and after the Closing and at the direction of the Special Master, Buyer will take over the management of Seller, including but not limited to all billing and administrative duties, and the maintenance and custodianship of all health records ("Administrative Duties"). Buyer shall undertake the Administrative Duties as if they were their obligations in the first instance and shall indemnify Seller from any liability, claims or expenses arising from Buyer's negligence in conducting the Administrative Duties. For the avoidance of doubt, nothing in this paragraph shall be deemed an assumption of any liability of Buyer prior to the date of this Agreement. Further, any and all revenue accrued and collected after the Closing will belong exclusively to Buyer in accordance with the terms of the Interim Management Agreement, and any and all revenue accrued prior to the Closing will belong exclusively to the Seller.

(d) Further Assurances. From and after the Closing Date, upon the request of either Seller or Buyer, each of the parties hereto shall do, execute, acknowledge, and deliver all such further acts, assurances, deeds, assignments, transfers, conveyances and other instruments and papers as may be commercially reasonable to carry out the transactions contemplated hereunder.

(e) Access to Personnel, Books and Records.

(i) From and after the Closing for a period consistent with Applicable Law following the Closing Date, Buyer will provide Seller and the Special Master with reasonable access, during normal business hours, and upon reasonable advance notice, to the books and records, including work papers, schedules, memoranda, tax returns, Tax schedules, Tax rulings, and other documents transferred to Buyer pursuant to this Agreement (for the purpose of examining and copying) relating to the Purchased Assets, the Excluded Assets, the Assumed Liabilities or the Excluded Liabilities, in each case, in Buyer's possession or control

and solely to the extent concerning periods or occurrences prior to the Closing Date, and reasonable access, during normal business hours, and upon reasonable advance notice, to personnel, offices and properties of the Buyer, as may be reasonably requested by Special Master or Seller in connection with the Receivership Proceeding, the wind-down and liquidation of Seller, to comply with legal, regulatory, and financial reporting requirements, to satisfy any audit, accounting or similar requirement; provided, in each case, that such access does not unreasonably interfere with the normal operations of Buyer; provided further that nothing herein will require Buyer to provide access to, or to disclose any information to, Seller if such access or disclosure (A) would result in the waiver of any attorney-client, work-product or other legal privilege or accountant privilege, (B) would reasonably be expected to violate any Applicable Laws (including Healthcare Laws), (C) would reasonably be expected to be in violation of the provisions of any agreement (including any confidentiality obligation) by which Buyer or any of its Affiliates is bound, or (D) would violate any fiduciary duty; provided that Buyer will use commercially reasonable efforts to provide a reasonable alternative means of accessing any such information in a manner that is not inconsistent with the foregoing; provided further that no such access shall be required in connection with a proceeding between Buyer or any of its Affiliates, on the one hand, and any Seller or any of its Affiliates, on the other hand.

8.3 Restrictive Covenants.

(a) Non-Competition. For a period of three (3) years following the Closing Date, Seller agrees it shall not and shall not cause or permit any of its Affiliates to, engage directly or indirectly, in any capacity: (i) in developing a facility engaged in providing addiction or substance abuse treatment and/or rehabilitation services on an in-patient basis within fifty (50) miles of the Facility; (ii) in any new activities that “**Compete**” with the business of developing, owning, operating, leasing or managing a facility providing addiction or substance abuse treatment and/or rehabilitation services on an in-patient basis within fifty (50) miles of the Facility. For purposes of this provision, “**Compete**” means (x) to, directly or indirectly, conduct, facilitate, participate or engage in, or bid for or otherwise pursue a facility engaged in providing addiction or substance abuse treatment, detoxification and/or rehabilitation services on an in-patient basis, whether as a principal, sole proprietor, partner, stockholder, or agent of, or consultant to or manager for, any Person or in any other capacity, or (y) to, directly or indirectly, have any ownership interest in any Person or business which conducts, facilitates, participates or engages in, or bids for or otherwise pursues a facility engaged in providing addiction or substance abuse treatment and/or rehabilitation services on an in-patient basis, whether as a principal, sole proprietor, partner, stockholder, or agent of, or consultant to or manager for, any Person or in any other capacity.

(b) Non-Solicitation. For a period of three (3) years following the Closing Date, Seller agrees it shall not and shall not cause or permit any of its Affiliates to, directly or indirectly, solicit, divert or accept business from any Resident or employee of the Facility, or otherwise interfere with the relationship between Buyer and any Resident or employee of Buyer in connection with the Facility.

(c) Confidentiality.

(i) The parties acknowledge and agree that the existence of this Agreement and the Transaction Documents, the terms of this Agreement and the Transaction Documents and any other information disclosed in by Seller or prepared by or on behalf of Buyer in connection with its due diligence and investigation which is not generally known to the public shall be confidential except to the extent already within the public domain or as otherwise required by Applicable Law. Notwithstanding the foregoing, Buyer may reveal and deliver due diligence materials, reports and all other documents, information, and materials concerning the Facility to its agents, representatives, lenders, investors, principals, and Affiliates.

(ii) Notwithstanding anything to the contrary set forth in this Section 8.3(c), each party may disclose information which is otherwise required by the foregoing to be kept confidential (A) on a need-to-know basis to its Affiliates, the employees of such party or its Affiliates, members of professional firms serving such party or its Affiliates, or lenders, (B) as any Governmental Authority may require in order to comply with Applicable Law or a court order, (C) to the extent that such information is a matter of public record, (D) in connection with any dispute or litigation between the parties, or (E) to the extent required to be disclosed in connection with any filings or proceedings related to obtaining the Approval Order.

(d) Buyer and Seller agree that Buyer and its Affiliates, successors and assigns would suffer irreparable harm from a breach of this Section 8.3 by Seller and that money damages would not be an adequate remedy for any such breach. Therefore, in the event a breach or threatened breach of this Section 8.3, Buyer and its Affiliates or their respective successors and assigns, in addition and supplementary to other rights and remedies existing in their favor, shall be entitled to seek specific performance and/or injunctive or other equitable relief from a court of competent jurisdiction in order to enforce, or prevent any violations of, the provisions hereof (without posting a bond or other security and at the expense of Seller, including reasonable attorneys' fees and expenses).

(e) If the final judgment of a court of competent jurisdiction declares any term or provision of this Section 8.3 to be invalid or unenforceable, the parties agree that the court making the determination of invalidity or unenforceability shall have the power to reduce the scope, duration, or area of the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified. In addition, in the event of an alleged breach or violation of any provisions of Section 8.3(a) or Section 8.3(b) by Seller, any time periods described therein shall be tolled until such breach or violation has been duly cured.

(f) The provisions of this Section 8.3 shall survive the Closing (and not be merged therein) or earlier termination of this Agreement.

8.4 Exclusivity; Special Master's Fiduciary Obligations.

(a) Seller, with respect to the Purchased Assets and the Facility, covenants and agrees to refrain, starting on the date on which the Rhode Island Superior Court approves this

Agreement pursuant to the Receivership Proceeding, from making, accepting, encouraging or soliciting or otherwise pursuing any other offer or proposal or agreement regarding the sale of the Purchased Assets and the Facility or any portion thereof or any interest therein, and will deal exclusively with Buyer in good faith toward the completion of the transactions contemplated herein or in the Transaction Documents, unless this Agreement shall be terminated as provided herein.

(b) Pending the Rhode Island Superior Court's entry of the Approval Order, nothing in this Agreement shall require the Special Master or the Seller to take any action, or to refrain from taking any action, with respect to this Agreement or the Purchased Assets, to the extent that the Special Master determines, based on advice of counsel, that taking such action, or refraining from taking such action, as applicable, is required to comply with applicable law or their fiduciary obligations under applicable law ("**Fiduciary Obligations**"); provided, that, if the Special Master seeks to terminate this Agreement in reliance on the Special Master's perceived Fiduciary Obligations when another basis to terminate this Agreement is not available to Seller, then such termination shall only be effective upon order of the Rhode Island Superior Court entered after the provision of reasonable notice to, and an opportunity to respond by, the Buyer.

**ARTICLE 9
INTENTIONALLY LEFT BLANK**

**ARTICLE 10.
TERMINATION AND REMEDIES.**

10.1 Termination. This Agreement may be terminated and the transaction contemplated herein abandoned at any time prior to Closing:

- (a) by mutual written agreement of the parties;
- (b) by Seller, if any of the conditions set forth in Section 4.3 shall have become incapable of fulfillment prior to the Closing Date through no fault of Seller, and the same shall not have been waived by Seller;
- (c) by Buyer, if any of the conditions set forth in Section 4.3 shall have become incapable of fulfillment prior to the Closing Date through no fault of Buyer, and the same shall not have been waived by Buyer;
- (d) by Buyer pursuant to and in accordance with Section 3.1;
- (e) by either Seller or Buyer, upon written notice to the other party, in the event:
 - (i) of a material breach by the other party of its obligations hereunder that is not cured within thirty (30) days of receipt of written notice of such breach;
 - (ii) that Jonathan N. Savage is no longer the Special Master;

(iii) if an order of the Receivership Court is entered denying the Approval Order and such order becomes a Final Order; and

(iv) if the Closing does not occur on or before January 31, 2022 (the “**Outside Date**”); provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(e)(iv) shall not be available to any party if: (A) the Required Approvals have not been obtained by the Outside Date; and/or (B) any Survey is being performed at such time or is scheduled to be performed after the Outside Date and, in either case, to the extent that the events described in clause (A) or clause (B) above have not been caused by, in whole or in part, either party’s material failure to perform its obligations under this Agreement prior to such time;

(f) by Buyer in the event of the termination of the Interim Management Agreement for any reason.

10.2 Effect of Termination.

(a) Any termination pursuant to this Article 10 shall be effected by written notice from the party so terminating to the other party (the “Termination Notice”), which Termination Notice shall specify the Section hereof pursuant to which this Agreement is being terminated. Each party’s right of termination under Article 10 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of such right of termination will not be an election of remedies. In the event of termination of this Agreement as provided in Section 10.1, this Agreement shall become void except for this Section 10.2, Article 9, Article 11 and any other provision that is expressly intended to survive the termination of this Agreement.

ARTICLE 11 MISCELLANEOUS.

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

11.2 Notices. All notices, requests, consents, approvals, waivers, demands and other communications required or permitted to be given or made under this Agreement shall be in writing and shall be (a) hand delivered or sent by a nationally recognized overnight delivery service, and (b) sent by email, in each case, addressed as follows, or to such other address, Person as any party may designate by notice to the others in accordance herewith:

If to Seller, to:

Pete Mumma
President / CEO
Phoenix Houses of New England, Inc.
99 Wayland Ave, Suite 100
Providence, RI 02906
Email: pmumma@phoenixhousene.org

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

Jonathan N. Savage, Esq.,
as Permanent Non-Liquidating Special master of
Phoenix Houses of New England, Inc.
Shechtman Halperin Savage, LLP
564 South Water Street
Providence, RI 02903
Email: js@savagelawpartners.com

If to Buyer:

Zinnia Health LLC
520 Newport Center Drive, Suite 550
Newport Beach, CA 92660
Email: jlee@zinniahealth.com

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

Stephen F. Del Sesto, Esq.
Pierce Atwood, LP
1 Financial Plaza, 26th Floor
Providence, RI 02903
Email: sdelsesto@pierceatwood.com

or to such other person or address as any party hereto shall furnish to the other parties hereto in writing pursuant to this Section 11.2.

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

11.4 Bulk Sales. Buyer and Seller hereby waive, to the fullest extent permitted, compliance with the Applicable Laws governing bulk sales of any state in which the Purchased Assets are located or in which operations relating to the Facility are conducted.

11.5 Publicity. Seller and Buyer each hereby covenant and agree that: (a) prior to the Closing neither Seller nor Buyer shall issue any press release or similar public statement with respect to the transactions contemplated under this Agreement and the Transaction Documents (a "**Press Release**") without the prior consent of the other, except to the extent required by Applicable Laws; and (b) after the Closing, any Press Release issued by either Seller or Buyer shall be subject to the review and approval of both parties (which approval shall not be unreasonably withheld, conditioned or delayed and such response shall be provided within two

(2) business days after submission of a draft of the Press Release to the other party for review), except to the extent required by Applicable Law.

11.6 Entire Agreement; Amendment; Waiver. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements. This Agreement may not be modified or amended except in writing signed by the parties hereto. Any waiver by any party of any violation of, breach of or default under any provision of this Agreement or any exhibit, schedule or other document referred to in this Agreement by any other party shall not be effective unless in writing signed by the party granting the waiver. Further, no such waiver shall be construed as or constitute a waiver of any subsequent violation, breach of, or default under that provision or any other provision of this Agreement, or any exhibit or schedule or other document referred to in this Agreement.

11.7 Assignment. Neither this Agreement nor the rights, duties or obligations arising hereunder shall be assignable or delegable (including by transfer of equity) by either party hereto without the express prior written consent of the other party hereto; provided, however, that Buyer may assign its rights, interests and obligations under this Agreement upon prior notice to the Seller to any of its wholly-owned or commonly owned subsidiaries or Affiliates; provided, further, that Buyer may assign its rights, interests and obligations under this Agreement with the consent of the Seller, which shall not be unreasonably withheld, to (a) any post-Closing purchaser of Buyer, Buyer's business, any of the Purchased Assets or the Facility; and (b) any financial institution providing purchase money or other financing to Buyer; provided, further, that any such assignment by the Buyer shall not relieve the Buyer's obligations under this Agreement.

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

11.9 Governing Law. This Agreement shall be governed by the laws of the State of Rhode Island as to, including, but not limited to, matters of validity, construction, effect and performance but exclusive of its conflicts of laws provisions.

11.10 Venue; Choice of Law. THE VALIDITY OF THIS AGREEMENT, ITS CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT, AND THE RIGHTS OF THE PARTIES HERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF RHODE ISLAND. THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF PROVIDENCE, STATE OF RHODE ISLAND. BUYER AND SELLER WAIVE, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT UNDER THIS AGREEMENT.

11.11 Third Party Beneficiary. Nothing in this Agreement express or implied is intended to and shall not be construed to confer upon or create in any person (other than the parties hereto)

any rights or remedies under or by reason of this Agreement, including without limitation, any right to enforce this Agreement.

11.12 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile or email transmission of any signed, original counterpart transmission shall be deemed the same as the delivery of an original. The parties agree and acknowledge that this Agreement may be kept in electronic form and that an electronic version of this Agreement will be just as valid and enforceable as the original.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

SELLER:

PHOENIX HOUSES NEW ENGLAND, INC.

By: Pete Mumma, MS, MBA,

Title: President & CEO

Signature: _____

Date: _____

By: Jonathan N. Savage, Esq., as Permanent Special Master of Phoenix Houses New England, Inc. appointed by the Rhode Island Superior Court in the action captioned *Muma v. Phoenix Houses of New England, Inc.*, C.A. No. PM-2021-00006

Signature: _____

Date: _____

BUYER:

Zinnia Health LLC

By: _____

Name: Taek Kwon

Title: CEO

EXHIBITS & SCHEDULES INDEX

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EXHIBIT A **CERTAIN DEFINITIONS**

The following terms shall have the meanings assigned to them in this Exhibit, unless the context otherwise indicates, both for purposes of this Agreement and all Exhibits and Schedules attached to the Agreement:

“**Action**” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

“**Affiliate**” of a Person means a Person controlling, controlled by or under common control with such Person.

“**Applicable Law**” means any applicable statute, law (including common law), ordinance, code (including the Code), rule or regulation promulgated, issued or enacted by any Governmental Authority having jurisdiction and any applicable Judgment or consent of or agreement with any Governmental Authority having jurisdiction, including Healthcare Laws.

“**Approval Order**” means an order of the Receivership Court, in form and substance acceptable to Buyer, (x) modifying and/or supplementing, as applicable, the *Order Appointing Permanent Non-Liquidating Special Master and Order Approving Operating Plan*, entered by the Receivership Court in the docket of the Receivership Proceeding on February 19, 2021, to confer on the Special Master all powers and authority to collect and sell the assets of Seller of a liquidating receiver duly appointed pursuant to RI Gen. L. § 7-6-61, and (y) authorizing and approving the sale of the Purchased Assets to Buyer, free and clear of Liens, and related transactions contemplated by the Transaction Documents in accordance with the terms of this Agreement and the Transaction Documents.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Contract**” means any assignable contract, agreement, commitment, lease or other Obligation or arrangement (whether written or oral), but excluding any contract, agreement, commitment, Obligation or arrangement relating to Intellectual Property, any employee benefit plan, and any Excluded Contract.

“**Deposit**” means the non-refundable deposit paid by Buyer to Seller in the aggregate principal amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00).

“**Employee Plan**” means any plan, program, agreement, policy or arrangement, whether or not reduced to writing, and whether covering a single individual or a group of individuals, that is (a) an employee welfare benefit plan within the meaning of Section 3(1) of ERISA, (b) an employee pension benefit plan within the meaning of Section 3(2) of ERISA, (c) a stock bonus, stock purchase, stock option, restricted stock, stock appreciation right, profit sharing or similar equity-based plan or agreement, or (d) any other deferred-compensation, retirement, severance, retention, change-in-control, leave, vacation, welfare-benefit, bonus, incentive or fringe-benefit plan, program, agreement or arrangement which is sponsored or maintained for the benefit of any current or former employee, independent contractor or director (and/or their dependents or beneficiaries) of Seller or any of Seller’s subsidiaries, or ERISA Affiliate of Seller or Seller’s

subsidiaries or under which Seller or any of its subsidiaries or any ERISA Affiliate of Seller or Seller's subsidiaries contributes or has contributed to or is obligated to contribute or otherwise has any Liability.

“Environmental Defects” means any issue, matter or condition disclosed or discovered by any environmental inspection or environmental report, including any environmental Phase I inspection of the Real Property conducted in accordance with Section 3.2(b) which, in Buyer's sole and absolute judgment, constitutes a release of Hazardous Materials and/or requires remediation in accordance with applicable Environmental Laws.

“Environmental Laws” means all Applicable Laws, including, without limitation, all applicable judicial or administrative orders, applicable consent decrees, and binding Judgments relating to the regulation and protection of human health, safety, the environment, and natural resources (including, without limitation, ambient air, surface water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species and vegetation), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §§ 9601 et seq.), the Hazardous Material Transportation Act, as amended (49 U.S.C. §§ 5101 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. §§ 136 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. §§ 2601 et seq.), the Clean Air Act, as amended (42 U.S.C. §§ 7401 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251 et seq), the Safe Drinking Water Act, as amended (42 U.S.C. §§ 300f et seq.), any state or local counterpart or equivalent of any of the foregoing, and any federal, state, or local transfer of ownership notification or approval statutes.

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

“ERISA Affiliate(s)” means any entity that is considered a single employer with Seller under Section 414 of the Code.

“Facility Employees” means all Persons who are employed by or on behalf of Seller and used by Seller in connection with the operations of the Facility.

“Final Order” means an order or Judgment of the Receivership Court (or any other court of competent jurisdiction) entered by the clerk of the Receivership Court (or such other court) on the docket in the Receivership Proceeding (or the docket of such other court), which has not been modified, amended, reversed, vacated or stayed and as to which (i) the time to appeal, petition for certiorari, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for certiorari or motion for new trial, reargument or rehearing shall then be pending or (ii) if an appeal, writ of certiorari new trial, reargument or rehearing thereof has been sought, such order or Judgment of the Receivership Court (or other court of competent jurisdiction) shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, reargument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, reargument or rehearing shall have expired, as a result of which such order shall have become final in accordance with the applicable court rules of practice and procedure.

“Governing Body” means the board of trustees or similar governing body of Seller.

“Governmental Authority” means the United States and any foreign or domestic state, county, city or other political subdivision and any department, commission, board, bureau, agency,

commission, officer, official, court, tribunal, arbitrator, board or bureau or other instrumentality thereof and any self-regulatory organization, such as a securities exchange.

“Grant Agreement” means that certain grant agreement entered into between Rhode Island Department of Mental Health, Retardation and Hospitals and Marathon, Inc.

“Hazardous Materials” means: (a) those substances included within the definitions of any one or more of the terms “hazardous materials,” “hazardous wastes,” “hazardous substances,” “industrial wastes,” and “toxic pollutants,” as such terms are defined under the Environmental Laws, or any of them; (b) petroleum and petroleum products, including, without limitation, crude oil and any fractions thereof; (c) natural gas, synthetic gas, and any mixtures thereof; (d) asbestos and or any material which contains any hydrated mineral silicate, including, without limitation, chrysotile, amosite, crocidolite, tremolite, anthophyllite, and/or actinolite, whether friable or non-friable; (e) polychlorinated biphenyl (“PCBs”) or PCB-containing materials or fluids; (f) radon; (g) any other hazardous or radioactive substance, material, pollutant, contaminant, or waste; and (h) any other substance with respect to which any Environmental Law or Governmental Authority requires environmental investigation, monitoring, or remediation.

“Health Care Professionals” means Seller’s employed and contracted physicians, non-physician practitioners and other allied health professionals and personnel who are licensed or certified by a state agency to provide professional services to Residents on behalf of Seller in connection with the operation of the Facility.

“Healthcare Laws” means all Applicable Laws relating to the provision and/or administration of, and/or payment for, health care services, items and supplies including, without limitation, including without limitation Applicable Laws relating to: (a) fraud and abuse, including, without limitation, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), Sections 1320a-7 and 1320a-7a of Title 42 of the United States Code, the Physician Self-Referral Law, commonly known as the “Stark Law” (42 U.S.C. §§ 1395nn and 1396b), the civil False Claims Act (31 U.S.C. § 3729 et seq.), the Federal Criminal False Claims Act (18 U.S.C. § 287), the False Statements Relating to Health Care Matters Law (18 U.S.C. § 1035), Health Care Fraud (18 U.S.C. § 1347), the Eliminating Kickbacks in Recovery Act of 2018 (18 U.S.C. § 220) and any regulations promulgated pursuant to such statutes, or similar state or local statutes or regulations; (b) Medicare (Title XVIII of the Social Security Act), the regulations promulgated thereunder; (c) Medicare, Medicaid, CHAMPVA, TRICARE, the State Children’s Health Insurance Program (Title XXI of the Social Security Act), and any other program administered by a Payor; (d) the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) and the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152); (e) quality and safety Applicable Laws relating to the regulation, storage, provision or administration of, or payment or rebates for, healthcare products or services, including prescription products, durable medical equipment, prosthetics and controlled substances, or the conducting of clinical research (e.g., Federal Food, Drug & Cosmetics Act (21 U.S.C. §§ 301 et seq.), the Controlled Substances Act (21 U.S.C. §§ 801 et seq.) and the Public Health Service Act, (42 U.S.C. §§ 201 et seq.)); (f) licensure Applicable Laws relating to the regulation, provision or administration of, or payment for items, services or goods related to the items and services related to the Business and the operation of the Facility, including Applicable Laws relating to the so-called “corporate practice of medicine”, “corporate practice of nursing” or fee splitting; (g) Applicable Laws relating to certificate of need or similar Applicable Laws governing the establishment of providers, practices or services related to the items and services related to the Business and the operation of the Facility; (h) the Privacy and Security Laws; and (i)

any and all other applicable regulatory manual provisions, policies and administrative guidance related to the items and services related to the Business and the operation of the Facility; each of (a) through (i) as may be amended, modified or supplemented from time to time and any successor statutes thereto and regulations promulgated thereunder from time to time.

“**IMA Date**” means the earlier of the Effective Date or the first date that Buyer and Seller begin to perform under the Interim Management Agreement.

“**Intellectual Property**” means intellectual and similar property and all rights, interests and protections that are associated with, similar to, or required for the exercise of, any of the foregoing, however arising, pursuant to Applicable Law, whether registered or unregistered, in and to: (i) designs, inventions, invention disclosures, patents, patent applications, divisionals, continuations, continuations-in-part, extensions and reissues of same; (ii) trademarks, service marks, trade names, brand names, logos, trade dress, design rights and other similar designations of source, sponsorship, association or origin, together with the goodwill connected with the use of and symbolized by, and all registrations, applications and renewals for, any of the foregoing (“**Trademarks**”); (iii) works of authorship, expressions, designs and design registrations, including copyrights, author, performer, moral and neighboring rights, advertising copy and other marketing materials, drawings, graphics, documentation, databases, and recordings, and all registrations, applications to register and renewals for any of the foregoing; (iv) trade secrets, formulae, processes, engineering data, designs, know-how, show-how, research and development, customer and supplier lists, pricing and cost information, databases, data collections, source code, and other confidential or proprietary technical information or other similar data or information and all rights therein; (v) internet domain names, web addresses, web pages, websites and related content, accounts with social media companies and the content found thereon and related thereto, and URLs; and (vi) Software.

“**Interim Operating Losses**” means the negative cash flow experienced during the Interim Period from the ordinary course operation of the Facility and the administration of the Facility’s programs during the Interim Period.

“**Interim Period**” means the period from the IMA Date through the Closing Date.

“**IT Systems**” means all networks, services, databases, information technology infrastructure components or tools and any Intellectual Property that is an integral part of any information technology equipment (including, without limitation, personal computers and peripherals, printers, scanners, mobile computing devices, mobile telephones, desk phones and PBX systems, servers, storage, racks, voice and data network devices, and hardware) and Software, including and Third Party Software used in connection with the Business.

“**Judgments**” means any judgments, orders, decisions, injunctions, decrees or awards of any federal, state, local or foreign court, arbitrator or administrative or other Governmental Authority having jurisdiction.

“**Knowledge**” means, with respect to an individual, such individual is actually aware of the particular fact, matter, circumstance or other item, or a prudent individual could be expected to discover or otherwise become aware of such fact, matter, circumstance or other item in the course of conducting a reasonable investigation concerning the existence thereof, and, with respect to any other Person (other than an individual), any individual who is serving, or who has at any time served, as a director, officer, partner, member, shareholder, executor or trustee of such Person

(or in any similar capacity) has, or at any time had, Knowledge of such fact, matter, circumstance or other item.

“**Letter of Intent**” means that certain Letter of Intent to Purchase Real Estate and Other Assets Relating to PHNE’s Exeter, Rhode Island Facility, dated September 15, 2021, as amended by that certain Reinstatement and First Amendment, dated October 4, 2021.

“**Liabilities**” means liabilities, Obligations or commitments of any nature whatsoever, whether asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise.

“**Liens**” means any and all liens, encumbrances, mortgages, claims, indentures, deeds of trust, charges, pledges, security interests, burdens, easements, rights of way, zoning ordinances, mineral exceptions, rights of first offer, rights of first refusal, purchase options, encroachments, irregularities in title, restrictions or limitations on ownership or use, or other encumbrances of any nature whatsoever, including those arising under any Contracts.

“**Losses**” means losses, damages, Liabilities, deficiencies, Actions, Judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys’ fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

“**Material Adverse Effect**” means any event, change, circumstance, effect, or state of facts that is or could reasonably be expected to be materially adverse to (i) the business, financial condition or results of operations of the Facility and/or the Purchased Assets, taken as a whole, or (ii) the ability of Buyer or Seller to perform its obligations under this Agreement, the Interim Management Agreement, or other Transaction Documents; provided, however, that “Material Adverse Effect” shall not include the effect of any event, change, circumstance, or state of facts primarily arising out of or primarily attributable to the filing or continuation of the Receivership Proceeding.

“**Obligations**” means any duties, responsibilities, liabilities and obligations, costs and expenses of whatever kind and nature, whether vested, absolute or contingent, primary or secondary, direct or indirect, known or unknown, asserted or unasserted, accrued or unaccrued, liquidated or unliquidated, due or to become due, and whether based in common law or statute or arising under Contract or by action of any Governmental Authority or otherwise.

“**Operating Loss Payments**” means such amounts advanced by Buyer to Seller during the Interim Period in accordance with the terms and conditions set forth in the Interim Management Agreement.

“**Payors**” means any cost based or other form of reimbursement program or any other third party payor (including without limitation, medically indigent assistance, Medicare, MediCal, Blue Cross, Blue Shield, any health maintenance, preferred provider, independent practice or other healthcare related organizations, peer review organizations, or other healthcare providers or payors)

“**Permits**” means licenses, permits, consents, approvals, authorizations, registrations, qualifications and certifications of any governmental or administrative agency or authority (whether federal, state or local), including without limitation any Medicare, Medicaid and other provider numbers, certificates or determinations of need, CLIA and DEA certifications.

“**Person**” means an individual, partnership, limited liability company, corporation, trust, unincorporated organization, association or joint venture or a Governmental Authority.

“**Privacy and Security Laws**” means the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191 (including the Standards for Privacy of Individually Identifiable Health Information, the Security Standards for the Protection of Electronic Protected Health Information and the Standards for Electronic Transactions and Code Sets promulgated thereunder) (“**HIPAA**”) and applicable state laws regarding patient privacy and the security, use or disclosure of health care records.

“**Provider Agreements**” means all Contract between Seller and any Payor in respect of the Facility relating to rights to participate with such Payor and payment or reimbursement from, and claims against Payors, as the same may from time to time be amended, restated, extended, supplemented or modified, together with all rights, privileges and entitlements thereunder.

“**Remaining Cash Consideration**” means an amount equal to (i) FOUR MILLION AND ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$4,100,000.00); minus (ii) the Deposit; plus or minus (iii) any prorations and other adjustments as provided for hereinafter.

“**Required Approvals**” means, in respect of any applicable Permits, any and all registrations, filings, consents, approvals or other action by any Governmental Authority that is or will be necessary for: (i) the valid execution, delivery and performance of this Agreement by Seller and Buyer; (ii) the consummation of the transactions contemplated in this Agreement and the Transaction Documents; (iii) Buyer to operate the Facility on and after the Closing Date; and (iv) the assignment of any Assumed Contracts that can be duly assigned by the Special Master without the need to obtain consent from the applicable counter-party to each such Assumed Contract.

“**Resident(s)**” means residents and other patients of the Facility.

“**Software**” means computer software including computer programs, applications and databases in any form, including source code and object code, operating systems and specifications, firmware, data, databases, database management code, utilities, graphical user interfaces, menus, images, icons, forms, methods of processing, software engines, platforms, data formats, internet web sites, web content and links, all versions, updates, corrections, enhancements and modifications thereof, and all related documentation, developer notes, comments and annotations.

“**Survey**” shall mean an as-built survey of the Real Property (or updates of an existing surveys or existing surveys accompanied by no change survey affidavits in form and substance acceptable to the Title Company and Buyer) in each case accompanied by a certificate of a registered surveyor licensed in the state where the Facility is located, certified as directed by Buyer in full ALTA form.

“**Tax**” or “**Taxes**” means (a) any and all federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security (or similar, including FICA), unemployment, disability, real property, personal property, escheat, unclaimed property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind or any charge of any kind in the nature of (or similar to) taxes whatsoever, including any interest, penalty, or addition thereto, in each case whether disputed or not, and (b) any Liability for the payment of any amounts of the type described in

clause (a) of this definition as a result of being a member of an affiliated, consolidated, combined or unitary group for any period, as a result of any tax sharing or tax allocation agreement, arrangement or understanding, or as a result of being liable for another Person's taxes as a transferee or successor, by Contract or otherwise.

"Tax Return" means any return, declaration, report, claim for refund or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"Third Party Software" means any Software, other than any proprietary Software of Seller or any Software that is not-transferable, used in connection with the Business and all associated Intellectual Property rights.

"Title Defect" shall mean any title matter set forth in any Title Commitment or Survey which, in Buyer's sole and absolute judgment, is not properly included as an exception to title to the Facility or adversely affect the marketability or valuation of the Facility and the Purchased Assets or is a requirement on the Title Commitment with which Seller must comply in order for the Buyer to obtain the Title Insurance Policy.

"Transaction Documents" means this Agreement, and, with respect to any Person, any other document executed or delivered by or on behalf of such Person (or any Affiliate thereof), in connection with the execution and delivery of this Agreement or the Closing, pursuant to the terms of this Agreement.

EXHIBIT B
FORM OF DEED

EXHIBIT C
FORM OF BILL OF SALE AND ASSIGNMENT OF ASSETS

EXHIBIT D
FORM OF ASSIGNMENT OF CONTRACTS

EXHIBIT E
INTERIM MANAGEMENT AGREEMENT TERMS

The Management and Operations Transfer Agreement (the “**Interim Management Agreement**”) will contain terms and conditions that are reasonable and customary for such an agreement, in a transaction of the nature contemplated by the Purchase Agreement to which this term sheet is attached (the “**Purchase Agreement**”) and in any event including the terms described below. Capitalized terms not defined but otherwise used herein will have the meanings set forth in Purchase Agreement.

Engagement and Authority	Seller will appoint, engage and retain Buyer, on an exclusive basis, and Buyer will accept such appointment and engagement, to manage and operate the Facility for the Term of the Agreement.
Buyer’s Obligations	To the fullest extent permitted by Applicable Law, Buyer will be responsible for the general management of the Facility and its day-to-day operations.
Seller’s Obligations	Seller will assist and cooperate with Buyer in connection Buyer’s performance under the Interim Management Agreement, including, without limitation, promptly furnishing to Buyer all information and data in Seller’s possession as may be necessary to enable Buyer to perform its obligations.
Compensation	Seller will pay to Buyer a fee for Buyer’s services in such amounts as are mutually agreeable to the parties.
Interim Operating Losses	In the event that, during the Term, the Facility requires additional capital for continued operations, Buyer will agree to provide funding in an amount equal to the negative cash flow (“ <u>Interim Operating Losses</u> ”) experienced during any relevant period of time; <u>provided, that</u> , Buyer’s obligations to provide such funding will be subject to the Special Master obtaining one or more order(s) entered by the Rhode Island Superior Court, in form and substance acceptable to Buyer, which order(s) will provide adequate protection for any extension of credit to Seller to be made by Buyer.
Billing, Collections and Accounts Receivable	<p>Buyer will submit claims for reimbursement for services rendered during the Interim Period. Seller will cooperate with Buyer’s efforts to submit claims for reimbursement to Payors, including, but not limited to, permitting Buyer to utilize Seller’s provider enrollment numbers and Payor contracts in order to bill for services rendered during the Interim Period.</p> <p>All revenue received during the Interim Period related to services rendered during the Interim Period will be transferred to and belong to Buyer.</p> <p>Seller will retain all rights in and title to all unpaid accounts receivable with respect to the Facility that relates to services rendered prior to the Interim Period; <u>provided, however</u>, that any such accounts receivable will be first applied towards satisfying Seller’s obligation to fund its portion of the Interim Operating Losses, if any.</p>
Staff	Buyer will employ the clinical and nonclinical personnel necessary and appropriate for the efficient operation of the Facility, and all costs associated with Staff including wages, salaries, employment taxes, and other employee benefits, will be deemed “Operating Expenses,” payable by Buyer and subject to reimbursement by Seller, all pursuant to the terms of the Interim Management Agreement.

Term and Termination	<p>Unless sooner terminated in accordance with the provisions of the Interim Management Agreement, the term of the Interim Management Agreement will be for the duration of the Interim Period.</p> <p>The Interim Management Agreement will automatically terminate on the Closing Date and each party will have customary termination rights upon termination of the Purchase Agreement and for cause (upon thirty (30) days' written notice to the other party and subject to all applicable cure rights).</p>
Indemnification	<p>Each party to the Interim Management Agreement will indemnify and hold harmless the other party (and such other party's respective successors, assigns, officers, directors, managers, members, shareholders, employees, agents and representatives) against any and all liabilities incurred due to the inaccuracy of any representation or warranty, a breach of the Interim Management Agreement and such other customary and reasonable grounds for indemnification.</p>