

**SUPPLEMENTAL MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF STAMFORD  
AND  
CENTER MANAGEMENT GROUP**

AGREEMENT made this 25<sup>th</sup> day of November, 2015, between THE CITY OF STAMFORD (the "City"), a municipal corporation organized and existing under the laws of the State of Connecticut, acting by David R. Martin, its Mayor, or his designee and the CENTER MANAGEMENT GROUP, LLC (together with any Permitted Assignee(s)), "CMG"), a limited liability company organized and existing under the laws of the State of New York, acting by Charles-Edouard Gros, its Chief Executive Officer.

**WITNESSETH**

WHEREAS, the City owns and operates a Skilled Nursing Facility (a "SNF") known as The Smith House which is located at 88 Rock Rimmon Road in the City of Stamford, State of Connecticut.

WHEREAS, the City filed a Letter of Intent ("LOI") on October 20, 2015 with the Department of Social Services of the State of Connecticut ("DSS") requesting an application for a Certificate of Need ("CON") in order to obtain permission from the State of Connecticut to close The Smith House.

WHEREAS, CMG owns and operates SNFs and, upon learning that the City had filed a LOI with DSS, contacted the City and, on October 28, 2015, sent the City a letter of intent for the acquisition of The Smith House.

WHEREAS, the City believes that, so long as it has no further financial responsibility for the continued operation of The Smith House, it is in the best interests of the residents of the City for The Smith House to continue to operate as a SNF under the auspices of another

operator subject to terms and conditions acceptable to the City.

WHEREAS, CMG is prepared to continue the operation of The Smith House as a SNF subject to terms and conditions acceptable to the City and to relieve the City of all financial responsibility for the continued operation of The Smith House.

WHEREAS, the City and CMG entered into an MOU on November 6, 2015 to effectuate the transfer of the operation of the Smith House to CMG which contained some deadlines that have passed which must be re-established.

WHEREAS, the City and CMG agree that Scofield Manor, a 50 bed residential care home located at 614 Scofieldtown Road, Stamford, Connecticut, 06903 may continue to operate on the property which will be leased by the City to CMG under the same terms and conditions as currently exist.

NOW THEREFORE, the City and the CMG agree:

1. Except in regard to the timing of the deposit of the Earnest Money, the terms of the November 6<sup>th</sup> MOU will remain in full force and effect.
2. It is understood that some terms of the November 6<sup>th</sup> MOU have also been or will also be included in other agreements, in particular the lease between the City and CMG for The Smith House property attached hereto as Exhibit A (the "Lease").
3. CMG shall offer equivalent – *i.e.*, full-time, part-time, seasonal or per diem – employment to all current Smith House employees, it being agreed that CMG has full discretion and control with respect to all subsequent decisions regarding employees, subject to any union agreements between CMG and any relevant Union.
4. CMG will not in any way favor or discriminate against the applicants for residency at, the residents of, the families of residents or prospective residents, or the

employees of The Smith House because of their status in any “protected class,” including race, color, religious creed, age, sex, marital status, sexual orientation, gender identity or expression, national origin, ancestry, or physical disability, as recognized by Federal and/or State of Connecticut anti-discrimination statutes now existing, or as amended in the future.

5. CMG shall continue to operate/maintain the shared septic system and grant the operator of Scofield Manor access to inspect the septic system.

6. As required by the November 6<sup>th</sup> MOU, CMG made a non-refundable deposit, by electronic funds transfer, of fifty thousand dollars (\$50,000.00) to an account designated by the City on November 12, 2015.

7. The City will negotiate exclusively with CMG for a period of 30 days, commencing on November 12, 2015, the date of the non-refundable deposit, until CMG notifies the City that it does not wish to proceed based on its due diligence pursuant to Paragraph 9 below, or until the lease is executed, or CMG begins operating under the MOTA until the lease is executed, whichever first occurs.

8. On or before 5:00 pm on November 25, 2015, CMG shall deposit one million dollars (\$1,000,000.00) as earnest money (“Earnest Money”) by electronic funds transfer into an interest bearing escrow account, of the City’s choosing, in which the funds will be held under CMG’s tax ID number (the “Escrow Account”).

9. The Earnest Money shall be refunded to CMG within three (3) business days if CMG notifies the City in writing by 5:00 pm EST on November 30, 2015 that it does not wish to proceed with the acquisition of The Smith House based on the results of its due diligence investigation.

10. The City will cooperate with CMG with respect to the due diligence requests made by CMG or its representatives.

11. CMG shall conduct its due diligence investigation in conformity with all local, state and federal laws and regulations including, in particular, its obligation to

appropriately safeguard protected health information under HIPAA.

12. If CMG makes the Earnest Money deposit as required by this Agreement and has not notified the City that it does not wish to proceed with the acquisition of The Smith House by 5:00 pm on November 30, 2015 pursuant to Paragraph 9 above, the City will withdraw its LOI, application for a CON, and/or, as appropriate, request the State to discontinue processing the City's request to close The Smith House.

13. If CMG makes the Earnest Money deposit as required by this Agreement and has not notified the City that it does not wish to proceed with the acquisition of The Smith House by 5:00 pm on November 30, 2015 pursuant to Paragraph 9 above, the City will inform DSS and the Department of Health about this agreement and its intent to transfer the operation and management of The Smith House to CMG.

14. If CMG makes the Earnest Money deposit as required by this Agreement and has not notified the City that it does not wish to proceed with the acquisition of The Smith House by 5:00 pm on November 30, 2015 pursuant to Paragraph 9 above, CMG will immediately seek approval(s) from the appropriate State agency(ies) to operate The Smith House under an interim management agreement.

15. Immediately upon CMG's obtaining approval to operate The Smith House under an interim management agreement, the City will turn over operation of The Smith House to CMG pursuant to the management and operations transfer agreement (the "MOTA" attached as Exhibit B).

16. If the City obtains the required approvals for the Lease and CMG fails to execute the lease or fails to obtain a license or any other required local, state or federal authorization to operate The Smith House, the Earnest Money shall be forfeited to the City, unless (i) if the City has defaulted or breached any of its requirements, representations or covenants with respect to the transaction, or (ii) CMG uses commercially reasonable efforts to obtain all required licenses and approvals and through no fault of CMG a required license or approval is not provided.

17. The City's agreement to lease The Smith House to CMG is contingent upon approval by the Planning Board, the Board of Finance and the Board of Representatives. If the City fails to obtain the required Board approvals for the lease prior to the Closing Date (as defined below), the Earnest Money shall be refunded to CMG.

18. The City will refund to CMG up to the total amount of the funds then held in the Earnest Money Escrow Account (which shall be the initial \$1,000,000 plus any accrued interest) to cover the costs CMG incurs to renovate the Smith House, at a rate of 50 cents for each \$1 of cost, within twenty (20) business days of presentation to the City of invoices for costs incurred to renovate or improve the Smith House.

19. CMG is currently conducting due diligence pursuant to the November 6<sup>th</sup> MOU. If CMG makes the Earnest Money deposit as required by this Agreement and has not notified the City that it does not wish to proceed with the acquisition of The Smith House, CMG shall have the right to continue to conduct reasonable inspections and investigations of the Facility, including all due diligence items described in paragraph 21 below.

20. CMG may employ agents to conduct due diligence activities on its behalf.

21. CMG's due diligence may include, but will not be limited to: a) inspection of books and records at the Facility; b) inspection of the physical structure of the Facility; c) review of contracts and leases to which the City is a party; d) such other reasonable inspections or investigations as CMG may deem necessary.

22. Prior to the deposit of the Earnest Money, CMG may not represent to residents, families, or employees or to the public that it intends to acquire The Smith House or that it plans or expects to become the operator of The Smith House.

23. CMG shall be required to pay all applicable taxes, including personal property tax, attributable to executing the Lease and its continued operation of The Smith House.

24. CMG shall become the licensed operator of The Smith House.

25. Any notice or request required to be given or otherwise given pursuant to this Agreement to CMG shall be in e-mail to Charles-Edouard Gros at [cgros@centermgt.com](mailto:cgros@centermgt.com) and [sboehm@centermgt.com](mailto:sboehm@centermgt.com), or at such other e-mail address as may hereafter be specified in a notice designated as a notice of change of address under this paragraph.

26. Any notice or request required to be given or otherwise given pursuant to this Agreement to the City shall be in e-mail to Michael Handler, the Director of Administration for the City, at [mhandler@stamfordct.gov](mailto:mhandler@stamfordct.gov), with a copy to Kathryn Emmett, the Director of Legal Affairs for the City, at [kemmett@stamfordct.gov](mailto:kemmett@stamfordct.gov).

27. The Parties acknowledge that they each participated in drafting this Agreement, and there shall be no presumption against any party on the ground that such party was responsible for preparing or reviewing this Agreement or any part of it.

28. Each party (to the extent obligated to do so) shall execute and deliver such instruments and take such other actions as the other party or parties may reasonably request in order to carry out the intent of this Agreement.

29. Subject to applicable law, this Agreement may be modified, amended, and supplemented only by written agreement of the Parties. No term or condition hereof may be waived, except in a writing signed by the party sought to be charged therewith. Failure by any party to insist in any one or more instances on strict compliance with the terms, conditions, covenants, representations and warranties contained herein shall not be deemed a waiver or act as an estoppel.

30. If any one or more provisions of this Agreement shall be deemed to be illegal or unenforceable, such illegality or unenforceability shall not affect any of the

remaining legal and enforceable provisions hereof, which shall be construed as if such illegal or unenforceable provision or provisions had not been inserted.

31. This Agreement and all rights and liabilities of the Parties shall be governed by and construed in accordance with the laws of the State of Connecticut without regard to conflict of law principles.

32. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. An electronic facsimile or photocopy of this Agreement or any signature hereon shall be deemed an original and may be filed or received in evidence in any matter and for any purpose.

33. The terms of Exhibit C to this Agreement shall be incorporated herein and part hereof and have the same force and effect as the balance of this Agreement.

34. The City shall cooperate fully and use its best efforts to arrange for the FEMA grant to acquire new generators to transfer to CMG or, if permitted pursuant to the grant, for the City and Smith House to otherwise pay for the generators and their installation prior to Closing, so long as CMG pays any co-pay amount required for the grant after the date hereof.

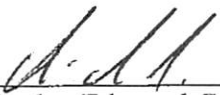
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CITY OF STAMFORD

By   
for Mayor David R. Martin  
as his designee

Date: 11-25-15

CENTER MANAGEMENT GROUP,  
LLC

By   
Charles-Edouard Gros

Date: 11-25-15



## EXHIBIT A

**LEASE**  
**FOR THE SMITH HOUSE SKILLED NURSING FACILITY**  
**AT 88 ROCK RIMMON ROAD, CITY OF STAMFORD,**  
**STATE OF CONNECTICUT**

This Lease (together with the Terms and Conditions attached as Exhibit A, and the Definitions attached as Exhibit B, the "Lease"), effective as of the Closing Date, (for all purposes of this Agreement, as that term is defined in the Supplemental Memorandum of Understanding Between the City of Stamford and Center Management Group dated November 25<sup>th</sup>, 2015 (the Supplemental MOU, supplementing the Memorandum of Understanding entered into between the City of Stamford and Center Management Group dated November 6, 2015 (the "Initial MOU", and the Initial MOU and Supplemental MOU together, the "MOU")) by and between the CITY OF STAMFORD, a municipal corporation organized and existing under the laws of the State of Connecticut, and located in the County of Fairfield in said State, acting herein by DAVID R. MARTIN, its Mayor, hereunto duly authorized, and hereafter referred to as "LANDLORD" and CENTER MANAGEMENT GROUP, LLC, a limited liability company organized and existing under the laws of the State of New York and located in New York City in the State of New York, acting herein by Charles-Edouard Gros, its Managing Member, hereunto duly authorized, and together with any Permitted Assignees, hereafter referred to as "TENANT".

**W I T N E S S E T H:**

1. The Landlord does hereby lease to the Tenant and the Tenant hereby takes from the Landlord all that certain piece, parcel or tract of land, known as 88 Rock Rimmon Road, Stamford, Connecticut, which shall include that certain piece, parcel, or tract of land known as 614 Scofieldtown Road, Stamford, Connecticut, all as more particularly described, shown and designated on Exhibit C attached hereto and made a part hereof, together with any and all rights (including, without limitation, any and all air rights and development rights), privileges and easements appurtenant thereto, any gaps or gores of land between the land and abutting or adjacent properties in which the Landlord has, or may have, any interest, to the extent of such interest, and all consents, authorizations, variances or waivers, licenses, permits and approvals from any governmental authority relating to the foregoing, and all buildings, parking areas, fixtures and other improvements located thereon, including, without limitation, the Facility, (all aforementioned items collectively, the "Real Property"), and the Personal Property (the Personal Property together with the Real Property, the "Property").

2. The term of said lease shall be for 95 years commencing on the date hereof.

3. The Tenant's rights and obligations hereunder shall not be assignable, directly or indirectly or by operation of law, without the prior written consent of the Landlord other than to a Permitted Assignee. Tenant shall be one or more entities 51% or more controlled by Mr. Charles-Edouard Gros and/or Mr. Shlomo Boehm. A Permitted Assignee shall mean (i) one or more entities 51% or more controlled by Mr. Charles-Edouard Gros and/or Mr. Shlomo Boehm ("Permitted Assignee") and (ii) after fifty (50) years of the date hereof, any entity.

4. The term rent shall be Two Thousand Dollars (\$2,000.00) per month payable monthly beginning on the first day of month following the commencement of this Lease.

5. The Tenant shall operate a Chronic and Convalescent Nursing Home ("CCNH") on the Property with a minimum of 90 licensed beds at no less than 80% occupancy, and shall hold and

continuously maintain a license from the State of Connecticut to operate The Smith House as a CCNH, for a term of at least 15 years, after which time Tenant shall not use the property other than for a public purpose until at least 50 years from the date hereof. During the 50 year period of CCNH/public purpose use of the Property, the Tenant shall not abandon the Property, during the first fifteen years and thereafter, for any continuous period longer than twelve (12) months.

6. Scofield Manor shall be permitted by Tenant to continue to operate on the leased Property under the same terms and conditions as currently exist between the City and Scofield Manor.

7. Tenant shall have an option to acquire the Property fee simple free and clear of all liens and encumbrances excepting a deed restriction limiting the use of the property for 15 years as a CCNH and thereafter for public purposes, for 50 years from the date hereof, which shall include use for a CCNH or Skilled Nursing Facility, Senior Assisted Living, or any other similar healthcare related facility or as otherwise permitted pursuant to an amendment to the Lease, approval for which shall not be unreasonably withheld, and if necessary an easement for the use of the septic system by the Scofield Manor, for a purchase price of \$6,000,000 until June 30, 2016, and thereafter for \$7,000,000, with marketable and insurable title by delivery of a Quitclaim Deed, and Landlord covenants that for so long as the Property is used for a public purpose the Property shall benefit from an abatement of any Real Property Tax. The provisions of this paragraph 7 shall survive the term of this Agreement.

8. The Property is owned by the Landlord and leased to the Tenant, subject only to the liens, covenants, restrictions, and encumbrances listed in Schedule 6 (the items listed on Schedule 6, the "Permitted Encumbrances"). During the term of this Lease the Landlord shall not permit any liens or encumbrances to be placed on the Property other than the Permitted Encumbrances. The term "demised premises" in the Lease shall be interchangeable with and have the same meaning as the term "Property" herein.

9. The Tenant acknowledges that the Landlord is a municipality and that, as such, the Landlord must receive such benefit or consideration from Tenant to warrant the City agreeing to enter into this Lease and the option hereunder or any future amendments to this lease as would serve the public interests of the taxpayers and residents of the City of Stamford, it being agreed that the terms and conditions of this Lease provide the requisite benefit or consideration necessary to warrant the City agreeing to enter into this Lease and the option hereunder.

10. The Tenant shall not assign this Lease or sublease, or license for use or otherwise dispose of the whole or any part of the demised premises without the prior written consent of the Landlord nor use the demised premises for any purpose except as permitted pursuant to the terms of this Lease. If the Lease is terminated during the first fifty years of its term, other than pursuant to Tenant exercising its option to acquire the Property, Tenant will deliver up the same, in as good condition as when the Lease commenced ordinary wear and tear and the changes resulting from subsequent improvements excepted.

11. If the Tenant violates any provision or paragraph of this Lease, the Landlord shall give the Tenant written notice of said violation and, if not corrected, or the option is not exercised by Tenant, within sixty (60) days after the written notice mailed to the Tenant, or provided that Tenant has commenced and is diligently pursuing such cure, such longer period that Tenant shall advise the Landlord that, in its reasonable judgment, Tenant will require to effectuate such cure, but in any case not to exceed one hundred and eighty (180) days from the date of the notice of violation, then the Landlord shall have the option of declaring the Tenant in default of the Lease. The Landlord may, at any time thereafter, re-enter said premises, and the same have and possess as the Landlord's former estate and, without such re-entry, may recover possession thereof in the manner prescribed by the statute relating to summary

process; it being understood that no further demand for rent, and no re-entry for condition broken, as at common law, shall be necessary to enable the Landlord to recover such possession pursuant to said statute relating to summary process, but that all right to any such demand, or any such re-entry is hereby expressly waived by the said Tenant. If cure of a violation by Tenant during the cure period is actually delayed as a result of a cause or causes attributable to the Landlord, the cure period shall be extended for the period during which cure of the violation is delayed by reason of the Landlord.

12. The Landlord may terminate the Lease prior to the expiration day of the full term of this Lease pursuant to the above paragraph. If, pursuant to the terms of the above paragraph Landlord opts to terminate the Lease, then and in that event, this Lease shall terminate, and, on such date, the term of this Lease shall expire and terminate and all rights of the Tenant under the Lease shall cease, subject only to any loan secured by a mortgage or lien on the property/leasehold interest which was obtained/used for construction or improvements with respect to the Facility/premises, which such loan shall not exceed the greater of \$5,600,000, or 80% of the fair market value of the real property, such value determined by a nationally recognized appraisal company, and the Property shall be and become the property of the Landlord. All reasonable costs and expenses incurred by or on behalf of the Landlord, including reasonable attorneys' fees and costs, occasioned by any default by the Tenant under this Lease during the first fifteen years of the term of the Lease shall constitute additional rent hereunder.

13. The Tenant will maintain and operate the shared septic system and grant the operator of Scofield Manor, or its agent, access to the Property to inspect the septic system.

14. Unless Tenant exercises the option to purchase the property, all Real Property and, for seven (7) years after Closing, all Personal Property, subject to normal wear-and-tear and/or replacement in the usual course of business shall remain upon and be surrendered with the premises as part thereof at the termination of this Lease, without compensation to the Tenant.

15. Tenant shall comply with and conform to all the laws of the United States and of the State of Connecticut, Charter, Ordinances and rules and regulations of the City of Stamford, so far as the premises hereby leased are, or may be concerned; and assume all costs for violation of or noncompliance with the same.

16. The premises shall for the first fifty years of the term of the Lease at all reasonable times be open for reasonable inspection of the Landlord and its agents, upon reasonable notice to the Tenant, such inspection not to interfere with the business or operations of Tenant.

17. The Tenant agrees to keep said premises and all parts thereof in accordance with all applicable laws, codes, rules, and regulations.

18. The Tenant shall be responsible for maintenance and repair of the demised premises, as well as refuse collection, payments for water, electricity, heat, hot water, and other utilities for same, and maintenance and repair of open areas, driveways and parking areas.

19. In the event that the Property on the premises hereby leased shall be totally or substantially damaged by fire or otherwise, the Tenant shall notify the Landlord whether or not the Tenant elects to repair said damage. If the Tenant elects not to repair the damage, or exercise its right under the option, then this Lease shall become null and void and of no further force and effect as of the date of such damage.

20. (i) If all or any part of the Property or the leasehold estate or the property of Tenant shall be taken or damaged by condemnation, that portion of any award attributable to the Tenant's interest in the improvements or the Tenant's interest in the leasehold estate or the property of Tenant or damage to the Tenant's interest in the improvements or to the Tenant's interest in the leasehold estate or the property of Tenant shall be paid to the Tenant. Any portion of the award attributable solely to the underlying fee estate (exclusive of any improvements or the property of Tenant) shall be paid to the Landlord. Annual rent shall be reduced as provided in cases of condemnation.

(ii) In the event of a negotiated sale of all or a portion of the Property, in lieu of condemnation, the proceeds shall be distributed and annual rent reduced as provided in cases of condemnation.

21. During the term of this Lease specified in each clause below, Tenant shall obtain and maintain at Tenant's expense the following types and amounts of insurance:

a. Fire and Extended Coverage Insurance –the Tenant shall keep all buildings, improvements and equipment on the demised premises, including all alterations, additions and improvements, insured against loss or damage by fire with all standard extended coverage. The insurance shall be placed on a repair or replacement cost basis in an amount sufficient to prevent Landlord and Tenant from becoming co-insurers under provision of applicable policies of insurance. If at any time there is a dispute as to the amount of such insurance, the same shall be settled by arbitration.

b. Comprehensive General Liability – Tenant shall provide liability insurance for bodily injury and property damage liability with limitation of not less than: One Million (\$1,000,000) for injury or death to one person, Three Million (\$3,000,000) for injury or death of two or more persons and Two Hundred and Fifty Thousand (\$250,000) for property damage, or such reasonably increased amounts, that are consistent with standard business practices at such time.

c. Tenant shall provide Landlord such evidence of insurance as Landlord may reasonably require. All insurance policies in force shall be in form and issued by insurance companies satisfactory to the Landlord and shall contain the following clauses:

"This policy includes the interests of the City of Stamford, its officers, employees and agents as an additional named insured. The insurer waives any right to subrogation against the Landlord, its officers, employees or agents which might arise by reason of any payment under this policy".

"Thirty (30) days advance written notice of cancellation shall be given to the Risk Manager of the City of Stamford before any cancellation or reduction in coverage of this policy shall be effective".

22. The Landlord shall not be responsible for the loss of or damage to property, or injury to persons, occurring in and or on the demised premises by reason of any existing or future condition, defect, matter of thing in said demised premises or the acts, omissions or negligence of other persons or tenants in and or on the said premises occurring during the term of this Lease. The Tenant agrees to indemnify and save the Landlord harmless from all claims and liability for loss of or damage to property or injuries to persons occurring in and or on the demised premises occurring during the term of this Lease. The Tenant further agrees to indemnify and save harmless the Landlord of and from all fines, suits, claims, demands and acts of any kind by reason of any breach, violation, or nonperformance of any condition hereof on the part of the Tenant; the Landlord shall not be liable for any injury or damage to person or property happening in or on the driveways, parking areas or sidewalks situated on said premises, and the

Tenant agrees to indemnify and save harmless the Landlord from any liability for anything arising from or out of the occupancy of said premises by the Tenant occurring during the term of this Lease.

23. Failure of the Landlord to insist upon a strict performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of any rights or remedies that the Landlord may have; and shall not be deemed a waiver of any subsequent breach or default of the terms, conditions and covenants herein contained.

24. The Tenant acknowledges that it has examined said premises and that, except as specified herein or in the MOU by and between Landlord and Tenant in conjunction herewith, no representations have been made by the Landlord as to the conditions of said premises upon which the Tenant has relied in entering into this Lease and the Tenant agrees to take the Property "as is" in its present and existing condition.

25. The Tenant agrees during the term of this Lease not to encumber the demised premises with any liens such as attachments, judgment liens, mechanic's liens or any other liens, with the exception of a leasehold mortgage securing financing for construction and/or improvements with respect to all or some of the Property, which Landlord agrees may be placed upon the premises and shall cooperate in connection with Tenant securing such mortgage, including executing and delivering appropriate documents in connection therewith, provided that such financing shall not exceed the greater of \$5,600,000, or 80% of the fair market value of the real property, such value determined by a nationally recognized appraisal company.

26. In the event that any mechanic's lien that is not permitted pursuant to the term of the Lease is filed against the premises as a result of alterations, additions or improvements made by the Tenant and Tenant does not exercise its option, the Landlord, at its option, after the Landlord determines the validity of the lien which includes any rights the Tenant may have, may pay the said lien, providing the Landlord reasonably determines after inquiring into the validity thereof that the lien is valid and the amount claimed is due, and the Tenant shall forthwith reimburse the Landlord the total expenses incurred by the Landlord in discharging the said lien, as additional rent hereunder.

27. In the event that the Tenant shall remain in the demised premises after the expiration of the term of this Lease without having executed a new written Lease with the Landlord, such holding over shall not constitute a renewal or extension of this Lease. The Landlord may, at its option, elect to treat the Tenant as one who has not removed at the end of its term, and thereupon be entitled to all the remedies against the Tenant provided by law in that situation, or the Landlord may elect, at its option, to construe such holding over as a tenancy from month to month, subject to all the terms and conditions of this Lease, except as to duration thereof.

28. Any dispute arising under this Lease shall be settled by arbitration. The Landlord and Tenant shall each choose an arbitrator, and the two arbitrators thus chosen shall select a third arbitrator. The findings and award of three arbitrators thus chosen shall be final and binding on the parties hereto.

29. It shall be the sole responsibility of the Tenant at its cost to obtain and maintain all necessary permits, approvals, and authorizations to operate The Smith House as a CCNH, including but not limited to a license to operate the Smith House as a CCNH.

30. It shall be the sole responsibility of the Tenant at its cost to obtain all necessary permits, approvals, and authorizations necessary for improvements to the Property.

31. Landlord represents to Tenant that no realty transfer or similar tax is payable upon the execution of the lease and that no real property tax will apply during the term of the Lease and will indemnify Tenant for any reasonable cost or expense incurred by Tenant by reason of this representation being incorrect or inaccurate.

32. In addition to the obligations expressly required to be performed hereunder by the Landlord and the Tenant, each agrees to cooperate at its own reasonable expense with the other and to perform such other acts and to execute, acknowledge and deliver, prior to and after Closing, such other instruments, documents and materials as either may reasonably request and as shall be necessary in order to effect the consummation of the transactions contemplated in this Lease.

33. The Landlord covenants with the Tenant that it has all necessary approvals and good rights to lease said premises in the manner aforesaid and to otherwise enter into this Lease and assume all of Landlord's rights and obligations hereunder, and that Landlord shall suffer and permit said Tenant (it keeping all the covenants on its part, as hereinbefore contained) to occupy, possess and enjoy said premises during the term aforesaid, without hindrance or molestation from Landlord or any person claiming to represent the Landlord.

34. All notices, requests, demands, elections and other communications which either Party to this Lease may desire or be required to give hereunder shall be in writing, may be sent by a Party's attorney, and shall be deemed to have been duly given if delivered personally, by a reputable courier service which requires a signature upon delivery, by mailing the same by registered or certified first class mail, postage prepaid, return receipt requested, by facsimile with receipt confirmation (followed by a first class mailing of the same), or by e-mailing with receipt confirmation to the Party to whom the same is so given or made. Notice shall always be given by certified mail, return receipt requested, and may also be given by other means as well. Such notice, request, demand, waiver, election or other communication will be deemed to have been given as of the date so delivered or electronically transmitted or seven days after mailing thereof. Notices shall be addressed as follows:

If to Landlord, to:

Director of Administration of the City of Stamford  
888 Washington Boulevard, PO Box 10152,  
Stamford, CT 06904-2152  
Attn: Director of Administration – Michael Handler  
Facsimile: (203) 977-5657  
E-mail: [mhandler@stamfordct.gov](mailto:mhandler@stamfordct.gov)

With a copy to:

Director of Legal Affairs of the City of Stamford  
888 Washington Boulevard, PO Box 10152,  
Stamford, CT 06904-2152  
Attn: Director of Legal Affairs – Kathryn Emmett  
Facsimile: (203) 977-5560  
E-mail: [kemmett@stamfordct.gov](mailto:kemmett@stamfordct.gov)

If to Tenant, to:

Center Management Group  
137-42 71st Avenue  
Flushing, NY 11367  
Attn: Mr. Charles-Edouard Gros  
Facsimile: (718) 380-0455  
Email: CGros@CenterMGT.com  
CC: [sboehm@centermgt.com](mailto:sboehm@centermgt.com)

With a copy to:

Tenzer and Lunin LLP  
32 East 57th Street, Tenth Floor  
New York, New York 10022  
Attn: Scott B. Lunin, Esquire  
Fax No. (212) 262-6959  
Facsimile: (212) 262-6959  
E-mail: [slunin@tenzerlunin.com](mailto:slunin@tenzerlunin.com)

or to such other address as such Party shall have specified by notice to the other Party hereto.

35. On the date this Lease is executed, the title to the Real Property shall be owned fee simple by Landlord and shall be marketable and insurable at regular rates by a reputable title company selected by the Tenant doing business in Connecticut (the "Title Company"), and Landlord shall maintain title insurance insuring the Property, subject only to the encumbrances listed in Schedule 6.

36. Tenant shall have the right to review or contest by legal proceedings, any impositions imposed upon or against the Property.

37. The Landlord shall record notice of the existence of this Lease and its essential terms on the land records with respect to the Property.

38. Each party agrees at any time, and from time to time, upon not less than ten (10) days prior written request from the other party, to execute, acknowledge and deliver to the other party a statement in writing certifying that this Lease is unmodified and in full for force and effect (or if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), the dates to which the rent has been paid, and that there are no defaults under the Lease or, if there are such defaults, the nature of the default, it being intended that any such statement delivered pursuant to this paragraph may be relied upon by any prospective assignee, mortgagee or purchaser of the fee interest in the Property or of this Lease.

39. This Lease sets forth all of the agreements, representations, warranties and conditions of the Parties hereto with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements, representations, warranties and conditions, including the MOU, to the extent inconsistent with the MOU. No alteration, amendment, modification or waiver of any of the terms or provisions hereof, and no future representation or warranty by either party with respect to the transactions contemplated in this Lease, shall be valid or enforceable unless the same be in writing and signed by the Party against whom enforcement of same is sought, and in the case of Landlord is approved by the

Planning Board, the Board of Finance and the Board of Representatives, unless approval by such parties is not required by law, rule, or regulation.

40. Assignment. The Tenant's rights and obligations hereunder shall not be assignable, directly or indirectly or by operation of law, without the prior written consent of the Landlord; provided, however, that the Tenant may assign its rights and interests arising and/or accruing pursuant to this Lease to one or more entities 51% or more controlled by Mr. Charles-Edouard Gros and/or Mr. Shlomo Boehm, in which case such party shall be a Tenant. Subject to the limitations described herein, this Lease shall inure to the benefit of, and be binding upon, the Parties hereto and their respective successors and assigns.

41. Counterparts; Facsimiles. This Lease may be executed by the parties hereto in any number of separate counterparts, all of which, when delivered, shall together constitute one and the same Lease. Facsimile or scanned signatures shall be deemed to be delivered, legal and binding.

42. Holidays. Wherever this Lease provides for a date, day or period of time on or prior to which action or events are to occur or not occur, and if such date, day or last day of such period of time falls on a Saturday, Sunday or legal holiday, then same shall be deemed to fall on the immediately following Business Day.

43. Governing Law. This Lease and all issues arising hereunder shall be governed by the laws of the State of Connecticut, without regard to the conflict of laws provisions thereof.

44. No Third Party Beneficiary. Except and to the extent of provisions hereof that expressly and specifically deal with Tenant parties and Landlord parties, and their Affiliates, the provisions of this Lease are not intended to, and do not, provide any benefit, right, title or interest of any type, kind, nature or description to any person not a party hereto other than a Permitted Assignee.

45. Severability. If any provision of this Lease, or the application thereof to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void in any respect, the remainder of this Lease and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

THIS SECTION INTENTIONALLY LEFT BLANK



IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seal this [ ] day of November, 2015.

Signed, and sealed and delivered  
in the presence of:

CITY OF STAMFORD

\_\_\_\_\_

By \_\_\_\_\_

David R. Martin, its Mayor

\_\_\_\_\_

CENTER MANAGEMENT GROUP, LLC

a. Gelb

By C.E. Gros

Charles-Edouard Gros, its CEO

[Signature]

## **EXHIBIT A**

### **Terms and Conditions**

#### **1. Assumed and Retained Liabilities; Rights to Appeal; Expenses.**

(a) Tenant will assume and agree to perform and discharge all liabilities and obligations related to the Property or the operation of the Facility to the extent such obligations and liabilities relate to any period on or after the Closing Date (the "Assumed Liabilities").

(b) Notwithstanding anything herein to the contrary, the Tenant is not assuming, and the Landlord is retaining and shall remain liable for and shall indemnify Tenant for all liabilities of the Landlord other than the Assumed Liabilities (the "Retained Liabilities"). The Landlord shall have the right to defend, appeal or contest any ruling, judgment or determination with respect to a Retained Liability, and the Tenant shall cooperate with the Landlord in regard thereto to the extent reasonably necessary to pursue such action.

(c) Expenses. Except as otherwise expressly provided herein, the Tenant and the Landlord shall bear their own respective expenses incurred in connection with the preparation and negotiation of this Agreement and in connection with all obligations required to be performed by each of them under this Agreement, including, without limitation, attorney and other professional fees. Landlord shall be solely responsible for any payment obligation to any advisor or broker retained by it, and Landlord agrees to indemnify and hold harmless the Tenant from any liability for any such commission or compensation in the nature of a brokerage or advisor's or finder's fee or agent's commission (and the costs and expenses of defending against such liability or asserted liability) for which the Landlord is, or may be, responsible. The Tenant agrees to indemnify and hold harmless the Landlord from any liability for any commission or compensation in the nature of a brokerage or advisor's or finder's fee or agent's commission (and the costs and expenses of defending against such liability or asserted liability) for which Tenant or any of its members, officers, directors, employees or representatives is, or may be, responsible. The obligations of the Landlord and the Tenant pursuant to this Section 1 shall survive Closing.

#### **2. Cooperation; Notification.**

(a) Cooperation. The Landlord shall provide the Tenant, and the Tenant shall provide the Landlord, with reasonable cooperation at the requesting Party's expense, as may reasonably be requested in connection with (a) the defense of any litigation relating to the Property whether existing prior to, on or after the Closing Date, or (b) Taxes relating to the Property. Landlord shall promptly furnish to the Tenant and its counsel, accountants, consultants and other representatives, any information or documentation, including accounting records requested by Tenant with respect to the operation and maintenance of the Property, in connection the processing of its applications for Governmental Approvals or otherwise; provided that the Tenant and its affiliates shall use commercially reasonable efforts to maintain the confidentiality of such documentation and information. At the request of the Tenant, the Landlord will execute such documents as may be necessary to assign Landlord's Medicaid and Medicare provider number(s) and provider agreement(s) to the Tenant as of the Closing Date.

In addition to the obligations expressly required to be performed hereunder by the Landlord and the Tenant, each agrees to cooperate at its own reasonable expense with the other and to perform such other

acts and to execute, acknowledge and deliver, prior to and after the Closing Date, such other instruments, documents and materials as either may reasonably request and as shall be necessary in order to effect the consummation of the transactions contemplated in this Agreement. Without limiting the foregoing, in the event the Tenant determines that it is in its interest to lease the Property as contemplated under this Agreement pursuant to multiple agreements subject to the same terms and conditions as are set forth in this Agreement, the Landlord shall cooperate and promptly execute such agreements, which agreements shall be in the same form, and subject to the same terms and conditions, as this Agreement, with only the necessary modifications.

The obligations of the Landlord and the Tenant pursuant to this Section 2(a) shall survive Closing.

(b) Notifications. Between the date of this Agreement and the Closing, the Landlord shall promptly notify the Tenant of (i) any condemnation, environmental, zoning or other land-use regulation notices or proceedings specifically relating to the Property received by the Landlord, (ii) any notices of violations of any legal requirements relating to the Property, received by the Landlord and (iii) any litigation of which the Landlord receives written notice that arises out of the ownership or operation of the Property, or any other threatened or actual claim, action, litigation, suit or proceeding, arbitration or investigation against the Facility or an employee thereof of which the Landlord receives written notice, (iv) any notice, citation, warning or communication, regardless of the source of such notice, citation, warning or communication, regarding any violation or any deficiency of any type, kind, nature or description received by the Landlord with regard to the Property.

### 3. Confidentiality

(a) Confidentiality. No Party may, without the other Party's (the "Other Party") prior written consent, publish or disclose or otherwise authorize or permit any of its officers, employees, directors, agents or representatives or any third party to publish or disclose any trade secrets, confidential or proprietary data or information or financial books, records or other similar information (collectively, the "Confidential Information") of or pertaining to the Other Party; provided, however, that the foregoing shall not apply to information which: (i) prior to or after the time of disclosure becomes publicly known and made generally available; or (ii) is required to be disclosed by applicable law or proper legal, governmental or other competent authority, provided that the Other Party shall be notified sufficiently to the extent possible in advance of such requirement so that the Other Party can seek an appropriate protective order with respect to such disclosure, with which the disclosing Party shall fully comply; (iii) is otherwise disclosed to agents, representatives (including attorneys, accountants and financial advisors), employees, vendors, or consultants whose knowledge of the information is needed for evaluation purposes and/or in connection with the consummation of the transactions contemplated by this Agreement and who recognize the confidential nature of such information and agree to be legally bound to the same burdens of confidentiality contained in this Agreement or (iv) any disclosure that the Landlord is obligated to make pursuant to its rules and regulations, including obligations to present financial information as it pertains to the Landlord to various boards and commissions, which may or may not be subject to FOIA requests, or other public communication responsibilities that the Landlord may have as a municipal government, including but not limited to its obligations under FOIA, but in all cases the Landlord will maintain confidentiality with respect to all of Tenant's proprietary trade secrets, to the extent that it has access to any and is able to do so without violating applicable legal requirements.

#### **4. Indemnifications.**

(a) By the Landlord. Landlord shall indemnify, save, protect, defend and hold harmless the Tenant from and against all Losses, whether or not resulting from third-party claims arising from, out of, or relating to (i) the breach of any representation or warranty made by Landlord in this Agreement; (ii) the breach of any agreement, covenant or obligation of Landlord in this Agreement; (iii) the Retained Liabilities; and (iv) the Landlord's use, ownership and/or operation of the Property before the Closing Date, and if this Lease is terminated without the option being exercised, after the term of this Lease, regardless of when such liability or obligation may be asserted.

(b) By the Tenant. Tenant shall indemnify, save, protect, defend and hold harmless the Landlord from and against all Losses, whether or not resulting from third-party claims arising from, out of, or relating to (i) the breach of any representation or warranty made by Tenant in this Agreement; (ii) the breach of any agreement, covenant or obligation of Tenant in this Agreement; (iii) the Assumed Liabilities; and (iv) the Tenant's use, ownership and/or operation of the Property on or after the Closing Date during the term of the Lease.

## **Exhibit B**

### **Definitions**

"Facility" shall mean the 128 bed Skilled Nursing Facility (a "SNF") known as The Smith House which is located at 88 Rock Rimmon Road in the City of Stamford, State of Connecticut (the "Premises") and is licensed in Connecticut as a chronic and convalescent nursing home ("CCNH").

"Personal Property" shall mean all of Landlord's right, title and interest in the assets and property of every type, kind, nature and description, personal, mixed, tangible and intangible, used in the operation of the Facility other than the Excluded Assets, free and clear of all Encumbrances, except for Permitted Encumbrances, subject to the terms and conditions hereof, including the following assets, as constituted on the Closing Date:

1. The business and operation of the Facility;
2. All furniture, furnishings, fixtures, appointments, tools, machinery, appliances, fittings, trucks, automobiles, computers and equipment owned by the Landlord and used in the operation of the Facility in their "as is" condition as of the date of this Lease (normal wear and tear excepted) (the "FF&E");
3. All inventory and supplies, on hand or on order, including dry storage goods, janitorial supplies, food and beverage supplies, office supplies, medical supplies, housekeeping, kitchen, paper and nursing supplies and pharmaceutical supplies ("Inventory");
4. The benefit of all of the Landlord's relationships with suppliers and all of Landlord's supplier lists;
5. Custody and control over all Resident funds held in trust for active residents ("Resident Trust Funds"), other than to the extent previously transferred pursuant to the MOTA;
6. All security deposits, prepayments and credits, if any, which are held by the Landlord for the provision of future services by the Landlord or the Facility;
7. All books and records made within the period from January 1, 2005 through the Closing Date , including, without limitation, account books of original entry, general ledgers, supplier files and employee records, and any other financial records relating to the Facility;
8. All resident/patient records relating to the Facility relating to residents/patients of the Facility on the Closing Date, subject to all applicable legal requirements;
9. All employee and payroll records relating to employees of the Facility on the Closing Date that employees have agreed to be delivered, or that are not protected from disclosure under FOIA;
10. All goodwill and other intangible assets associated with the Facility;
11. To the extent transferable, all Permits, including Federal, State or local governmental or regulatory permits, licenses, approvals and franchises which are owned or held or used by the Landlord in

connection with the operation of the Facility or the ownership of the Property, with the understanding that it shall be the responsibility of the Tenant to take such measures as are necessary for the transfer of such permits, licenses, approvals and franchises where necessary, in which undertaking the Landlord shall fully cooperate;

12. The Landlord's Medicare and Medicaid provider numbers and provider agreements to the extent transferable, with the understanding that it shall be the responsibility of the Tenant to take such measures as are necessary for the transfer of such numbers and agreements, in which undertaking the Landlord shall fully cooperate;
13. Reserved.;
14. Any and all insurance claims, and rights with respect thereto, in connection with any current or past insurance policy for any unrestored damage or loss occurring on or prior to the Closing Date; provided however, that the Tenant shall have no right, title or interest in or to any insurance policy when the Landlord has restored such damage or loss and the Landlord has not received payment for such claim under such policy;
15. All contracts of the Facility expressly designated by Tenant as assumed contracts (the "Assumed Contracts").
16. All computer applications, operating, security or programming software used in operation of the Facility, whether for general business usage (e.g., accounting, word processing, graphics, spreadsheet analysis, etc.), or specific, unique-to-the-business usage, including all "off-the-shelf" software, "custom" software, "open source" software, and any other software, licensed or unlicensed (collectively, the "Software"), all of which is listed on Schedule 2.1.17 annexed hereto (the "Assumed Software");
17. All building plans, floor plans, architectural and engineering drawings and specifications, sketches, surveys, and other property records relating to the Facility and the real property associated with the Facility;
18. To the extent assignable, all warranties, representations and guaranties made by or received from any Person with respect to the Property;
19. To the extent assignable, all Permits, including licenses, permits, building inspection approvals, certificates of occupancy, approvals, subdivision maps, accreditations and entitlements, if any, issued, approved or granted to Landlord or otherwise held or used by the Landlord in connection with the operation of the Facility or the use or ownership of the Property;
20. The telephone numbers, facsimile numbers, and e-mail and domain addresses used by the Facility, other than e-mail addresses that reference the words "City of Stamford" as well as operating telephone equipment, computers, computer hardware and servers in use at the Facility as of the date of this Lease, subject to normal wear and tear;
21. Bank accounts into which accounts receivable are deposited that are used in the operation of the Facility for purposes of deposit of payment for accounts receivable (the "Bank Accounts");

22. All menus, and policy and procedure manuals;
23. All adjustment amounts owed to the Tenant pursuant to this Lease; and
24. All other assets of the Landlord related to the Facility, including the right to the use of the names used by the Facility on the date of this Lease, and all other trade names, logos, trademarks and service marks (or variations thereof) associated with the Facility or the Property, other than names that specifically refer to the "City of Stamford".
25. For Personal Property that is leased, Landlord shall assign its possessory interest therein to the extent that such leases are assignable. The Parties agree to comply with any provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") Privacy, Security, Transaction and Code Set Standards that are applicable to the transfer of the Property.

"Excluded Assets" shall mean:

1. All cash, deposits (other than resident security deposits and prepayments, and Resident Trust Funds held in trust) and cash equivalents, investments and notes receivable;
2. All loans receivable, and all accounts receivable which are to be collectible and payable pursuant to the provisions of Section [--] of the Terms and Conditions to this Lease, regardless of when billed, relating to services rendered by the Landlord or the Facility prior to the Closing Date;
3. All adjustment amounts owed to the Landlord pursuant to this Lease;
4. All insurance policies, and any proceeds, remittances, payments and reimbursements resulting from such insurance or otherwise, regardless of when same might be made, relating in any way to the operations of the Landlord prior to the Closing Date;
5. Any security deposits paid by the Landlord for any service of any kind, and all prepaid charges and expenses of the Landlord subject to adjustment as of the Closing Date; and
6. All contracts of the Facility other than the Assumed Contracts.

## **EXHIBIT B (to be provided)**

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### **MANAGEMENT AND OPERATIONS TRANSFER AGREEMENT**

**between**

**The CITY OF STAMFORD, a municipal corporation organized and existing under the laws of the State of Connecticut, and located in the County of Fairfield in said State**

**("Operator")**

**and**

**Center Management Group, LLC**

**(in its capacity as Manager, "Manager")**

**and**

**Center Management Group, LLC**

**(in its capacity as New Operator, "New Operator")**

**Dated As Of**

**\_\_\_\_\_, 20\_\_**



## **Exhibit C**

### **Additional Terms; Definitions**

(1) Reserved.

(2) Reserved.

(3) The Parties agree that they shall exchange such information as may be pertinent to closing adjustments described in the Lease and cooperate with one another in fulfilling what will be their obligations under Section 19 (Prorations) of the MOTA on the Commencement Date (as defined in the MOTA).

(4) In addition to the obligations expressly required to be performed hereunder by the City and the CMG, each agrees to cooperate at its own reasonable expense with the other and to perform such other acts and to execute, acknowledge and deliver, prior to and after Closing, such other instruments, documents and materials as either may reasonably request and as shall be necessary in order to effect the consummation of the transactions contemplated in this Agreement, and that may be necessary under the Lease and the Terms and Conditions upon Closing. Without limiting the foregoing, in the event the CMG determines that it is in its interest to enter the Lease pursuant to multiple agreements or through multiple entities, the City shall cooperate and promptly execute such agreements so long as same are in conformity with the requirements of the Lease.

(5) The City agrees to provide to CMG all information necessary to update the due diligence materials provided to the CMG prior to the date hereof such that all information provided to CMG shall be correct in All Material Respects as of 30 days after November 12, 2015, the date of the non-refundable deposit; provided, however, that any such updates which either singly or in the aggregate would result in a Material Adverse Change shall be deemed a breach of this Agreement by City. In addition, during this period CMG shall have the right to enter the Property (for all purposes of this Agreement, as defined in the Lease) to conduct an environmental site assessment, conduct a physical examination of the Property, and observe the day-to-day operations and management thereof. In connection with any entry by any CMG Party or any of their contractors into the Property, the CMG shall conduct such entry and any inspections in connection therewith so as to minimize, to the greatest extent possible, interference with the City's business.

The due diligence period will end when the MOTA becomes effective or 30 days from November 12, 2015, whichever first occurs.

(6) Interest Charge.

(A) Any amounts required to be paid by the City or CMG under this Agreement that are not paid when due, after a grace period of 30 days, shall bear interest at the rate of ten (10%) percent per annum until paid.

(7) CMG Representations. CMG hereby makes the following representations and warranties to the City, all of which shall be true, complete and correct on the date hereof and on the Closing Date:

(A) Organization, Authority and Dissolution. CMG has been duly organized as a limited liability company and is validly existing and in good standing under the laws of the state of organization. CMG has the full right and authority to enter into this Agreement and to lease the Property pursuant hereto and to consummate or cause to be consummated the transaction contemplated herein to be made by the CMG. The Person signing this Agreement on behalf of CMG is authorized to do so.

(B) The performance by CMG of its duties and obligations under this Agreement and the documents and instruments to be executed and delivered by CMG pursuant hereto will not conflict with or result in a breach of or default under any provision of any of the organizational documents of CMG or any agreements, instruments, decrees, judgments, injunctions, orders, writs, laws, rules or regulations, or any determination or award of any court or arbitrator, to which CMG is a party, is subject to, or by which its assets are bound.

(8) City Representations. The City hereby makes the following representations and warranties to CMG, all of which shall be true, complete and correct on the date hereof and on the Closing Date.

(A) Corporate Status and Authority. The City is a municipal corporation duly organized, validly existing, and in good standing under the laws of the State of Connecticut and has all the requisite power and authority to own and use the Property and to carry on the business of the Smith House as now being conducted. The City also has the full corporate power and authority to execute and deliver this Agreement and all other documents required to be executed and delivered, to enter the Lease and Terms and Conditions, and to consummate the transactions contemplated by this Agreement.

(B) Execution, Delivery and Performance. City has or will receive all required City approvals for the execution, delivery and performance of this Agreement, the Lease, and the transactions contemplated herein. This Agreement, the Lease, and all other documents required hereby have been or, as applicable, will be by Closing, duly executed and delivered by the City, are valid and binding upon the City and enforceable against City in accordance with their respective terms.

(C) No Violation or Conflict. The execution, delivery and performance by City of this Agreement, and the consummation of the transactions contemplated hereby by the City do not (i) violate, conflict with or result in a breach of the City's Charter or Code of Ordinances, (ii) conflict with or violate, or constitute a default under, any applicable law, regulation, ordinance, judgment, arbitration award, decree, government license, permit or other authorization, or (subject to the receipt of any requisite consent) any Contract, agreement, indenture or other instrument to which the City is a party or by which it is bound, or (iii) result in the creation of imposition of any lien, charge or Encumbrance upon or affecting the Property.

(D) Consents, Registrations and Approvals. All consent, authorization, order or approval of, or filing or registration with, any Governmental Authority or any other person or entity which the City is required to obtain in connection with the execution and delivery by the City of this Agreement, or the consummation by the City of the transactions contemplated hereby, has been obtained on the date hereof or will be obtained prior to the Closing Date.

(E) Title to Property. City alone has good, valid and marketable title to the Property, free and clear of all Encumbrances, except for the Permitted Encumbrances. None of the Property is subject to a lease, conditional sale, security interest or similar arrangement, other than with respect to Scofield Manor.

(F) Property, Furnishings, Fixtures, Equipment and Supplies. The Property includes all of the real, personal, tangible and intangible assets presently used in or required for the operation of the Smith House. The furnishings, fixtures, appointments, tools, machinery, appliances, fittings, equipment and supplies, are taken "as is."

(G) Lists of Contracts. Except for existing Contracts with residents, or any guarantors thereof, the City has, at least 20 days prior to the Commencement Date (as defined in the MOTA), delivered to CMG true and complete copies of all Contracts in effect as of the date of this Agreement, and/or scheduled to take effect at any time thereafter. These Contracts in effect as of the date of this Agreement are in full force and effect. All Contracts with residents, or any guarantors thereof, are solely pursuant to the City's standard form of residency/admission agreement, without modification, a true and complete copy of which has been delivered by the City to the CMG contemporaneously with this Agreement or heretofore, and all such Contracts are, and shall be at Closing, assignable.

(H) Financial Information. True, correct and complete audited balance sheets, statements of income and retained earnings of the City (in regard to the Smith House) for the years ended December 31, 2010, 2011, 2012, 2013, and 2014 and all routinely prepared unaudited interim balance sheets, statements of income and retained earnings of the City (in regard to the Smith House) for each period in 2015 (collectively, the "Financial Information") have all been prepared in accordance with GAAP where required, and have been provided to the CMG, and the City shall continue to provide the City's Financial Information (in regard to the Smith House) for all applicable periods until the Closing Date. The Financial Information presents fairly the financial condition and the results of operations of the Smith House as of the dates thereof, and there has been no change (and until the Closing Date will be no change) in the accounting principles, policies and methods of the City, except as required by changes in GAAP.

(I) Tax Returns and Payments. City has correctly and timely filed all tax and informational returns relating to the Facility required by law to be filed on or prior to the Closing Date. City has paid in full all Taxes (as hereinafter defined) due for all tax periods (or portions thereof) ending prior to or on the Closing Date relating to the Facility. No state, federal or local tax liens exist with respect to the Property. For purposes of this

Agreement, the term "Tax" or "Taxes" means any 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), Medicaid, Medicare, unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever.

(J) Licenses and Permits. The City is duly established and licensed by the appropriate Governmental Authorities to operate the Facility as a 128 bed skilled nursing facility that is a chronic and convalescent nursing home. The City is in compliance with all Permits, including all licenses, permits, approvals, rules and authorizations necessary or required for the use or ownership of the Property and the occupancy and operation of the Facility as currently operated. The City has not received written notice of, nor does the City have any knowledge of, any violations in respect of any such Permits, including any licenses, permits, approvals, rules or authorizations, or of any Laws, regulations, rules or municipal ordinances, and, other than LOI filed by the City on October 20, 2015 with the DSS requesting an application for a CON in order to obtain permission from the State of Connecticut to close The Smith House, no proceeding is pending or, to the knowledge of the City, is threatened, which seeks revocation or limitation of any such licenses, permits, concessions, grants, franchises, approvals or authorizations, or to reduce the number of certified beds located at the Facility. The Facility participates as a provider in the Medicare and Medicaid programs pursuant to Medicare and Medicaid provider agreements, and the City is a provider in good standing under the Medicare and Medicaid programs, and has not received notice of any proposed Medicare or Medicaid program audits.

(K) Litigation; Compliance with Laws. The Facility is being operated in compliance with all applicable statutes, rules and regulations. To the City's Knowledge, the City is not in violation of any applicable Law, regulation, ordinance, or any other requirement of any Governmental Authority or court, with respect to the Property.

(L) Notices. Neither of the City nor the Facility have been served with any notice which: (a) requires the performance of any work or alterations on or to the Facility or the Property, or (b) orders the installation, repair or alteration of any improvements on the Real Property, in each case including, but not limited to, notices received under the Americans with Disabilities Act of 1990, as amended.

(M) Insurance. Schedule (8)M attached hereto contains a true and complete list of: (a) all insurance policies of any nature whatsoever maintained by City as of the date hereof covering the use, ownership and operation of the Facility, and the Property (including, but not limited to, medical malpractice insurance and any state sponsored plan or program for worker's compensation) (the "Insurance Policies"), including the Insurance Policies' numbers, terms, insurers, amounts and coverages; and (b) all bonds, indemnity agreements, and other agreements of suretyship made for or held by the City with respect to the use, ownership or operation of the Facility. Schedule (8)M attached hereto contains the declaration pages of each of the Insurance Policies. All insurance policies currently maintained by the City are in full force and effect, all

premiums due on or before the Commencement Date (as defined in the MOTA) have been or shall be paid on or before the Commencement Date (as defined in the MOTA), City has not been advised by any of its insurance carriers of an intention to terminate or modify any such policies other than under circumstances where the City has received a commitment for a replacement policy, nor has the City failed to comply with any of the material conditions contained in any such policies. The City has not, as of the date hereof, failed to give any required notice or present any claim which is still outstanding under any of the Insurance Policies. The City has not suffered any excessive losses (whether or not covered under the Insurance Policies) which would have a Material Adverse Change on CMG's cost of obtaining (or maintaining) adequate insurance coverage including, but not limited to, its professional liability coverage.

(N) No Other Sale Agreements. There are no outstanding contracts or options to purchase any of the Property.

(O) Collective Bargaining Agreements. The City is a party to certain collective bargaining agreements which have been made available to the CMG and which are the only collective bargaining agreements covering employees at the Smith House to which City is a party (the "City CBAs"). During the two (2) year period prior to the date hereof, no labor organization other than the union(s) that are party to the City CBAs has attempted to organize or represent any employees of the Facility, nor are there any such attempts now threatened or anticipated, nor has the City been notified by any labor or similar organization that it is soliciting or intends to solicit the City's employees to be their bargaining representative. CMG hereby advises the City that it has reserved its rights under federal labor law to unilaterally implement Initial Terms and Conditions of Employment and/or negotiate a new collective bargaining agreement with the Union(s).

(P) No federal, state, local or municipal Governmental Authority has obtained or asserted and recorded an Encumbrance or lien upon any of the Property as a result of any use, spill, release, discharge or cleanup of any Hazardous Material.

(Q) No Untrue Statement. None of the representations and warranties made by City pursuant to this Agreement or in any of the due diligence materials provided by City to CMG in connection herewith contain any untrue statement of fact that could result in a Material Adverse Change, or omits to state a fact necessary, in light of the circumstance under which it was made, in order to make any such representation not misleading in any respect that could result in a Material Adverse Change.

(R) Unqualified for Coverage. To the City's knowledge, there are no persons for whom the City provides care at the Facility who does not qualify for Medicare, Medicaid or managed care coverage, or has not been reasonably determined as being capable of being in a "private pay" status.

(S) Cost Reports and Audits. CMG has been provided with a true and correct copy of all filed Medicare and Medicaid cost reports ("Cost Reports") for the years ending December 31, 2011, 2012, 2013, and 2014, and 2015 when available, and true and correct copies of any Medicaid rate sheets for 2011 through the present which are

applicable to the Facility. The Cost Reports are accurate and have all been timely filed. City has received no notice or threat of notice of violations with respect to any such filings and otherwise has no Knowledge of any such violations. City has not received any notice of any proposed Medicare or Medicaid audits relating to the Facility and except as disclosed on Schedule (8)S, the City has not been subject to any audits in regard to the Smith House by any Governmental Authority or any representative, appointee or designee thereof.

(T) Immigration and Nationality Act. With respect to the Property, the City is in compliance with the terms and provisions of the Immigration Reform & Control Act of 1986, as amended (the "Immigration Act"), and to the extent required by law, has obtained and has retained a complete and true copy of each of the City's employees' Form I-9 (Employment Eligibility Verification Form) and all other records or documents prepared, procured or retained by the City pursuant to the Immigration Act, and has not been cited, fined, served with a Notice of Intent to Fine or with a Cease and Desist Order, nor has any action or administrative proceeding been initiated or threatened against the City by reason of any actual or alleged failure to comply with the Immigration Act.

(U) Qualified Residents. After the Commencement Date (as defined in the MOTA), the City shall be responsible to promptly, and in any event within twenty (20) days of its receipt of invoice, reimburse the CMG at the Facility's applicable Medicaid rate for the usual and customary charges incurred in the case of any resident for whom CMG provides care at the Facility, who was a resident of the Facility at the time of the Commencement Date and who, to the City's knowledge, did not qualify at the time of the Commencement Date for Medicare, Medicaid or managed care coverage, and is not otherwise paying under "private pay" status. Without the CMG's prior written consent, the City shall not admit any individual into the Facility between the date of this Agreement and the Commencement Date who does not qualify for Medicare, Medicaid or managed care coverage, or who is not otherwise a "private pay" status resident. This provision shall survive the Closing.

(V) Absence of Undisclosed Liabilities. The City has no liabilities of the nature required to be disclosed in a balance sheet prepared in accordance with GAAP, arising out of or relating to the Property except as reflected in the Financial Information. No indebtedness or Contract relating to the Property or the Facility purports to limit or otherwise affect the leasing or sale of the Property.

(W) Tenants. There are no tenants or other Persons occupying the Property other than the City and the nursing home residents and Scofield Manor and its residents.

(X) Certificate of Occupancy. Attached as Schedule (8)X hereto are true and complete copies of all certificates of occupancy in the City's possession relating to the Property, or an opinion of counsel certifying that occupancy is legal taking into account the terms of the Lease.

(Y) Engineering Plans and Projects. The City has made available to

CMG all of the engineering plans currently in its possession relating to the Property.

(Z) Surveys. CMG has been provided with a copy of the most recent survey or inspection report made by the Connecticut Department of Health, and accepted Plan of Correction, if any, for the Facility. Except as may be set forth in the attached survey report, there are no violations, orders or deficiencies issued or recommended by any regulatory agency, intermediary or authority or licensing organization, and there are no inspections, license reviews, investigations or proceedings of any sort pending by or before any such regulatory agency, intermediary or authority or licensing organization that relate to the Facility, other than the CON.

(9) Risk of Loss.

(A) Risk of Loss Before Closing Date: Immaterial Change in Licensed Beds. In the event of any physical damage to the Property, or condemnation prior to the Closing Date where the Facility can continue to operate and use all but eight (8) of its licensed beds on the Closing Date, and all necessary repairs shall not have been completed by the Closing Date, this Agreement will continue in full force and effect. For avoidance of doubt, for purposes of this Section (9), "use" of a skilled nursing facility bed means that a resident can be placed in the skilled nursing facility bed.

(B) Risk of Loss Before Closing Date: Material Change in Licensed Beds. In the event of any physical damage to the Property, or condemnation prior to the Closing Date where the Facility cannot continue to operate and use all but eight (8) of its licensed beds on the Closing Date, then CMG may elect to proceed to Closing by sending City written notice of its election to proceed with the Closing within sixty (60) days of receiving notice of the damage or taking, and the Parties shall proceed to Closing in accordance with all the terms and conditions of this Agreement.

(C) Upon the occurrence of the events described in Section (9)(a), or the occurrence of the events described in Section (9)(b) whereby CMG elects to proceed to Closing, then, notwithstanding anything contained herein to the contrary, City will either (a) make all such repairs required to restore the Property and the Facility to substantially the conditions that existed before the loss or condemnation, at its sole cost and expense prior to the Closing, using so much of the available insurance proceeds as may be required and other funds as may be necessary, and shall be entitled to an adjournment of the Closing of up to ninety (90) days to effect such repairs, if necessary, provided that steps are taken expeditiously to commence restoration, including engagement of an architect and drawing preliminary plans for reconstruction, or (b) (i) assign to CMG, without recourse, all of City's right, title and interest in and to any proceeds of all insurance policies maintained by City affecting the Property, the Facility, and any condemnation awards; (ii) pay CMG all proceeds received by City from any insurance policies maintained by City affecting the Property and the Facility, and (iii) with respect to an insured casualty, pay CMG the amount of any deductible pursuant to the insurance policy and any shortfall between the amount of City's claim to the insurance company and the amount paid by the insurance company, up to the actual cost of the repair.

(D) Upon the occurrence of the events described in Section (9)(b) whereby CMG does not elect to proceed to Closing in accordance therewith, then, this Agreement shall automatically terminate upon the expiration of such sixty (60) day period or sooner upon CMG's written notice, and CMG shall be entitled to the Earnest Money within 3 business days after the expiration of such sixty (60) day period or, if earlier, within 3 business days of CMG providing written notice of its election not to proceed to Closing.

The obligations of the City and the CMG pursuant to this Section (9) shall survive Closing.

(10) CMG's Conditions Precedent

(a) Conditions to CMG's Obligation to Purchase. CMG's obligation to complete Closing is conditioned upon the satisfaction (or CMG's written waiver) on or prior to the Closing Date of all of the following conditions (collectively, "CMG's Conditions Precedent"):

(A) Representations. (i) The representations of the City set forth in this Agreement, or any document or instrument delivered to the CMG by the City pursuant to this Agreement in connection with the Closing, shall be true and correct in All Material Respects on and as of the Closing Date, and (ii) the City shall have performed and complied in All Material Respects with all obligations under this Agreement required to be performed and complied with by the City as of the Closing.

(B) Approvals. The City shall have received all necessary approvals needed to lease the Property and perform its obligations hereunder. The City shall provide copies of all approvals to CMG.

(C) City's Closing Documents. The City shall have delivered to the CMG the City's Closing Documents, each of which shall be in form and substance required herein.

(D) Regulatory Approval. CMG shall have obtained a license to operate the Smith House as a CCNH.

(E) Possession of Assets. The City shall have delivered to CMG all items contemplated hereby so as to put CMG into full rights with respect to all of the Property upon the terms set forth in this Agreement and the Lease.

(F) No Injunction or Restraint. There shall be no injunction, writ, preliminary restraining order or any order of any nature in effect issued by a court of competent jurisdiction directing that the transaction provided for herein and in the Lease not be consummated as herein provided.

(G) Material Adverse Change. No Material Adverse Change shall have occurred from the date of this Agreement to the Closing Date.



(H) Medicaid and Medicare Liabilities. City shall have satisfied all actual liabilities outstanding as of the Closing Date as a result of any Medicaid or Medicare or other third-party payor audits; provided, however, that after Closing the City may, at its own cost, subject to the provisions of Section 1(e) of the Terms and Conditions, appeal or challenge any such audit, and CMG shall cooperate with the City in regard thereto to the extent reasonably necessary to pursue such action.

(b) Failure of Conditions. If, at the scheduled time of Closing, CMG's Conditions Precedent shall not have been satisfied in any respect, unless such lack of satisfaction of the CMG's Conditions Precedent has been caused by the CMG, or is the CMG's fault or responsibility, then the CMG shall have the right to terminate this Agreement pursuant to paragraph 16 of this Agreement.

(11) City's Conditions Precedent.

(a) Conditions to City's Obligations to Sell. The City's obligation to complete Closing on the Closing Date is conditioned upon the satisfaction (or City's written waiver) on or prior to the Closing Date of all of the following conditions (collectively, "City's Conditions Precedent"):

(A) CMG shall have applicable approvals to operate the Facility as a CCNH.

(b) Failure of Conditions. If, at the scheduled time of Closing, the City's Conditions Precedent shall not have been satisfied in any respect, unless such lack of satisfaction of the City's Conditions Precedent has been caused by the City, or is the City's fault or responsibility, then the City shall have the right to terminate this Agreement.

(12) Closing; Closing Deliverables; Expenses.

(a) Closing. The closing of the transactions contemplated under the Lease (the "Closing") shall take place at 10:00 A.M. prevailing local time on the Closing Date, at a mutually-convenient location. The transactions contemplated by the Lease shall be effective as of 12:01 AM local time in Connecticut, on the Closing Date.

(b) City Deliverables. At least three (3) Business Days prior to the Closing Date, the City shall execute and deliver to CMG's Counsel to be held in escrow until Closing, the following documents, duly executed where applicable ("City's Closing Documents"):

(A) Reserved.

(B) All required consents for the assignment of the Assumed Contracts, together with a General Assignment in the form attached as Exhibit 12.2 hereto pursuant to which CMG shall assume of all of City's right, title and interest to and under (i) the transferrable warranties, (ii) the transferrable Licenses and Permits, (iii) the Assumed Contracts, and (iv) any other part or portion of the Property, the nature of which requires an assignment to be effectively transferred to CMG, including without limitation, the

intangible property of City;

(C) Reserved.

(D) A closing statement with regard to the transactions contemplated by this Agreement (the "Closing Settlement Statement");

(E) Counterpart signature pages to each of the City's Closing Documents duly executed and acknowledged by City;

(F) Reserved;

(G) An opinion of the City's legal counsel dated as of the Closing Date, stating that the City has obtained all approvals required by the Charter and Code of Ordinances to consummate the transaction contemplated by this Agreement, that the necessary approvals have been obtained;

(H) Documentation necessary, as determined by CMG, to assign the Bank Accounts to and in the name of the CMG as of the Closing Date and, to the extent that such Bank Accounts cannot be assigned, the City will cooperate in making CMG's designee the sole authorized signatory;

(I) A properly completed CMS Form 855A, a CMS 1561, and any other documents necessary to transfer City's Medicare and Medicaid program provider numbers and provider agreements and other Governmental Approvals and Permits to CMG;

(J) The Medical Records Custody Agreement (as defined hereinafter);

(K) A certificate executed by an authorized officer of City, dated as of the Closing Date, certifying that: (i) each covenant and agreement to be performed as of the Closing by City pursuant to this Agreement has been performed in All Material Respects; and (ii) as of the Closing Date, each of the representations and warranties contained in this Agreement made by or behalf of City is true and correct in All Material Respects;

(L) Evidence of the City's maintenance of an "occurrence basis" liability insurance policy, in form and substance reasonably acceptable to CMG, to insure against malpractice or other professional liability committed or allegedly committed at the Smith House by the City, its employees, agents, officers and directors from [-], 2010 to the Closing Date in the amount of One Million Dollars (\$1,000,000.00) per incident;

(M) Copies of all necessary approvals needed to lease the Property and perform its obligations and consummate the transactions contemplated hereunder;

(N) Reserved.

(O) The original counterparts, to the extent in City's possession, of the Assumed Contracts, and the Licenses and Permits (if any), to the extent that same are

transferrable, and Warranties (if any) to the extent that same are transferrable, and keys to the Property properly tagged for identification, and the codes and passwords and other similar materials necessary to gain access to the Property, to the extent not previously transferred pursuant to the MOTA;

(P) On the Closing Date the City shall deliver to CMG the Resident Trust Funds in compliance with all governmental statutes, rules and regulations with respect to the transfer of such Resident Trust Funds, and all resident assets and related documentation, to the extent not previously transferred pursuant to the MOTA.

(c) CMG's Deliverables. At or prior to the Closing Date, CMG shall execute and deliver to the City the following documents, duly executed where applicable ("CMG's Closing Documents"):

(A) Copies of applicable licensure and evidence of insurance required hereunder.

(B) A Closing Settlement Statement; and

(C) A Certificate of a duly authorized officer of CMG dated as of the Closing Date, certifying the signatures of all officers of CMG executing this Agreement or any other agreement, document or instrument contemplated hereby and certifying as true and accurate the attached copies of: (1) CMG's articles of organization as in effect at the time of Closing and (2) resolutions approved by the managers and members of CMG, in their capacity as such, authorizing this Agreement, the schedules and exhibits thereto, and all other documents to be executed and performed by CMG and the transactions contemplated thereby.

(d) Medical Records Custody Agreement. On the Closing Date, the Parties shall execute a Medical Records Custody Agreement in the form attached as Exhibit 12(d) hereto (the "Medical Records Custody Agreement") providing for the transfer and custody of patient records to CMG, to the extent not previously transferred pursuant to the MOTA.

(13) Ordinary Course of Business.

(a) Between the date of this Agreement and the Closing Date, if CMG makes the Earnest Money deposit as required by this Agreement and has not notified the City that it does not wish to proceed with the acquisition of The Smith House by 5:00 pm on November 30, 2015, the City will withdraw its LOI, application for a CON, and/or, as appropriate, request the State to discontinue processing the City's request to close The Smith House, and from that point forward until the effective date of the MOTA the City shall operate the Facility and maintain the Property in the ordinary course of business, consistent with past practice and custom taking into account the filing and pending withdrawal of the LOI application for a CON (the "Ordinary Course of Business"), and in compliance with applicable Federal and State laws, regulations and rules, and shall use its commercially-reasonable best efforts to maintain intact and preserve the City's present business organization, preserve its goodwill, keep available the service of its employees and preserve its relationship with its physicians, residents, patients, customers, suppliers

and others having business dealings with it. In addition, the City shall (a) maintain its current insurance policies in full force and effect; (b) not create any lien or Encumbrance upon or affecting title to the Property except Permitted Encumbrances; (c) not take any action which will or would cause any of the representations in this Agreement to become untrue or be violated; (d) perform all of its obligations in respect of the Property and the Facility whether pursuant to any Contracts (including any existing leases and mortgages), or other requirements affecting the Property; (e) promptly provide the CMG with copies of all government survey reports and government notices that are received by City subsequent to the date of this Agreement, including, but not limited to, rate sheets and enforcement notices, and shall timely file Plans of Correction ("POC") if necessary; (f) maintain all of the Facility's books and records in accordance with past practice and consistent with generally accepted accounting principles; (g) keep in full force and effect all Permits currently in effect unless such Permits are no longer necessary; (h) pay when due (or withhold and pay over, if required), all taxes, assessments and charges or levies imposed upon the City with respect to the Property, and timely file any and all required Cost Reports covering any periods prior to the Closing; (i) continue to purchase and maintain Inventory in the ordinary course of business until the date the MOTA is effective; and (j) file, on a timely basis, all required Medicare and Medicaid Cost Reports for periods prior to the Closing Date, and provide a copy to CMG upon such filing.

(b) From the date of this Agreement until the earlier of the Closing Date or the termination of this Agreement, except in the ordinary course of business, the City shall not with respect to the Property: (i) acquire or dispose of fixed assets; (ii) make capital expenditures without CMG written approval, other than those related to life or safety issues concerning which the City has (except in the case of an emergent danger to life or health) received notice, cease, prior to the Closing Date, from using any Facility names; (v) create or assume a new mortgage, lien or other Encumbrance on the Property, (vi) admit any person who does not qualify for Medicare, Medicaid or managed care coverage, or is not reasonably determined by the City to have the capacity to be in a "private pay" status; (vii) incur any fixed or contingent obligation or enter into any agreement, commitment or other Contract or transaction or arrangement that is not in the Ordinary Course of Business relating to the Property, or (viii) change from an accrual basis of accounting.

#### **Definitions:**

Terms Generally. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, (a) the words "including" and "include" and other words of similar import shall be deemed to be followed by the phrase "without limitation;" (b) whenever the context may require, any defined term or pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of defined terms, pronouns or nouns shall include the plural and *vice versa*, and (c) the captions of the sections of this Agreement are for convenience only and have no meaning with respect to this Agreement or the rights or obligations of the Parties.

Construction. No provision of this Agreement shall be construed against either of the Parties because that Party drafted or structured such provision.

Definitions. Terms used in this Agreement but not defined herein shall have the meaning provided in the Lease. As used in this Agreement, the following terms shall have the meanings set forth below:

"All Material Respects" shall mean the absence of any result, occurrence, fact, change, event or effect which, either singly, or in the aggregate (aggregated both, under this Agreement and when combined with any result, occurrence, fact, change, event or effect under the Lease Agreement), (i) has, or could reasonably be expected to have, with respect to residents discharging from the Facility, five (5) residents, and otherwise a net negative monetary impact in excess of a total of Two Hundred Thousand Dollars (\$200,000.00) upon the Property, liabilities, capitalization, financial condition, or results of operations of the City with respect to the Property or upon the transactions contemplated by the Agreement, (ii) results, or could reasonably be expected to result, in the loss, revocation, limitation or restriction of (a) any Permit required by Governmental Authorities to operate the Facility as currently operated, or (b) the participation of the City or the Facility in the Medicare and/or Medicaid program; or (iii) results, or could reasonably be expected to result, in the loss of three or more licensed beds at the Facility.

"Business Day" shall mean any day other than a Saturday, a Sunday, or a holiday on which banks are not open in the State of Connecticut.

"City" shall have the meaning ascribed to it in the Preamble of this Agreement.

"City's Knowledge" and "the knowledge of the City" shall mean (i) the actual, conscious (and not implied or constructive) knowledge, and (ii) knowledge which based on facts and circumstances of which such party is aware would be known to a reasonable Person in similar circumstances, in each case on the date of this Agreement (and on the Closing Date, with respect to any representation or warranty of the City required to be true and correct as of the Closing Date), of (i) the prior Executive Director on or before November 13, Interim Executive Director, the Director of Nursing, the Division Finance Manager of Smith House, the Director of Public Safety, Health and Welfare, the Controller and the Director of Administration, and each of their successors, and any individual holding any of the positions held by the foregoing individuals between the date of this Agreement and the Closing Date.

"Closing Date" shall mean any Business Day designated by CMG on not less than five nor more than 10 days after CMG has obtained a license to operate the Smith House.

"Code" shall mean the *Internal Revenue Code of 1986*, as amended and supplemented, or any corresponding provision(s) of any succeeding law.

"Contracts" shall mean, collectively, all contracts, agreements, contract rights, commitments, customer accounts, orders, leases and other contractual obligations of any kind relating to the operation of the Facility or the Property to which the City is a party

or by which the City's assets are bound, including, without limitation, resident/admission agreements, Medicare and Medicaid provider agreements, service, maintenance and operating contracts, consulting agreements, employment agreements, collective bargaining agreements, equipment leases, property leases, and other agreements relating to the operation and maintenance of the Property to which the City is a party.

"Encumbrance" shall mean a mortgage, collateral assignment, pledge, assessment, lien (including judgment liens and mechanic's liens), lease, security interest, adverse claim, joint ownership, levy, attachment, option, equity interest, easement and right-of-way and any other right to, or interest in, property, of any kind or nature, which subsists in a third-party and which constitutes a claim, lien, charge, liability or other encumbrance attached to and binding upon the property in question.

"GAAP" shall mean the United States generally accepted accounting principles.

"Governmental Approvals" shall mean all approvals of Governmental Authorities needed for licensure to operate the Facility as currently operated.

"Governmental Authority" shall mean any federal, state, county or municipal government, or political subdivision thereof, any governmental agency, authority, board, bureau, commission, department, instrumentality, or public body, or any court or administrative tribunal of competent jurisdiction.

"Law" and "law" shall mean statutes, common laws, rules, ordinances, regulations, codes, licensing requirements, orders, judgments, injunctions, decrees, licenses, permits and bylaws of any agency, public or regulatory authority, instrumentality, department, commission, court, ministry, tribunal or board of any government, whether national, federal, state, regional, local or municipal of competent jurisdiction.

"Material Adverse Change" shall mean any result, occurrence, fact, change, event or effect which, either singly, or in the aggregate, (i) has, or could reasonably be expected to have, a net negative monetary impact in excess of a total of with respect to residents discharging from the Facility, five (5) residents, and otherwise a net negative monetary impact in excess of a total of Two Hundred Thousand Dollars (\$200,000.00) the Property, liabilities, capitalization, financial condition, or results of operations of the City with respect to the Property, or upon the transactions contemplated by the Agreement and Lease Agreement, (ii) results, or could reasonably be expected to result, in the loss, revocation, limitation or restriction of (a) any Permit required by Governmental Authorities to operate the Facility as currently operated, or (b) the participation of the City or the Facility in the Medicare and/or Medicaid program; or (iii) results, or could reasonably be expected to result, in the loss of three or more licensed beds at the Facility

"Permits" shall mean all permits, licenses, approvals, qualifications, rights, variances, permissive uses, accreditations, certificates, certifications, consents, contracts, interim licenses, permits and other authorizations of every nature whatsoever required or issued to the City by any Governmental Authority, accreditation body, third party payor or

any other entity with jurisdiction over the Property and/or the Facility authorizing or enabling the operation of the Facility as currently operated (including any programs or services provided in conjunction therewith).

"Permitted Encumbrances" shall mean all of the following, with respect to the Property: (a) any general or special assessments not yet due and payable for the period in which Closing takes place;; (b) any Law of any Governmental Authority, provided it does not prohibit the current use of the Property or the Facility; (c) items set forth on Schedule [ ] annexed hereto; and (d) any encumbrances caused by CMG.

"Person" shall mean any individual, partnership, corporation, Limited Liability Company, trust or other legal entity.