

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is made this ____ day of _____, 2021 by and between SAN JUAN ASSISTED LIVING, LLC, a Washington limited liability company, d/b/a VILLAGE AT THE HARBOR (the "Seller"), and SAN JUAN COUNTY PUBLIC HOSPITAL DISTRICT NO. 1 ("Purchaser").

WHEREAS, Seller is the owner of an assisted living and retirement community (the "Business");

WHEREAS, Seller desires to sell to Purchaser and Purchaser desires to buy all of Seller's assets related to the Business upon the terms and conditions stated in this Agreement;

WHEREAS, Seller owns the building 543 Spring Street, Friday Harbor, Washington (the "Building") and leases the underlying real property (the "Property") from Friday Harbor Drug, Inc. (the "Landlord") pursuant to that certain lease agreement entered into _____ (the "Lease") which is attached hereto as **Exhibit A**; and

WHEREAS, to facilitate the sale, Seller is willing to make the representations, covenants, warranties and indemnities set forth in this Agreement.

NOW, THEREFORE, in consideration of the covenants, promises, and agreements contained in this Agreement, the parties agree as follows:

1. **Purchase and Sale of Assets.** On the terms and subject to the conditions of this Agreement, and in reliance upon the representations and warranties of Seller and Purchaser contained in this Agreement, Purchaser agrees to buy from Seller and Seller agrees to sell to Purchaser certain assets of Seller relating to the Business described as follows (the "Assets"):
 - 1.1 **Building.** All of Seller's right, title and interest in the Building.
 - 1.2 **FF&E.** All Seller's furniture, fixtures, and equipment ("FF&E") listed on **Exhibit B** hereto to be purchased at a price mutually agreed upon by the parties prior to Closing.
 - 1.3 **Inventory.** All of Seller's inventory to be purchased at invoice cost.
 - 1.4 **Accounts Receivable.** All Seller's accounts receivable to be purchased at face value.
 - 1.5 **Goodwill and Intangible Assets.** Goodwill and contract rights, intellectual property, all patient lists, all cell and other telephone numbers, domain names, URL's and certain business records to be identified by the parties prior to Closing.
 - 1.6 **Lease.** Seller's interest in the Lease.
 - 1.7 **Assigned Agreements.** Seller's interest in any assigned agreements which are listed on **Exhibit C** hereto.

1.8 Lists. Sellers' current list of customers and patients.

1.9 Medical Records. All patient medical records.

1.10 Permits. All permits used in the Business.

1.11 Other Assets. All other assets whether tangible or intangible, not expressly mentioned which, as of the Closing Date, are solely related to the Business and are owned by Seller or in which Seller has an assignable right, title or interest including, without limitation, any licenses or permits related to running an Assisted Living Facility.

2. **Excluded Assets**. Seller shall retain those assets listed on **Exhibit D** hereto, which shall be excluded from the sale.

3. **Due Diligence Period**. Purchaser shall have one hundred and twenty days (120) days following mutual execution of this Agreement to conduct a study of all aspects of the Business and this transaction (the "Due Diligence Period"), including, without limitation, the following:

- a. Review of Seller's financial statements.
- b. Site visits, including inspections of buildings and equipment.
- c. Review of non-redacted accounts receivable aging information.
- d. Review of all non-redacted salary schedules, commission programs, bonus programs, and written employment contracts or agreements.
- e. Review of all benefit plans, including vacation, sick and 401(k).
- f. Review of detailed inventory information, including current inventory, twelve (12) months or more of sales history, and cost of goods.
- g. Conduct random price audits to verify costing of inventory.
- h. Review of all contracts for phone, VoIP, HR services, IT equipment and software.
- i. Review of non-redacted customer lists, by volume, including margins and profitability analysis by account.
- j. Review of any vendor agreements and other contracts pertaining to the Business.

3.1 In this regard, Seller hereby grants a right of entry to Purchaser to enter onto the Property for the purpose of performing investigations, including subsurface investigation and investigations of any structures. During the Due Diligence Period the Purchaser may, in Purchaser's sole discretion, terminate this Agreement for any reason or no reason by giving written notice to the Seller.

3.2 Seller shall cooperate with Purchaser and its agents to have reasonable access to the Assets and to its books and records pertaining thereto, and will furnish to Purchaser financial data, operating data, and other information as Purchaser shall reasonably request, including customer lists and pricing. Purchaser agrees to retain all information so obtained from Seller on a confidential basis, subject only to the requirements of the Open Public Meetings Act, RCW 42.30, and the Public Records Act, RCW 42.56.

4. **Assumption of Liabilities**. Except for those liabilities listed on **Exhibit E** hereto, Purchaser shall not, either directly or indirectly, assume any of Seller's liabilities or obligations of any kind whatsoever, absolute or contingent, whether or not accrued, determined or

determinable (the “Liabilities”) prior to the Closing Date. Seller shall discharge all liens at or prior to Closing and pay all debts of Seller in the ordinary course of business.

5. **Purchase Price.** The Purchase Price for the Assets (“the Purchase Price”) is four million eight hundred thousand dollars (\$4,800,000) to be paid in cash at Closing.

6. **Allocation of Purchase Price.** The Purchase Price is allocated as follows:

Furniture, Fixtures, Equipment	\$
Building and Lease	\$
Inventory	\$
Accounts Receivable	\$
Goodwill	\$

The parties shall use the allocation in all government reporting including all federal tax reporting.

7. **Employee Matters.** To the Seller’s knowledge, there are no material controversies pending or threatened between Seller and its respective employees and Seller has not knowingly taken or failed to take any action which would provide a reasonable basis for any such claim or controversy. The employment of each of Seller’s employees is terminable at will and may be terminated without cause or advance notice.

7.1 Seller will discharge all employees from the Business on the date of Closing. Thereafter, Purchaser will offer employment to those employees that Purchaser desires to retain. Seller shall have no liability to make payments to any employee or former employee for any claim arising out of the employee’s employment with Purchaser. Purchaser shall have no obligation for any claims arising from any employee’s employment prior to the date of hire by Purchaser.

7.2 Seller agrees to cooperate with, and reasonably assist, Purchaser’s efforts to contact employees that it wishes to retain following Closing.

8. **Representations and Warranties of Seller.** For purposes of Seller’s representations and warranties, “Seller’s knowledge” refers to the actual knowledge of Brian Brown and Katharine Moorehouse. Seller hereby represents and warrants to Purchaser as follows:

8.1 **Authority.** Seller holds all required licenses and permits for carrying on all aspects of the Business and has the authority to carry on the Business as now conducted. The execution and delivery by Seller of the Agreement is a valid and binding obligation of Seller. Neither the execution nor delivery of this Agreement, nor the consummation of this transaction contemplated by this Agreement, nor compliance by Seller with any of the provisions of this Agreement will:

8.1.1 Result in default (or give rise to any right of termination, cancellation, or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement or other instrument or obligation to which it is a party, or by which it or any of its properties or assets may be bound except for such default (or right of termination,

cancellation, or acceleration) as to which requisite waivers or consents either shall be obtained by Seller prior to the Closing Date or the obtaining of which shall have been waived by Purchaser; or

8.1.2 Violate any order, writ, injunction, decree, statute, rule or regulation applicable to Seller or any of its properties or assets.

8.2 Ownership of Assets. Seller owns all of the Assets sold to Purchaser, warrants that there are no undisclosed liens, or encumbrances affecting title to the Assets, and will deliver title, at Closing, free and clear of all encumbrances. Seller represents that all Assets and rights required to conduct the Business as presently conducted are included in the Assets.

8.3 Uniform Commercial Code. Seller shall be required to pay any cost required to perform a UCC-1 Search to determine whether or not there are any liens or encumbrances on the Assets. Seller warrants that all Assets will be free and clear of UCC filings upon delivery at Closing.

8.4 Accuracy of Exhibits. To the Seller's knowledge, the information contained in the exhibits attached hereto is complete and accurate in all respects.

8.5 Taxes and Tax Returns. With respect to the Business, Seller has filed and paid any special charges, levies, unemployment compensation contributions or federal, state or local taxes and will not take any other actions with respect to the payment of such special charges, levies, unemployment compensation contributions or the filing, payment, withholding or report of federal, state or local taxes which would result in a lien or liability being imposed on or asserted against the Assets or Purchaser with respect to the Business.

8.6 Condition of Assets. The Assets, subject to ordinary wear and tear, are: (i) in good operating condition and repair; (ii) in sound structural condition; and (iii) free and clear of any material defects or any restrictions on or conditions to their transfer or assignment.

8.7 No Litigation. There are no actions, suits, claims, proceedings, arbitrations or investigations existing, pending or, to the Seller's knowledge, threatened against or affecting the title or interest of Seller in the Business or the Assets, nor does Seller know or have reasonable grounds for believing that there is any basis for any such action, suit, claim, proceeding, arbitration, or investigation.

8.8 Liabilities. Seller has no liabilities or obligations of any kind whatsoever, absolute or contingent, whether or not accrued, determined or determinable, except as noted on Exhibit E to be assumed by Purchaser.

8.9 No Broker. No broker, finder, agent or similar intermediary has acted for or on behalf of Seller in connection with this Agreement or the transactions contemplated hereby, and no broker, finder, agent or similar intermediary is entitled to any broker's, finder's or similar fee or other commission in connection with this Agreement based on any agreement, arrangement or understanding with Seller or any action taken by Seller.

8.10 Environmental. To the Seller's knowledge, Seller has, at all times, complied in all material respects with all applicable environmental, health and safety laws and all requirements

of law concerning environmental, health or safety; that there are no environmental liabilities or costs, fines, consent decrees, agency enforcement orders, or agreed orders applicable to the Property; and that there has been no release of a hazardous or dangerous substance on the Property, nor is there, any hazardous or dangerous substances or contaminants located at, on or under the Property. As used herein, the term “environmental, health or safety” shall be given its broadest possible meaning to include any and all present and future federal, state and local environmental laws including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (42 USC section 9601); the Resources Conservation and Recovery Act (42 USC section 6901); the Federal Water Pollution Control Act (33 USC section 1251); the Clean Air Act (29 USC section 651) and the MTCA.

8.11 Absence of Certain Events. From the date of execution of this Agreement to the Closing Date, there will not be in connection with the Business:

8.11.1 Any transaction except in the ordinary course of business;

8.11.2 Any waiver by Seller of any right or rights of substantial value or any payment, direct or indirect, of any liability otherwise than in the ordinary course of business;

8.11.3 Any change in the accounting methods or practices followed by Seller;

8.11.4 Any material change in any of the business policies, including, without limitation, advertising, marketing, pricing, credit terms or conditions, purchasing, personnel, sales, returns, budget or in the collection of accounts receivable;

8.11.5 Any termination or failure to renew, any written threat (that was not subsequently withdrawn in writing) to terminate or fail to renew, any contract or other agreement that is or was material to the condition of the Business;

8.11.6 Any capital expenditure or commitment for capital expenditure;

8.11.7 The incurring of any obligation or liability, absolute, accrued, contingent or otherwise, whether due or to become due, except current liabilities for trade or business obligations incurred in the ordinary course of business and consistent with Seller's prior practice, none of which liabilities, in any case, or in the aggregate, materially and adversely affects the Business of the Seller; or

8.11.8 Any other material transaction by Seller or material change in the Business that would not be in the ordinary course of business.

8.12 Lease in Good Standing. There Lease is in good standing and there are no pending defaults by Landlord or Seller under the terms of the Lease.

9. Survival of Seller's Representations and Warranties. All representations and warranties made in this Agreement will survive Closing of this Agreement.

10. Representations and Warranties of Purchaser. Purchaser represents and warrants to Seller as follows:

10.1 **Authority.** The execution and delivery by Purchaser of the Agreement is a valid and binding obligation of Purchaser. Neither the execution and delivery of this Agreement, nor the consummation of the transaction contemplated by this Agreement, nor compliance by Purchaser with any of the provisions of this Agreement will:

10.1.1 Result in default (or give rise to any right of termination, cancellation, or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement or other instrument or obligation to which it is a party, or by which it or any of its properties or assets may be bound except for such default (or right of termination, cancellation, or acceleration) as to which requisite waivers or consents either shall be obtained by Purchaser prior to the Closing Date or the obtaining of which shall have been waived by Seller; or

10.1.2 Violate any order, writ, injunction, decree, statute, rule or regulation applicable to Purchaser or any of its properties or assets.

10.2 **No Broker.** No broker, finder or agent or similar intermediary has acted for or on behalf of Purchaser in connection with this Agreement or the transactions contemplated hereby, and no broker, finder, agent or similar intermediary is entitled to any broker's, finder's, or similar fee or other commission in connection with this Agreement based on an agreement, or arrangement or understanding with Purchaser or any action taken by either of Purchaser.

10.3 **Disclosure.** Neither this Agreement nor any Exhibit or Schedule or document delivered to Seller by or on behalf of Purchaser at the Closing or before the Closing in contemplation of this transaction, knowingly contains any untrue statement of a material fact or knowingly omits a material fact necessary to make each statement contained herein or therein not misleading.

11. **Indemnification.**

11.1 **Purchaser's General Indemnity of Seller.**

To the extent permitted by law, Purchaser agrees to defend, hold harmless and indemnify Seller, its agents, employees, shareholders, officers, and directors from and against any and all losses, claims, demands, liabilities, fees, damages, costs, expenses and professional fees (including, without limitation, attorneys' fees, appellate attorneys' fees and all costs and expenses related thereto (collectively, "Claims") that relate to, are connected with or in any manner arising: (i) out of the incorrectness of any representation or warranty of Purchaser set forth in this Agreement, (ii) arising out of Purchaser's, or Purchaser's agents, employees, contractors, or representatives, entry onto or investigation of the Property; or (iii) any breach or non-fulfillment of any covenant or agreement of Purchaser contained in this Agreement. The parties agree that such indemnification shall survive the Closing.

11.2 **Seller's General Indemnity of Purchaser.**

Seller agrees to defend, hold harmless and indemnify Purchaser, its agents, employees, shareholders, officers, and directors (collectively "Purchaser Indemnified Parties"), from and against any and all Claims that relate to, are connected with or in any manner arising: (i) out of the material incorrectness of any representation or warranty of Seller set forth in this

Agreement; (ii) out of any Claims of third parties for personal injury or related damages to personal property of third parties occurring, accruing or arising on the Property on or prior to the Closing Date, but expressly excluding those Claims which arise in connection with any entry by Purchaser or Purchaser's agents, employees, contractors or representatives onto the Property, for which Purchaser indemnifies Seller as provided in Section 11.1 of this Agreement, (iii) any breach or non-fulfillment of any covenant or agreement of Seller contained in this Agreement, or (iv) any environmental condition to the extent it existed prior to the Closing Date. The parties agree that such indemnification shall survive the Closing subject to Section 9 above.

12. **Conduct of Parties and Transactions Prior to Closing.**

12.1 **Access to Records and Properties of Seller.** Between the date of this Agreement and the Closing Date, Seller agrees to give to Purchaser or any agent of Purchaser full access to all its premises and books and records and to cause its officers to furnish Purchaser with such financial and operating data and other information with respect to the Business as Purchaser shall from time to time reasonably request; provided, however, that any such investigation shall be conducted in such manner as not to interfere unreasonably with the operation of the business of Seller.

12.2 **Conduct of Business; Continued Effectiveness of Representations and Warranties of Seller.** From the date hereof through the Closing Date, Seller shall: (i) conduct its business in ordinary course and, without the prior written consent of the Purchaser; (ii) fulfill all obligations of the Business; (iii) conduct its business in such a manner so that the Seller's representations and warranties contained herein shall continue to be true and correct on and as of the Closing Date as if made on and as of the Closing Date; and (iv) continue to maintain in force the existing casualty, product liability and comprehensive general liability insurance coverage which Seller has in force as of the date of this Agreement. Seller shall promptly give notice to Purchaser of any action, event, condition or circumstances occurring or threatened from the date hereof through the Closing Date which would or, if threatened action takes place, could constitute a violation or breach of this Agreement or of the representations and warranties contained herein.

12.3 **Solicitations or Offers.** Until the Closing Date or until termination of this Agreement, whichever comes first, Seller shall not solicit or encourage, directly or indirectly, inquiries or proposals from any third party with respect to the purchase or sale of the Business or the Assets.

12.4 **Cooperation with Respect to Transfers of Purchaser Orders, Contracts, Agreements, Permits and Licenses.** The parties shall take all necessary steps: (i) to secure the consent of all third parties necessary to the valid assignment to Purchaser of all of Seller's purchase orders, contracts and agreements, the transfer of which is contemplated by this Agreement; (ii) to secure the consent of all government agencies necessary to the valid assignment to Purchaser of all Permits that are assignable; and (iii) to effect the transfer to Purchaser of any necessary licenses.

12.5 **Notice of Developments.** To the extent applicable to acts, omissions or other matters within their reasonable control, each of the parties shall use reasonable efforts to avoid any of their representations and warranties becoming inaccurate between the date hereof and the Closing Date. Each party will give prompt written notice to the others upon becoming aware

of any adverse development resulting in the material inaccuracy of any of its representations and warranties. If: (i) any representation or warranty of any party becomes inaccurate between the date hereof and the Closing Date; (ii) the facts or circumstances giving rise to such inaccuracy cannot be cured prior to the Closing Date so as to make such representation or warranty no longer inaccurate; and (iii) such inaccuracy would result in any Closing condition not being capable of being satisfied as of the Closing Date, the recipient(s) under this Agreement of such representation and warranty relating thereto shall have no obligation to consummate the Closing, but, if such recipient party elects to waive (or is deemed to waive) the inaccuracy of such representation and warranty, such representation and warranty relating thereto shall be deemed to be amended, supplemented and corrected by the information contained in such notice. Within three (3) business days of receipt of any such notice referred to above, each party that is a recipient of the representation and warranty that is the subject of such notice must either elect to terminate this Agreement by written notice to the notifying party before Closing, or such recipient party will be deemed to have waived the inaccuracy of such representation and warranty for all purposes, including waiver of all rights and remedies (including all indemnification rights under Section 11) that would otherwise be applicable to such inaccuracy.

13. **Conditions Precedent to Obligations of Purchaser.** The obligations of the Purchaser to purchase the Assets and to consummate the other transactions contemplated by this Agreement are subject, in the discretion of Purchaser, to the satisfaction at or prior to the Closing Date of the following conditions:

13.1 **Accuracy of Representations and Warranties.** The representations and warranties made by Seller shall be correct and complete at and as of the Closing Date in all material respects.

13.2 **Performance of Obligations of Seller.** Seller shall have performed all material obligations required to be performed by Seller pursuant to this Agreement prior to the Closing Date.

13.3 **No Adverse Development.** As of the Closing Date, there shall be no order, decree or ruling by any court or government agency, nor any action or proceeding pending or threatened before any court or government agency, which might prohibit, render illegal, challenge or have a material adverse effect upon either the Business or the consummation of the transactions contemplated by this Agreement.

13.4 **No Material Casualty.** No material casualty event shall have occurred with respect to the Assets.

13.5 **Due Diligence.** The Due Diligence review has been conducted by and is satisfactory to Purchaser, in Purchaser's sole discretion.

13.6 **Levy Lid Lift.** Purchaser's voters have approved the levy lid lift at the 2021 general election.

13.7 **Tax Status Letter.** Seller shall have delivered to Purchaser a Tax Status Letter from the Washington State Department of Revenue indicating that all taxes have been paid.

13.8 Consents. All material required third party approvals and consents for the operation of the Business have been obtained.

13.9 Lease Assignment. Landlord has approved an assignment of the Lease from Seller to Purchaser.

13.10 Good Standing. Seller is in good standing with the State of Washington and all applicable legal requirements.

13.11 Consulting Agreement. Purchaser and Evan Perrollaz shall have entered into an agreement for Perrollaz to provide services to Purchaser on not less than a half-time basis for twelve (12) months following Closing.

13.12 Reporting. To the extent that reporting this transaction is required under RCW 19.390 or other applicable law, the applicable government agency or agencies shall have authorized the transaction to proceed.

13.13 Licensing. Purchaser shall have obtained all licenses, permits, certificates or authorizations from the Department of Health and/or other applicable agencies--either by assignment by Seller or by issuance from the applicable agency--to operate the Business.

13.14 Other Documents. Seller shall have delivered all such resolutions, certificates, documents or other instruments with respect to Seller and the Business as Purchaser may reasonably request prior to the Closing Date to carry out the intent and purposes of this Agreement.

14. **Conditions Precedent to Obligations of Seller**. The obligations of Seller to sell the Business and Assets and consummate the transactions contemplated by this Agreement are, in its discretion, subject to the satisfaction, at or prior to the Closing, of the following conditions:

14.1 Accuracy of Representations and Warranties. The representations and warranties made by the Purchaser in Paragraph 10 shall be correct and complete at and as of the Closing Date in all material respects.

14.2 Performance of Obligations of Purchaser. Purchaser shall have performed all material obligations required to be performed by it under this Agreement prior to the Closing Date.

14.3 No Adverse Development. As of the Closing Date, there shall be no order, decree or ruling by any court or government agency, nor any action or proceeding pending or threatened before any court or government agency, which might prohibit, render illegal, challenge or have a material adverse effect upon the consummation of the transactions contemplated by this Agreement.

14.4 Other Documents. Purchaser shall have delivered all such resolutions, certificates, documents or instruments with respect to Purchaser as Seller may reasonably request prior to the Closing Date to carry out the intent and purposes of this Agreement.

15. **Closing.**

15.1 **Closing.** The closing of the transactions contemplated herein ("Closing") shall occur on or before February 28, 2022 (the "Closing" or "Closing Date") at such place the parties mutually agree upon.

15.2 **Possession.** At Closing, Purchaser shall take possession of all the Assets.

15.3 **Closing Costs and Prorations.**

15.3.1 Any rents, deposits, personal property taxes and assessments shall be prorated as of the Closing Date.

15.3.2 The Purchaser will pay all recording fees, escrow fees, and the like.

15.3.3 Purchaser will pay any use tax.

15.3.4 Seller and Purchaser will equally split the payment of real estate excise tax.

15.3.5 Any other miscellaneous business expenses or prepayments shall be prorated as of the date of Closing and settled in cash by the parties outside of Closing within ten (10) days after Closing.

16. **Acts and Deliveries at Closing.** At the Closing, subject to the terms and conditions herein, the parties shall deliver the following items:

16.1 **Deliveries by Seller.** On or prior to the Closing Date, Seller shall deliver to Purchaser:

16.1.1 A bill of sale evidencing the transfer of the Assets, free and clear of all mortgages, liens, leases, pledges, charges, and encumbrances, duly executed by Seller, in substantially the same form as **Exhibit F** hereto (the "Bill of Sale");

16.1.2 Any additional documents or instruments necessary to transfer ownership of the Assets to Purchaser, including but not limited to all material assignments and consents to assignments necessary to transfer the Assets to Purchaser;

- a. An Estoppel and Assignment of the Lease in the form attached hereto as **Exhibit G.**
- b. An assignment of any assigned agreements Purchaser has agreed to assume in the form attached hereto as **Exhibit H.**
- c. Certificate of Good Standing from the State of Washington Secretary of State.
- d. Tax status letter from the Department of Revenue.
- e. Transfer of any licenses or certificates required to operate the Business.

16.2 Deliveries by Purchaser. On or prior to the Closing Date, Purchaser will deliver to Seller the:

16.2.1 The Purchase Price;

16.2.2 An executed copy of the Lease Assignment;

16.2.3 Any additional documents necessary to consummate the transaction contemplated herein.

17. **Termination.**

17.1 Termination. This Agreement may be terminated and the transactions contemplated by it may be abandoned at any time prior to the Closing Date:

17.1.1 By mutual agreement of Purchaser and Seller; or

17.1.2 By Purchaser if any condition precedent to its obligations hereunder is not satisfied and such condition is not waived by Purchaser at or prior to the Closing Date; or

17.1.3 By Seller if any condition precedent to its obligations hereunder is not satisfied and such condition is not waived by Seller at or prior to the Closing Date.

17.1.4 By Purchaser if there has been a material breach on the part of the Seller of any representation, warranty, covenant or agreement by Seller set forth in this Agreement, which breach, if capable of cure, has not been cured within ten (10) business days following receipt by Seller of written notice of such breach or the date of Closing, whichever is earlier;

17.1.5 By Seller if there has been a material breach on the part of Purchaser of any representation, warranty, covenant or agreement by Purchaser set forth in this Agreement, which breach, if capable of cure, has not been cured within ten (10) Business Days following receipt by Purchaser of written notice of such breach; or

17.1.6 By Purchaser or Seller upon written notice given in compliance with this Agreement if any governmental authority of competent jurisdiction shall have issued a final permanent order enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby and, in any such case the time for appeal or petition for reconsideration of such order shall have expired without such appeal or petition being granted;

17.2 Effects of Termination. In the event of termination of this Agreement by either of Purchaser or Seller as provided above, this Agreement shall forthwith become void.

18. **Miscellaneous Provisions.**

18.1 Transaction expenses. Each party shall bear their own transactional expenses related to the preparation of this Agreement and the Closing of the transaction contemplated herein including, without limitation, attorneys' fees, accountant fees, and consultant fees.

18.2 Time of Performance. Time is specifically declared to be of the essence of this Agreement and of all acts required to be done and performed by the parties hereto.

18.3 Additional Acts. Except as otherwise provided herein, in addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by Seller or Purchaser, Seller and Purchaser hereby agree to perform, execute and/or deliver, or cause to be performed, executed and/or delivered, on or before Closing any and all such further acts, deeds and assurances as Purchaser or Seller, as the case may be, may reasonably require to: (i) evidence and vest in Purchaser the ownership of the Assets; and (ii) consummate the transactions contemplated hereunder.

18.4 Expenses. Purchaser and Seller shall each pay its own fees and expenses incident to the negotiation, preparation and execution of this Agreement and the obtaining of the necessary approvals thereof, including fees and expenses of its counsel, accountants and other experts.

18.5 Headings. The titles to sections of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement.

18.6 Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

18.7 Neutral Authorship. Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of both parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement. Each party has had an opportunity to have the terms of this Agreement reviewed by an attorney of choice.

18.8 Waiver. No failure by Seller or Purchaser to insist upon the strict performance of any covenant, duty agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Any party hereto, by notice, and only by notice as provided herein may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

18.9 Survival. All provisions of this Agreement which involve obligations, duties or rights and all representations, warranties and indemnifications made in or to be made pursuant to this Agreement shall survive the Closing Date, subject to the provisions of Section 9.

18.10 Heirs & Assigns. All of the covenants, agreements, terms and conditions contained in this Agreement shall inure to and be binding upon Purchaser and Seller and their respective heirs, executors, administrators, successors and assigns.

18.10.1 The parties acknowledge that PeaceHealth has a Right of First Refusal pursuant to an agreement between PeaceHealth and Purchaser. Purchaser will be notifying PeaceHealth of this transaction, and Seller understands that if PeaceHealth exercises the Right of First Refusal, PeaceHealth will be entitled to step into the shoes of Purchaser under this transaction, in which case Purchaser shall be relieved of any and all obligations herein.

18.11 Severability. Any provision of this Agreement which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and the remaining provisions hereof shall nevertheless remain in full force and effect.

18.12 Governing Law. This Agreement and the right of the parties hereto shall be governed by and construed in accordance with the laws of the State of Washington and the parties agree that in any such action venue shall lie exclusively in San Juan County, Washington.

18.13 Notices. All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered against receipt or when deposited in the U.S. Mail, registered or certified mail, postage prepaid, addressed as set forth below:

SELLER : SAN JUAN ASSISTED LIVING LLC DBA
VILLAGE AT THE HARBOR

PURCHASER SAN JUAN COUNTY PUBLIC HOSPITAL
DISTRICT NO. 1

Any party may alter the address to which notices are to be sent by giving notice of such change of address in conformity with the provisions of this Section for the giving of notice.

18.14 Litigation. In the event either party hereto finds it necessary to bring an action against the other party to enforce any of the terms, covenants or conditions hereof or any instrument executed pursuant to this Agreement, or by reason of any breach or default hereunder or thereunder, the party prevailing in any such action or proceeding shall be paid all costs and reasonable attorneys' fees by the other party, and in the event any judgment is secured by such prevailing party all such costs and attorneys' fees shall be included in any such judgment. The reasonableness of such costs and attorneys' fees shall be determined by the court and not a jury. Each party expressly waives the right to a jury trial.

18.15 Entire Agreement. This Agreement, the Exhibits hereto and the Real Estate Transactions contain all covenants and agreements between Purchaser and Seller. No prior agreements or understanding pertaining to the same shall be valid or of any force or effect and the covenants and agreements of this Agreement shall not be altered, modified or added to except in writing signed by Purchaser and Seller.

Signatures on Following Page

IN WITNESS WHEREOF, the parties have executed and delivered the foregoing Agreement as of the date first written above.

PURCHASER:

**SAN JUAN COUNTY PUBLIC HOSPITAL
DISTRICT NO. 1**

By: _____
Its: _____

SELLER:

**SAN JUAN ASSISTED LIVING LLC d/b/a
VILLAGE AT THE HARBOR**

By: Katharine Moorehouse
Its: _____

By: Brian Brown
Its: _____

**EXHIBIT A
LEASE**

DRAFT

**EXHIBIT B
FURNITURE, FIXTURES AND EQUIPMENT**

DRAFT

**EXHIBIT C
ASSIGNED AGREEMENTS**

DRAFT

**EXHIBIT D
EXCLUDED ASSETS**

- Cash on hand at Closing

DRAFT

**EXHIBIT E
LIABILITIES
ASSUMED BY PURCHASER**

- None.

DRAFT

**EXHIBIT F
FORM OF
BILL OF SALE**

DRAFT

**EXHIBIT G
FORM OF
ESTOPPEL AND ASSIGNMENT OF LEASE**

DRAFT

**EXHIBIT H
FORM OF
ASSIGNMENT AGREEMENT**

DRAFT