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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States Securities and Exchange
Commission,

Plaintiff,

v.

Jonathan Larmore, et al.,

Defendants.

No. CV-23-02470-PHX-DLR

**ORDER (I) APPROVING (A) THE
SALE OF SUBSTANTIALLY ALL
ASSETS OF GLENROSA 32, LLC,
FREE AND CLEAR OF ALL LIENS,
CLAIMS, ENCUMBRANCES AND
INTERESTS AND (B) GRANTING
RELATED RELIEF**

The Court has considered the Receiver’s Motion for Orders: (A) approving (i) the Receiver’s engagement and compensation of Marcus & Millichap Real Estate Investment Services (“Marcus & Millichap”) as broker for the sale of substantially all assets of Glenrosa 32, LLC (“Glenrosa 32”), including the real property located at 3200 East Glenrosa Avenue, Phoenix, Arizona, and related assisted living and memory facility business known as “MorningStar at Arcadia”, including equipment, furniture, fixtures and good will associated with the business (collectively, the “Glenrosa Property”), and (ii) the proposed auction and bidding procedures for the sale of the Glenrosa Property (the “Bidding Procedures”), including the scheduling of an auction and sale hearing to consider the sale of the Glenrosa Property; (B) approving the sale of the Glenrosa Property to SSOF II ARCADIA PROPCO, LLC (“Stalking Horse Buyer”) pursuant to the Asset Purchase Agreement dated April 16, 2024 (the “Stalking Horse Agreement”) or such other bidder that is qualified and submits a higher and better offer at a public auction, free and clear of all liens, claims, encumbrances and interests; and (C) granting

1 related relief (the “Motion”) [ECF No. 139]; and upon consideration of any and all
2 responses and replies relating to the Motion; and upon finding that due and sufficient
3 notice of the Motion has been given and no other or further notice need be given; and
4 after due deliberation and it appearing that the relief sought in the Motion is in the best
5 interest of the Receivership Estate, its creditors, and other parties in interest,

6 **IT IS HEREBY FOUND, DETERMINED, AND CONCLUDED THAT:**¹

7 1. This Court has jurisdiction over this matter, the above-captioned defendants
8 and relief defendants, and over the property of each Receivership Estate.

9 2. The approval of the sale of the Glenrosa Property is within the sound legal
10 discretion of this Court.

11 3. It is necessary and appropriate for this Court to retain jurisdiction to, among
12 other things, (a) interpret, implement, and enforce the terms and provisions of this Order,
13 the Stalking Horse Agreement, all amendments to the Stalking Horse Agreement, any
14 waivers and consents under the Stalking Horse Agreement, and each of the agreements
15 executed in connection with the Stalking Horse Agreement, (b) any agreement provided
16 by a Qualified Bidder in connection with the Auction (a “Qualified Bid PSA”), all
17 amendments to any Qualified Bid PSA, any waivers and consents under any Qualified
18 Bid PSA, and each of the agreements executed in connection with any Qualified Bid
19 PSA, and (c) to adjudicate, if necessary, any and all disputes concerning or relating in any
20 way to the sale of the Glenrosa Property, and such jurisdiction is retained.

21 **PROPER NOTICE OF THE MOTION AND AUCTION**

22 4. The Receiver properly provided notice, as evidenced by the *Certificate of*
23 *Service re: ECF No. 171 and ECF No. 172* [ECF No. 180] and the *Affidavit of*
24 *Publication* attached as Exhibit A to the *Notice of Auction Results for Glenrosa Property*
25 [ECF No. 182], pursuant to and in accordance with the Bidding Procedures Order, and no
26 other or further notice is necessary or required.

27 _____
28 ¹ Capitalized, undefined terms shall have the meanings ascribed to them in the Motion.

1 **GOOD FAITH OF THE SUCCESSFUL BIDDER**

2 24. The Successful Bidder is an independent legal entity separate and distinct
3 from the Receiver or any other party to this case. The Successful Bidder is not an
4 affiliate, subsidiary, or other insider of any of the parties to this case or the Receiver. The
5 Successful Bidder has no common equity holders, directors, managers, or officers with
6 any of the parties to this case or the Receiver. The Successful Bidder is not a mere
7 continuation of the Defendants and there is no continuity of enterprise among the parties
8 to this case or the Receiver. The Successful Bidder is not holding itself out to the public
9 as a continuation of the Defendants or the Receiver.

10 25. The terms of the sale of the Glenrosa Property, as set forth more
11 specifically in the Final PSA, are fair and reasonable under the circumstances.

12 26. The sale of the Glenrosa Property to the Successful Bidder in all respects
13 complies with the Bidding Procedures, Bidding Procedures Order, and applicable law.

14 27. The Successful Bidder negotiated the terms and conditions of the sale of the
15 Glenrosa Property in good faith and at arm's length.

16 28. The Successful Bidder is entering into the Final PSA and sale of the
17 Glenrosa Property in good faith and is a good faith purchaser for value.

18 29. The Successful Bidder will be acting in good faith in closing the sale of the
19 Glenrosa Property pursuant to the Final PSA after entry of this Order.

20 30. This Court has found that the Successful Bidder has acted in good faith in
21 all respects in connection with this case, the Bidding Procedures, the Auction, and the
22 sale of the Glenrosa Property.

23 **NO FRAUDULENT TRANSFER**

24 31. The consideration provided for the Glenrosa Property under the Final PSA:
25 (a) is fair and reasonable; (b) is the highest or otherwise best offer for the Glenrosa
26 Property; and (c) constitutes reasonably equivalent value for the Glenrosa Property.

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1 **VALIDITY OF TRANSFER**

2 32. The Receiver's transfer of the Glenrosa Property including fee title to the
3 real property along with this Order will be a legal, valid, and effective transfer of the
4 Glenrosa Property including fee title to the real property and will indefeasibly vest the
5 Successful Bidder with good and valid title in and to the Glenrosa Property free and clear
6 of any Liens (as defined below).

7 33. The Receiver has full power and authority to execute and consummate the
8 Final PSA and all related documents and is directed to do so, and no consents or
9 approvals (other than those expressly provided for in the Final PSA) are required to
10 consummate the transactions contemplated by the Final PSA and this Order.

11 34. The Receiver (i) has all rights and powers with respect to the Receivership
12 Estate, including the Glenrosa Property, (ii) possesses good, valid, and marketable title to
13 the Glenrosa Property, and (iii) has the ability and authority to convey the Glenrosa
14 Property to the Successful Bidder on the terms and conditions set forth in the Final PSA
15 and this Order.

16 35. The Receiver and Successful Bidder proposed, negotiated, and entered into
17 the Final PSA without collusion, in good faith, and from arm's length bargaining
18 positions.

19 36. Neither the Receiver nor the Successful Bidder have engaged in any
20 conduct that would cause or permit the Final PSA or transactions contemplated by the
21 Final PSA to be avoided or otherwise set aside.

22 **THE SALE IS IN THE BEST INTEREST OF**
23 **THE RECEIVERSHIP ESTATE AND ITS CREDITORS**

24 37. The approval and consummation of the sale of the Glenrosa Property
25 pursuant to and in accordance with the Final PSA and this Order is in the best interest of
26 the Receivership Estate and its creditors.

27 **NOW, THEREFORE, BASED UPON THE FOREGOING FINDINGS AND**
28 **THE RECORD BEFORE THIS COURT, IT IS HEREBY**

1 **ORDERED** that the Motion is GRANTED as set forth in this Order; and it is
2 further

3 **ORDERED** that all objections to the Motion concerning the Auction, Successful
4 Bid, Successful Bidder, marketing process employed by the Receiver, Final PSA or
5 otherwise relating to the sale of the Glenrosa Property and relief granted in this Order that
6 have not been withdrawn, waived, resolved, sustained, or settled are expressly denied and
7 overruled in their entirety; and it is further

8 **ORDERED** that the Final PSA, as set forth in Exhibit 1 to this Order, is approved
9 in its entirety; and it is further

10 **ORDERED** that the Glenrosa Property includes fee title to the real estate, free and
11 clear of all Liens and Encumbrances in accordance with the Final PSA and this Order;
12 and it is further

13 **ORDERED** that the Receiver is authorized to take all actions to consummate the
14 sale of the Glenrosa Property pursuant to and in accordance with the Final PSA and this
15 Order, including transferring and conveying the Glenrosa Property to the Successful
16 Bidder; and it is further

17 **ORDERED** that the Receiver is authorized, directed, and empowered to
18 consummate and implement fully the Final PSA, together with all additional instruments
19 and documents that may be necessary or desirable to implement and consummate the sale
20 of the Glenrosa Property in accordance with the Final PSA and this Order; and it is
21 further

22 **ORDERED** that the Receiver is authorized and directed to take all actions
23 necessary or desirable for the purpose of assigning, transferring, granting, conveying, and
24 conferring the Glenrosa Property to the Successful Bidder; and it is further

25 **ORDERED** that, time being of the essence, the Successful Bidder is directed to
26 use its best efforts to close the sale of the Glenrosa Property in accordance with the terms
27 of the Final PSA and this Order, but in no event shall closing occur more than twenty
28 (20) business days after entry of this Order; and it is further

1 **ORDERED** that, in the Receiver’s sole discretion, any agreements, documents, or
2 other instruments executed in connection with the Final PSA may be modified, amended,
3 or supplemented by the Receiver and Successful Bidder in accordance with the terms of
4 the Final PSA, without further notice or order of this Court, provided that any such
5 modification, amendment, or supplement does not have a material adverse effect on the
6 Receivership Estate; and it is further

7 **ORDERED** that the Receiver is authorized to pay the undisputed amounts due
8 and owing to Arizona Bank & Trust; and it is further

9 **ORDERED** that the transfer of the Glenrosa Property to the Successful Bidder
10 shall be free and clear of any and all liens, encumbrances, claims, charges, defenses,
11 offsets, recoupments, and interests on the foregoing and against the foregoing of
12 whatever type or description, including, without limitation, the Excluded Liabilities (as
13 defined in the Final PSA), tax claims and tax liens (other than tax liens for real estate
14 taxes which shall be paid at closing as more fully set forth in the Final PSA), and any
15 restrictions on or conditions to transfer or assignment, liens, mortgages, security interests,
16 pledges, hypothecations, control agreements, equities and other claims and interests
17 having arisen, existed, or accrued prior to and through the Closing Date (as defined in the
18 Final PSA), whether direct or indirect, monetary or non-monetary, arising at law or in
19 equity, contract or tort, absolute or contingent, matured or unmatured, voluntary or
20 involuntary, liquidated or unliquidated, of, by, or against the Glenrosa Property
21 (collectively, the “Liens and Encumbrances”); and it is further

22 **ORDERED** that any and all Liens and Encumbrances, shall be paid upon Closing
23 in any undisputed amounts, and to the extent not paid at Closing such Liens and
24 Encumbrances will attach to the net proceeds of the sale of the Glenrosa Property with
25 the same effect, validity, enforceability, and priority as such Liens and Encumbrances
26 had against the Glenrosa Property prior to the sale authorized by this Order, subject to
27 any rights, claims, defenses, and objections of the Receiver and all interested parties with
28 respect to such Liens and Encumbrances; and it is further

1 **ORDERED** that no party shall have any rights of redemption with respect to the
2 Glenrosa Property; and it is further

3 **ORDERED** that the transfer of the Glenrosa Property to the Successful Bidder
4 may not be avoided under any applicable law, because the Successful Bidder is providing
5 the Receivership Estates with reasonably equivalent value; and it is further

6 **ORDERED** that all entities that are presently, or upon closing may be, in
7 possession of some or all of the Glenrosa Property are directed to surrender possession of
8 the Glenrosa Property to the Receiver or the Receiver's designee; and it is further

9 **ORDERED** that the provisions of this Order authorizing the sale of the Glenrosa
10 Property free and clear of any and all Liens and Encumbrances shall be, and are, self-
11 executing, and the Receiver and Successful Bidder shall not be required, but are
12 permitted in their discretion, to execute or file releases, termination statements,
13 assignments, consents, or other instruments in order to effectuate, consummate, and
14 implement the provisions of the Final PSA and this Order; and it is further

15 **ORDERED** that neither the purchase of the Glenrosa Property nor the subsequent
16 operation of the Glenrosa Property by the Successful Bidder shall cause the Successful
17 Bidder or its affiliates, successors, or assigns or their respective properties (including the
18 Glenrosa Property) to be deemed a successor in any respect of the Receivership Entities'
19 or the above-captioned defendants' business operations within the meaning of any laws,
20 rules, or regulations relating to any tax, revenue, pension, benefit, ERISA, environmental,
21 labor, employment, products liability, or other law, rule, or regulation of any federal,
22 state, or local government; and it is further

23 **ORDERED** that, upon closing, this Order and the documents executed in
24 connection with and pursuant to this Order constitute a full and complete general
25 assignment, conveyance, and transfer of the Glenrosa Property or a deed or a bill of sale
26 transferring good and marketable title in the Glenrosa Property to the Successful Bidder
27 on the Closing Date free and clear of all Liens and Encumbrances, and each and every
28 federal, state, and local governmental agency or department is directed to accept this

1 Order as such an assignment, deed, or bill of sale or any and all documents and
2 instruments necessary and appropriate to consummate the transactions contemplated by
3 the Final PSA and this Order; and it is further

4 **ORDERED** that, if necessary, this Order shall be accepted for recordation on or
5 after the Closing Date as conclusive evidence of the free and clear, unencumbered
6 transfer of title to the Glenrosa Property to the Successful Bidder; and it is further

7 **ORDERED** that this Order is effective as a determination that any and all Liens
8 and Encumbrances, if any, will be, and are, without further action by any person or entity,
9 unconditionally released, discharged, and terminated with respect to the Glenrosa
10 Property; and it is further

11 **ORDERED** that this Court retains exclusive jurisdiction to (a) enforce and
12 implement the Final PSA and any other agreements, documents, and instruments
13 executed in connection with the Final PSA, (b) compel delivery of possession of the
14 Glenrosa Property (or any part of the Glenrosa Property) to the Successful Bidder, (c)
15 resolve any disputes, controversies, or claims arising out of or relating to the Final PSA,
16 this Order, or the sale of the Glenrosa Property, and (d) interpret, implement, and enforce
17 the provisions of this Order; and it is further

18 **ORDERED** that the terms and conditions of the Final PSA and this Order will be
19 binding in all respects upon, and will inure to the benefit of, the Receiver, the
20 Receivership Estate, the Receivership Entities, Glenrosa 32, the Successful Bidder, and
21 their respective affiliates, successors and assigns, and any affected third parties; and it is
22 further

23 **ORDERED** that all persons who hold Liens and Encumbrances against the
24 Glenrosa Property are forever estopped and permanently enjoined from asserting or
25 prosecuting any claims or causes of action against the Successful Bidder, its affiliates,
26 successors or assigns, or any of their respective officers, directors, employees, attorneys
27 or advisors, arising out of or in connection with the sale of the Glenrosa Property or any
28 liabilities owed by the above-captioned defendants; and it is further

EXHIBIT 1

ASSET PURCHASE AGREEMENT

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ASSET PURCHASE AGREEMENT

(Morningstar at Arcadia – 3200 East Glenrosa Avenue, Phoenix, Arizona 85018)

This Asset Purchase Agreement (this “**Agreement**”) is entered into as of April 16, 2024 by and between SSOF II ARCADIA PROPCO, LLC, an Arizona limited liability company, and its permitted assigns (“**Buyer**”), and Allen D. Applbaum (the “**Receiver**”), solely in his capacity as receiver for GLENROSA 32, LLC, an Arizona limited liability company (the “**Seller**”).

WITNESSETH

WHEREAS, the Receiver has been appointed as receiver for Jonathan M. Larmore, ArciTerra Companies, LLC and related entities, including Seller (collectively, the “**Receivership Estates**”) pursuant to that certain Order Appointing Temporary Receiver and Temporarily Freezing Assets and Imposing Litigation Injunction dated December 21, 2023 (the “**Receivership Order**”) issued by the United States District Court for the District of Arizona (the “**Court**”), Case No. 23-CV-02470-PHX-DLR; and

WHEREAS, pursuant to the Receivership Order, the Receiver is authorized to take and have complete and exclusive control, possession, and custody of all of Seller’s rights, title, and interests in the Seller’s property; and

WHEREAS, Seller is the owner of that certain real property located at 3200 East Glenrosa Avenue, Phoenix, Arizona, together with any buildings and improvements thereon, more particularly described on **Schedule A-1** annexed hereto and made a part hereof (the “**Real Property**”), and related personal property as described on **Schedule A-2** (the “**Personal Property**”) and together with the Real Property and the Intangible Property, as hereinafter defined, collectively the “**Property**”), currently operated as an assisted living and memory care facility operating under the name “Morningstar at Arcadia” (the “**Facility**”); and

WHEREAS, the Receiver has determined that it is in the best interests of the Receivership Estates and their beneficiaries to designate Buyer as the stalking horse bidder and to consummate the transactions provided for herein pursuant to proposed orders of the Court and Buyer desires to purchase the Property pursuant to those terms and conditions and this Agreement.

NOW, THEREFORE, in consideration of the premises and the respective undertakings of Seller and Buyer hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which consideration are hereby acknowledged, it is hereby agreed as follows:

I.
DEFINITIONS

1.1 Definitions.

For purposes of this Agreement, the following terms have the meanings specified or referenced below.

“**Agreement**” has the meaning set forth in the introductory paragraph.

“**Auction**” shall mean the auction scheduled by the Court in the Bidding Procedures Order

to consider higher and better offers as determined by the Receiver for the purchase of the Property.

“**Auction Price**” means the highest and best sale price for the Property established at the conclusion of the Auction.

“**Bidding Procedures Order**” shall mean such Order entered by the Court, substantially in the form annexed hereto as Exhibit I, that, *inter alia*: (i) schedules the Auction and Sale Hearing, (ii) approves bidding procedures for bidders to submit offers for the Property at the Auction, and (iii) approves and authorizes payment of the Breakup Fee from the Prevailing Bidder sale proceeds to the Buyer, in the event the Prevailing Bidder is not the Buyer.

“**Breakup Fee**” means 2% of the Purchase Price (\$565,000) and payable to Buyer from the sale proceeds of sale to a Prevailing Bidder other than Buyer.

“**Buyer**” has the meaning set forth in the Preamble to the Agreement.

“**Closing**” has the meaning set forth in Section 5.1 of the Agreement.

“**Closing Date**” has the meaning set forth in Section 5.1 of the Agreement.

“**Contracts**” means all leases of furniture, fixtures and equipment, and all contracts, leases, and agreements relating to the ownership, maintenance and/or operation of the Facility and/or the Property, copies of which are provided to Buyer with the Due Diligence Materials, together with, as applicable and to the extent in Seller’s actual possession (a) all related written warranties and guaranties, and (b) all other contracts, leases, and agreements entered into by Seller after the Effective Date as permitted pursuant to Section 7.1.

“**Consumable Inventories**” means all merchandise, food and beverages held for sale in connection with the operation of the Facility.

“**Court**” means the United States District Court for the District of Arizona.

“**Due Diligence Materials**” means the Contracts, Real Estate Agreements, and any other data, documents or other information supplied by the Receiver, the Receivership Estate, the Broker and their representatives to Buyer in connection with Buyer’s purchase and inspection of the Property.

“**Earnest Money**” has the meaning set forth in Section 3.2 of the Agreement.

“**Encumbrances**” means liens, mortgages, pledges, security interests, restrictions, judgments, prior assignments, liabilities, obligations, encumbrances, charges, tenancies, licenses, covenants, successor or transferee liabilities and claims of any and all nature and description whatsoever.

“**Equipment**” means all equipment (as defined in the Uniform Commercial Code) located at the Facility.

“**Excluded Assets**” means the Excluded Documents, cash, cash equivalents, checks and other funds, including, without limitation, Seller’s Accounts Receivable (other than the proration of

rent for the Current Month, as set forth in Article XI below), notes, securities and other evidence of indebtedness held at the Facility as of the Closing Date, balances on deposit to the credit of Seller with banking institutions (all of which shall be retained by Seller), and those Contracts listed in the Service Contract Termination Notice.

“Excluded Documents” means all (a) the corporate minute books and stock registers of Seller, (b) internal memoranda, correspondence, analyses, documents or reports prepared by or for Seller or its Affiliates in connection with the sale of the Property, including, without limitation, tax returns or financial statements of Seller (exclusive of operating statements and the general ledger of the Facility and any supporting information which shall be available for review by Buyer) for or in connection with its ownership or operation of the Facility and Property, and (c) communications between Seller or any Affiliate and their respective attorneys.

“Excluded Liabilities” means, collectively, (i) all judgments or orders entered against Seller or any prior owner of the Facility (a “Prior Owner”), (ii) all liabilities existing as of the Closing for violations of law related to any period prior to the Closing, (iii) all liabilities created or arising from the operation of the Facility at any time prior to Closing, (iv) any tax liabilities of the Seller or any Prior Owner, (v) any liabilities or obligations resulting from any of the Contracts and applicable to any period prior to the Closing, (vi) any obligations or liabilities under the Existing Management Agreement, (vii) any fines, penalties, levies, assessments or similar obligations arising under applicable law with respect to any period prior to the Closing, (viii) any liability or obligation with respect to any period prior to the Closing related to the items pro rated under Article XI, (ix) any liabilities, obligations or breaches relating to any of the Licenses with respect to any period prior to Closing, and (x) any other liability of the Seller or any Prior Owner that is not expressly assumed pursuant to this Agreement.

“Existing Management Agreement” means the Management Agreement by and between Glenrosa 32, LLC and the Property Manager dated December 1, 2011.

“Insurable Title” means good and marketable title to the Real Property, free and clear of any and all Encumbrances, except Permitted Encumbrances.

“Intangible Property” means all (a) local telephone and facsimile exchange numbers identified exclusively with the Facility, (b) transferable certificates (including the certificate of occupancy for the Real Property), licenses, permits and warranties (specifically including all construction and equipment warranties and guarantees) now in effect with respect to the Property, at no cost to Seller, (c) all general intangibles relating to design, development, operation and use of the Facility, all rights and work product under construction, service, consulting, engineering, architectural, design and construction agreements (including any warranties contained therein) and other Contracts, and plans and specifications of any portion of the Facility, and all development rights and goodwill related to any portion of the Property, (d) the Intellectual Property Rights, and (e) all other intangible property used by Seller exclusively in connection with the ownership and operation of the Facility, but excluding the Excluded Assets.

“Intellectual Property Rights” means all patents, copyrights, trade secrets, trademarks, trade names, service marks, confidential information and other know-how owned by Seller or its Affiliates or used by Seller or its Affiliates in managing the Facility, including but not limited to (a) marketing and management intangibles, (b) all proprietary computer software developed and owned by Seller or its

Affiliate, if any, (c) all proprietary manuals, instructions, policies, procedures and directives issued by Seller or its Affiliates to its employees at the Facility, and (d) Proprietary Marks.

“Inventory” All Consumable Inventories, Supply Inventories, and other materials and supplies used in connection with the operation of the Property and located thereat.

“Licenses” shall mean licenses, permits, approvals, entitlements, and other governmental authorizations (including, but not limited to, certificates of occupancy, certificates of need, insurance commission approvals, Medicare or Medicaid provider agreement approvals or other approvals, if applicable) issued by a governmental or administrative agency or authority (whether federal, state or local) in Seller’s possession or control in connection with the ownership, operation, planning, development, construction, use, or maintenance of the Facility.

“Parties” refers to the Buyer and Seller together.

“Permitted Encumbrances” has the meaning given thereto in Section 6.2.

“Personal Property” means, collectively, all personal property located at the Real Property and used in connection with the operation of the Facility, including, without limitation, the items listed on Schedule A-2 together with all Equipment and Inventory.

“Prevailing Bidder” means the bidder who submits the Auction Price.

“Property Manager” means Morningstar Senior Management, LLC.

“Proprietary Marks” means all trademarks, service marks, trade names, trade dress, symbols, logos, slogans, designs, insignia, emblems, devices, distinctive designs of signs, or any other source identifying feature, or combinations thereof, which are used to identify the Facility or Seller’s, or its Affiliates’, services at the Facility, or which are used in connection with the operation of the Facility.

“Qualified Bid” means a bid submitted in the Auction by a Qualified Bidder.

“Real Property” has the meaning set forth in in the Preamble to the Agreement.

“Receivership Estates” has the meaning set forth in the Preamble to the Agreement.

“Resident Agreements” means those leases, occupancy, residency, and similar written agreements entered into with residents of the Facility, and all amendments, modifications, supplements, renewals, and extensions thereof in the actual possession or control of Seller, copies of which have been provided to Buyer.

“Sale Hearing” means the hearing date scheduled by the Court to consider and approve the sale of the Property and entry of the Sale Order.

“Sale Motion” means that certain motion filed by the Receiver on behalf of the Receivership Estates and Seller seeking entry of the Bidding Procedures Order and Sale Order.

“Sale Order” means an Order of the Court, substantially in the form annexed hereto as Exhibit J, authorizing and approving, *inter alia*, (i) the sale of the Property to Buyer on the terms

and conditions set forth herein, free and clear of all Encumbrances.

“**Seller**” has the meaning set forth in the introductory paragraph of the Agreement.

“**Supply Inventories**” means all china, glassware, silverware, linens, uniforms, works of art, materials and supplies in Seller’s actual possession or control or located at the Property used or intended for use but not for sale in connection with the operation of the Facility at normal operating levels.

II. **PURCHASE AND SALE**

2.1 Purchased Assets. Subject to the terms and conditions hereof, Seller shall sell, assign, transfer and convey to Buyer, free and clear of all Encumbrances other than Permitted Encumbrances, Seller’s right, title and interest in and to the Property, including:

2.1.1 The Real Property, together with all rights, easements, tenements, and appurtenances pertaining to or inuring to the benefit of Seller or the Real Property;

2.1.2 All improvements, structures and fixtures owned by Seller and placed, constructed on or installed on the Real Property (including buildings, structures, fixtures, and other permanent improvements located thereon or therein, including, without limitation, walkways, driveways, parking lots, plumbing, lighting, electrical, mechanical and HVAC systems, components, equipment and fixtures installed thereon, and all rights, benefits and privileges appurtenant thereto, collectively, the “**Improvements**”);

2.1.3 The Resident Agreements, with the collected rents prorated through the date of Closing and the credit for security deposits thereon pursuant to Section 11.1.3 herein;

2.1.4 All records, surveys, title notes, title policies, repair histories, equipment and other warranties, termite bonds and reports, environmental studies, leasing information, financial records, architectural and engineering plans, and other instruments and items which relate to the Land, the Improvements or the Resident Agreements, which are in the present possession or control of the Seller (the “**Records**”); and

2.1.5 All Personal Property, Contracts and other Intangible Property (including Licenses to the extent assignable), except for those Contracts listed on Exhibit A (the “**Excluded Contracts**”).

2.2 Assumption of the Contracts. Buyer or its assignee shall, on and as of the Closing Date, at its sole cost and expense, assume and agree to pay all sums and perform, fulfill and comply with all other covenants and obligations which are to be paid, performed and complied with by Seller under the Contracts, except for the Excluded Contracts, which first arise or accrue on and after the Closing Date.

2.3 Assumption of the Resident Agreements. Buyer or its assignee shall, on and as of the Closing Date, at its sole cost and expense, assume and agree to perform, fulfill and comply with all covenants and obligations which are to be performed and complied with by Seller under the Resident Agreements which first arise or accrue on and after the Closing Date.

2.4 Excluded Liabilities. The transfer of the assets and rights described in Sections 2.1 through 2.3 shall not include the Excluded Liabilities. The Sale Order shall approve the Transfer of the Property free and clear of all Excluded Liabilities and Encumbrances, except for Permitted Encumbrances. Following Closing, Buyer shall be entitled to rely on the Sale Order, and refer all demands and inquiries related to any Excluded Liabilities to the Court, which shall retain jurisdiction to enforce the terms of the Sale Order. The provisions of this Section shall survive Closing.

2.5 License to Operate. Upon execution of this Agreement and payment of the Initial Earnest Money (as defined below), Buyer shall submit to the applicable governmental authority such documents as may be required in order to obtain a License to operate the Facility as an assisted living facility and Seller shall deliver or make available such information and documents as may be necessary in connection with such submission.

III.

PURCHASE PRICE AND EARNEST MONEY

3.1 Purchase Price. The purchase price (the “**Purchase Price**”) for the Property shall be the higher of (a) Twenty-Eight Million Two Hundred Fifty Thousand and 00/100 Dollars (\$28,250,000.00), or (b) the Auction Price submitted by the Buyer at the Auction. The Purchase Price shall be payable by wire transfer in immediately available funds to the Title Company for disbursement to Seller or as Seller directs at Closing.

3.2 Earnest Money. An initial earnest money deposit in the amount equal to five percent (5%) of the Purchase Price (\$1,412,500) (the “**Initial Earnest Money**”) shall be deposited by wire transfer in escrow with First American Title Company, Tel. (909) 518-0522, Attn: Ms. Phyllis Chambers, Email: chambers@firstam.com (the “**Title Company**”) upon execution of this Agreement by Buyer. In the event that Buyer is selected as the Prevailing Bidder or Backup Bidder (as defined below) at the Auction, then within two days following such selection, Buyer shall deposit an additional earnest money deposit in an amount equal to five percent (5%) of the Purchase Price after the Auction (the “**Additional Earnest Money**”) and together with the Initial Earnest Money, the “**Earnest Money**”).

3.3 Transfer Taxes. All transfer taxes (including, without limitation, real estate transfer taxes) shall be paid by Buyer at Closing.

3.4 Allocation of Purchase Price. Seller and Buyer have agreed upon an allocation of the Purchase Price (the “**Allocated Purchase Price**”), among the Real Property, Personal Property and Intangible Property, as set forth on Exhibit B. In the event the Parties are unable to reach agreement on the Allocated Purchase Price, the Receiver may seek entry of an Order from the Court, on ten (10) days notice to Buyer, fixing the Allocated Purchase Price.

IV.

SALE SUBJECT TO APPROVAL OF THE COURT

4.1 Sale Motion. In connection with the transactions contemplated by this Agreement, the Receiver shall accept only the “highest and best” offer for the Property (in Receiver’s discretion and as approved in the Auction). The Parties acknowledge it is a condition precedent to the Closing

that Receiver obtain approval of the sale from the Court. Upon execution of this Agreement by each of the Parties, the Receiver, on behalf of the Receivership Estates and Seller, shall file with the Court, the Sale Motion seeking entry of the Bidding Procedures Order and Sale Order. The Receiver shall affix a true and complete copy of this Agreement to the Sale Motion filed with the Court.

4.2 Court Filings. The Receiver agrees to diligently prosecute the Sale Motion and seek entry of the Bidding Procedures Order and Sale Order. The Receiver shall use his best efforts to cause the Sale Order to be entered and become a Final Order as soon as practicable after entry. Notwithstanding the foregoing, nothing in this Agreement precludes the Parties from consummating the transactions contemplated by this Agreement if the Sale Order has been entered and has not been stayed.

4.3 Auction. The Auction shall be held at a place approved by the Bidding Procedures Order and will be held to consider higher and/or better offers submitted by Qualified Bidders, as defined in Section 4.4, to purchase the Property on such date as determined by the Court. The Auction shall continue until there is only one bid that is the highest and best bid, which is the Auction Price. The Earnest Money submitted by Buyer shall be irrevocable and nonrefundable until the closing of the sale of the Property to the Prevailing Bidder, at which time, the Earnest Money shall be repaid to Buyer, together with the Breakup Fee as provided by the Bidding Procedures Order.

4.4 Qualified Bidders. To be determined a qualified bidder (a “**Qualified Bidder**”), one must:

(i) provide a fully executed purchase and sale agreement for the Property in form substantially similar to this Agreement (“**Qualified Bid PSA**”), acceptable to the Receiver in his sole discretion;

(ii) provide an earnest money deposit (the “**Bid Deposit**”) by wire transfer or cashier’s check in the amount of five percent (5%) payable to the Receiver, which amount shall be non-refundable to the Qualified Bidder that is deemed the Prevailing Bidder at the Auction if for any reason (a) the Prevailing Bidder fails to finally close the purchase and sale such that title transfers by no later than the Closing Date or (b) the Prevailing Bidder fails to provide the balance of the purchase price to the Receiver one day prior to the Closing Date;

(iii) provide proof of funds in such form as shall be required by Receiver. Each Qualified Bidder must provide the Qualified Bid PSA and Bid Deposit to the Receiver no later than five (5) business days prior to the Auction; and Qualified Bidders shall appear at the Auction in person, or through a duly authorized representative. If there are multiple Qualified Bidders at the Auction, the Receiver shall obtain the Court’s approval of the Prevailing Bidder and also the Qualified Bidder with the next highest bid at the Auction (the “**Backup Bidder**”). At the conclusion of the Auction, the Prevailing Bidder and Backup Bidder shall increase the Bid Deposit amount to ten percent (10%) of the Purchase Price after Auction. The Receiver shall retain the Backup Bidder’s Bid Deposit until (a) the closing for the Prevailing Bidder occurs, in which event the Backup Bidder’s Bid Deposit shall immediately be returned to the Backup Bidder, or (b) the closing for the Prevailing Bidder fails to occur, in which event the Backup Bidder’s Bid Deposit shall be applied to the purchase price for the Backup Bidder’s closing as set forth herein below. If the

Prevailing Bidder fails to close the purchase and sale of the Property, the Backup Bidder shall be deemed to be the Prevailing Bidder and the Receiver shall provide written notice thereof to the Backup Bidder. Within ten (10) days after the Backup Bidder's receipt of such notice from the Receiver, the closing for the Backup Bidder's purchase of the Property shall occur. Pursuant to the foregoing, if the initial Prevailing Bidder fails to close the purchase and sale of the Property and the Court has approved a Backup Bidder, the Receiver shall proceed to close with the Backup Bidder without any obligation to conduct another auction as a condition precedent to such closing. The Prevailing Bidder's Bid Deposit shall be applied to the purchase price at closing, if the sale is approved by the Court and the Prevailing Bidder closes the purchase and sale of the Property.

4.5 Overbids, Bid Increments, and Auction. The minimum initial overbid shall be One Million and No/100 Dollars (\$1,000,000.00). If any overbids are received and are Qualified Bids, the sale of the Property will be subject to the Auction. As applicable, the Receiver will provide the Auction instructions to all Qualified Bidders and only Qualified Bidders may make bids at the Auction. All bids will be subject to overbids in increments of One Hundred Thousand and No/100 Dollars (\$100,000.00).

4.6 Consent to Court Jurisdiction. All Qualified Bidders appearing at the Auction shall have deemed to have consented to the Court's jurisdiction. The Court shall be the exclusive forum for any disputes arising in connection with any agreements to purchase the Property.

4.7 Court Approval if No Qualified Bids are Received. In the event no Qualified Bids are received by the Receiver, the Receiver will notify the Court that no Auction will take place and ask the Court to approve the sale to Buyer pursuant to this Agreement.

4.8 Receiver's Right to Determine Conduct of Auction. The Receiver reserves the right to deny any person admittance to the Auction, to postpone or cancel the Auction, and to change any terms or procedures of the Auction or the particular conditions of sale, as necessary, upon notice to Buyer, and any Qualified Bidders, prior to or at the Auction, without further Court order.

4.9 No Contingencies. There is no contingency of any kind or nature that will permit the Buyer or any Qualified Bidder to withdraw its bid and receive a return of the Earnest Money other than (a) the Court's denial of the Sale Motion, (b) the Receiver's inability to deliver Insurable Title to the Real Property, or (c) the Buyer not being selected as the Prevailing Bidder after the Auction (the "**Excluded Contingencies**"). The Receiver shall have the right in his sole and absolute option to adjourn the Closing for a period not to exceed sixty (60) days in order to obtain approval of the Sale Motion and remedy any defect to title. The failure to Close for any reason whatsoever, except the Excluded Contingencies, will result in the Receiver retaining the Earnest Money and the termination of the Buyer's right to acquire the Property. The Buyer shall have no recourse to any other property or assets of the Receiver and the Receivership Estate, which shall be exempt from levy, execution or other enforcement procedure for the satisfaction of Buyer's remedies. The provisions of this section will survive the Closing.

4.10 Sale Free and Clear of Encumbrances. Except to the extent specifically provided for in this Agreement, the Sale Order shall provide that the Property shall be sold and conveyed to the Buyer at the Closing free and clear of any and all Encumbrances, except for Permitted Encumbrances.

V.
CLOSING

5.1 Time and Place of Closing. The closing of the purchase and sale of the Property (the “**Closing**”) pursuant to this Agreement shall take place within twenty (20) business days immediately following the entry of the Sale Order (the “**Closing Date**”), it being expressly understood by the Parties that time is of the essence. Failure to consummate the Closing shall not result in the termination of this Agreement or relieve Buyer of any obligation hereunder. Notwithstanding the actual time of Closing on the Closing Date, the Closing shall be deemed, for accounting and financial reporting purposes, to have occurred as of 12:00:01 a.m. on the Closing Date. The Closing shall be held by remote escrow through the office of the Title Company, or at such other location as may be acceptable to the Parties.

5.2 Seller’s Deliveries at Closing. Subject to Section 9.2.4, at the Closing, the Seller shall cause to be delivered to the Title Company (unless otherwise noted herein) the items, documents and instruments in the form specified herein, each being duly executed and acknowledged, and in recordable form, where required:

5.2.1.1. A receiver’s deed (the “**Deed**”) conveying fee simple title to the Property to Buyer, free and clear of all Encumbrances excepting only the Permitted Encumbrances, in the form of Exhibit C attached to this Agreement and made a part hereof;

5.2.1.2. An Assignment and Assumption of the Resident Agreements (the “**Resident Agreement Assignment**”), in the form of Exhibit D attached to this Agreement and made a part hereof, assigning and conveying to Buyer or its designee, at no cost or expense to Seller, and without representation or warranty, all of Seller’s right, title and interest in the Resident Agreements;

5.2.1.3. A Bill of Sale, in the form and substance reasonably acceptable to Buyer and Seller, executed by Seller, assigning, conveying and transferring to Buyer (i) the Personal Property and (ii) all of Seller’s rights and interests in the licensed assisted living institution located on the Property (the “**Bill of Sale**”), in the form of Exhibit E attached to this Agreement and made a part hereof;

5.2.1.4. An Assignment and Assumption of Intangible Property, in the form and substance reasonably acceptable to Buyer and Seller, executed by Seller, assigning and conveying to Buyer, at no cost or expense to Seller, and without representation or warranty, all of Seller’s right, title and interest in the Intangible Property (“**Assignment of Intangibles**”), in the form of Exhibit F attached to this Agreement and made a part hereof;

5.2.1.5. An Assignment and Assumption of Contracts, in the form and substance reasonably acceptable to Buyer and Seller, executed by Seller, assigning and conveying to Buyer or its designee, at no cost or expense to Seller, and without representation or warranty, all of Seller’s right, title and interest in the Contracts (“**Assignment of Contracts**”), in the form of Exhibit G attached to this Agreement and made a part hereof;

5.2.1.6. The Title Company's standard form of owner's affidavit dated as of the Closing Date, provided that any representation made therein shall be to the Receiver’s actual

knowledge only (without investigation) and that such affidavit shall contain no surviving indemnity obligations (other than, if any, in connection with loss resulting from an inaccuracy in any representation in such affidavit resulting from a failure by the Receiver to disclose information of which it was actually aware);

5.2.1.7. An affidavit stating that Seller is not a “foreign person” within the meaning of Section 1445(0)(3) of the Internal Revenue Code of 1986, in the form of Exhibit H attached to this Agreement and made a part hereof;

5.2.1.8. Customary documents sufficient to cause the Title Company to issue its policy of title insurance without exception for any lien or claim for brokerage services as of the Closing Date, subject only to the Permitted Encumbrances, including customary and recordable discharges of monetary liens to be satisfied out of Closing proceeds;

5.2.1.9. Counterparts of a closing statement (the “**Closing Statement**”) summarizing all adjustments in respect of the Purchase Price made at the Closing;

5.2.1.10. Requisite notices to the resident under any Resident Agreement as may be required under such Resident Agreement, advising of the change in identity and address of the Landlord thereunder;

5.2.1.11. The Sale Order;

5.2.1.12. A rent roll dated as of the Closing Date containing the name of each resident under each Resident Agreement, the space rented, the rent and other charges payable, and any security deposit or advance payments or refundable fees;

5.2.1.13. Any and all other documents described in this Agreement, required by law, or otherwise customary, necessary or appropriate to consummate and evidence the transaction contemplated hereby; and

5.2.1.14. All keys to the Property which are in the possession or control of Seller (which will be available at the Facility).

5.3 Buyer’s Deliveries at Closing. Subject to Section 9.2.4, at the Closing, the Buyer shall cause to be delivered to Seller or the Title Company:

5.3.1.1. The Purchase Price, less the Earnest Money deposited;

5.3.1.2. Counterparts of the following documents, duly executed by Buyer or its designee: (i) Closing Statement; (ii) Resident Agreement Assignment; (iii) Assignment of Intangibles; and (iv) Assignment of Contracts;

5.3.1.3. A copy of resolutions, consents or other evidence satisfactory to Seller which authorize the transactions contemplated by this Agreement and the execution of this Agreement and the documents, instruments and agreements to be executed and delivered by Buyer pursuant hereto, together with, if necessary, proof as to the authority of the person(s) executing and delivering this Agreement and such documents, instruments and agreements on behalf of Buyer; and

5.3.1.4. Any and all other documents described in this Agreement, required by law, or otherwise necessary or appropriate to consummate and evidence the transaction contemplated hereby.

VI.

PROPERTY CONVEYED “AS-IS”

6.1 No Representations or Warranties. The Receiver, his Broker and their representatives and professionals have not made and do not make any representations or warranties as to the physical (including without limitation environmental) condition, expenses, operations, value of the Property, or any other matter or thing affecting or related to the Property or this sale, which might be pertinent to the purchase of the Property. Buyer hereby expressly agrees and acknowledges that no such representations or warranties, express or implied, have been made. The Receiver, the Broker and their representatives and professionals shall not be liable or bound in any manner by express or implied warranties, guarantees, promises, statements, representations or information pertaining to the Property, made or furnished by the Broker or the Receiver or any real estate broker, agent, employee, servant or other person or professional representing or purporting to represent the Broker or the Receiver unless such warranties, guaranties, promises, statements, representations or information are expressly and specifically set forth in writing within this Agreement.

6.2 “As Is”, “Where Is”, “With All Faults”. The Real Property is being sold “**AS IS**”, “**WHERE IS**”, “**WITH ALL FAULTS**”, without any representations, covenants, guarantees or warranties of any kind or nature, and free and clear of any Encumbrances (other than Permitted Encumbrances), with such Encumbrances, if any, to attach to the proceeds of sale in such order and priority as they existed immediately prior to the Closing, and the sale of the Real Property is subject to, among other things (a) any state of facts that are shown on the survey of the Real Property dated July 26, 2018 contained in the Due Diligence Materials or any update of such survey obtained by the Buyer that is consistent therewith; (b) any covenants, restrictions and easements of record and any other matters set forth as exceptions to title in any title commitment obtained by Buyer in all material respects similar to the commitment provided as part of the Due Diligence Materials, other than monetary liens to be discharged at Closing from closing proceeds; (c) any state of facts a physical inspection may show; (d) any building or zoning ordinances or other applicable municipal regulations and violations thereof; (e) environmental conditions; (f) rights of parties in possession pursuant to Resident Agreements which are disclosed to Buyer; and (g) governmental laws, regulations, statutes, codes, ordinances and restrictions now or hereafter in effect to the extent affecting or applicable to the Real Property, including, without limitation, zoning ordinances (and amendments and additions relating thereto), the Americans with Disabilities Act of 1990, as amended, and any other laws or regulations applicable to the operation of the Facility; (h) liens for taxes not yet payable, and (i) any liens resulting from the actions or omissions of the Buyer (the matters in the foregoing clauses (a) through (i), each and collectively, “**Permitted Encumbrances**”).

6.3 Due Diligence. By delivering its Earnest Money, Buyer acknowledges that it had the opportunity to review and inspect the Property, the state of title thereof and laws, rules and regulations applicable thereto, and will rely solely thereon and on its own independent investigations and inspections of the Property in executing this Agreement. Neither the Broker, the Receiver nor any of their representatives or professionals makes any representations or warranties with respect to the permissible uses of the Property including, but not limited to, the zoning of the

Real Property. The Real Property will be sold subject to any and all violations or conditions requiring corrective action. The Receiver, the Receivership Estates, including the Seller, the Broker and their representatives and professionals, make no representations or warranties as to the truth, accuracy or completeness of the Due Diligence Materials (*e.g.*, that such materials are complete, accurate or the final version thereof, or that all such materials are in Seller's possession), and shall have no obligation to revise, update or augment such materials.

6.4 The Receiver shall not be obligated to deliver at closing a Certificate of Occupancy, Certificate of Completion or any equivalent local document for the Real Property and/or any and all changes or additions thereto that would require a Certificate of Occupancy or Certificate of Completion.

6.5 If the Receiver is unable to deliver the Real Property in accordance with the terms and conditions of this Agreement for any reason whatsoever, the Receiver's only obligation will be to refund the Earnest Money, without interest, to the Buyer and, if Receiver sells the Property to a Prevailing Bidder other than Buyer, to pay the Breakup Fee to Buyer, and upon such refund and payment of the Breakup Fee as applicable, the Buyer shall have no claim or recourse against the Receiver, the Receivership Estates, the Broker or their representatives and professionals and shall have no further rights under this Agreement.

6.6 Buyer agrees, except to the extent required by applicable law, not to submit any reports, studies or other documents or information to any governmental agency prior to the Closing unless first approved by Seller, such approval not to be unreasonably conditioned, withheld or delayed. Specifically, Seller may object to any disclosure of adverse information or documentation relating to the Property. To the extent Buyer claims any disclosure is required by applicable law, Buyer shall afford Seller a reasonable opportunity to evaluate such claim and make any legal objection Seller is permitted by such law to make.

6.7 From and after the Closing, Buyer shall protect, defend, indemnify and hold the Receiver, the Receivership Estates, including the Seller, its member(s), affiliates and subsidiaries, and their respective members, partners, directors, officers, participants, employees and agents, free and harmless from and against any and all claims, including, without limitation, investigatory expenses, clean-up costs and reasonable attorneys' fees and related court costs of whatever kind or nature arising from or in any way connected with the physical condition of the Property or any other aspect of the Property, which first arise or accrue after the Closing. Buyer's obligations of indemnity set forth herein shall expressly survive the Closing hereof.

VII. **CONDITION; CASUALTY**

7.1 Until the Closing, Seller or Seller's agent shall operate and maintain the Property in a businesslike manner, subject to and in accordance with the terms of the Resident Agreements. Notwithstanding the foregoing, prior to the Closing, (i) Seller shall not enter into any new lease or Resident Agreement or amend or terminate any existing lease or Resident Agreement or (ii) enter into any new service contract relating to the operation of the Property that will be binding on the Buyer or the Property after the Closing, without the prior written consent of Buyer (such consent not to be unreasonably, withheld, delayed or conditioned).

7.2 If, prior to the Closing, a material portion of the Land or Improvements is materially damaged or is destroyed, or is taken under power of eminent domain (or any entity having condemnation authority shall take any steps preliminary thereto), then Seller shall promptly deliver to Buyer written notice thereof and Buyer shall be entitled, as its sole remedy, to terminate this Agreement and receive a prompt refund of the Earnest Money upon written notice to Seller given prior to Closing. In the event that Buyer does not terminate this Agreement pursuant to the immediately preceding sentence, Buyer shall close this transaction on the date and at the Purchase Price herein agreed, and Seller will assign to Buyer Seller's right in and to any insurance proceeds payable in connection with the casualty or Seller's portion of any condemnation award, as the case may be, up to the amount of the Purchase Price. For purposes of this **section**, a "**material portion**" of the Land or Improvements shall mean that portion which, if damaged, destroyed, taken or condemned, would (i) eliminate access to any portion of the remainder to which access is available as of the date of this Agreement, (ii) cause any non-compliance with any applicable law, ordinance, rule or regulation of any federal, state or local authority or governmental agency having jurisdiction over the Land, (iii) materially breach any reciprocal easement agreement, covenant or similar agreement with or obligation to a third party, (iv) materially adversely reduce Buyer's expected economic return from its contemplated development or operation of the Land or Improvements or materially reduce the market value of the Land or Improvements as a result thereof or (v) allow any resident to terminate its Resident Agreement prior to its stated expiration.

VIII.

REPRESENTATIONS AND WARRANTIES

8.1 Buyer warrants and represents to Seller as follows:

8.1.1 Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Arizona.

8.1.2 Buyer has full power and authority to enter into this Agreement and perform its obligations hereunder in accordance with the terms hereof. The execution, delivery and performance of this Agreement by Buyer and the documents to be executed by Buyer pursuant hereto have been duly and validly authorized by all necessary action on the part of Buyer, and this Agreement and any other such documents executed by Buyer document shall constitute the valid, binding obligation and agreement of Buyer, enforceable against Buyer in accordance with their respective terms. No bankruptcy, insolvency, reorganization, arrangement or moratorium proceeding or allegation of fraudulent conveyance is now pending or threatened against Buyer

8.2 Such representations and warranties, shall survive the Closing hereof until six (6) months after the date of Closing. Any claim not asserted in writing by Seller or Buyer within such period shall lapse and be forever null and void.

IX.

CONDITIONS TO CLOSING

9.1 Seller's Obligation to Close. The obligation of Seller to close under this Agreement is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided that Seller, at its election, may waive all or any of such conditions except the entry of the Sale Order.

9.1.1 Buyer shall have paid to Seller the Purchase Price required under this Agreement and all other amounts due to Seller hereunder.

9.1.2 All representations and warranties of Buyer set forth herein shall be true and correct in all material respects on and as of the Closing Date as if made on and as of such date.

9.1.3 Buyer shall have executed and/or delivered or caused to be delivered at Closing all documents and executed counterparts of documents and instruments required by this Agreement to be executed and/or delivered by Buyer and shall have taken all other actions and fulfilled all other covenants and conditions required of Buyer under this Agreement in all material respects.

9.1.4 Buyer shall have supplied all replacement insurance required of landlord under the Resident Agreements and shall otherwise be in a position to assume all of landlord's obligations thereunder. To the extent Seller's insurance policies are on a "claims made" (as opposed to "occurrence") basis, Seller will obtain (at Buyer's cost) "tail insurance" coverage for losses arising prior to Closing out of claims brought under Seller's insurance policies for general and professional liability, automobile liability, and worker's compensation and employment practices liability. To the extent commercially available, such tail coverage will name Buyer and its management company, Buyer's licensee and its property manager additional insureds. Seller will provide evidence of such tail coverage to Buyer prior to the Closing Date. Buyer shall pay at Closing, and the Closing Statement shall reflect the payment by Buyer of, any necessary "tail insurance" required in the event that Buyer does not elect to retain the existing operator of the Facility. Buyer shall provide at Closing customary Certificates of Insurance evidencing all required coverage.

9.1.5 The transaction contemplated by this Agreement shall be approved by the Court and the Sale Order shall have been entered.

9.2 Buyer's Obligation to Close. The obligation of Buyer to close under this Agreement is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided that Buyer, at its election, may either (i) terminate this Agreement and receive a refund of its Earnest Money if any such condition is not satisfied as of the Closing Date or (ii) waive all or any of such conditions, which election shall be conclusively evidenced by Buyer's proceeding with and completing the Closing of the transaction provided for herein:

9.2.1 The transaction contemplated by this Agreement shall be approved by the Court as evidenced by entry of the Sale Order and Buyer is the Prevailing Bidder after the Auction.

9.2.2 Seller shall have executed and/or delivered or caused to be delivered at Closing all of the documents and executed counterparts of documents and instruments required by this Agreement to be executed and/or delivered by Seller.

9.2.3 Title Company shall be prepared to issue to Buyer an owner's policy of title insurance for the Property in an amount equal to the Purchase Price and evidencing Insurable Title.

9.2.4 Buyer shall have received a License to operate the Facility as an assisted living facility, or assurances that such license will be issued in due course following Closing;

provided, however, that in the event Buyer has not secured such a License as of the Closing Date, Seller and Buyer shall:

9.2.4.1 Delay the execution and delivery of the Resident Agreement Assignment until such date as the Buyer or its designee has secured such License;

9.2.4.2 Not terminate the Existing Management Agreement as contemplated by Section 12.1, and maintain such agreement in full force and effect subject to the Amendment to Existing Management Agreement (described in clause 9.2.4.3) until the date the License is secured, at which time such agreement shall be terminated;

9.2.4.3 Enter into and cause the Property Manager to enter into that certain Amendment to Property Management Agreement substantially in the form attached hereto as Exhibit K;

9.2.4.4 Enter into the Interim Period Sublease substantially in the form attached hereto as Exhibit L.

X. **COSTS**

10.1 Buyer will pay the following costs of Closing this transaction:

10.1.1 the fees and disbursements of its counsel, inspecting architect and engineer, surveyor, environmental consultants and other consultants and agents, if any;

10.1.2 any fees incurred in connection with any Survey;

10.1.3 all expenses pertaining to any financing obtained by Buyer;

10.1.4 all recording fees, transfer taxes and intangible taxes;

10.1.5 one half (1/2) of any escrow or Closing fees; and

10.1.6 the cost of any owner's and lender's title insurance policy(ies), including any extended coverage title insurance policy or endorsements issued in connection with this Agreement or the transaction contemplated hereby.

10.2 Seller will pay the following costs of Closing this transaction:

10.2.1 one half (1/2) of any escrow or Closing fees; and

10.2.2 fees and disbursements of Seller's counsel.

XI. **PRORATIONS**

11.1 The following provisions shall govern the apportionment of income and expenses with respect to the Property between Seller and Buyer:

11.1.1 Seller shall arrange for final meter readings on all utilities at the Property to be taken prior to the Closing Date. Seller shall be responsible for the payment of utilities used through the day preceding the Closing Date and Buyer shall be responsible for the payment of utilities used on or after the Closing Date. With respect to any utility for which there is no meter, the expenses for such utility shall be prorated between Seller and Buyer at Closing based upon the most current bill for such utility. Buyer shall use reasonable efforts to cause the transfer of utility company accounts from Seller to Buyer on the Closing Date, provided that the same shall be transferred within not later than thirty (30) days thereafter in any event. All deposits with utility companies will be returned to Seller upon Buyer's receipt of the same.

11.1.2 Real estate taxes (including ad valorem and equivalent taxes) and assessments assessed prior to the Closing Date shall be prorated between the Buyer and the Seller as of the Closing Date. Seller shall pay, or Buyer shall receive a credit against the Purchase Price for, all taxes and assessments assessed in and for 2023, regardless of the date of assessment, and payable in 2024, and its proportionate share of the taxes and assessments assessed in 2024, and payable in 2025, based on the number of days in 2024 that Seller owned the Property. Thereafter, Seller shall have no further liability to pay taxes or assessments due after the Closing Date. If at the time of Closing the tax assessment for the Property for the succeeding year has been completed, taxes payable shall be computed based on the current tax assessment. If at the time of Closing the tax assessment for the Property for the succeeding year has not been completed, the taxes payable shall be assumed to be the same as the prior year for the purpose of such proration and credit for due but unpaid taxes, and this shall be a final settlement.

11.1.3 Resident rents (including, without limitation, all resident reimbursement obligations related to taxes, common area expenses, operating expenses and/or additional charges of any nature to the extent applicable under any Resident Agreement) shall be pro-rated between Seller and Buyer as of the Closing Date. Resident rents that Buyer (and/or its property manager) receives after the Closing Date shall be promptly remitted if any, to Seller to the extent any pre-Closing Date Resident rents under such resident's Resident Agreement remains unpaid. All prepaid rents and other income from the Property shall be credited to Buyer at Closing to the extent same is attributable to a period of time after Closing.

11.1.4 To the extent not specifically addressed above, all obligations for taxes, common area expenses, operating expenses or additional charges of any nature related to the Property will be pro-rated between Seller and the Buyer as of the Closing Date. If the actual amount of such amounts is not known as of such date, the proration at the Closing will be on an equitable basis and will be based on the most current and accurate billing information available. If, upon receipt of the actual bills, such proration proves to be inaccurate, then Seller and Buyer (and/or its property manager) shall correct the proration as soon as possible and make the appropriate payments to reflect same, provided that no payments shall be made to the extent the amount thereof is less than \$2,000.00 in the aggregate for all items covered by this clause. For the avoidance of doubt, the foregoing shall include all obligations and liabilities (for services and materials ordered, or otherwise in the ordinary course of business) and accounts payable for the Facility and the Real Property owing as of the Closing Date for merchandise, equipment, supplies and other materials and services paid, incurred or ordered shall be paid by Seller (the Purchase Price being inclusive of all Consumable Inventories, Personal Property and Supply Inventories at the Property).

11.1.5 The pro-rations described in this Section shall be made as of 12:00 a.m. EST on the Closing Date, as if Buyer were vested with title to the Property during the entire day upon which Closing occurs. All pro-rations described in this Section shall be effectuated by increasing or decreasing, as the case may be, the amount of cash to be paid by Buyer to Seller at Closing. Seller and Buyer (and/or its property manager) agree to adjust between themselves after Closing, as promptly as practicable, any errors or omissions in the pro-rations made at Closing.

11.1.6 All of Seller's Accounts Receivable shall be and remain the property of Seller subsequent to the Closing of the transaction contemplated hereby. At the Closing, Seller shall prepare a list of its outstanding Seller's Accounts Receivable as of the Closing Date, specifying the name of each account and the amount due to Seller. Buyer (and/or its property manager) shall hold in trust for Seller any funds which are received by Buyer (and/or its property manager) as payment of such accounts receivable, i.e., if Buyer (and/or its property manager) actually collects any such amounts; and Buyer (and/or its property manager) shall pay the monies collected in respect thereof (net of actual collection costs and costs owed to Buyer) to Seller at the end of each calendar month, accompanied by a statement showing the amount collected on each such account. Other than the foregoing, Buyer shall have no obligation with respect to any such account, and Buyer shall not be required to take any legal proceeding or action to effect collection on behalf of Seller. It is the intention of Buyer and Seller that although all Seller's Accounts Receivable shall be and remain the property of Seller, nevertheless, if any such accounts are paid to Buyer (and/or its property manager), then it/they shall collect same, deduct any costs owed to Buyer (and/or its property manager) and remit to Seller in the manner above provided. Notwithstanding anything to the contrary herein, all sums collected by Buyer (and/or its property manager) will be credited first to current amounts due to Buyer, and thereafter to amounts due Seller. Seller will not be entitled to enforce collection of the accounts receivable which are owed to Seller, except with respect to residents who no longer reside at the Property.

11.1.7 The provisions of this Section shall survive Closing.

XII. **PROPERTY MANAGEMENT**

12.1 Management Agreement. On the Closing Date, Seller shall terminate the Existing Management Agreement and Buyer shall enter into a new management agreement with the Property Manager.

XIII. **DEFAULT AND REMEDIES**

13.1 If Buyer is not then in default hereunder, and Seller fails to close the transaction contemplated hereby, Buyer shall be entitled, as its sole and exclusive remedy, to terminate this Agreement by giving written notice of termination and receive a full and immediate refund of any and all Earnest Money previously deposited and, if applicable, an amount equal to the Breakup Fee if Seller sells the Property pursuant to the Bidding Procedures Order.

13.2 If Buyer fails to close the transaction contemplated hereby, Seller shall be entitled to receive the Earnest Money as liquidated damages; provided Seller does not waive and, in particular, reserves any rights against and indemnities from Buyer which are herein intended to survive the

termination of this Agreement pursuant to the express provisions hereof. Seller and Buyer recognize and agree that, under the circumstances existing as of the date of execution of this Agreement, the liquidated damages set forth above are a reasonable estimate of the damages which Seller would incur as a result of such a failure and are reasonable in the context of the transaction in which a complete measure of damages is not feasible.

13.3 The provisions of this Article XII shall survive the termination of this Agreement.

XIV.
NOTICES

14.1 Any notice, request, demand, instruction or other communication to be given to either party hereunder, except those required to be delivered at Closing, shall be in writing, and shall be given and received (a) upon receipt if hand delivered, (b) the following business day after being sent by recognized overnight courier service, or (c) the date sent by electronic mail (including, without limitation, by PDF) shall be deemed given when sent, provided any such notice by electronic mail is sent on a business day during regular business hours (otherwise it shall be deemed received on the following business day). All notices shall be addressed as follows:

IF TO SELLER: GLENROSA 32, LLC
 c/o Allen D. Applbaum, Receiver
 StoneTurn
 17 State Street, 2nd Floor
 New York, New York 1004
 Tel. (212) 430-3449
 Email: aapplbaum@stoneturn.com

And

 StoneTurn
 6429 Wilshire Blvd, Suite 880
 Los Angeles, California 90048
 Attn: Randall Coxworth
 Tel. (213) 459-1859
 Email: rcoxworth@stoneturn.com

WITH A COPY TO: Archer & Greiner, P.C.
 1025 Laurel Oak Road
 Voorhees, New Jersey 08043
 Attn: Jawad H. Salah
 Tel. (856) 673-7143
 Email: jsalah@archerlaw.com

And

 Archer & Greiner, P.C.
 1211 Avenue of the Americas
 New York, New York 10036

Attn: Gerard DiConza
Tel. (212) 682-4940
Email: gdiconza@archerlaw.com

IF TO BUYER: SSOFF II Arcadia Propco, LLC
2211 Michelson Drive
Suite 620
Irvine CA 92612
Attn: Frank J. Small
Email: fsmall@12-north.com

And

Attn: Tal Seder
Email: tal.seder@sabal.com

WITH A COPY TO: Williams Mullen
200 South 10th Street
Richmond VA 23219
Attn: Robert C Dewar, Esq.
Email: rdewar@williamsmullen.com

14.2 The addresses and addressees for the purpose of this article may be changed by either party by giving notice of such change to the other party in the manner provided herein for giving notice. For the purpose of changing such addresses or addressees only, unless and until such written notice is received, the last address and addressee stated herein shall be deemed to continue in effect for all purposes.

XV.
ESCROW INSTRUCTIONS

15.1 Upon execution of this Agreement, the Parties shall deliver an executed counterpart of this Agreement to the Title Company to serve as the instructions to the Title Company as the escrow holder for consummation of the transaction contemplated herein. Seller and Buyer agree to execute such additional and supplementary escrow instructions as may be required by the Title Company to comply with the terms of this Agreement, provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall prevail as between Buyer and Seller.

XVI.
MISCELLANEOUS

16.1 This Agreement, together with the exhibits attached hereto, all of which are incorporated by reference, is the entire agreement between the Parties with respect to the subject

matter hereof, and no alteration or modification hereof shall be binding unless in writing and signed by both Parties.

16.2 If any provision of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

16.3 This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

16.4 Buyer may not assign this Agreement without first obtaining Seller's written consent, except that, to the extent permissible under (or not prohibited by) the Sale Order, Buyer may assign this Agreement to an entity controlled by, controlling or under common control with Buyer. Any assignment in contravention of this provision shall be void. No assignment shall release the Buyer herein named from any obligation or liability under this Agreement. Any permitted assignee shall be deemed to have made any and all representations and warranties made by Buyer hereunder, as if the assignee were the original signatory hereto.

16.5 Subject to the limitations of **Section 16.4**, this Agreement shall be binding upon and inure to the benefit of Buyer and Seller and their successors and permitted assigns.

16.6 Buyer shall make no public disclosure of the terms of this transaction without the prior written consent of Seller unless legally compelled to do so (by deposition, interrogatory, request for documents, subpoena, civil investigation, court order or demand or similar process or by law), except that Buyer may discuss the transaction in confidence with its members, attorneys, lenders, representatives, agents, contractors, proposed joint ventures or prospective mortgagees.

16.7 The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the scope or content of any of its provisions.

16.8 In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs. The term "prevailing party" as used in this Agreement shall include, but not be limited to, a party who obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought whether by compromise, mediation, settlement, judgment or otherwise (and regardless of whether formal litigation is commenced).

16.9 Nothing contained in this Agreement shall be construed to create a partnership or joint venture between the Parties or their successors in interest.

16.10 Time is of the essence in this Agreement.

16.11 This Agreement may be executed and delivered in any number of counterparts, and/or by email (.pdf format) or by facsimile each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

16.12 Buyer and Seller agree not to record this Agreement or any memorandum hereof.

16.13 If as a result of any tax protest or otherwise any refund or reduction of any real property or other tax or assessment relating to the Property during the period for which, under the terms of this Agreement, Seller is responsible, Seller shall be entitled to receive or retain such refund or the benefit of such reduction, less equitable prorated costs of collection.

16.14 Buyer agrees that it does not have and will not have any claims or causes of action against any disclosed or undisclosed officer, director, employee, trustee, member, shareholder, partner, principal, parent, subsidiary or other affiliate of the Receiver, the Receivership Estates, and Seller (collectively, the “**Seller’s Affiliates**”), arising out of or in connection with this Agreement or the transactions contemplated hereby. Buyer agrees to look solely to Seller’s assets directly attributable to the Property (including any consideration received by Seller from the sale of all or any part thereof) for the satisfaction of Seller’s liability or obligation arising under this Agreement or the transaction contemplated hereby, or for the performance of any of the covenants, warranties or other agreements of Seller contained herein, and further agrees not to sue or otherwise seek to enforce any personal obligation against any of the Seller's Affiliates with respect to any matters arising out of or in connection with this Agreement or the transactions contemplated hereby.

16.15 The formal tender of an executed Deed by Seller is hereby waived, but nothing herein contained shall be construed as a waiver of Seller’s obligation to deliver the Deed and/or of the concurrent obligation of Buyer to pay the portion of the Purchase Price payable at Closing, if any.

16.16 The parties each agree to do such other and further acts and things, and to execute and deliver such instruments and documents (not creating any obligations additional to those otherwise imposed by this Agreement) as either may reasonably request from time to time, whether at or after the Closing, in furtherance of the purposes of this Agreement. The provisions of this Section 16.16 shall survive the Closing.


16.17 THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THAT EITHER PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE PROPERTY, THE CONVEYANCE INSTRUMENT OR ANY OTHER DOCUMENTS EXECUTED IN CONNECTION HERewith, OR IN RESPECT OF ANY COURSE OF CONDUCT, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH OF THE PARTIES TO ENTER INTO THIS TRANSACTION AND SHALL SURVIVE THE CLOSING OR THE TERMINATION OF THIS AGREEMENT.

[Signatures on following pages]

IN WITNESS WHEREOF, the undersigned parties have caused this Agreement to be executed as of the date first above written.


“SELLER”

**ALLEN D. APPLBAUM, SOLELY IN HIS
CAPACITY AS RECEIVER FOR
GLENROSA 32, LLC, an Arizona limited
liability company**

By:  _____
Allen D. Applbaum, Receiver

“BUYER”

**SSOF II ARCADIA PROPCO, LLC, an
Arizona limited liability company**

By:  _____
Name: Drake Ayres _____
Title: Authorized Signer _____

Execution Draft

EXECUTED by the Title Company the day of April, 2024, for the purposes of acknowledging receipt of the Earnest Money and agreeing to the provisions relating to the rights and obligations of the Title Company, as set forth herein.

“First American Title Company”

By: _____

Name: _____

Title: _____

SCHEDULE A-1

Legal Description of Real Property

Lot 1, 32nd Street Condos, according to Book 944 of Maps, Page 48, records of Maricopa County, Arizona.

SCHEDULE A-2

Personal Property

EXHIBIT A

Excluded Contracts

[TO BE PROVIDED]

EXHIBIT B

Allocation of Purchase Price

[TO BE PROVIDED]

EXHIBIT C

FORM of Deed

RECEIVER'S DEED

WHEREAS, the United States District Court for the _____ District of _____, in a civil action titled Securities and Exchange Commission v. _____ et al., Case No. _____, having on _____ ordered the appointment of _____ as Receiver to, *inter alia*, take possession, and arrange for the sale, of that certain property located at _____; and

WHEREAS, the Court having entered an order confirming the sale of the real property to _____ of _____, and approving this form of deed; and

WHEREAS, _____ whose address is _____ was duly authorized and directed to convey the real property to the purchaser; and

WHEREAS, the real property has been sold pursuant to the Court's order, for the sum of \$ _____, and

WHEREAS, the real property is more particularly described as follows:

NOW KNOW YE, THAT _____, pursuant to the authority and direction given to it, does hereby bargain, sell, transfer and convey to _____ all the right, title, claims, and interest in the above-described real property, to have and to hold, with appurtenances thereto, by _____ and her heirs and assigns, forever, for their own use and disposition.

AND ALSO, _____ does hereby covenant with _____, and its assigns, that it has full power and authority to grant and convey the aforesaid premises in the manner and form aforesaid.

Said premises are conveyed to _____ free and clear of any of the rights, titles, claims or interests, subject to any sums which may be due for municipal property, water or sewer taxes, or any special use charges or assessments, and subject to all laws, ordinances and governmental regulations affecting said premises, and any easements and restrictions appearing of record, if any.

I have hereunto set my hand and seal, this _____ day of _____, 2024.

Receiver

STATE OF _____
COUNTY OF _____

On this date _____, the signer and sealer of the foregoing instrument, personally appeared before me and acknowledged the same to be his free act and deed.

_____ day of _____, 2024.

(Name)
Notary Public

Return to: _____

EXHIBIT D

FORM of Resident Agreement Assignment

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(Resident Agreements)**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “**Assignment and Assumption of Resident Agreements**”) is dated this ___ day of _____, 2024, (the “**Effective Date**”) by and between [_____] a [_____] (“**Assignor**”), and [_____] a [_____] (“**Assignee**”).

1. Concurrently with the execution and delivery of this Assignment and Assumption of Resident Agreements, Assignor, in its capacity as Seller, is conveying to Assignee, in its capacity as Buyer, certain real property located in _____, together with the buildings and improvements thereon, and related personal property contained therein and certain rights appurtenant thereto, collectively currently operated as [an assisted living facility] under the name [“Morningstar at Arcadia”] (the “**Facility**”); pursuant to that certain Asset Purchase Agreement dated as of [_____], between Assignor and Assignee (the “**APA**”)

2. Pursuant to the APA, Assignor has agreed to assign and transfer to Assignee all of Assignor’s right, title and interest in and to the Resident Agreements applicable to the Facility as of the date hereof.

3. Subject to the terms and conditions herein, Assignor desires to assign and Assignee desires to assume all of Assignor’s obligations under the Resident Agreements.

4. All capitalized terms used by not defined in this Assignment and Assumption of Resident Agreements shall have the meanings given thereto in the APA.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

(a) **Assignment of Resident Agreements.** As of the Effective Date, Assignor hereby transfers, assigns, conveys and sets over to Assignee, its successors and assigns (i) all of Assignor’s obligations, covenants, rights, title and interest in, to and under the Resident Agreements, together with all amendments, extensions, renewals and other modifications thereto, and (ii) any and all rights of Assignor under the Resident Agreements to collect (or to cause its property manager to collect) rents, additional rents, escrow or security deposits, fees, income, charges, and profits arising and having arisen thereunder.

(b) **Assumption of Resident Agreements.** As of the Effective Date, Assignee hereby accepts the assignment of Assignor’s rights, title and interest in, to and under the Resident Agreements.

(c) **No Warranty; Release.** Assignor makes no representation or warranty regarding the Resident Agreements, and Assignee releases and shall have no recourse to Assignor in

connection with any claims, liabilities or costs arising under the Resident Agreements, including without limitation for the collection of rents or other charges thereunder.

(d) Successors and Assigns. This Assignment and Assumption of Resident Agreements shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns. This Assignment and Assumption of Resident Agreements shall be governed by, and construed and enforced in accordance with, the internal laws of the State of [_____].

(e) Counterparts. This Assignment may be executed in one or more counterparts, each of which, taken together, shall constitute but one original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption of Resident Agreements as of the date first set forth above.

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT “A” TO ASSIGNMENT AND ASSUMPTION AGREEMENT

RESIDENT AGREEMENTS

[LIST RESIDENT AGREEMENT / RENT ROLL]

EXHIBIT E

FORM of Bill of Sale

BILL OF SALE

THIS BILL OF SALE (the “**Bill of Sale**”) is dated this ___ day of _____, 2024, by and between [_____] a [_____] (“**Seller**”), and [_____] a [_____] (“**Buyer**”).

RECITALS

5. Concurrently with the execution and delivery of this Bill of Sale, Seller is conveying to Buyer, by Receiver’s Deed (the “**Deed**”) those certain tracts of land (the “**Land**”) more particularly described on Exhibit “A” attached hereto and made a part hereof for all purposes, together with the improvements located thereon (the “**Improvements**”, and together with the Land, the “**Property**”), pursuant to that certain Asset Purchase Agreement dated as of [_____] , between Seller and Buyer (the “**APA**”).

6. Seller desires to sell, transfer and convey to Buyer, and Buyer desires to purchase from Seller the Improvements and Personal Property owned by Seller comprising and used in the operation of the Facility (as hereafter defined), subject to the terms and conditions set forth herein.

7. All capitalized terms used by not defined in this Bill of Sale shall have the meanings given thereto in the APA.

NOW, THEREFORE, in consideration of the receipt of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration in hand paid by Buyer to Seller, the receipt and sufficiency of which are hereby acknowledged by Seller:

- (a) Sale and Assignment. Seller does hereby SELL, TRANSFER, CONVEY, and DELIVER to Buyer, and Buyer hereby accepts, the personal property, if any, owned by Seller upon the Land or within the Improvements, including heating, ventilation and air conditioning systems, other existing Building systems, and all other components and equipment pertinent to any of the foregoing, maintenance supplies and tools, if any, located in or on the Improvements or Land (collectively, and as may be further defined in the APA, the “**Personal Property**”).
- (b) No Warranty; Release. Seller makes no representation or warranty regarding the Personal Property, and Assignee releases and shall have no recourse to Assignor in connection with any claims, liabilities or costs arising from or relating to the Personal Property.
- (c) Counterparts. This Assignment may be executed in one or more counterparts, each of which, taken together, shall constitute but one original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the date first set forth above.

SELLER:

[_____]

By: _____

Name: _____

Title: _____

BUYER:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT "A" TO BILL OF SALE

Legal Description

EXHIBIT F

FORM of Assignment of Intangibles

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(Intangibles)**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “**Assignment and Assumption of Intangibles**”) is dated this __ day of _____, 202_, (the “**Effective Date**”) by and between [_____] a [_____] (“**Assignor**”), and [_____] a [_____] (“**Assignee**”).

8. Concurrently with the execution and delivery of this Assignment and Assumption of Intangibles, Assignor, in its capacity as Seller, is conveying to Assignee, in its capacity as Buyer, certain real property located in _____, together with the buildings and improvements thereon, and related personal property contained therein and certain rights appurtenant thereto, collectively currently operated as [an assisted living facility] under the name [“Morningstar at Arcadia”] (the “**Facility**”); pursuant to that certain Asset Purchase Agreement dated as of [_____], between Assignor and Assignee (the “**APA**”)

9. Pursuant to the APA, Assignor has agreed to assign and transfer to Assignee all of Assignor’s right, title and interest in and to the Intangibles applicable to the Facility as of the date hereof (the “**Intangibles**”).

10. Subject to the terms and conditions herein, Assignor desires to assign and Assignee desires to assume all of Assignor’s obligations under the Intangibles.

11. All capitalized terms used by not defined in this Assignment and Assumption of Intangibles shall have the meanings given thereto in the APA.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

(d) Assignment of Intangibles. As of the Effective Date, Assignor hereby sells, transfers, assigns, conveys and sets over to Buyer, its successors and assigns any/all (i) local telephone and facsimile exchange numbers identified exclusively with the Facility, (ii) transferable certificates (including the certificate of occupancy for the Real Property), licenses, permits and warranties (specifically including all construction and equipment warranties and guarantees) now in effect with respect to the Property, at no cost to Seller (and provided, however, that Seller makes no representation or warranty with respect to the existence, availability or assignability of any of the foregoing), (iii) all general intangibles relating to design, development, operation and use of the Facility, all rights and work product under construction, service, consulting, engineering, architectural, design and construction agreements (including any warranties contained therein) and other Contracts, and plans and specifications of any portion of the Facility, and all development rights and goodwill related to any portion of the Property, (iv) the Intellectual Property Rights, and (v) all other intangible property used by Seller exclusively in connection with the ownership and operation of the Facility, but excluding the Excluded Assets, if any, owned by Seller and relating solely to the Land, the Improvements or the Personal Property.

Execution Draft

(e) Assumption of Intangibles. As of the Effective Date, Assignee hereby accepts the assignment of Assignor's obligations, rights, title and interest in, to and under the Intangibles.

(f) No Warranty; Release. Assignor makes no representation or warranty regarding the Intangibles, and Assignee releases and shall have no recourse to Assignor in connection with any claims, liabilities or costs arising under the Intangibles.

(g) Successors and Assigns. This Assignment and Assumption of Intangibles shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns. This Assignment and Assumption of Intangibles shall be governed by, and construed and enforced in accordance with, the internal laws of the State of [_____].

(h) Counterparts. This Assignment may be executed in one or more counterparts, each of which, taken together, shall constitute but one original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption of Intangibles as of the date first set forth above.

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT G

FORM of Assignment of Contracts

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(Contracts)**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “**Assignment and Assumption of Contracts**”) is dated this ___ day of _____, 202_, (the “**Effective Date**”) by and between [_____] a [_____] (“**Assignor**”), and [_____] a [_____] (“**Assignee**”).

12. Concurrently with the execution and delivery of this Assignment and Assumption of Contracts, Assignor, in its capacity as Seller, is conveying to Assignee, in its capacity as Buyer, certain real property located in _____, together with the buildings and improvements thereon, and related personal property contained therein and certain rights appurtenant thereto, collectively currently operated as [an assisted living facility] under the name [“Morningstar at Arcadia”] (the “**Facility**”); pursuant to that certain Asset Purchase Agreement dated as of [_____], between Assignor and Assignee (the “**APA**”)

13. Pursuant to the APA, Assignor has agreed to assign and transfer to Assignee all of Assignor’s right, title and interest in and to the Contracts (other than Excluded Contracts) applicable to the Facility as of the date hereof (the “**Contracts**”).

14. Subject to the terms and conditions herein, Assignor desires to assign and Assignee desires to assume all of Assignor’s obligations under the Contracts.

15. All capitalized terms used by not defined in this Assignment and Assumption of Contracts shall have the meanings given thereto in the APA.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

(i) **Assignment of Contracts.** As of the Effective Date, Assignor hereby transfers, assigns, conveys and sets over to Assignee, its successors and assigns (i) all of Assignor’s obligations, covenants, rights, title and interest in, to and under the Contracts, together with all amendments, extensions, renewals and other modifications thereto, and (ii) any and all rights of Assignor under the Contracts (other other than any indemnification obligations, awards or payments in favor of or belonging to Assignor, if any, relating to periods or events prior to the Effective Date, which shall expressly be retained by Assignor).

(j) **Assumption of Contracts.** As of the Effective Date, Assignee hereby accepts the assignment of Assignor’s obligations, rights, title and interest in, to and under the Contracts.

(k) **No Warranty; Release.** Assignor makes no representation or warranty regarding the Contracts, and Assignee releases and shall have no recourse to Assignor in connection with any claims, liabilities or costs arising under the Contracts.

Execution Draft

(l) Successors and Assigns. This Assignment and Assumption of Contracts shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns. This Assignment and Assumption of Contracts shall be governed by, and construed and enforced in accordance with, the internal laws of the State of [_____].

(m) Counterparts. This Assignment may be executed in one or more counterparts, each of which, taken together, shall constitute but one original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption of Contracts as of the date first set forth above.

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT “A” TO ASSIGNMENT AND ASSUMPTION AGREEMENT

CONTRACTS

[LIST CONTRACTS]

EXHIBIT H

FORM of FIRPTA

FIRPTA AFFIDAVIT

Section 1445 of the Internal Revenue Code provides that a transferee (Buyer) of a U.S. real property interest must withhold tax if the transferor (Seller) is a foreign person. To inform the transferee [____], a [____] ("**Buyer**"), that withholding of tax is not required upon the disposition of a U.S. real property interest [____], a [____] ("**Seller**"), hereby certifies to Purchaser the following:

1. Seller is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations) for purposes of U.S. income taxation;
2. Seller's U.S. taxpayer identifying number (EIN number) is []; and
3. Seller's address is [].

Seller understands that this certification may be disclosed to the Internal Revenue Service by Purchaser and that any false statement Seller has made here could be punished by fine, imprisonment or both.

Under penalties of perjury, Seller declares that it has examined this certification and to the best of Seller's knowledge and belief, it is true, correct, and complete.

SELLER:

[____],
a [_____]

By: _____
Name: _____
Title: _____

Date: _____