AMENDED COPY AS OF 5/28/2010

Intro. Res. No. 1474-2010 Laid on Table 4/27/2010
Introduced by Presiding Officer, on request of the County Executive

RESOLUTION NO. -2010, ADOPTING LOCAL LAW NO. -2010, A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF THE JOHN J. FOLEY SKILLED NURSING FACILITY

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on April 27, 2010, a proposed local law entitled, "**A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF THE JOHN J. FOLEY SKILLED NURSING FACILITY**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

RESOLVED, that said local law be enacted in final form as follows:

LOCAL LAW NO. -2010, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AGREEMENTS FOR THE SALE OF THE JOHN J. FOLEY SKILLED NURSING FACILITY

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature finds and determines that John J. Foley Skilled Nursing Facility (the "Facility") is a 264-bed facility located on approximately 14 acres in Yaphank in Suffolk County (the County). In addition to operating 252 residential health care facility beds (including an Alzheimer's unit) and 12 designated AIDS beds, the nursing facility operates a 24-slot Adult Day Health Care Program (ADHCP). In 1995, the Facility began operating in a newly-constructed building. The total building size is approximately 181,749 square feet with recent (2005) expansions to the adult day health and rehabilitation program space as well as dining and recreational areas on the second floor.

This Legislature further finds and determines that the County has examined the operations at the Facility in order to determine the feasibility of continuing its operation as a County facility. The County has determined that, due to business impediments unique to municipalities (rising municipal labor and employee benefit costs and unreliability of continued intergovernmental transfer (IGT) payments), operating a municipal skilled nursing home is no longer in the best fiscal interest of the County.

This Legislature further finds and determines that where the County had once provided the Facility as an institution for destitute individuals, this is no longer the case. All nursing homes are eligible to receive payments from Medicaid and uninsured and underinsured patients can be cared for at any of Suffolk's 40+ nursing homes.

This Legislature further finds and determines that the Facility could be operated at the same high level of care, but more efficiently by individuals or entities that do not face the operational restrictions particular to municipalities.

This Legislature further finds and determines that pursuant to Suffolk County Resolution No. 881-2008 the County Executive, through the Department of Health Services issued a request for expressions of interest ("RFEI") to transfer ownership and/or operation and management of the "Facility." Qualified RFEI respondents received a request for proposals ("RFP") to transfer ownership and/or operation and management of the Facility issued on September 21, 2009. On February 23, 2010, based on the evaluation of the RFP Review Committee, an award letter for the sale of the Facility was issued to Mr. Kenneth Rozenberg. The County issued, and Mr. Kenneth Rozenberg accepted, a Letter of Intent, dated March 17, 2010, to enter into an agreement for the sale and purchase of the Facility.

This Legislature also finds that pursuant to Suffolk County Introductory Resolution No. 1337-2010, a Land Sale Contract and Asset Purchase Agreement ("the Plan") has been subject to the Suffolk County Administrative Code Section A9-6 review process, including four separate public hearings at which comments were solicited.

Therefore, the purpose of this law is to approve the Plan, an agreement for the sale and purchase of the Facility by the County to Mr. Kenneth Rozenberg, an established nursing home operator, through his companies, Foley Operating LLC and Foley Land LLC.

Section 2. Approval of Request for Proposals.

The County hereby approves the award dated February 23, 2010 to Mr. Kenneth Rozenberg for the sale of the Facility and all assets, property, real or personal, and rights used or usable in the operation of the Facility, of every type and description, tangible or intangible, wherever located.

Section 3. Declaration of Surplus Land.

The 14.06 acres of land, which acreage shall be subject to final survey, is surplus to County needs.

Section 4. Sale of Surplus Land.

The sale by the County to Mr. Kenneth Rozenberg through his company Foley Land LLC of the County's right, title and interest in and to 14.06 acres of land, without recourse, is hereby authorized in exchange for the delivery, to or upon the order of the County, of (i) the payment of the purchase price as set forth in the proposed Land Sale Contract, and (ii) upon such other terms and conditions as are set forth in the proposed Land Sale Contract with Foley Land, LLC, as purchaser, and the County, as seller.

Section 5. Approval of Land Sale Contract.

The form and substance of the Land Sale Contract, presented to the members of the Legislature at this meeting as Exhibit 1, is hereby approved.

Section 6. Execution and Delivery of Land Sale Contract.

The execution and delivery on behalf of and in the name of the County by the County Executive and/or his designee(s) of the Land Sale Contract presented to the members of the Legislature at this meeting, is hereby authorized and directed, with such ministerial and non-substantive changes therein as the County Executive and/or his designee(s) may approve, and the execution and delivery of such Land Sale Contract shall be conclusive evidence of his approval of any such changes and of the authorization and direction thereof by this Legislature.

Section 7. Sale of the Facility.

The sale by the County to Kenneth Rozenberg through his company Foley Operating LLC of all assets, property, real or personal, and rights used or usable in the operation of the Facility, of every type and description, tangible or intangible, wherever located, without recourse, is hereby authorized in exchange for the delivery, to or upon the order of the County, of (i) the payment of the purchase price as set forth in the proposed Asset Purchase Agreement, and (ii) upon such other terms and conditions as are set forth in the proposed Asset Purchase Agreement with Foley Operating LLC, as purchaser, and the County, as seller.

Section 8. Approval of Asset Purchase Agreement.

The form and substance of the Asset Purchase Agreement, presented to the members of the Legislature at this meeting as Exhibit 2, is hereby approved.

Section 9. Execution and Delivery of Asset Purchase Agreement.

The execution and delivery on behalf of and in the name of the County by the County Executive and/or his designee(s) of the Asset Purchase Agreement presented to the members of the Legislature at this meeting, is hereby authorized and directed, with such ministerial and non-substantive changes therein as the County Executive and/or his designee(s) may approve, and the execution and delivery of such Asset Purchase Agreement shall be conclusive evidence of his approval of any such changes and of the authorization and direction thereof by this Legislature.

Section 10. Further Actions.

The County Executive and/or his designee(s) are further authorized to execute and deliver, on behalf of the County, such agreements, instruments or authorizations as may be contemplated by, or necessary or advisable to consummate or otherwise give full effect to, the Land Sale Contract, the Asset Purchase Agreement and this local law, and which are deemed necessary or desirable to effectuate the transactions contemplated by the Land Sale Contract , the Asset Purchase Agreement and this local law, and to perform all acts and do all things required or contemplated to be performed or done by the Land Sale Contract, the Asset Purchase Agreement or by this local law or by any agreement, instrument or authorization approved, contemplated, necessary or authorized hereby.

Section 11. Suffolk County Administrative Code A9-6 Compliance.

The County has complied with the procedures set forth in Section A9-6 of the Administrative Code. A report to the Suffolk County Legislature pursuant to Suffolk County Administrative Code Section A9-6 is attached as Exhibit 3. In addition, attached as Exhibit 4 is

a letter from the New York State Department of Health supporting Kenneth Rozenberg as purchaser of the Facility.

Section 12. Applicability.

This law shall apply to all actions and transactions occurring on or after the effective date of this law. Adoption of this law shall be conclusive evidence of full compliance with Suffolk County Administrative Code § A9-6, and shall apply to all actions and transactions occurring on or after the effective date of this law.

Section 13. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 14. SEQRA Determination.

This Legislature has independently considered the Environmental Assessment Form ("EAF"), the Council on Environmental Quality ("CEQ") recommendation, and any relevant testimony concerning the same; and

This Legislature, being the lead agency under State Environmental Quality Review Act ("SEQRA") and Chapter 279 of the Suffolk County Code, hereby determines that this local law constitutes an unlisted action, pursuant to 6 NYCRR Part 617 of the implementing regulations pertaining to Article 8 (SEQRA) of the Environmental Conservation Law; and

This Legislature hereby determines that implementation of this action will not have a significant adverse impact on the environment for the following reasons, as demonstrated in the EAF:

1. The action involves the simple transfer of the ownership of an existing operating facility and associated property with no change to the environment or facility operations;

2. The proposed action will not exceed any of the criteria in Section 617.7 of Title 6 NYCRR which sets forth threshold for determining significant impact on the environment;

3. The proposal does not appear to significantly threaten any unique or highly valuable environmental or cultural resources as identified in or regulated by the Environmental Conservation Law of the State of New York or the Suffolk County Charter and Code;

4. The parcel does not appear to suffer from any severe environmental development constraints (no poor soil properties, no high ground water and no unmanageable slopes); and

This Legislature hereby directs, in accordance with Section 279.5(c) (4) of the Suffolk County Code, the Suffolk County Council on Environmental Quality to prepare and circulate any appropriate notices or determinations in accordance with this resolution.

Section 15. Effective Date.

This Local Law shall not take effect until at least forty-five (45) days after its adoption, nor until approved by the affirmative vote of a majority of the qualified electors of the County of Suffolk voting on a proposition for its approval if within forty-five (45) days after its adoption there is filed with the Clerk of the County Legislature a petition protesting against such Local Law in conformity with the provisions of §24 (1) (a) of the MUNICIPAL HOME RULE LAW, and upon filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

_____

County Executive of Suffolk County

Date:

ex. 1

Agreement of Sale

This Land Sale Contract ("LSC") entered into as of this 20th day of April 2010 is between the

County of Suffolk ("Seller"), a municipal corporation of the State of New York, acting through its duly constituted **Department of Health Services ("Department")**, located at 225 East Rabro Drive, Hauppauge, New York 11788;

and

Foley Land LLC ("Buyer"), a New York limited liability company with its principal place of business located at c/o Isidor D. Friedenberg, Esq., 2 Cara Drive, Suffern, New York 10901 ("Buyer");

The purpose of this LSC is to provide for the following transaction:

1. Seller's sale of, and Buyer's purchase of the building and land currently used by the Seller as the John J. Foley Skilled Nursing Facility (the "Facility"), together with certain easements for access thereto. The legal description of the land is attached hereto as Exhibit 1. A survey of the land is attached hereto as Exhibit 2. The legal descriptions of the easements are attached hereto as Exhibit 3;

2. The processing of all applications to obtain all necessary zoning changes or waivers, site-plan approvals, building and other permits, and approvals and variances, and

3. Establishing the payment terms of the purchase price.

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RECITALS

WHEREAS, the Seller owns the Facility, a skilled nursing facility which Seller operates under the Department of Health Services of the County of Suffolk;

WHEREAS, on March 5, 2009, pursuant to Suffolk County Resolution No. 881-08 the County Executive, through the Department of Health Services issued a request for expressions of interest ("RFEI") to transfer ownership and/or operation and management of the Facility and

WHEREAS, qualified RFEI respondents received a request for proposals ("RFP") to transfer ownership and/or operation and management of the Facility issued on September 21, 2009; and

WHEREAS, on February 23, 2010, based on the evaluation of the RFP Review Committee, an award letter for the sale of the Facility was issued to Kenneth Rozenberg; and

WHEREAS, a Letter of Intent, dated March 17, 2010, which, inter alia, permits Buyer to enter into this LSC for the sale and purchase of the land in which the Facility is operated and the easements required to be conveyed therewith, was executed by the Seller and Kenneth Rozenberg on behalf of the Buyer.

Now, therefore, in consideration of the mutual agreements contained in this LSC and other good and valuable consideration, the receipt of which is hereby acknowledged, Seller and Buyer agree as set forth herein for their own benefit and for the benefit of the residents of the County of Suffolk.

Definitions

Asset Purchase Agreement ("APA") means the contract dated as of the date hereof by and between Seller and Foley Operating LLC ("Nursing Home Buyer") for the sale of the Facility assets, properties and rights used or usable in the operation of the Facility, other than those explicitly excluded or those related to the Premises, which purchase shall be addressed in this LSC. The APA is attached hereto as Exhibit A.

Closing means the simultaneous closing under the APA and under this LSC.

Facility means the John J. Foley Skilled Nursing Facility operated at the Premises, including the 264 bed skilled nursing facility and the 24 slot adult day care facility.

Escrow Funds means the money paid to the Escrow Agents pursuant to the terms of this LSC, the APA and the Restated Escrow Agreement, attached hereto as Exhibit B.

Escrow Agent shall mean Farrell Fritz, PC.

Excluded Assets shall be those listed on Schedule1.2 of the APA.

Material Adverse Effect means, with respect to any Person or the Premises, any change, effect, or circumstance that, individually or in the aggregate, is or is reasonably likely to be materially adverse to the financial condition, results of operations, or membership of such Person or the Premises; provided, however, that the following shall not be taken into account in determining whether there has been or would be a Material Adverse Effect on or with respect to such Person or the Premises: (a) any change, effect, or circumstance relating to conditions affecting the economy of any part of the world generally, or any change, effect, or circumstance relating to conditions generally affecting the health care industry, and, in either case, not affecting such Person or the Premises in a materially disproportionate manner, and (b) any change, circumstance, or effect caused by the announcement or pendency of the APA and the related transactions and (c) any change, circumstance or effect related to changes in third party reimbursement rates paid to the Facility for services rendered.

Monetary Lien means any lien that can be reduced to a fixed sum of money.

Premises means the property to be sold hereunder, together with the improvements thereon and the easements for access to be conveyed, all as described in Exhibits 1, 2 and 3.

Buyer's Agents means any and all contractors, subcontractors, consultants, lenders, partners, joint venturers, and any other persons or entities acting to effectuate any of Buyer's rights or obligations under the LSC.

Legislature means the Suffolk County Legislature.

Regulatory Matters means all land use issues, laws, rules, regulations and statutes concerning the use of the Premises and the improvements thereon, which investigation, negotiation and approvals will include, but not be limited to, (i) environmental review, (ii) planning and zoning requirements and approvals; (iii) site plan approval; (iv) adequate public facilities; (v) public works; (vi) mass transit requirements; (vii) utilities; (viii) storm water management; (ix) certificates of authority; and (xi) approvals, permits, consents, certificates and licenses necessary for operation of a duly certified and licensed 264 bed skilled nursing facility and adult day care program at the Premises, all as currently operated by Seller.

RFP means the September 22, 2009 request for proposals issued by Seller and the supplement issued on December 29, 2009.

RFP Submission means collectively Buyer's RFP responses of February 18, 2010.

Town means the Town of Brookhaven.

Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

Words importing persons shall include firms, associations, limited liability companies, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons, and shall include successors and assigns.

Capitalized terms used, but not otherwise defined herein, shall have the meanings assigned to them in this LSC.

Article I
Sale of Premises

Section 1-1. Sale. Seller agrees to sell, and Buyer agrees to purchase, all right, title and interest in the Premises.

The sale includes all fixtures attached or appurtenant to the Premises including without limitation building systems, furnaces, air conditioning, pipes, conduits, generation facilities, wires, pumps, transmission devices and the like that may exist upon the areas conveyed, but Seller makes no representations or warranties of the existence or presence of same. The sale does not include items of personal property used in connection with the operation of the Facility, nor the license issued by the State of New York for the operation of the Facility. Such items are subject to the APA.

Section 1-2. Financing. This LSC is not subject to any financing contingency but along with the APA is subject to the approval of the Suffolk County Legislature, the Suffolk County Executive, New York State Department of Health, and this LSC is contingent upon the issuance of all approvals for all the Regulatory Matters prior to Closing.

Section 1-3. "AS IS" Condition. Buyer hereby acknowledges that it is familiar with the Premises and its physical condition. Seller is transferring, and Buyer is accepting the Premises in "AS IS" physical condition, subject to the title contingencies in **Article III,** without any representation or warranty, express or implied, whatsoever by Seller except as set forth in this Agreement.

Article II
Due Diligence

Section 2-1. Due Diligence. Prior to the execution of this LSC, Buyer has had an opportunity to employ one or more environmental consultants and other professionals to perform or complete an environmental inspection and assessment of the Premises, and/or to employ engineers or others to perform a physical examination of the buildings, fixtures and systems at the Premises to determine their condition. Buyer and Buyer's Agents also had the right to undertake or complete a technical review of all documentation, reports, plans, studies and other information in the possession of Seller unless disclosure of such information would violate a legal right or privilege, and reasonably related to the

environmental condition of the Premises and/or its physical condition, which Seller has made available to Buyer and Buyer's agents for review and copying, subject to the Confidentiality Agreement.

Article III
Title Report, Exceptions

Section 3-1. Title Report. No more than thirty (30) days after the execution of this LSC Buyer shall deliver or cause to be delivered to Seller, at its sole cost and expense, a copy of a title report prepared by a title insurance company duly licensed by the State of New York or an abstract company authorized to do so by any such title insurance company.

Section 3-2. Title Exceptions. Seller shall convey insurable title, free and clear of all liens, claims and encumbrances, subject to no conditions, restrictions or encumbrances except as set forth herein at standard rates without any additional premium. The Premises shall be conveyed subject to the following conditions:

a. Any state of facts an accurate survey may show provided the same shall not render title uninsurable or materially and adversely affect the continued use of the Premises after the Closing as a licensed skilled nursing facility with an adult day care program, all as presently operated;

b. All the terms, covenants and conditions of this LSC;

c. The provisions of all laws, codes, statutes, ordinances, acts, rules and regulations of local, state or federal government, and any agency or subdivision thereof, to the extent same would be applicable herein provided the same shall not render title unmarketable or materially and adversely affect the continued use, after the closing hereunder, of the Premises as a licensed certified bed skilled nursing facility with an adult day care program, all as presently operated.

d. Subject to Buyer's receipt prior to Closing of all required approvals, consents and waivers for all Regulatory Matters, all applicable health, building and zoning codes, ordinances and regulations of the Federal government, State of New York, County of Suffolk, and Town. Seller hereby informs Buyer that inasmuch as Seller is a superior municipality, no certificates of occupancy for the Premises have ever been issued by the Town.

Section 3-3. Objections to Title. Within thirty (30) days of delivery of the title report and thereafter upon receipt of periodic updates thereof, Buyer shall notify Seller of any

title defects, liens, or encumbrances ("Objections"), other than the exceptions set forth in **Section 3-2.** Buyer's failure to raise an objection to title within the time specified in this paragraph shall be deemed to be a waiver of that objection. Notwithstanding the foregoing, all matters noted in the title report or any continuations or periodic updates thereof delivered to Seller's counsel shall be deemed as timely made Objections.

Seller shall have 60 days after receipt of the title report and any continuations or updates thereof within which to attempt to remove such defects. If, for any reason, Seller is unable to remove any title defects on or before the expiration of such sixtieth day, Seller shall so notify Buyer, in which case, Buyer may elect to waive the foregoing, or cure such title defects, liens or encumbrances at Buyer's own expense, without any modification or abatement of the Purchase Price, and close upon this transaction at the time(s) and in the manner provided in this LSC, or to terminate this LSC by giving Notice to Seller, as provided for herein, in which case, and surviving any such termination, Buyer's sole remedy shall be the payment to Buyer and the Nursing Home Buyer of the entire Escrow Funds plus accrued interest thereon.

Seller shall have no obligation to bring any action or to incur any expense to make the title comply with the provisions of this LSC, other than for the removal of consensual liens and Monetary Liens which may be satisfied, in the aggregate, by payment of money.

Article IV
Sale Requirements

Section 4-1. Requirements of Sale. This conveyance is subject to and conditioned upon following being satisfied prior to Closing:

a. Buyer obtaining all surveys that may be required at Buyer's own cost;

b. Buyer obtaining all approvals for all Regulatory Matters, including but not limited to zoning changes or waivers, as may be necessary, at Buyer's own cost, upon Buyer's prompt and diligent application therefor;

c. Buyer obtaining site-plan, building and other permits, approvals and variances as may be necessary at Buyer's own cost;

d. Buyer shall be responsible for any and all fees and charges associated with the usage of water and provision of sewage treatment for Facility, as well completing:

i. execution of a connection agreement with the County Sewer Agency on such terms and conditions as may be required by the County Sewer Agency for the continued use of the wastewater treatment plant to which the premises are connected; and

ii. payment of standard connection fees for connection to any existing publicly owned sewage plant, as required by law; and

iii. execution of any and all necessary easements and irrevocable offers of dedication required by the Sewer Agency and, if necessary, the Suffolk County Water Authority; and

iv. execution of all contracts required by the County Sewer Agency and compliance with all standard requirements for sewer connection, including posting of security and bonds;

v. payment of all usage fees for wastewater disposal as may be imposed by the County Sewer Agency or Sewer District.

vi. Execution of any and all appropriate agreements with the Suffolk County Water Authority or other agency for the provision of water service to the premises, including domestic water and fire protection systems.

vii. Subject to the rules and regulations governing the County Sewer Agency, Seller shall continue to provide waste water disposal service to Buyer through its existing facility so as long as Seller provides such service to other County departments.

Section 4-2. Roads. All roads connecting to public roads or to easements conveyed herein to the Buyer shall be open for public use. All roads connecting to public roads shall be offered for dedication to the Town.

Section 4-3 Other Easements. The parties agree to grant to each other such other easements to maintain existing utilities and access across and through the property of the other as shall be reasonably required. Buyer shall grant to Seller an easement for vehicle traffic across the western border of the Premises as shall permit Seller to continue to access Seller's building to the west of the premises across the existing route to such building.

Section 4-4. Cooperation Between Seller and Buyer. Seller and Buyer shall,

throughout the process of obtaining any necessary Regulatory Matter approvals, consents and waivers and State, Town, or County approvals, coordinate and cooperate in a reasonable manner with respect to the planning, preparation and pursuit of such approvals and shall share information on a timely basis. In addition, Buyer shall promptly provide Seller with copies of any studies, reports, analyses or other documents relevant to the approval process.

Section 4-5. Limitation on Use of Premises. Buyer represents that the Nursing Home Buyer intends to continue to use the premises as a skilled nursing facility as it has been operated by Seller.

Section 4-6. Seller's Covenants. Seller hereby covenants and agrees to perform the following:

a. To continue to maintain and operate all areas in accordance with present practices;

b. To promptly notify Buyer of any fact about which it becomes aware that has the effect of a Material Adverse Effect; and

c. To cooperate with and assist Buyer in Buyer's efforts to obtain all required approvals, consents, waivers and variances pertaining to the Regulatory Matters.

Article V
Purchase Price

Section 5-1. Payment of Purchase Price. In consideration of the sale, assignment and transfer of the Premises, the Buyer shall pay a purchase price of Eighteen Million ($18,000,000.00) Dollars (the "Purchase Price") .Such sum may be allocated among the assets purchased under this LSC by mutual agreement between the parties.

(a) The Escrow Funds paid upon the execution and exchange of this Agreement and the APA, shall be held by the Escrowee and applied to the amounts due under the APA. The Escrow Agent will hold the Escrow Funds in escrow in accordance with the terms of the Restated Escrow Agreement, a copy of which is attached hereto as Exhibit "B" At the Closing the parties shall instruct the Escrow Agent to release the Escrow Funds to the Seller and the Nursing Home Seller in immediately available funds;

(b) The entire Purchase Price hereunder shall be paid at the Closing by Buyer to Seller by wire transfer or immediately available funds;

(c) For purposes of this Agreement, the "Escrow Funds" shall mean the sum of all amounts deposited by or on behalf of the Buyer and the Nursing Home Buyer together with all sums deposited with the Escrow Agent, and as set forth in the Restated Escrow Agreement annexed hereto as Exhibit B, including any interest earned in such funds. At

Closing Seller shall retain any interest earned on such funds. Unless express written consent is obtained from the Seller, in no event shall any interest earned on such funds be allocated to the balance of the Purchase Price.

Article VI
Closing

Section 6-1. **Closing Date.** The deed and other closing documents shall be delivered (the "Closing") and the Purchase Price paid concurrently with the closing of the transactions contemplated by the APA and at the place of closing of that contract.

Section 6-2. Deed and Easements. The deed and easements to be delivered by Seller at Closing, and to be accepted by Buyer, and the easements to be delivered by Buyer and accepted by Seller shall be quitclaim in nature. The deed may contain undertakings, waivers, covenants and restrictions, which include, but may not be limited to conditions of approval of any zoning change, site plan, building permit or any other permit, approval or variance required by the Town or any other governmental unit lawfully exercising jurisdiction over the premises, except that the Seller may not alter or modify its obligations under this agreement by any such requirement imposed by it. If any provision in a deed or easement conflicts with any provision of this LSC, the provisions of the deed or easement shall control.

Section 6-3. Closing Documents. Closing documents shall be delivered as follows:

a. Seller and Buyer shall each deliver to the other such evidence as may be reasonably required by the other of the authorization to complete the Closing;

b. Buyer shall deliver to the title company, in a form acceptable to it, payment of all applicable real property transfer taxes in connection with the recording of any instrument;

c. Seller shall execute, acknowledge and deliver such affidavits as the title company shall reasonably require; and

d. Seller and Buyer shall execute and deliver to each other a closing statement.

Section 6-4. Closing Costs. Each party shall pay its own costs and expenses in connection with the sale at Closing, unless otherwise due at a different time. Each party shall pay for the fees and expenses of its attorneys, accountants, consultants, engineers

and others employed or used arising out of or in connection with the sale of the interests being conveyed.

Without limiting the generality of the foregoing, Buyer shall pay:

a. all expenses of or related to the issuance of title insurance; and

b. any applicable recording tax due and payable by reason of the delivery or recording of any instrument.

Apportionments shall be computed as of 11:59 P.M. of the day before the Closing date. Any prorations shall be based on a twelve month calendar year and a thirty day month.

Buyer acknowledges that the conveyed areas are currently wholly exempt from real property taxes and that upon transfer of title, the taxable status of conveyed areas shall be restored in accordance with the New York Real Property Tax Law. Buyer further acknowledges that a pro rata tax will be assessed. During the period between Closing and the tax year when the taxable status of the conveyed area is restored, Buyer shall make a payment in lieu of taxes in an amount equal to the taxes due as if the conveyed area was not tax exempt. Such payment shall be made under the same payment schedule and penalty requirements set forth in the Suffolk County Tax Act. Inasmuch as the premises have never been assessed by the Town for real estate tax purposes, in the event that the tentative assessment made by the Town for the Premises would have resulted in real estate taxes (for the lien year beginning December 1, 2009) exceeding the sum of $300,000, the Buyer may terminate this LSC by notice as provided in Section 12-4, and upon such termination the Escrow Funds shall be paid to the Nursing Home Buyer and Buyer and all parties shall be released from any further liability to the others.

Article VII
Environmental Remediation

Section 7-1. Definitions. For the purposes of this Article, the following definitions shall apply:

a. "Hazardous Substance" or "Hazardous Material" shall mean 1.) any solid, liquid, or gaseous chemical, material, or substance that is regulated by any present or future federal, state, regional, or local law, ordinance, rule, regulation, notice, order, or guidance, including but not limited to any chemical, material, or substance that is designated or regulated as a hazardous or toxic chemical, material or substance, or 2.) any chemical, material or substance the presence of which could be detrimental to the Premises or hazardous to human health or safety or the environment, including but not limited to radioactive materials, including radon, natural gas, natural gas liquids (all of the foregoing gas called "Natural Gas Products"), liquefied natural gas, synthetic gas, or mixtures of Natural Gas

Products and synthetic gas, lead, asbestos containing materials, polychlorinated biphenyls, urea formaldehyde, and petroleum products.

b. "Release" shall mean any release, spill, leak, discharge, disposal, pumping, pouring, emitting, employing, injecting, leaching, dumping, or allowing to escape or migrate into or through the environment.

c. "Remediation" or "Remediate" means all work performed or to be performed to investigate, characterize and remove, contain, dispose, treat, or otherwise deal with the presence on, in, at, or under the Premises, of Hazardous Materials at levels of contamination that require remediation under Environmental Laws, or any spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing (including the abandonment or discarding of barrels, containers or other receptacles containing Hazardous Materials) of Hazardous Materials on or into the Premises, in order to render the Premises in compliance with applicable Environmental Laws.

d. "Environmental Laws" means the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601 et seq., as amended; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 et seq., as amended; the Clean Air Act ("CAA"), 42 U.S.C. 7401 et seq., as amended; the Clean Water Act ("CWA"), 33 U.S.C. 1251 et seq., as amended; and any other federal, state, local or municipal laws, statutes, regulations, rules or ordinances imposing liability or establishing standards for protection of the environment.

Section 7-2 Environmental Examination. During a period of 30 days subsequent to the execution of this LSC, Seller is willing, subject to the terms and conditions provided in this section, to provide reasonable access to the Premises to Buyer and its consultants for activities relating to a Phase I Environmental Site Assessment and, if deemed necessary by Buyer, an additional period of 60 days for such additional tests and reviews as Buyer may require including, but not limited to, tank tests and/or a Phase II Environmental Site Assessment of the Premises (collectively or singly the "Work").

a. Seller grants to Buyer and its consultants reasonable access to the Premises for activities associated with the Work, which access shall be granted pursuant to the terms of this section.

b. This section is expressly limited to access to conduct the Work. Any additional activities at the Premises will be subject to further agreement between the parties.

c. Access to the Premises shall be upon reasonable notice to the Seller, and best efforts shall be undertaken to minimize any disruption of the business activities at the Premises.

d. Consultants used by Buyer to conduct the Work shall procure and maintain the following insurance while conducting the Work: (a) Workers' compensation insurance as required by law; (b) Employer's liability insurance in the amount of $1,000,000; and (c) Commercial general liability insurance including but not limited to blanket contractual liability insurance, premises/operations, products/completed operations, broad form property damage, personal injury and independent contractor's liability insurance, in the combined single limit of $1,000,000 per occurrence and $ 2,000,000 in the aggregate. Consultants shall provide certifications of their brokers that the foregoing insurance is in full force and effect and that the Seller and Buyer are named as additional insured parties on the commercial general liability policy.

e. Buyer shall indemnify, defend and hold harmless, Seller and its successors, heirs and assigns, from and against any and all obligations, liabilities, losses, damages, claims and demands, suits, costs and expenses, including attorneys fees, (collectively "Claims"), arising out of negligent, reckless or intentional acts or omissions of Buyer and its consultants, and their employees, agents and contractors during the course of the activities provided for by this section; provided, however, in no event shall this section apply to claims which may arise out of, be occasioned by, or result from any condition existing on, or which did exist on the Premises on or before the effective date of this LSC or at any time prior to Closing, unless caused by Buyer and/or its consultants, their employees, agents and contractors. This indemnification shall survive the termination of the LCS and the Closing.

f. Restoration of Premises. As further consideration for this Agreement, following the completion of Premises activities, Buyer, shall, at its sole cost and expense, undertake such work as is necessary to remove any items brought on to the Premises as part of the activities and shall restore the Premises to the same condition as existed prior to the activities.

g. Upon completion of the Work, within 10 days of the completion thereof, but not more than 40 days from the date hereof, Buyer shall notify Seller of the results of the Phase I Environmental Site Assessment, and if Buyer shall determine to conduct additional tests and reviews including, but not limited to, tank tests and/or a Phase II Environmental Site Assessment, within 10 days of the completion

thereof, but not more than 100 days after the date hereof, Buyer shall notify Seller of the results thereof. In either event Buyer shall set forth those matters which Buyer in good faith believes require Remediation by Seller ("Notice to Remediate"). Within 14 days of receipt of such Notice to Remediate, Seller shall advise Buyer of whether or not Seller will perform the Remediation sought. In the event Seller agrees to perform such Remediation, this LSC shall continue, subject to the terms and conditions hereof and Seller shall complete the Remediation before the Closing. In the event Seller shall decline to perform such Remediation, Buyer may elect to proceed with this LSC without credit, abatement or modification of the purchase price, or to cancel this LSC in which event Buyer and Nursing Home Buyer shall be entitled to receive the return of the Escrow Funds together with interest earned thereon, if any, and all parties shall be released from any further obligation to the others.

h. Failure of Buyer to notify Seller pursuant to this section within the time required shall constitute a waiver by Buyer of the provisions hereof.

Any notice required to be provided hereunder by Seller or Buyer shall be sent as specified in section 12-4 of this LSC..

Section 7-3. Further Indemnification. Buyer hereby agrees to defend, indemnify and hold Seller, harmless from and against any and all losses, liabilities, damages, liens, claims, demands, causes of action, costs and expenses, including reasonable attorneys' fees, arising out of or related to the Release of Hazardous Substances or Hazardous Materials arising out of Buyer's or Buyer's Agents' activities on the Premises prior to the Closing, or arising out of Buyer's Release of Hazardous Substances or Hazardous Materials and/or Buyer's or Buyer's Agents' activities on or after the Closing. This indemnification includes, without limitation, any and all costs incurred because of any investigation, review or testing of the Premises or any cleanup, removal of structures, or restoration required or requested by a federal, state or local agency or political subdivision, including, without limitation, any such costs associated with the contamination of adjacent property or ground water caused by Buyer's or Buyer's Agents' activities prior to and after the Closing. Subject to the qualifications contained in this Section, this indemnification shall include all third party claims related to, or arising out of a Release of Hazardous Substances or Hazardous Materials on or below the Premises.

Section 7-4. Remediation. Buyer covenants and agrees to Remediate, from and after Closing, at its sole cost and expense, the Premises when, if, and to the extent Remediation is required by Environmental Laws or governmental authority having jurisdiction over the Premises (the "Remediation Obligation"), provided that the Remediation Obligation shall not include any obligation by Buyer to indemnify or defend

or hold harmless Seller against any of the following, provided in each instance, the claim asserted may or could have asserted against Seller on or before the Closing:

a. any fine, penalty or claim by a non-governmental third party;

b. any fine or penalty by a governmental authority; or

c. any claim by a governmental authority other than a claim to Remediate the Premises.

Buyer shall have the right to contest any or all of the foregoing at any time and from time to time up to and including a final and non-appealable judgment of a court of competent jurisdiction.

Section 7-5. Additional Indemnification. In addition to the foregoing, Buyer shall indemnify, defend and hold Seller harmless from and against:

a. all losses incurred by Seller arising out of Buyer's material breach of its covenants and obligations as provided in this Article;

b. Buyer's breach of the Remediation Obligation; and

c. any claim by any subsequent owner of the Premises for reimbursement for any costs of Remediation of the Premises.

Buyer shall have the right to contest any or all of the foregoing at any time and from time to time up to and including a final and non-appealable judgment of a court of competent jurisdiction.

Section 7-6. Material Inducement. Buyer acknowledges that Seller is expressly relying on the provisions contained herein, which are a material inducement for Seller to enter into the transaction contemplated by the LSC.

Article VIII
Termination

Section 8-1. Zoning and Regulatory Matters. If the Town or any other governmental or quasi-governmental office does not approve Buyer's application for zoning changes and/or other permits or approvals, including but not limited to Regulatory Matters, required to permit the continued operation of the Premises from and after the Closing as a certified skilled nursing facility with an adult day care, all as currently operated, Buyer shall be entitled to terminate this Agreement and together with Nursing Home Buyer receive the immediate refund of the Escrowed Funds plus accrued interest thereon.

Section 8-2. Termination Due to Title Objection. This Agreement may be terminated due to an objection to title as set forth in **Section 3-3** upon Notice provided for in this

Agreement at **Section 12-4** whereupon Buyer together with Nursing Home Buyer shall receive the immediate return of the Escrowed Funds plus accrued interest thereon.

Section 8-3 Termination due to Environmental Condition. This Agreement may be terminated by Buyer pursuant to the provisions of Section 7-2 (g) hereof.

Section 8-3. Termination upon Termination of the APA. This Agreement shall terminate upon termination of the APA in accordance with its terms.

Section 8-4. Termination Pursuant to Article IX. This Agreement may be terminated in accordance with the provisions contained in Article IX.

Section 8-5. Termination Pursuant to Section 6-4. This Agreement may be terminated in accordance with the provisions contained in Section 6-4.

Article IX

Default and Remedies; Casualty; Risk of Loss

Section 9-1. Defaults and Remedies. If Buyer defaults hereunder and has not cured the same within 30 days after Buyer's receipt of Seller's default notice specifying such default, Seller's sole remedy shall be to receive and retain the Escrow Funds plus accrued interest thereon as liquidated damages and its sole remedy, it being agreed that Seller's damages in case of Buyer's default might be impossible to ascertain and that the Escrow Funds plus accrued interest thereon constitutes a fair and reasonable amount of damages under the circumstances and is not a penalty. If Seller defaults hereunder, Buyer shall cumulatively have all rights and remedies available under this Agreement, at law and equity, including but not limited to an action seeking damages and/or to obtain specific performance of Seller's obligations under this Agreement, the termination of this Agreement and the immediate payment to Buyer and the Nursing Home Buyer of the Escrowed Funds plus accrued interest thereon, and the reimbursement of all costs and expenses, including but not limited to reasonable attorneys' fees and court costs incurred in connection with Seller's breach or default and/or the enforcement of this provision. This provision will survive any termination of this Agreement.

Section 9-2 Casualty; Condemnation.

(a) Seller shall bear all loss or damage to the Premises occurring prior to the Closing Date. In the event of any such loss or damage, Seller shall give notice thereof to Buyer. In the event repairs or replacement are required to be made promptly in the reasonable judgment of Seller, Seller shall proceed with the required repairs or replacements at its cost or expense. In the event repairs or replacement are not promptly required, Buyer may, within ten (10) business days after receipt of notice of the loss or damage, give notice to Seller that: (i) it does not require the repair or

replacement of the loss or damage, in which case Seller shall have no obligation to make such repair or replacement and any insurance proceeds received by it as a result thereof shall belong to Seller and the Purchase Price shall be reduced by the value of such loss or damage plus the amount of the deductible attributable by the insurer to such loss or damage, or (ii) it elects to make the repair or replacement of the loss or damage after the Closing, in which case the Purchase Price shall be reduced by the value of such loss or damage plus the amount of the deductible attributable by the insurer to such loss or damage. Notwithstanding the foregoing, if in the reasonable judgment of Buyer or Seller a material part of the Premises is destroyed, either party may within thirty (30) days thereafter give notice to the other party that it elects to terminate this Agreement. In such event, the Escrowed Funds plus accrued interest thereon shall be returned to Buyer and Nursing Home Buyer and neither party hereto shall have any further obligation hereunder other than those provisions of this Agreement which specifically survive the termination.

(b) If, prior to the Closing, there shall be a taking by condemnation or eminent domain (a "taking") of five percent (5%) or more of the land constituting the Premises, which taking may reasonably be expected to interfere with Buyers use of the Premises, Seller shall give notice thereof to Buyer, and Buyer may, by notice to Seller given the earlier of thirty (30) days after notice thereof from Seller or at the Closing, terminate this Agreement. In such event, the Escrowed Funds plus accrued interest thereon shall be returned to Buyer and Nursing Home Buyer and neither party hereto shall have any further obligation hereunder other than those provisions of this Agreement which specifically survive the termination.

(c) If, prior to the Closing, there shall be a taking of less than five percent (5%) of the land constituting the Premises, or if Buyer does not elect to terminate this Agreement if permitted to do so under (b) above, then this Agreement shall continue in full force and effect without abatement of the Purchase Price. In such event, Seller will assign without representation or warranty to Buyer all of its interest in any awards payable as the result of such taking, free and clear of any liens, claims or security interests. If any portion of such award has already been received by Seller, then the amount so received (net of costs of collection, if any) shall be paid or allowed to Buyer at the Closing, without interest.

Section 9.3 APA. It is expressly agreed and understood that the closing of the transaction contemplated under the APA is an express obligation of the parties to close the transactions contemplated by this Agreement. A default under the APA shall be a default hereunder and visa versa. In addition, if the Nursing Home Buyer is entitled to cancel or terminate the APA or otherwise be entitled to the return of the Escrow Funds,, , in accordance with the terms of the APA, the Buyer shall be entitled to cancel or terminate this Agreement and receive an immediate refund of the Escrow Funds, if any, plus accrued interest thereon. Similarly, if the Nursing Home Seller is entitled to cancel or terminate the APA or otherwise be entitled to the receive of the Escrow Funds in accordance with the terms of the APA, the Seller shall be entitled to cancel or terminate this Agreement and immediately receive the Escrow Funds, if any plus accrued interest thereon. This provision shall survive any termination of this Agreement.

Article X
Representations

Section 10-1, Buyers Representations. Buyer understands the following:

a. that it shall prepare, all at Buyer's expense, the surveys and maps and shall record the deeds, covenants and restrictions and maps necessary for the application seeking the approval for all Town, County and New York State permits and/or approvals;

b. that it shall bear all on site infrastructure costs necessary to obtain required approvals and utilities.

Section 10-2. Seller's Representations. Seller represents and warrants to Buyer that as of the date hereof the following representations and warranties are true in all material respects and that the same shall be true in all material respects as of the date of Closing:

a. Except as otherwise provided in this Agreement, there are no leases, tenancies, mortgages or deeds or other indentures to which Seller is a party which now encumbers the Premises or any portion thereof.

b. there is no action, suit or other proceeding pending against Seller with respect to the Premises or the transactions contemplated by this Agreement.

c. Except as disclosed in Schedule 10-2, there are no underground fuel tanks and no violations of any state, county or municipal laws, rules or

regulations.

d. Any and all easements and rights of way necessary for Buyer to use the Premises as contemplated hereby shall be granted by Seller to Buyer, to run with the land in perpetuity, without additional cost or expense, including (without limitation) those required by Buyer for sewer and water and other utilities, and respecting roads and curb cuts.

e. All electrical, plumbing, heating, water and air conditioning systems are and shall at Closing be in their present condition, reasonable wear and tear excepted..

f. Except as set forth in Schedule 10-2, there are no violations against the Premises and Seller shall cure and discharge all violations noted or issued by the applicable governmental authority, except as otherwise provided in Section 11.17 of the APA, at or before the date of Closing and shall convey the Premises free of the same at Closing. Buyer shall take the Premises subject to only those violations for which the Nursing Home Buyer shall take subject to pursuant to Section 11.17 of the APA. This provision shall survive the Closing.

g. This Agreement and Buyer's obligations to purchase the Premises are subject to and conditioned upon the accuracy as of the Closing Date of all of Seller's representations and warranties.

Article XI
Indemnification

Section 11-1. Buyer Indemnification. In addition to the indemnification requirements set forth in **Article VII**, Buyer agrees that from and after closing it shall protect, indemnify and hold harmless Seller and its officers, officials, employees, contractors, agents and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorneys' fees, arising out of the acts or omissions or the negligence of Buyer after closing. Buyer shall defend Seller and its officers, officials, employees, contractors, agents and other persons in any such suit, including appeals, or at Seller's option, pay reasonable attorneys' fees for defense of any such suit.

Section 11-2. Seller Indemnification. In addition to the indemnification requirements set forth elsewhere in this Agreement, Seller agrees that from and after closing it shall protect, indemnify and hold harmless Buyer and its principals, officers, officials, employees, contractors, agents and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or

actions and reasonable attorneys' fees, arising out of the acts or omissions or the negligence of Seller before closing. Seller shall defend Buyer and its principals, officers, officials, employees, contractors, agents and other persons in any such suit, including appeals, or at Buyer's option, pay reasonable attorneys' fees for defense of any such suit.

Section 11-3 Limits on Indemnification.

a. In no event will the Seller's indemnity obligations hereunder, and under the APA or any other document executed in connection herewith or therewith, exceed, in the aggregate, $5,000,000 plus the amount of any Excluded Liabilities, as provided in the APA but only to the extent that one or more third parties asserts claims against the Buyer related to the Excluded Liabilities, (the "Indemnification Cap").

b. In no event will the Buyer's indemnity obligations hereunder, and under the APA or any document executed in connection herewith or therewith exceed, in the aggregate, $5,000,000 (the "Buyer Cap").

Article XII
Miscellaneous

Section 12-1. Investigate and Negotiate Regulatory Matters. Buyer is authorized by Seller to investigate and negotiate with all governmental, quasi-governmental and other entities having or claiming jurisdiction over the Premises regarding any one or more of the items enumerated in the definition of Regulatory Matters and Seller agrees to cooperate with Buyer in assisting Buyer in its efforts to obtain all approvals for all Regulatory Matters.

Section 12-2.. Lawful Compliance. Buyer shall comply with any federal, state or local law, rule, or regulation affecting the transactions contemplated by this LSC.

Section 12-3. Restoration. In the event that this LSC is terminated by Buyer, Buyer shall repair and restore any damage or disturbance caused by Buyer's exercise of its rights under this LSC, to substantially the same condition as existed prior to such damage or disturbance occurring. In connection therewith, in the event that this LSC is terminated prior to Closing, Buyer is granted a right of access to enter the Premises from and after the termination of this LSC for the purpose of performing such restoration and repairs, which grant shall survive the termination of this LSC and shall not expire until such repairs and restoration are completed by Buyer. The terms of Article VII shall apply hereto.

Section 12-4. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be delivered personally, by registered or certified mail, return requested,

postage prepaid, by facsimile (which is confirmed), or via recognized overnight delivery service (providing proof of delivery) to the parties as follows:

If to Seller, to:

County of Suffolk
Leonard J. Marchese, MBA, CPA
Director of Management and Research
Suffolk County Department of Health Services

If to Buyer, to:

c/o Isidor D. Friedenberg

2 Cara Drive

Suffern, New York 10901

With copies to:

Christine Malafi, County Attorney
Suffolk County Department of Law
H. Lee Dennison Building
100 Veterans Memorial Highway
Hauppauge, NY 11788-0099
And

Farrell Fritz, P.C.
1320 RexCorp Plaza
Uniondale, NY 11556-1320
Attention: Robert Creighton, Esq.
Christopher J. Kutner, Esq.

With a copy to:

Isidor D. Friedenberg

2 Cara Drive

Suffern, New York 10901

or to such other address or facsimile number and with such other copies as such party may hereafter specify for the purpose of notice to the other party. Each such notice shall be effective: (a) if given by facsimile, when such facsimile is transmitted to the facsimile number specified in this Section and evidence of receipt is received; or (b) if given by any other means, upon delivery or refusal of delivery at the address specified in this Section.

Section 12-5. Disclosure Statement. Buyer represents and warrants that, unless exempt, it has have filed with the Comptroller of Suffolk County the verified public disclosure statement required by Suffolk County Administrative Code A5-7 and shall file an update of such statement with the said Comptroller on or before the 31st day of January in each year of this Agreement's duration. Buyer acknowledges that such filing is a material, contractual and statutory duty as per the aforementioned Administrative Code. This provision is subject to a cure period of forty-five (45) days upon receipt of Notice as provided for in **Section 12-4.**

Section 12-6. Confidentiality. The provisions of the Confidentiality Agreement shall govern this Agreement, as if the Buyer were a party thereto.

Section 12-7. Certification as to Relationships. Pursuant to Suffolk County Code Chapter 143, Article II and Suffolk County Code § 143-6(B) specifically, the parties hereto hereby certify that, other than this Agreement and the APA and other valid agreements with the County, there is no known relationship within the third degree of consanguinity, life partner, or business, commercial economic or financial relationship between the parties, the signatories to this LSC and any partners, members, directors, or shareholders of five (5%) percent or more of any party to this Agreement.

Section 12-8. Execution of Documents. This LSC may be executed in any number of original or PDF or fax counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same agreement.

Section 12-9. Headings. Any headings or titles of the several parts, Articles, and Sections of this LSC are for convenience only and shall be disregarded in construing or interpreting any of its provisions.

Section 12-10. No Implied Waiver. No waiver shall be inferred from any failure or forbearance of a party to enforce any provision of this LSC in any particular instance or instances, but the same shall otherwise remain in full force and effect notwithstanding any such failure or forbearance.

Section 12-11. Entire Agreement. This Agreement contains the entire understanding between the parties and may not be amended or modified except by an instrument in writing duly executed by all of the parties hereto.

Section 12-12. Severability. It is expressly agreed that if any term or provision of this LSC, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of this LSC, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and every other term and provision of the LSC shall be valid and shall be enforced to the fullest extent permitted by law.

Section 12-13. Claims and Actions. No claim whatsoever shall be made by Buyer, its successors or assigns, against any officer, agent or employee of Seller for, or on account of, anything done or omitted to be done in connection with this LSC. No claim whatsoever shall be made by Seller, its successors or assigns, against any principal, officer, agent or employee of Buyer for, or on account of, anything done or omitted to be done in connection with this LSC. Each of the parties hereto agrees to render diligently to the other party, without compensation, any and all cooperation, that may be required to defend the other party, its employees and designated representatives against any third

party claim, demand or action that may be brought against the other party, its employees or designated representatives in connection with this LSC.

Section 12-14. Cooperation. Seller and Buyer shall coordinate and cooperate in a reasonable manner to facilitate the transactions contemplated under this Agreement and shall share information on a timely basis as the need arises.

Section 12-15. Choice of Law and Consent to Jurisdiction and Venue. This LSC shall be governed by and construed in accordance with the laws of the State of New York without regard to conflict of law provisions. Venue shall be designated as Suffolk County, New York or the United States District Court for the Eastern District of New York.

Section 12-16. Brokers; no commission. No brokerage or any other fee or compensation shall be due or payable by Seller for this transaction, except that Seller has employed Loeb & Troper, LLP as its agent and shall pay Loeb & Troper, LLP pursuant to a separate agreement between it and such agent.

Section 12-17. Arrears. Buyer warrants that it is not in arrears to Seller upon debt or contract and is not in default as surety, contractor or otherwise on any obligation to or contract with Seller.

Section 12-18. Survival. None of the provisions of this LSC are intended to or shall be merged by reason of any deed transferring title to the Premises, and any such deed shall not be deemed to affect or impair the provisions and covenants in this LSC, all of which shall survive the delivery of such deed.

Section 12-19. Vendee's Lien. The Escrow Funds shall be a lien against the Premises, provided however such lien shall not continue after default by Buyer hereunder or be deemed an objection to title.

Section 12-20. Counsel. Each party to this Agreement represents to the other party that they have been represented in this transaction by counsel of their own choice and have consulted such counsel before entering into this Contract. This clause shall survive delivery of the Deed.

Section 12-21. Zoning and Certificates of Occupancy. Notwithstanding anything contained in this Agreement or in the APA to the contrary, Buyer's obligations under this Agreement are conditioned and contingent upon Buyer's receipt prior to Closing of all governmental, quasi-governmental and municipal authority consents and approvals required for Buyer's use and occupancy of the Premises after Closing as and for a 264 certified bed skilled nursing facility and for its use as an adult day health care center, all as currently used and operated, including but not limited to all necessary zoning changes or waivers, site plan approvals, building and other permits, certificates,, approvals and variances. Buyer shall make prompt, truthful, complete and diligent application(s) therefor after approval by the County Legislature, and notice thereof to Buyer as provided

in Section 12-4 hereof. After making prompt, truthful, complete and diligent application(s), in event that Buyer's application(s) for any of the foregoing shall at any time be denied or if by the Closing date Buyer shall not have received all required approvals, consents, certificates of occupancy, zoning clearances or waivers and any other permissions and/or approvals required for Buyer's use and occupancy as aforesaid, from all governmental quasi-governmental and municipal authority offices which would have jurisdiction over the Premises from and after the Closing Date, Buyer shall have the option, exercisable in its sole discretion, to cancel this Agreement and together with the Nursing Home Buyer receive the prompt return of the Escrow Funds plus accrued interest thereon, whereupon neither party shall have any further obligation to the other. Seller agrees to fully and promptly cooperate with Buyer as and when Buyer may request in Buyer's effort to obtain all the necessary consents, waivers and approvals contemplated under this paragraph.

--End of Text--

IN WITNESS WHEREOF, the Buyer and the Seller have caused this Agreement to be signed as of the date that appears in its first paragraph.

SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES

By: _____
Name: Leonard J.Marchese
Title: Director of Management & Research

FOLEY LAND, LLC

By: _____
Name: Kenneth Rozenberg
Title: Manager

Approved as to Legality:
Christine Malafi, County Attorney

By: _____
Name: Robert A. Braun
Title: Assistant County Attorney

IN WITNESS WHEREOF, the Buyer and the Seller have caused this Agreement to be signed as of the date that appears in its first paragraph.

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By:_____
Name: Kenneth Rozenberg
Title: Manager

Approved as to Legality:
Christine Malafi, County Attorney

By: _____
Name: Robert A. Braun
Title: Assistant County Attorney

Exhibit 1
Description of Premises

COUNTY OF SUFFOLK – DEPARTMENT OF PUBLIC WORKS

Tax Map Nos. P/O 0200 – 742.00 – 01.00 – 003.001 &
P/O 0200 – 742.00 – 01.00 – 003.002

ALL that piece or parcel of land situate in the Hamlet of Yaphank, Town of Brookhaven, County of Suffolk, State of New York as shown on a Map prepared for Suffolk County and on file in the Office of the Commissioner of the Department of Public Works dated September 15, 2009 and described as follows:

COMMENCING at a point on the division line between the lands of the County of Suffolk on the east and the lands now or formerly of Harvey A. Auerbach, reputed owner on the west; said point also being on the division line between the lands of the County of Suffolk on the south, and the lands of the Metropolitan Transportation Authority and the Long Island Railroad, reputed owners on the north; thence S 04° 46' 00" E along the previously mentioned division line between the lands now or formerly of Harvey A. Auerbach, reputed owner on the west, and the County of Suffolk on the east, a distance of 1,834.49 feet to a point.

THENCE, N 84° 38' 50' E through the lands of the County of Suffolk, a distance of 4,700.34 feet to a point on the westerly boundary of Yaphank Avenue, CR 21;

THENCE, southerly along said boundary the following three (3) courses and distances:

1. S 05° 30' 19" E, a distance of 269.07 feet to a point;
2. S 10° 41' 32" E, a distance of 119.74 feet to a point;
3. S 05° 13' 41" E, a distance of 517.00 feet to the **Point Of Beginning;**

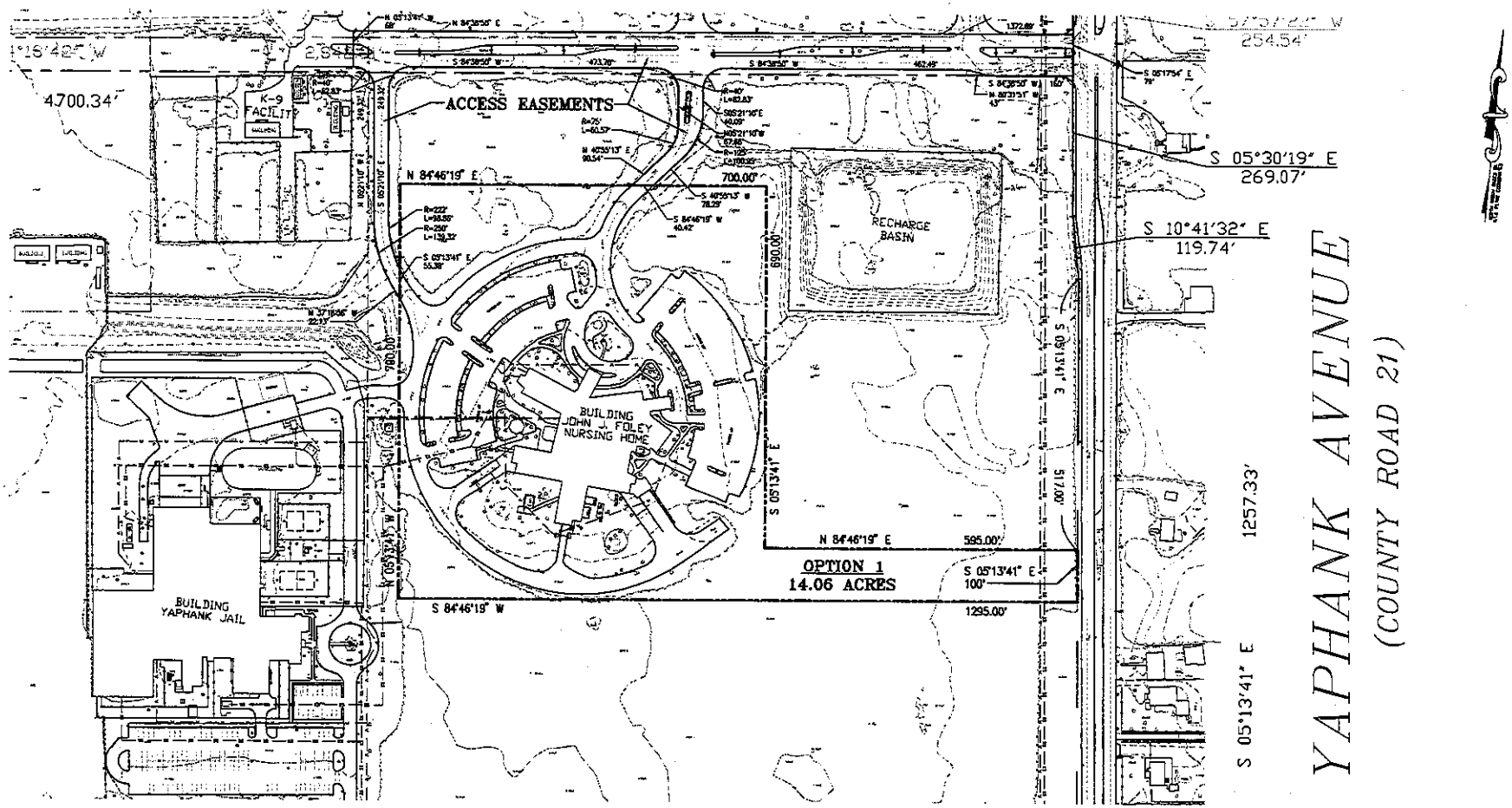
THENCE from said **Point Of Beginning** the following five (5) courses and distances:

1. S 84° 46' 19" W, a distance of 595.00 feet to a point;
2. N 05° 13' 41" W, a distance of 690.00 feet to a point;
3. S 84° 46' 19" W, a distance of 700.00 feet to a point;
4. S 05° 13' 41" E, a distance of 790.00 feet to a point;
5. N 84°46'19" E, a distance of 1,295.00 feet to a point on the aforementioned western boundary of Yaphank Avenue, CR 21;

THENCE, N 05° 13' 41" W along said boundary a distance of 100.00 feet to the **Point Of Beginning,** being 612,500 ± square feet or 14,061 ± acres MORE OR LESS.

Excepting, also and reserving to any and all utilities the right of access at all times for the update, maintenance and service of their facilities.

Exhibit 2
Survey of Premises



COUNTY OF SUFFOLK
DEPARTMENT OF PUBLIC WORKS
YAPHANK, NEW YORK

GILBERT ANDERSON, P.E. – COMMISIONER

SAVIK & MURRAY, LLP
CONSULTING ENGINEERS - RONKONKOMA, N.Y.

YAPHANK SUBDIVISION
FOLEY CENTER

OPTION 1

SYMBOL	DESCRIPTION	APPROVED	DATE	PROJECT NO.	SCALE	DWG. NO.	SHEET NO.
	REVISIONS			X	1"=100'	3-05-10	1 OF 2

Exhibit 3
Description of Easement

COUNTY OF SUFFOLK – DEPARTMENT OF PUBLIC WORKS

Tax Map Nos. P/O 0200-742.00-01.00-003.001 &
P/O 0200-742.00-01.00-003.002

Permanent Easement for Ingress and Egress

A permanent, non-exclusive easement to be exercised in, on and over the property herein delineated for the purpose of ingress and egress to the John J. Foley Skilled Nursing Facility and more particularly bounded and described as follows:

All that piece or parcel of land situate in the Hamlet of Yaphank, Town of Brookhaven, County of Suffolk, State of New York as shown on a Map on file with the Commissioner of the Department of Public works as prepared by Michael J. Wicks L.S. and dated September 15, 2009 and described as follows:

Commencing at a point on the division line between the lands of the County of Suffolk on the east and the lands now or formerly of Harvey A. Auerbach, reputed owner on the west; said point also being on the division line between the lands of the County of Suffolk on the south, and the lands of the Metropolitan Transportation Authority and the Long Island Railroad, reputed owners on the north; thence S 04°46'00" E along the previously mentioned division line between the lands now or formerly of Harvey A. Auerbach, reputed owner on the west, and the County of Suffolk on the east, a distance of 1834.49 feet to a point;

Thence, N 84°38'50" E through the land of Suffolk County a distance of 4700.34 feet to a point on the westerly boundary of Yaphank Avenue CR 21 and the **Point of Beginning;**

Thence, from said point of beginning and through the Land of Suffolk County the following twenty-three (23) courses and distance;

1. S 84°38'50" W, a distance of 160.00 feet to a point;
2. N 80°31'51" W, a distance of 43.00 feet to a point;
3. S 84°38'50" W, a distance of 462.49 feet to a point;

4. along the arc of a curve to the left having a radius of 40.00 feet an arc length of 62.83 feet to a point;
5. S 05°21'10" E, a distance of 40.09 feet to a point;
6. along the arc of a curve to the right having a radius of 125.00 feet an arc length of 100.95 feet to a point;
7. S 40°55'13" W, a distance of 78.29 feet to a point on the northerly boundary of the John J. Foley Skilled Nursing Facility;
8. S 84°46'19" W, along said boundary, a distance of 40.42 feet to a point;
9. N 40°55'13" E, a distance of 90.54 feet to a point;
10. along the arc of a curve to the left having a radius of 75.00 feet an arc length of 60.57 feet to a point;
11. N 05°21'10" W, a distance of 67.66 feet to a point;
12. along the arc of a curve to the left having a radius of 40.00 feet an arc length of 62.83 feet to a point;
13. S 84°38'50" W, a distance of 473.70 feet to a point;
14. along the arc of a curve to the left having a radius of 40.00 feet an arc length of 62.83 feet to a point;
15. S 05°21'10" E, a distance of 249.32 feet to a point;
16. along the arc of a curve to the left having a radius of 222.00 feet an arc length of 98.86 feet to a point on the westerly boundary of the John J. Foley Skilled Nursing Facility;
17. S 05°13'41" E, along said boundary, a distance of 55.38 feet to a point;
18. N 37°16'56" W, a distance of 22.13 feet to a point;
19. along the arc of a curve to the right having a radius of 250.00 feet an arc length of 139.32 feet to a point;
20. N 05°21'10" W, a distance of 249.32 feet to a point;
21. along the arc of a curve to the left having a radius of 40.00 feet an arc length of 62.83 feet to a point;
22. N 05°13'41" W, a distance of 68.00 feet to a point;
23. N 84°38'50" E, a distance of 1372.69 feet to a point on the aforementioned westerly boundary of Yaphank Avenue CR 21;

Thence, S 05°17'54" E, along said boundary, a distance of 79.00 feet to the **Point of Beginning**; being 118,215± square feet or 2.714± acres, more or less.

Excepting also and reserving to any and all utilities the right of access at all times for the update, maintenance and service of their facilities.

Exhibit A
Asset Purchase Agreement

ASSET PURCHASE AGREEMENT

By and Between

THE COUNTY OF SUFFOLK, a Municipal Corporation of the State of New York,

And

FOLEY OPERATING LLC

Dated as of April 20, 2010

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ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT** (this "Agreement"), dated as of April 20, 2010, is entered into by and between the County of Suffolk, a municipal corporation of the State of New York, acting through its duly constituted Department of Health Services (the "Seller"), and **FOLEY OPERATING LLC**, a New York limited liability company having offices c/o Isidor D. Friedenberg, Esq., 2 Cara Drive, Suffern, New York 10901 (the "Buyer"). The Seller and the Buyer are referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the Seller owns a 264 certified bed licensed skilled nursing facility known as John J. Foley Skilled Nursing Facility (the "Facility"), an enterprise fund of the County of Suffolk, which Seller operates under the Department of Health Services of the County of Suffolk;

WHEREAS, on March 5, 2009, pursuant to Suffolk County Resolution No. 881-08 the County Executive, through the Department of Health Services issued a request for expressions of interest ("RFEI") to transfer ownership and/or operation and management of the Facility and

WHEREAS, Seller is the owner and licensed operator of an Adult Day Care Program (the "Adult Day Care Program"); and

WHEREAS, qualified RFEI respondents received a request for proposals ("RFP") to transfer ownership and/or operation and management of the Facility issued on September 21, 2009; and

WHEREAS, on February 23, 2010, based on the evaluation of the RFP Review Committee, an award letter for the sale of the Facility was issued to the Buyer's principal; and

WHEREAS, the parties executed a Letter of Intent, dated March 17, 2010, which, inter alia, permitted Buyer to enter into this Agreement for the sale and purchase of the operations of the Facility and the Adult Day Care Program; and

WHEREAS, the Seller desires to sell, assign, and deliver to the Buyer, and the Buyer desires to acquire, purchase, accept assignment, and accept delivery from the Seller, the assets of the Facility and the Adult Day Care Program, including an assignment by the Seller of its rights, title and interest in and to the license to operate the Facility; provided that to the extent such license cannot be assigned, the Seller shall cooperate with the Buyer to assist the Buyer in obtaining new license from the New York State Health Department;

WHEREAS, the Buyer and the Seller wish to set forth the terms and conditions under which the Buyer will buy and the Seller will sell, or cause to be sold, the assets of the Facility's business; and

WHEREAS, concurrently herewith Seller and Foley Land LLC, a New York limited liability company with offices c/o Isidor D. Friedenberg, Esq., 2 Cara Drive, Suffern, New York 10901 (the "Real Estate Buyer"), are entering into an agreement in the form annexed hereto as Exhibit C (the "Land Sale Contract") whereby Real Estate Buyer will purchase and acquire from Seller the real property site on which Seller operates the Facility (the "Real Estate", the "Real Property" or the "Premises"), the closing of which shall occur simultaneously with the Closing hereunder and shall be a contingency hereof.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants, agreements, representations, and warranties contained herein, and for other good and valuable consideration, the Seller and the Buyer hereby agree as follows:

DEFINITIONS

Definitions. When used in this Agreement, these terms shall have these meanings:

"Actions" means any action, claim, suit, litigation, proceeding, arbitration action, audit, or investigation by or before any Governmental Authority or Person.

"ADC Adjustment" shall have the meaning assigned to such term in Section 4.12 of this Agreement.

"Adult Day Care Program" shall have the meaning assigned to such term in the Recitals hereto.

"Application" has the meaning assigned to such term in Section 4.4 hereof.

"Asset Purchase" means the sale by the Seller and the purchase by the Buyer of the Assets and the assumption of the Assumed Liabilities by the Buyer pursuant to this Agreement and the documents executed in connection herewith.

"Assets" mean those assets and all of the rights accruing thereunder after the Closing Date as more particularly described in Section 1.1.

"Assumed Liabilities" means those liabilities, if any, identified on Schedule 1.3.

"Assignment and Assumption Agreement" means that agreement substantially in the form attached hereto as Exhibit A, and subject to such amendments as may be required in order to obtain the necessary Governmental Authorizations, pursuant to which the Seller assigns to the Buyer and the Buyer assumes those obligations of the Seller accruing from and after the Closing under the Material Contracts which Buyer may elect to have assigned to it at Closing.

"Bill of Sale" means that certain bill of sale substantially in the form attached hereto as Exhibit B pursuant to which the Buyer agrees to purchase the Assets from the Seller.

"Business" means the business of operating the Facility and the Adult Day Care Program operated by the Seller as of the Closing Date.

"Business Days" means any day other than a Saturday or Sunday or any other day on which commercial banks located in the State of New York generally are authorized to close for business other than the retail depository business.

"Certificate of Need" shall mean the consent and/or approval, and such other authorizations or certifications, the Buyer is required to obtain from the Department of Health of New York and/or the Public Health Council of New York before the Buyer becomes licensed to operate the Facility enabling the Parties to consummate the transaction contemplated by this Agreement.

"Closing" means the closing of the sale, assignment, and purchase of the Assets by the Buyer effective as of the Closing Date, in accordance with and subject to Article I and all of the terms and conditions of this Agreement.

"Closing Date" means the date on which the Closing becomes effective.

"Code" means the Internal Revenue Code of 1986, as amended.

"Confidentiality Agreement" means that certain letter agreement, dated March 17, 2010, entered into by and between the Seller and the Buyer.

"Contracts" means contracts the Facility and/or Seller has entered into concerning the operations and services at the Facility.

"Department of Health" means the New York State Department of Health and, when applicable to the Public Health Council of the State of New York.

"Enterprise Fund (Fund 632)" means the enterprise fund established by the Seller for operation of the Facility.

"Escrow Funds" has the meaning assigned to such terms in Section 1.4(d) hereof

"Escrow Agent" shall mean Farrell Fritz, P.C., having offices at 1320 RXR Plaza, Uniondale, NY 11556.

"Excluded Assets" shall have the meaning assigned to such term in Section 1.2.

"Excluded Liabilities" shall have the meaning assigned to such term in Section 1.3.

"Exhibits" mean the exhibits attached hereto by the Seller and the Buyer which form part of this Agreement.

"Facility" shall have the meaning assigned to such term in the Recitals hereto.

"Final Deposit" has the meaning assigned to such term in Section 1.4(a) hereof.

"Governmental Authority" means court, tribunal, arbitrator or any government or political subdivision thereof, whether federal, state, county, local or foreign, or any agency, authority, official or instrumentality of any such government or political subdivision.

"Governmental Authorizations" means the licenses, permits, consents, approvals and other authorizations required by law or any Governmental Authority to be held by a Person for a particular purpose, including for the purposes of transferring, acquiring or using any of the Assets and/or the Premises.

"Hired Employees" has the meaning given to such term in Section 6.3 hereof.

"Hospital Contracts" has the meaning assigned to such term in Section 2.8 hereof.

"Initial Deposit" means the initial deposit made on behalf of the Buyer to the Escrow Agent upon execution of the letter of intent with respect to the transactions contemplated hereby.

"Land Sale Contract" has the meaning assigned to such term in the Recitals hereto.

"Law" means any law, statute, rule, regulation, ordinance and other pronouncement having the effect of law of the United States, any foreign country or any domestic or foreign state, county, city or other political subdivision or of any Governmental Authority.

"Lien" means any lien, pledge, hypothecation, mortgage, assessment, charge, security interest, claim, lease, charge, option, right of first refusal, easement, servitude, transfer restriction under any stockholder or similar agreement, encumbrance or any other restriction or limitation or adverse claim whatsoever.

"Material Adverse Effect" means, with respect to any Person or the Facility, any change, effect, or circumstance that, individually or in the aggregate, is or is reasonably likely to be materially adverse to the financial condition, results of operations, or membership of such Person or the Facility; provided, however, that the following shall not be taken into account in determining whether there has been or would be a Material Adverse Effect on or with respect to such Person or the Facility: (a) any change, effect, or circumstance relating to conditions affecting the economy of any part of the world generally, or any change, effect, or circumstance relating to conditions generally affecting the health care industry, and, in either case, not affecting such Person or the Facility in a materially disproportionate manner, (b) any change, circumstance, or effect caused by the announcement or pendency of the Asset Purchase and the related transactions and (c) any change, circumstance or effect related to changes in third party reimbursement rates paid to the Facility for services rendered.

"Material Contracts" shall have the same meaning assigned to such term in Section 2.8 hereof.

"Medical Claims" means any and all claims, bills, invoices or requests for payment submitted to Payors for health care services rendered to Residents.

"Order" means any writ, judgment, award, decree, consent decree, injunction or similar order of any Governmental Authority, in each case whether preliminary or final.

"Payor Contracts" shall mean those agreements by and between Seller or the Facility and Payors governing, among other things, the terms and conditions for reimbursement of Medical Claims by Payor to the Facility for Services rendered to the Residents.

"Payors" means any individual or entity obligated by policy, contract or law to pay for goods and services rendered to a Resident of the Facility.

"Person" means any individual, partnership, limited liability company, corporation, estate, trust, unincorporated association, business, or other legal entity, and any government or any governmental agency or political subdivision thereof.

"Pre-Closing Receivables" means all rights to reimbursement or other funds related to, among other things, goods and services provided or rendered to a Resident occurring prior to 12:01 a.m. local time on the Closing Date.

"Programs" means, collectively, Medicare, Medicaid and all other government and commercial sources of payment or reimbursement for care and/or services provided at the Facility to a Resident.

"Provider" shall mean an individual or entity providing professional medical, dental, behavioral or other professional services at the Facility.

"Provider Agreements" has the meaning assigned to such term in Section 2.8 hereof.

"Purchase Price" has the meaning assigned to such term in Section 1.4.

"Premises" means the real property to be sold pursuant to the Land Sale Contract, together with the fixtures appurtenant thereto, the improvements thereon and the easements for access to be conveyed, including the real property upon which the Facility and the Program are located and the real property used in connection therewith.

"Registrants" means those individuals enrolled to attend the Facility's Adult Day Care Program.

"Representatives" means, with respect to any Party, such Party's counsel, accountants, investment bankers, employees, agents or other representatives.

"Residents" means those individuals residing at Facility on the date of Closing.

"Responsible Person" means one of the following individuals who are employed by the Seller and are directly involved with the Facility:

Leonard J. Marchese, MBA, CPA
Director of Management and Research
Suffolk County Department of Health Services

"Seller's Knowledge" means, when modifying a representation or warranty of the Seller in this Agreement or in any other document delivered by the Seller pursuant to the provisions of this Agreement, that the fact, situation or circumstance described therein or the nonexistence of a fact, situation or circumstance referred to therein is actually known, or reasonably could or should be known, by a Responsible Person after due inquiry.

"Services" means those professional and related services rendered to Residents at the Facility or Registrants at the Adult Day Care Program by a Provider or other authorized individual.

"Signing Deposit" has the meaning assigned to such term in Section 1.4(a) hereof.

"Transaction Documents" means this Agreement, the Bill of Sale, the Assignment and Assumption Agreement, and all other documents to be executed by the Parties hereto in connection with the consummation of the transactions contemplated hereby.

ARTICLE I.
SALE AND PURCHASE OF ASSETS

1.1 **Purchase of Assets**. At the Closing, on the terms and conditions set forth in this Agreement, the Seller shall sell, convey, assign, transfer, and deliver without recourse (except as expressly provided herein) to the Buyer, and the Buyer shall purchase, accept assignment and acquire from the Seller, the Assets free and clear of all liens. "Assets" shall mean all of the assets, properties and rights used or usable in the operation of the Facility, of every type and description, tangible or intangible, wherever located and whether or not reflected on the books and records of the Seller, other than the Premises which purchase shall be addressed in the Land Sale Contract and those excluded pursuant to Section 1.2 hereof. Subject to such exceptions, Assets shall include, without limitation, all of the right, title and interest of the Seller in or to the following:

(a) All of the Seller's rights to continue to participate in the Programs, including, but not limited to the rights of the Seller, to the extent transferable, pursuant to the Payor Contracts, or to enter into new contracts with the counterparties to the Payor Contracts, all rights to provide Services to Residents at the Facility and the Registrants at the Adult Day Care Program, and the corresponding rights to receive reimbursement and any other revenues payable for Services rendered to Residents and/or Registrants from and after the Closing;

(b) To the extent transferable, all licenses, certificates and permits held or owned by Seller relating to the ownership or operation of the Facility, the Adult Day Care Program and the assets;

(c) All of the Seller's rights, title and interests in all other Contracts, to the extent transferable and to the extent terminable by Buyer after Closing without cost or penalty or those contracts as Buyer may elect at Closing to have assigned to it at the Closing;

(d) True and correct copies of the financials and other books, records, information and title documents necessary for the Buyer to operate the Facility on and after the Closing Date;

(e) Books, records, medical charts and information pertaining to the Residents, including lists of all names, addresses, identification numbers, provider data, and copies (electronic and/or hard copy) of all books and records maintained for such Residents, including medical and claim histories;

(f) Any payments made by Payors for goods or Services rendered on and after the Closing;

(g) Books, records, and information pertaining to the Facility's Providers, including without limitation, lists of all such Providers for the Services and the Provider Agreements, if any, including names, addresses, and other data maintained for each Provider; provided that the provision of such information does not violate any contractual confidentiality provisions or the confidentiality restrictions of applicable law;

(h) All tangible assets, including without limitation, those located on or within the Real Property otherwise related to the Facility including without limitation machinery and equipment, including without limitation, those located at the Real Property or otherwise related to the Facility (including without limitation linens and purchased parts and supplies) furniture, office equipment, and all inventories and supplies and all engineering plans relating to the Facility and the Premises;

(i) Originals or duplicate copies of all financial, accounting and operating data and records, including without limitation all books, records, notes, sales and sales promotional data, advertising materials, credit information, cost and pricing information, customer and supply lists, business plans, projections, reference catalogs, payroll and personnel records to the extent allowed by law, and other similar property, rights and information;

(j) Subject to the terms and conditions imposed by lessors and licensors and to the extent transferable, all computer software, programs and similar systems owned or leased by or licensed to the Facility are used in operation of the Facility together with menus, policies and procedure manuals and compliance programs;

(k) Seller's right to intellectual property, including the name John J. Foley Skilled Nursing Facility (the "Name");

(l) Seller's Medicare and Medicaid provider numbers and provider agreements, to the extent assignable;

(m) All security deposits and prepayments, if any, for future services;

(n) All Resident funds held in trust for the Residents; and

(o) All other assets of Seller used exclusively in the operation of the Facility and the Adult Day Care Program, other than the Excluded Assets.

The Buyer acknowledges and agrees that to the extent that any contract or agreement of the Seller which Buyer may elect to have assigned to it cannot be assigned to the Buyer, the Buyer may negotiate new contracts or agreements with the counterparties to such contracts and, upon such agreements being finalized, the Seller shall be deemed to have satisfied its obligations under this Section 1.1.

1.2 Excluded Assets. Any provision of this Agreement to the contrary notwithstanding, the Buyer shall not acquire and there shall be excluded from the Assets, the following (the "Excluded Assets") to the extent existing as of 12:01 a.m. local time on the Closing Date

(a) All cash on hand or in banks, cash equivalents, other investments, Pre-Closing Receivables, all rights in any funds of any nature wherever maintained or held especially the balances remaining in the Enterprise Fund (Fund 632);

(b) The Seller's rights, title and interests in the Contracts to the extent that they give rise to Pre-Closing Receivables;

(c) The Seller's rights, title and interests in the insurance policies covering the Seller, its officers, directors, employees and agents, and any claims for refunds or recoveries under any insurance policy, including without limitation, directors and officers liability insurance, error and omissions insurance, and stop loss insurance related to Services or events prior to the Closing;

(d) The Seller's rights, title and interest in claims against third parties arising with respect to acts and omissions occurring on dates prior to the Closing Date, if any, including proceeds of insurance paid or payable, whether prior to or following the Closing Date, related to the period prior to the Closing Date or to any Excluded Liabilities;

(e) The Seller's rights, title and interest in and to any rebates, refunds, settlements from class actions or other legal proceedings and/or other amounts due to the Seller, related to the operation of the Facility for periods prior to the Closing;

(f) All accounts and loans receivable, regardless of when billed, relating to Services rendered by the Facility prior to the Closing Date;

(g) Subject to the provisions of Section 9.6, all retroactive rate increases and/or lump sum or other payments resulting from rate appeals, audits or otherwise with respect to third party payments from any source which may be paid on or after the Closing Date for goods or services rendered at the Facility prior to the Closing Date;

(h) All payments or cash equivalent credits relating to the Facility resulting from claims, insurance premium rate reductions or insurance or other dividends paid or accruing for periods prior to the Closing Date;

(i) All insurance policies not transferred to Buyer;

(j) All motor vehicles of every kind or description;

(k) All telephone numbers and fax numbers associated with the Premises;

(l) All rights and interests of Seller under and pursuant to this Agreement and any documents executed in connection with the Closing.

(m) To the extent not otherwise addressed pursuant to clauses (a)-(n) above, those assets identified on Schedule 1.2 annexed hereto.

1.3 Liabilities.

(a) The Buyer shall only assume at the Closing, pursuant to a written assumption agreement to be entered into at Closing (collectively, the "Assumed Liabilities"): (i) the obligations of Seller exclusively arising on and after the Closing Date with respect to the Assets, and (ii) all such other liabilities of Seller as may be expressly assumed by Buyer and which are the subject of an adjustment at Closing pursuant to Section 1.6 hereof and limited to the amount of such adjustment. Notwithstanding anything in this Agreement to the contrary, Buyer shall not assume, nor be responsible or otherwise liable for anything related to or arising out of, any collective bargaining or other Labor or union contract or agreements related to the Facility or the Adult Day Care Program. Except as otherwise expressly provided in this Agreement, the Buyer shall not be responsible for any other obligations or liabilities of the Seller or the Facility arising from or relating to the period prior to the Closing.

(b) Notwithstanding the provisions of Section 1.3(a) hereof, the Buyer is not assuming, and the Seller is retaining and shall remain liable for, the following liabilities or obligations arising from or relating to the Assets, the ownership or operation of the Facility, the Adult Day Care Program or the Real Property prior to the Closing Date (collectively, the "Excluded Liabilities"):

(i) all accounts and loans payable;

(ii) any other liabilities or obligations related to the Assets, the ownership or operation of the Facility, the Adult Day Care Program or the Real Property, arising from or relating to any period prior to the Closing Date, other than the Assumed Liabilities;

(iii) any amounts due or to become due to Payors as a result of audit, rate change or otherwise, related to goods or services rendered at the Facility or by the Adult Day Care Program prior to the Closing Date;

(iv) all cash receipt assessments related to all revenue received by the Facility or the Adult Day Care Program before and after the Closing Date relating to services rendered prior to the Closing Date;

(v) any and all liabilities arising from or relating to collective bargaining or other labor or union contracts or agreements relating to the Facility or the Adult Day Care Program, all COBRA obligations of the Facility and the Adult Day Care Program relating to the termination of employment of any employee employed prior to the Closing Date, and any other obligation of every kind or description owing to employees of the Facility arising out of their employment at the Facility prior to closing; and

(v) any and all obligations of the Seller pursuant to this Agreement, the Transaction Documents, the Land Sale Contract and the documents executed in connection therewith.

1.4 Purchase Price. In consideration of the sale, assignment and transfer of the Assets pursuant to Section 1.1, the Buyer shall pay a purchase price of Eighteen Million Dollars ($18,000,000) (the "Purchase Price") at the Closing. The Purchase Price shall be paid as follows:

(a) Within two business days following the full execution hereof and the exchange of a fully executed original of this Agreement between the parties hereto, Buyer shall pay an additional sum of One Million Three Hundred Thousand Dollars ($1,300,000.00) (the "Signing Deposit") to the Escrow Agent;

(b) Upon execution of this Agreement by the County Executive, after the approval of the Suffolk County Legislative, the Buyer shall pay an additional sum of One Million Eight Hundred Thousand Dollars ($1,800,000.00) (the "Final Deposit") to the Escrow Agent. At Closing the parties shall instruct the Escrow Agent to release the Escrow Funds to the Seller in immediately available funds and the principal portion of the Escrow Funds shall be applied against the Purchase Price;

(c) The balance of the Purchase Price as adjusted pursuant to the provisions of this Agreement (the "Balance Payment") shall be paid at the Closing by Buyer to Seller by wire transfer or immediately available funds; and

(d) For purposes hereof, the "Escrow Funds" shall mean the sum of all amounts deposited by or on behalf of the Buyer and the Real Estate Buyer with the Escrow Agent including the Initial Deposit, the Signing Deposit and the Final Deposit, and as set forth in the Escrow Agreement annexed hereto as Exhibit D, including any interest earned in such funds.

1.5 Purchase Price Allocation. The Seller and the Buyer agree to cooperate with each other in meeting the requirements of the Internal Revenue Code of 1986, as amended, and each agree to file the requisite Internal Revenue Service Forms and any similar returns or reports required under other applicable law, in accordance with the allocation of the Purchase Price to the Assets as set forth in Schedule 1.5 hereto. The Parties agree that (i) they shall be bound by the allocations determined pursuant to this paragraph for the purpose of determining taxes, (ii) they shall prepare and file all tax returns in a manner consistent with such allocations

and (iii) neither will take a position on any income tax return before any governmental agency charged with the collection of any income tax nor in any proceeding that is any way inconsistent with such allocation without the prior written consent of the other. In the event that any such allocation is disputed by any taxing authority, the Party receiving notice of such dispute shall promptly notify, consult and cooperate in good faith with the other Party concerning resolution of such dispute.

1.6 Closing Adjustments. The purpose and intent of the provisions of prorations and apportionments set forth in this Section 1.6 and elsewhere in this Agreement are that Seller shall bear all expenses of ownership and operation of the Facility and the Adult Day Care Program, and shall receive all income therefrom, accruing through midnight at the end of the day preceding the Closing Date, and Buyer shall bear all such expenses and receive all such income accruing thereafter. Except as specifically otherwise set forth hereinafter, the following closing adjustments (the "Closing Adjustments") shall be apportioned by and between Seller and Buyer as of midnight at the end of the day preceding the Closing Date and the net of the same ("Net Closing Adjustments") shall be added to or subtracted, as the case may be, from the Purchase Price:

(a) Security deposits and prepayments for Resident charges covering periods on and after the Closing Date, if any;

(b) Water taxes and sewer rentals, if any;

(c) Equipment lease, rental and service contract payments, pursuant to Contracts conveyed under this Agreement;

(d) Telephone, gas, water, electric and any other utility charges upon actual reading where practicable;

(e) Heating fuel;

(f) Prepaid fees, fees payable in installments and fees due prior to Closing, covering assigned licenses and permits, including, but not limited to, dues and subscriptions, if any;

(g) Prepayments, charges and security deposits, if any, relating to any of the Assets or the Premises, including, but not limited to, service, maintenance and other similar agreements assigned to Buyer under this Agreement; and

(h) Real Estate taxes and assessments, if any, provided that if the actual taxes and assessments owed are not known on the Closing Date, the adjustment shall be based on the prior tax period and reconciled when the actual amounts are known.

In the event an error is made in the calculation of any of the Closing Adjustments, the party discovering such error shall, within six (6) months after the Closing Date, send notice of such correction (the "Correction Notice") to the other party, and the party benefiting from such error shall pay the amount of such error to the party to which such payment is due within ten (10) days after the sending of the Correction Notice. If the Seller and Buyer can not agree on the Closing

Adjustments or any correction(s) to the Closing Adjustments, then the parties shall submit their dispute to an arbitration administered by the American Arbitration Association and the judgment of the arbitrator shall be the final binding decision with respect to any such Closing Adjustment or correction to the Closing Adjustments. In the event the Net Closing Adjustments shall be a negative sum, then Buyer shall receive at Closing a Purchase Price credit equal to such negative sum. In the event the Net Closing Adjustments shall be determined after Closing to be a negative sum Seller shall pay Buyer such negative sum immediately upon the determination of such sum in the form of an official bank teller check. The provision of this Section 1.6 shall survive the Closing.

1.7 The Closing. Subject to the fulfillment (or waiver, as applicable) of all conditions of Sections 5.1 and 5.2, and subject to the parties obligations pursuant to Section 4.7 to use reasonable commercial efforts to close on or before December 31, 2011 the closing of the purchase and sale of the Assets of the Facility and the Adult Day Care Program as contemplated hereunder (the AClosing@) shall take place on or prior to the 60th day following receipt by Buyer of the written non-contingent approval of the Public Health Council of Buyer's Application or at such other time as the parties may mutually agree in writing, but in all events on the last day of a calendar month (the "Closing Date"). Notwithstanding the foregoing, the Closing shall take place at the Suffolk County Offices at the H. Lee Dennison Building, 100 Veterans Memorial Highway, Hauppauge, New York, or, if required by the Buyer's lenders, at such location as may be designated by the Buyer's lenders, or at such other location as the parties shall mutually agree. The Closing shall occur simultaneously with the closing under the Land Sale Contract and shall be a contingency hereof. Upon consummation, the effective time of the Closing shall be deemed to have taken place at 12:01 a.m. on the Closing Date.

1.8 Instruments of Conveyance and Transfer. At the Closing or prior to Closing, the following deliveries shall be made:

(a) The Purchase Price, as adjusted pursuant to this Agreement;

(b) Seller will assign and transfer to the Buyer good and valid marketable title in and to all the Assets, free and clear of all Liens, subject to the Assumed Liabilities, by delivery of (i) the Bill of Sale (ii) the Assignment and Assumption Agreement for the Contracts and agreements referred to in and subject to the provisions of Section 1.1 and (iii) such other endorsements and other instruments of transfer, conveyance and assignment (in form and substance reasonably satisfactory to the Seller and the Buyer) as shall be necessary in the reasonable judgment of the Buyer to transfer, convey and assign the Assets to the Buyer;

(c) Seller shall deliver to Buyer a schedule of any pending administrative and/or judicial proceedings contesting the Facility's third party reimbursement rates;

(d) Buyer and Seller shall deliver to the other a copy of the resolution(s), certified as true and of full force and effect as of the Closing Date, duly executed by a manager or the chief executive officer of such party, duly authorizing and approving: (i) the transactions contemplated herein; and (ii) the execution, performance and delivery of this Agreement, and of all of the documents to be executed and performed by such party in connection with the transactions contemplated herein;

(e) Seller shall deliver the schedule of Residents' funds and related items referred to in Section 10.1 hereof; and

(f) Seller and Buyer shall execute and deliver to each other certificates, which shall survive the Closing, certifying that all representations, warranties and covenants of such party as contained in this Agreement and all the information contained in the Schedules and Exhibits as provided by Seller hereunder or in connection herewith, are true and correct and without breach or default on each day after the date of this Agreement through and including the day of Closing.

ARTICLE II.
REPRESENTATIONS AND WARRANTIES OF THE SELLER

In order to induce Buyer to enter into this Agreement and close the transactions contemplated hereunder, the Seller represents and warrants to the Buyer that, except as specifically noted in a Schedule hereto:

2.1 Organization, Standing and Power. The Seller is a municipal corporation of the State of New York duly organized, validly existing, and in good standing under the laws of the State of New York, has the requisite power and authority to own the Assets and to operate the Facility and the Adult Day Care Program, and to carry on the business of the Facility and the Adult Day Care Program as now being conducted except as disclosed on Schedule 2.1 with respect to the Adult Day Care Program.

2.2 Authority; No Conflicts.

(a) Subject only to obtaining the permits, consents, certificates, authorizations and approvals described on Schedule 2.4, the Seller has all requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary municipal action on the part of the Seller. This Agreement has been duly executed and delivered by the Seller and constitutes a valid and binding agreement of the Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, and similar laws relating to or affecting creditors generally or by general equity principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(b) The execution and delivery of this Agreement by the Seller does not or will not, as the case may be, and the consummation by the Seller of the transactions contemplated hereby, and the performance of its obligations hereunder will not, conflict with or result in any violation of, or constitute a default under: (A) any provision of its charter, or local laws or ordinances, codes, rules or regulations of the Seller, or (B) any loan or credit agreement, security agreement, note, mortgage, bond, indenture, lease, benefit facility or other agreement, obligation, instrument, permit, concession, franchise, license, judgment, order, decree, statute, law, ordinance, rule or regulation applicable to the Seller, or its properties or assets. Seller has not entered into any other agreement concerning the sale or transfer of any of the Assets. There

are no other applications filed with or pending at the Department of Health other than those filed in the ordinary course of business of the Seller as it relates to the Facility.

2.3 No Violation of Law, Licenses, Permits, and Registrations. Except as disclosed on Schedule 2.3, the Facility is not in violation of, and has not been given notice or been charged with any violation of, any law, statute, order, rule, regulation, ordinance, or judgment (including, without limitation, any applicable environmental law, ordinance, or regulation) of any Governmental Authority. Except as disclosed on Schedule 2.3, no investigation, audit or review by any Governmental Authority (including Medicare and Medicaid) is pending involving the Facility or the Adult Day Care Program nor, to the Seller's Knowledge, has any Governmental Authority indicated an intention to conduct any such investigation, audit or review. Except as disclosed on Schedule 2.3, the Facility has all permits, licenses, approvals, and authorizations of, and registrations with and under all federal, state and local laws, and from all applicable Governmental Authorities, required thereby to operate the Facility. Except as disclosed on Schedule 2.3, the Facility is currently operating in substantial compliance in all material respects with the laws, statutes, orders, rules, regulations, ordinances, and judgments of all federal, state, local, and foreign governmental and regulatory bodies and authorities.

2.4 Approvals and Consents. Except as disclosed on Schedule 2.4 annexed hereto, no permit, consent, approval, or authorization of, or declaration or notice to, or report of filing with, any Governmental Authority is required in connection with the execution, delivery, or performance by the Seller of this Agreement.

2.5 Litigation; Compliance with Laws. Except as disclosed on Schedule 2.5, there are no Actions pending or against or affecting the Facility, the Assets or the Adult Day Care Program, nor is there any judgment, decree, injunction, rule, or order of any Governmental Authority or arbitrator outstanding against the Seller related to the operation of the Facility or the Adult Day Care Program.

2.6 Statement of Revenues and Expenses. The audited balance sheets of the Facility as of December 31, 2008 and the related statements of revenue and expenses, changes in net assets and cash flow for the periods then ended and the unaudited balance sheet of the Facility as of September 30, 2009 and the related statements of revenue and expenses, changes in net assets and cash flow for the periods then ended (the "Facility Financial Statements") are true and complete copies of which have been heretofore delivered to the Buyer, fairly present, in all material respects, the financial position of the Facility as at such dates or the results of operations of the Facility for the periods then ended (subject in the case of the September 30, 2009 statements to year-end adjustments and the absence of footnotes). The Facility Financial Statements have been prepared on a consistent basis throughout the periods presented and are consistent with each other. The Facility Financial Statements fairly and accurately present the revenues and expenses, and the operating income (loss), of the Facility as of the dates, and for the periods, indicated therein, subject, in the case of the September 30, 2009 statements, to normal year-end adjustments and the absence of footnotes. The Facility maintains a system of internal accounting controls sufficient to provide reasonable assurance that transactions are executed in accordance with management's general or specific authorizations, and transactions are recorded as necessary to permit preparation of the Facility Financial Statements.

2.7 Good Title to Assets. The Seller has good and marketable title to the Assets. As of the date of Closing, the Assets shall be free and clear of all liens, charges and other encumbrances. Except as disclosed on Schedule 2.3, the Assets are being utilized by the Seller in substantial compliance with all applicable federal, local, and state rules, regulations, laws, statutes, and permits applicable to the Assets. The Seller has not created nor suffered to exist any Lien on any of the Assets or any current or future revenues resulting from the Assets.

2.8 Contracts and Other Agreements. Schedule 2.8 contains a complete list of all Contracts and other Agreements (i) entered into by the Seller exclusively related to the Facility; (ii) entered into between the Seller and any Provider which provides Services to Residents of the Facility (the "Provider Agreements"); (iii) entered into by the Facility and any hospital which provides Services to Residents of the Facility (the "Hospital Contracts"); (iv) that cannot be terminated without cost or penalty on 30 days or less notice, to which the Facility is a party or by which the Facility or the Assets are bound (collectively, the "Material Contracts"). True and complete copies of the Material Contracts have been provided to the Buyer. All of the Material Contracts are valid, subsisting, in full force and effect and the Facility has satisfied or provided for all of its liabilities and obligations thereunder requiring performance prior to the date hereof, is not in default in any material respect under any of them, nor, to the Seller's Knowledge, does any condition exist that with the giving of notice or the lapse of time or both would constitute such a default. To the Seller's Knowledge, no other party to any such Material Contract is in default thereunder, nor does any condition exist that with notice or the lapse of time or both would constitute such a default.

2.9 Compliance with Laws. Except as disclosed on Schedule 2.3, the Facility (i) is, and at all times during the last twelve months has been, in substantial compliance, in all material respects, with all, and not in violation of any, and has not received any claim or notice that it is not in compliance with any, or that it is in violation of any, Laws or Orders to which the Facility or any of its business, operations, assets or properties are subject, and (ii) has not failed at any time to obtain or to adhere to the requirements of any governmental permit, license, registration and other governmental consent or authorization necessary in connection with the operation of the Facility.

2.10 Entire Business. By delivering the Assets to the Buyer pursuant to this Agreement and by closing the sale of the Premises pursuant to the Land Sale Contract, the Seller will convey to the Buyer the Facility, its Assets and all of the tangible and intangible property used by the Seller in connection with the conduct of the Facility's business as heretofore conducted by the Seller (except for the Excluded Assets). There are no facilities, services, assets or properties shared with any other Person which are used by the Seller or used in the business of the Facility (except for the Excluded Assets).

2.11 No Material Adverse Change. Since December 31, 2008, there has been no material adverse change in the business, operations, prospects or condition (financial or otherwise) of the Facility, or in the Assets of the Facility, nor to the Seller's Knowledge is any such change threatened, which could materially affect the Business, operations, products or condition (financial or otherwise) of the Facility (except for changes generally affecting health facilities similar to the Facility).

2.12 Cost Reports. Buyer has been provided with true and correct copies of Seller's Medicare and Medicaid cost reports for the year ending December 31, 2008 (the "Cost Report"). Medicare and Medicaid Cost Reports filed in August 2009 applicable to Seller and the Facility are accurate and have all been timely filed. Seller shall file all Medicare and Medicaid Cost Reports which are required to be filed for any periods prior to the Closing Date. This provision shall survive the Closing.

2.13 No Other Sale Agreements. There are no outstanding contracts or options to purchase any of the Assets or the Premises.

2.14 Notices. Except as disclosed on Schedule 2.3, the Facility has not been served with any notice which: (a) requires the performance of any work or alterations on the Facility, or in the streets bounding thereon; or (b) orders the installation, repair or alteration of any improvements on the Facility or the streets bounding thereon, in each case, including but limited to, notices received under the Americans With Disabilities Act of 1990, as amended.

2.15 Furniture, Fixtures and Equipment. The furniture, fixtures and equipment included in the Assets are of sufficient quality and quantity to operate the Facility in material compliance with applicable statutes, rules and regulations which govern the Facility.

2.16 Absence of Certain Changes or Events. Except as disclosed on Schedule 2.16, since December 31, 2008, Seller has not:

(a) made any material change in the Facility or operations or in the manner of conducting the business of the Facility;

(b) suffered any Material Adverse Effect with respect to the Facility and no fact or condition exists or is contemplated or threatened that might reasonably be expected to cause a Material Adverse Effect with respect to the Facility in the future;

(c) suffered any material casualty loss (whether or not insured) or condemnation or other taking adversely affecting the Facility;

(d) incurred any liability or indebtedness (whether absolute, accrued, contingent or otherwise and whether due to or to become due directly related to the operation of the Facility) that will obligate the Buyer or the Facility following the Closing;

(e) terminated or amended or suffered the termination or amendment of any contract related to the operation of the Facility, except in each case in the ordinary course of its business consistent with past practice and, only, as disclosed in the attached Schedule 2.16(g) provided that no such amendment shall obligate the Buyer or the Facility following the Closing;

(f) sold, transferred, or leased any property or assets (real, personal or mixed, tangible or intangible) used or useful in connection with the operation of the Facility other than the sale of inventory in the ordinary course of business;

(g) created, granted or suffered to exist any Liens or encumbrances of any kind or description on any of the Assets that will survive the Closing; or

(h) entered into any transaction involving, or suffered any development affecting, the Facility or the Assets other than in the ordinary course of business.

2.17 Brokers, etc. Except for fees payable by the Seller to the Seller's agent, Loeb and Troper, the Seller has not paid or become obligated to pay any fee or commission to any broker, finder, investment banker, or other intermediary in connection with the transactions contemplated by this Agreement.

2.18 Employees. Seller has complied with all laws relating to the employment of all employees of Seller at the Facility or the Adult Day Care Program (the "Employees"), including provisions relating to wages, hours, ERISA, equal opportunity, and the payment of Social Security, withholding, unemployment insurance and other taxes. There are no ERISA plans. Except as disclosed on Schedule 2.18, there are no written or oral employment agreements between Seller and any of its officers or employees employed at the Facility or the Adult Day Care Program, and, each such relationship is terminable at will without penalty or cost, no representations have been made orally which alter the at-will relationship between Seller and any of its employees and, in any event, Buyer shall not assume any obligations pursuant to any such agreements at Closing.

2.19 HIPAA Compliance. The Seller has been determined to be a Covered Entity pursuant to the Health Insurance Portability and Accountability Act of 1996 and any regulations promulgated thereunder ("HIPAA") Seller (i) is executing transactions in compliance with, or is capable of submitting transactions in compliance with (in the event that insurers or payors are not yet accepting standard transactions), the standard transaction requirements established by HIPAA for "Covered Entities;" (ii) is operating in compliance in all material respects with the HIPAA privacy regulations and comparable state statutes and regulations for "Covered Entities" including without limitation executing all necessary business associate agreements as required by HIPAA; and (iii) has developed and implemented appropriate safeguards to comply with the final HIPAA security regulations and comparables statutes and regulations.

2.20 Insurance. The Seller is self insured.

2.21 Engineering Plans and Projects. Seller has made available to Buyer all of the current engineering plans and projects in its possession relating to the Facility.

2.22 Disclosure. All information to be supplied by Seller to Buyer pursuant to this Article 2 is true and correct to the best of Seller's knowledge.

2.23 Nonreimbursed Aliens and/or Reduction In Authorized Beds. Seller represents and warrants to Buyer that to its knowledge, there are no illegal aliens admitted as a resident or patient of the Facility for which the Facility is not receiving reimbursement from Medicaid or any other governmental agency ("Nonreimbursed Alien"). Seller represents and warrants to Buyer that the number of beds which the Facility is authorized and licensed to have and operate is 264 skilled nursing facility beds. In the event that at any time prior to the Closing the number of certified beds in the Facility are howsoever reduced to less than 264 certified skilled nursing facility beds or there are any Nonreimbursed Aliens, then Buyer shall receive at

Closing a credit of One Hundred Thirty-Six Thousand Three Hundred Sixty-Three and 63/100 Dollars ($136,363.63) against the Purchase Price for each Nonreimbursed Alien and/or for each certified skilled nursing facility bed less than 264 skilled nursing facility beds. Notwithstanding the foregoing, upon receipt by Seller of any information concerning, seeking or proposing a reduction in the number of skilled nursing facility beds at the Facility, Seller shall promptly notify Buyer of the same and provide Buyer with a copy of the same, if in written form, and Seller agrees that it shall not engage in any communication, negotiation or interaction with any governmental authority which seeks to reduce such number of beds without Buyer's involvement in any and all discussions, meetings and decisions with respect to any such proposed bed reduction. Seller's failure to comply with the foregoing sentence shall be deemed a material default and shall provide Buyer with the right, but not the obligation, to cancel this Agreement. in which event the Escrow Funds plus accrued interest thereon shall be paid to Buyer and this Agreement shall be terminated without any further obligations or liabilities between the parties. This provision shall survive the Closing and any termination of this Agreement.

2.24 Inventory. The inventory of the Facility is of a quality and quantity previously used by the Facility in the ordinary course of the Facility's business consistent with past practice and contains no significant excess, dated or obsolete inventory.

2.25 Limitation. Except as explicitly provided in this Article II, Buyer's purchase of the Assets is on an "as is, where is" basis, and the Seller has not made and shall not be deemed to have made any representation or warranty regarding the Assets.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES OF THE BUYER

The Buyer represents and warrants to the Seller that, except as specifically noted in a Schedule hereto, as of the date of execution of this Agreement:

3.1 Organization, Standing, and Power. The Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of New York, has the requisite power and authority to own and operate its properties and to carry on its business as now being conducted, except where the failure to be so organized, existing, and in good standing or to have such power and authority would not reasonably be expected to have a Material Adverse Effect on the Buyer, and is duly qualified and in good standing to do business in New York.

3.2 Authority; Conflicts.

(a) The Buyer has all requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of the Buyer. This Agreement has been duly executed and delivered by the Buyer and constitutes a valid and binding agreement of the Buyer, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws relating

to or affecting creditors generally or by general equity principles (regardless of whether such enforceability is considered in a proceeding in equity or at law) or by an implied covenant of good faith and fair dealing.

(b) The execution and delivery of this Agreement by the Buyer does not or will not, as the case may be, and the consummation by the Buyer of the Asset Purchase and the other transactions contemplated hereby will not, conflict with or result in any violation pursuant to, or constitute a default under: (A) any provision of the articles of incorporation or bylaws of the Buyer, or (B) except as would not reasonably be expected to have a Material Adverse Effect on the Buyer, subject to obtaining or making the consents and filings referred to in Section 3.3 below, any loan or credit agreement, note, mortgage, bond, indenture, lease, benefit Facility or other agreement, obligation, instrument, permit, concession, franchise, license, judgment, order, decree, statute, law, ordinance, rule or regulation applicable to the Buyer, or its properties or assets.

3.3 Consents and Approvals. Except as disclosed on Schedule 2.4 annexed hereto, no permit, consent, approval, or authorization of, or declaration or notice to, or report or filing with, any Governmental Authority is required to be obtained by Buyer in connection with the execution, delivery or performance by the Buyer of this Agreement.

3.4 Litigation; Compliance with Laws. Except as disclosed in Schedule 3.4 hereto, there is no suit, action, investigation, or proceeding pending or, to the Buyer's knowledge, threatened against, or affecting the Buyer having, or which would reasonably be expected to have, a Material Adverse Effect on the Buyer, nor is there any judgment, decree, injunction, rule, or order of any Governmental Authority or arbitrator outstanding against the Buyer having, or which would reasonably be expected to have, a Material Adverse Effect on the Buyer.

3.5 Regulatory Approvals. To the knowledge of the Buyer, there is no reason that the Department of Health or any other governmental authority would reject or delay the processing and approval of the Application. No requirement that may be imposed by the Department of Health as a condition of its approving the transfer of the operation of the Facility to the Buyer or the establishment of the Buyer as the operator of the Facility or which may be imposed subsequent to the Closing shall be deemed an obligation of the Seller and all expenses of compliance with such requirements shall be the obligation of the Buyer.

3.6 Financial Resources. The Buyer has or will have at Closing sufficient unencumbered funds to complete the transaction contemplated hereby and to provide necessary working capital for the Facility. The Closing obligation of the Buyer with respect to the transactions contemplated by this Agreement is not contingent upon the Buyer obtaining any financing for the Purchase Price, the Facility, the Assets or working capital.

3.7 Own Investigation; etc.

(a) The Buyer understands and agrees to the limitations and other matters set forth in this Section 3.7 and that THE SELLER IS NOT MAKING ANY, AND THE SELLER DISCLAIMS ALL REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR

IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR AS TO THE CONDITION OF THE SELLER OR THE ASSETS OR THE FACILITY, EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT.

(b) The Buyer acknowledges and agrees that (i) it has made its own inquiry and investigation into, and, based thereon and upon the representations and warranties made by the Seller, has formed an independent judgment concerning the Seller, the Facility and the Assets, and (ii) it has relied upon the representations of Seller to the effect that it has been furnished with or been given adequate access to such information about the Seller, the Facility and the Assets, as it has requested.

(c) In connection with the Buyer's investigation of the Seller, the Facility and the Assets, the Buyer has received information from the Seller that the Buyer could use to prepare projections and other forecasts, facilities and budgets. The Buyer acknowledges that there are uncertainties inherent in attempting to make such projections, forecasts, facilities and budgets, that the Buyer is familiar with such uncertainties and is not relying upon such projections, forecasts, facilities or budgets, that the Buyer is taking responsibility for making its own evaluation of the adequacy and accuracy of all estimates, projections, forecasts, facilities and budgets based on such information, and that the Buyer will not assert or permit to be asserted any claim against the Seller or any direct or indirect owner of any of them or any of their respective directors, officers, employees, agents, managers, Affiliates, consultants, counsel, accountants, investment bankers or representatives, or hold the Seller or any of the foregoing liable with respect to Buyer's own projections and forecasts, provided however that nothing herein shall act as a release of Seller with respect to information provided to Buyer by Seller or its agents which information is incorrect. Seller represents and warrants that Seller in good faith believes such information to be reasonably based. The Buyer acknowledges and agrees that the Seller has not made, directly or indirectly, any representations or warranties regarding pro-forma financial information, financial projections or other forward-looking statements regarding the Seller or the Facility.

(d) Other than as specifically set forth in this Agreement, the Buyer is acquiring the Assets "as is and where is" and in their then present physical condition.

ARTICLE IV.
COVENANTS OF THE PARTIES PENDING CLOSING

4.1 Seller's Conduct of the Business. From and after the date of this Agreement and until the date of the Closing, or until this Agreement has been terminated, except as otherwise consented to by Buyer in writing:

(a) Seller shall operate the business of the Facility only in the ordinary course, in a businesslike manner and in substantially the same manner as it has heretofore, in material compliance with applicable Federal and State laws, regulations and rules;

(b) Seller shall not option, sell, dispose of or make any other disposition or abandonment of any of the Assets of the Facility, or make any capital expenditures, except in the ordinary course of business;

(c) The Facility shall not enter into, amend or terminate, any contract, which cannot be terminated without penalty, cost or expense to Buyer;

(d) Seller will perform and observe all of the material terms, covenants, conditions and agreements on its part to be performed and observed under (i) any equipment leases and (ii) all Contracts and will promptly deliver to Buyer copies of any notices received by Seller from, or given by Seller to, any contracting parties under such agreements that Buyer may acquire hereunder;

(e) Seller shall preserve, maintain, repair and replace and keep all Assets and properties used or useful in the operation of the Facility and the Assets in their current condition, repair and working order, ordinary wear and tear excepted;

(f) Seller shall maintain insurance with respect to the Assets of the Facility in accordance with past practice;

(g) Seller shall keep proper books of record and accounts in accordance with past practice;

(h) Seller shall pay or discharge or cause to be paid or discharged, before the same become delinquent, all taxes, assessments, charges, levies and claims that may affect the Assets of the Facility or the consummation of the transaction contemplated hereunder, and shall timely file all cost reports covering any periods prior to the Closing. The provisions hereof shall survive the Closing;

(i) Seller will comply in all material respects with all statutes, laws, ordinances, or rules and regulations and orders of governmental bodies to which it is subject;

(j) Subject to the provisions of Section 11.17 hereof regarding existing violations described on Schedule 2.3, Seller shall be and remain in material compliance of any and all requirements set forth in survey reports received by Seller from the New York State Department of Health or the U.S. Department of Health and Human Services and shall, at Seller's cost and expense, promptly submit acceptable plans of correction with respect to any operating deficiencies cited in such reports and Seller shall promptly provide Buyer with copies of all such reports and plans of correction;

(k) Seller shall not enter into any agreements that will be binding upon the Facility or its Assets or otherwise encumber any of the Assets following the Closing and;

(l) Seller shall keep in full force and effect all licenses currently in effect unless such licenses are no longer necessary for the operation of the Facility and the Adult Day Care Program;

(m) Subject to the provisions of Section 11.17 hereof regarding existing violations described on Schedule 2.3, Seller shall remedy and clear any violations occurring or noticed prior to the Closing Date;

(n) Seller shall not enter into any agreement, other than this Agreement, for the sale of the Assets or make or allow any application to be made with the Department of Health other than the Application under this Agreement;

(o) Seller shall, at the request of Buyer, execute such documents as may be necessary to assign Seller's Medicaid and Medicare provider numbers and provider agreements to Buyer. Seller shall file, on a timely basis, all Medicare and Medicaid reports as required by applicable regulations to be filed by Seller. This provision shall survive the Closing.

(p) Seller shall use its reasonable efforts to maintain and preserve intact the business organization relating to the Facility, to retain adequate staffing of the Facility and to maintain the Facility's relationship with physicians, employees, residents, residents' families, suppliers, customers, and others having business relationships with the Facility so that they shall be preserved for Buyer on the Closing Date;

(q) Seller shall promptly advise Buyer in writing if Seller becomes aware of any threatened or actual claim, action, suit or proceeding, arbitration or investigation against the Facility; and

(r) Seller shall not engage in any activity which breaches any term or condition of this Agreement.

4.2 Access to Information. From and after the date hereof, Seller shall provide Buyer and its authorized agents and representatives (including but not limited to its auditors) reasonable access to its books, contracts, records, properties, and proceedings relating to the Facility and the Premises during regular business hours upon one (1) business days' prior written notice. Seller shall deliver to Buyer such regularly prepared periodic audited and unaudited financial statements and/or operating data with respect to the Assets and/or the Facility as and when the same are prepared and/or delivered to Seller and/or its representatives along with and any cost reports that are required to be filed for any periods prior to Closing (which Seller shall timely file) and Seller shall provide Buyer with such additional information as Buyer may reasonably and periodically request Seller shall provide Buyer with monthly internal operating statements.

4.3 Cooperation with Buyer. Seller shall assist and cooperate with Buyer upon Buyer's reasonable requests in regard to Buyer's Application and in regard to the Department of Health requirements for approval of Buyer's Application and in regard to any financing Buyer may seek to obtain for the consummation of the transactions herein described. Seller shall promptly deliver to Buyer all materials that may be in Seller's possession and/or other documents periodically requested or required by the Department of Health as part of the Application and/or for the approval of the same. Seller further agrees with Buyer that in Buyer's

Application, Buyer may propose additional individuals to become members of Buyer upon the approval of the Application by the Department of Health; however, the parties understand and agree that in the event any such new parties cause the Application to be disapproved, Buyer shall not be relieved of its obligations hereunder. Furthermore, Buyer shall not propose additional individuals without first having obtained the consent of Seller, which consent shall not be unreasonably withheld, delayed or conditioned.

4.4 Certificate of Need Approval. Contingent upon Seller's cooperation and required timely deliveries as set forth elsewhere in this Agreement, Buyer, at Buyer's own expense, will promptly prepare and submit to the Department of Health not later than forty-five (45) calendar days after the date Seller provides Buyer with notice of the Suffolk County Legislature approval of this transaction, and shall diligently prosecute, the Buyer's Certificate of Need application seeking the establishment and licensure of the Buyer as the operator of the entire 264 certified bed Facility and the Adult Day Care Program (the "Application"). As part of such Application, Buyer may propose additional individuals to become members of Buyer upon the approval of the Application by the Department of Health provided that any such additional individuals must be approved in advance by Seller, which approval shall not be unreasonably withheld, delayed or conditioned. Buyer shall promptly (and no later than thirty (30) business days after the receipt thereof) fully comply with requests for additional information from such agencies, and shall take all other steps required to obtain consent for the transactions contemplated hereby including approval of the Application. Buyer shall deliver to Seller, within five regular (5) business days of its submission or receipt, a complete copy of the Application and all correspondence and submissions to or from the Department of Health relating thereto.

4.5 Necessary Governmental Consents. Each party shall provide promptly to the other parties all correspondence and keep the other parties apprised of all communications by and between itself and any Governmental Authority related to the governmental consents which are its responsibility to obtain. In the event that the Seller on the one hand, or the Buyer, on the other hand, is informed that any of the governmental consents or approvals will not be obtained, the party that received such notice will attempt in good faith and use its reasonable best efforts to make inquiry to the applicable Governmental Authority as to the reason that the consent or approval was not obtained and to share promptly any responses related thereto with the other party.

4.6 Access to Premises and Information; Confidentiality. Seller shall afford to Buyer, and its Representatives, upon appointment, reasonable access during normal business hours during the period prior to the Closing Date or the termination of this Agreement to the Facility and Premises systems, books, contracts, commitments, personnel (for the purpose of evaluating future employment with the Buyer or otherwise) and records and, during such period, Seller shall furnish promptly to the Buyer (a) a copy of each report, schedule and other document filed by Seller during such period pursuant to the requirements of Federal or state laws and (b) consistent with its legal obligations all other information concerning Seller and its business, properties and personnel as the Buyer may reasonable request; provided, however, that Seller may restrict the foregoing access to the extent that any law, treaty, rule or regulation of any Governmental Authority applicable to Seller (including, without limitation, patient confidentiality laws) requires Seller to restrict access to such properties or information. Buyer

shall hold, and shall cause its Representatives to hold, all information received from the Seller, directly or indirectly, as well as this Agreement, in confidence in accordance with the Confidentiality Agreement. No investigation pursuant to this Section 4.6 or information provided, made available or received by Buyer pursuant to this Agreement will affect any of the representations or warranties of the parties hereto contained in this Agreement or the conditions hereunder to the obligations of the parties hereto.

4.7 Reasonable Commercial Efforts. Upon the terms and subject to the conditions set forth in this Agreement, each of the parties agree to use its reasonable commercial efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other parties hereto in doing, all things necessary, proper or advisable to consummate and make effective in the most expeditious manner practicable, the transactions contemplated by this Agreement, by December 31, 2011, including using reasonable best efforts to accomplish the following: (a) the taking of all acts necessary on its part to cause the conditions to Closing to be satisfied as promptly as practicable; (b) the obtaining of all necessary actions or nonactions, waivers, consents and approvals from Governmental Authorities that it is required to obtain and the making of all necessary registrations and filings and the taking of all steps as may be necessary that it is required to make or take to obtain approval or waiver from, or to avoid an action or proceeding by any Governmental Authority; (c) the obtaining of all necessary consents, approvals or waivers from third parties, including the governmental consents and approvals required to on Schedules 2.4 and 3.3 and (d) the execution and delivery of any additional instruments consistent with the terms hereof that are necessary to consummate the transactions contemplated by, and to fully carry out the purposes of this Agreement. In furtherance of the foregoing, the Seller shall provide in a reasonable and timely manner, to the extent permitted by applicable law, all documentation within its control as may be requested by the Buyer in connection with its processing of the Application and securing Certificate of Need approval. If the parties have used reasonable commercial efforts to close the transactions contemplated hereby but have been unable to effect a closing on or before December 31, 2011, such failure shall not relieve the parties of the obligations to proceed hereunder.

4.8 Provider Numbers. At the request of the Buyer, the Seller shall execute such documents as may be necessary to assign Seller's Medicaid and Medicare provider numbers and provider agreements to the Buyer.

4.9 Expenses. Subject to the indemnification provisions of this Agreement, each party hereto shall bear their own fees and expenses incurred in connection with this Agreement and the consummation of the transaction contemplated hereunder.

4.10 Notice of Events. Each party shall promptly notify the other of any event, circumstance or condition which would cause any representation or warranty made by such party to be untrue or incorrect in any material respect as of the Closing Date. To the extent that any event or condition occurs following execution at delivery of this Agreement which causes a representation or warranty of a party to be untrue, such party shall modify its disclosure schedules or to add additional disclosure schedules to the extent necessary to permit it to make its representations and warranties hereunder at Closing, provided that, in such event, the other party shall have the rights specified in Section 8.8 hereof.

4.11 Risk of Loss. Seller shall bear all loss or damage to the Assets of the Facility occurring prior to the Closing Date. In the event of any such loss or damage, Seller shall give prompt notice thereof to Buyer. In the event repairs or replacement are required to be made promptly in the reasonable judgment of Seller, Seller shall proceed with the required repairs or replacements at its cost or expense. In the event repairs or replacement are not promptly required, Buyer may, within ten (10) business days after receipt of notice of the loss or damage, give notice to Seller that: (a) it does not require the repair or replacement of the loss or damage, in which case Seller shall have no obligation to make such repair or replacement and any insurance proceeds received by it as a result thereof shall belong to Seller and the Purchase Price shall be reduced by the value of such loss or damage plus the amount of the deductible attributable by the insurer to such loss or damage, or (b) it elects to make the repair or replacement of the loss or damage after the Closing, in which case the Purchase Price shall be reduced by the value of such loss or damage plus the amount of the deductible attributable by the insurer to such loss or damage. Notwithstanding the foregoing, in the event that the loss or damage to the Facility is significant and materially interferes with the operation of the Facility and/or the Adult Day Care Program the Seller may elect not to proceed with such repair or replacement and to close the Facility. In such event, this Agreement shall be deemed terminated and Buyer shall receive the Escrow Funds, and all interest accrued thereon as its sole remedy. The parties shall have no further obligations hereunder.

4.12 Adult Day Care Program. The Seller has disclosed to the Buyer that it is currently licensed to operate an adult day care program for twenty-four (24) participants. Seller shall use commercially reasonable efforts to obtain necessary licenses to operate an adult day care program for sixty (60) participants prior to Closing. If the Seller fails to obtain such license prior to Closing, such failure shall not effect Buyer's obligation to close hereunder provided that the Buyer shall be entitled to an amount (the "ADC Adjustment") calculated as follows:

$$(60\text{-}N) \times 61{,}111 = \text{ADC Adjustment}$$

where "N" equals the maximum number of participants that may participate in the Adult Day Care Program pursuant to Seller's license immediately prior to Closing. The ADC Adjustment shall be paid to the Buyer as provided in Section 6.10.

ARTICLE V.
CONDITIONS PRECEDENT TO THE CLOSING

5.1 Conditions to Obligation of the Seller to Close. The obligation of the Seller to close the transactions contemplated under this Agreement shall be further subject to the satisfaction and fulfillment, at or prior to the Closing, of each of the following conditions, any of which may be waived in writing by the Seller:

(a) Compliance With Agreements and Covenants. The Buyer shall have performed and complied in all material respects with all of its covenants, obligations, and agreements contained in this Agreement that are required to be performed and complied with on or prior to the Closing Date;

(b) Representations and Warranties. The representations and warranties of the Buyer contained herein (i) shall be true and correct in all material respects on and as of the date of this Agreement, and (ii) shall also be true and correct on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date;

(c) Closing Certificate. The Seller shall have received a certificate of Chief Executive Officer of the Buyer, dated the Closing Date, certifying that the conditions set forth in Sections 5.1(a) and 5.1(b) have been satisfied; and the Seller shall also have received a certificate of the Buyer, dated the Closing Date, certifying as to the Buyer's authority to consummate the transactions hereunder;

(d) Payment of Purchase Price. The Buyer shall have delivered immediately available funds in the amount of the Purchase Price, as adjusted, to the Seller in accordance with Section 1.4(b) hereof;

(e) Other Closing Documents. Each of the Transaction Documents shall have been executed and delivered by the Buyer and be in full force and effect as of the Closing Date, including:

(i) the Assignment and Assumption Agreement; and

(ii) the Bill of Sale.

(f) Governmental Approvals. The Buyer shall have received in final, non-contingent written approval of the Department of Health to the Application, and all other governmental approvals referred to in Schedules 2.4 or 3.3 shall have been obtained;

(g) No Adverse Proceedings. There shall not be in effect any Order or Law restraining, enjoining or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by this Agreement;

(h) Closing of Real Property. Simultaneously herewith Seller shall have closed with the Real Estate Buyer on the Land Sale Contract concerning the real property upon which the Facility is situated.

5.2 Conditions to Obligation of the Buyer to Close. The obligations of the Buyer to close the transactions contemplated under this Agreement shall be further subject to the satisfaction and fulfillment, at or prior to the Closing, of each of the following conditions, any of which may be waived in writing by the Buyer:

(a) Compliance With Agreements and Covenants. The Seller shall have performed and complied in all material respects with all of covenants, obligations, and agreements contained in this Agreement that are required to be performed and complied with on or prior to the Closing Date;

(b) Representations and Warranties. The representations and warranties of the Seller contained herein (i) shall be true and correct in all material respects on and as of the date

of this Agreement and (ii) shall also be true and correct on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date;

(c) Closing Certificate. The Buyer shall have received a certificate of a Responsible Person, dated the Closing Date, certifying that the conditions set forth in Sections 5.2(a) and 5.2(b) have been satisfied;

(d) Other Closing Documents. The Seller shall have executed and delivered to the Buyer (i) an Assignment and Assumption Agreement, (ii) a Bill of Sale and (iii) such further instruments and documents as may be reasonably requested by the Buyer in order to complete the transfer of the Assets to the Buyer;

(e) Proceedings; Certificates. All municipal proceedings of the Seller that are required in connection with the transactions contemplated hereby shall be reasonably satisfactory in form and substance to the Buyer and its counsel, and the Buyer and its counsel shall have received such evidence of such proceedings, certified if requested, by the Buyer;

(f) No Material Adverse Effect. No Material Adverse Effect shall have occurred with respect to the Seller or the Assets;

(g) Governmental Approvals. The Buyer shall have received a final, non-contingent written approval of the Department of Health to the Application and all other governmental approvals referred to in Schedules 2.4 or 3.3 shall have been obtained;

(h) No Adverse Proceedings. No suit of any kind or nature shall have been commenced which would materially adversely affect the Assets, the Facility or the Premises and no injunction, temporary restraining order, judgment or other order of any court or governmental agency or instrumentality shall have issued or have been entered which would be violated by the consummation of the transactions contemplated herein; and no suit, action or other proceedings brought by the United States or the State of New York, or any agency or instrumentality of the United States or the State of New York shall be pending in which it is sought to restrain or prohibit the effectuation of this Agreement or the consummation of the transactions contemplated herein.

(i) Closing of Real Property. Simultaneously herewith Seller shall have closed with the Real Estate Buyer on the Land Sale Contract concerning the real property upon which the Facility is situated.

ARTICLE VI.
POST CLOSING COVENANTS

The parties covenant to take the following actions after the Closing Date:

6.1 Resident Retention. The Buyer shall continue treatment to each Patient receiving Services at the Facility as of the date of Closing. Only Patients requiring services not available at the Facility may be eligible for transfer. To the extent any Resident is being treated

at a facility other than the Facility, the Buyer shall reserve such Resident's bed in accordance with applicable law and comply with all applicable "bed hold" regulations.

6.2 Registrant Retention. As of the date of Closing, the Buyer shall continue providing Services to Registrants in the Adult Day Care Program.

6.3 Employee Retention.

(a) The parties intend that before Closing the Buyer shall interview all employees who are employed at the Facility immediately prior to the Closing who are not offered the opportunity to continue to be employed by Seller following the Closing. For purposes hereof, such employees are referred to as the "Existing Employees". The Buyer agrees that until the date three months following the Closing, prior to offering positions which Buyer determines as necessary at the Facility to third parties, it shall offer Existing Employees such positions provided that such Existing Employees are qualified to perform the job requirements of such positions and have otherwise completed the application and interview process with the Buyer. This Section 6.3 shall not require Buyer to employ such employees on the same terms and conditions as they are employed by the Seller prior to Closing. To the extent that Buyer offers employment to Existing Employees, their rates of pay shall be consistent with nursing homes in Suffolk County. Each such employee hired by Buyer is hereinafter referred to as a "Hired Employee".

(b) Buyer shall not assume any responsibility for any of the Seller's obligations to employees arising out of their employment prior to the Closing Date.

(c) Buyer will be responsible for providing compensation and benefits to Hired Employees for periods on and after the Closing Date during the respective periods of employment of such Hired Employees with Buyer. On and after the Closing Date, the Hired Employees will accrue employment benefits only in accordance with the policies applicable to Buyer's employees.

(d) Nothing in this Agreement shall limit the right of Buyer to terminate the employment of any Hired Employee following the Closing Date.

(e) As of the first day following the Closing Date, all Hired Employees shall be permitted to participate in the plans, programs and arrangements of Buyer relating to compensation and employee benefits as may be available on such date.

(f) If any of the arrangements described in this Section are determined to be prohibited by applicable legal requirement, Seller and Buyer shall modify such arrangements to as closely as possible reflect their expressed intent and retain the allocation of economic benefits and burdens to the parties contemplated herein in a manner that is not prohibited by applicable legal requirement.

6.4 Further Information. Following the Closing, Seller will afford to the Buyer, or its Representatives, during normal business hours, reasonable access to the books, records and other data of the Seller relating to the Facility, the Adult Day Care Program, the Assets, the Excluded Assets, the Assumed Liabilities or the Seller in its possession with respect

to periods prior to the Closing and the right to make copies and extracts therefrom, to the extent that such access may be reasonably required by the requesting party (i) to facilitate the investigation, litigation and final disposition of any claims which may have been or may be made by or against such requesting party or its Affiliates, and (ii) for any other reasonable business purpose.

6.5 Record Retention. Each party agrees that for a period of not less than six (6) years following the Closing Date, it shall not destroy or otherwise dispose of any of the Books and Records relating to the Facility, the Adult Day Care Program, the Assets, the Assumed Liabilities or the Excluded Assets in its possession with respect to the periods prior to the Closing. Each party shall have the right to destroy all or part of such Books and Records (other than the Tax Returns and related work papers and letters from the accountants of each party) after the sixth anniversary of the Closing Date or, at an earlier time by giving each other party hereto thirty (30) days prior written notice of such intended disposition and by offering to deliver to the other parties, at the other parties' expense, custody of such Books and Records (other than the Tax Returns and related work papers and letters from the accountants of each party) as such party may intend to destroy.

6.6 Sales and Income Taxes.

(a) The Buyer shall pay all sales taxes ("Taxes"), if any, applicable to, imposed upon or arising out of or in connection with the transactions effected pursuant to this Agreement, and shall indemnify, defend and hold harmless the Seller and its Affiliates with respect to any such Taxes. The Seller shall prepare and file all necessary documentation and Tax Returns with respect to such Sales Taxes.

(b) The Buyer shall pay all taxes applicable to, imposed upon or arising out of the sale of the Assets to the Buyer other than taxes imposed on or measured by the income of the Seller.

6.7 Covenants Regarding Tax Matters. The Seller and the Buyer shall (i) each provide the other with such assistance as may reasonably be requested by either of them in connection with the preparation of any return, audit or other examination by any tax authority or judicial or administrative proceedings relating to a liability for taxes, (ii) each retain and provide the other with any records or other information which may be relevant to any such return, audit or examination, proceeding or determination, and (iii) each provide the other with any final determination of any such audit or examination, proceeding or determination that affects any amount required to be shown on any return of the other for any period.

6.8 Telephone Forwarding. The Seller agrees that, for the period commencing on the Closing Date and continuing until the first anniversary of the Closing Date, Seller shall at its expense forward all calls received on the twenty-five telephone lines identified on Schedule 6.8 to telephone numbers identified by the Buyer. Following the first anniversary of the Closing Date, the Seller shall leave no further obligation to Buyer with respect to such telephone lines.

6.9 **Collections**. The parties intend that the Buyer and Seller shall enter into a separate agreement pursuant to which the Buyer shall assist the Seller in collecting its accounts receivable for services rendered at the Facility or by the Adult Day Care Program prior to Closing. The parties have agreed that in consideration of the Buyer's agreements in Section 11.17, the Buyer shall be entitled to retain for its own account the first $750,000 of funds collected with respect to such receivables. The Buyer shall be entitled to retain two and one-half percent (2.5%) of all collections made on behalf of Seller in excess of the sum of (i) $750,000 and (ii) amounts retained by the Buyer to be applied against the ADC Adjustment in the relevant calendar year as provided in Section 6.10 below

6.10 **Payment of and Adjustments to the ADC Adjustment**. If the Buyer is entitled to an ADC Adjustment pursuant to Section 4.12 of this Agreement, then the amount of the ADC Adjustment shall be paid to or credited to the Buyer as follows:

(a) In addition to the $750,000 the Buyer is entitled to retain for its own account pursuant to Section 6.9 above, the Buyer shall be entitled to retain for its own account up to $500,000 of funds collected with respect to receivables pursuant to Section 6.9 in each of the first two years following Closing Date;

(b) If the Buyer retains less than $500,000 for its own account pursuant to Section 6.10(a) in either of the first two years following the Closing Date, it shall so notify the Seller within 10 business days following the relevant anniversary of the Closing Date, and Seller shall pay to the Buyer the amount of such shortfall within 90 days following receipt of such notice from Buyer;

(c) In addition, the Seller shall pay to the Buyer on or before each of the first through eighth anniversaries of the Closing Date, the sum of $150,000;

(d) The parties acknowledge that the ADC Adjustment was designed to compensate the Buyer for the revenue that would be lost over five years as a result of being licensed to operate the Adult Day Care Program with fewer than 60 participants. Therefore, if during the three year period following Closing the Buyer is able to obtain licenses to increase the number of participants in the Adult Day Care Program, the ADC Adjustment shall be reduced on a pro rata basis over the remaining time prior to the third anniversary of the Closing Date for each additional slot secured. If as a result of such adjustment the ADC Adjustment is reduced to an amount less than amounts credited or paid to the Buyer, the Buyer shall promptly refund to the Seller the difference.

(e) In no event shall the aggregate amounts paid or credited to Buyer pursuant to this Section 6.10 exceed the ADC Adjustment, as it may be reduced pursuant to subsection (c) above. If amounts paid pursuant to this Section 6.10 are less than the ADC Adjustment, the Seller shall pay to the Buyer the shortfall within 90 days following receipt of such notice from the Buyer to such effect.

ARTICLE VII.
SURVIVAL; INDEMNIFICATION

7.1 **Survival of Provisions and Indemnification by the Seller.**

(a) The representations and warranties set forth in Articles II and III shall survive for the thirty-six (36) month period subsequent to Closing. Notwithstanding any implication to the contrary contained in this Agreement, so long as any party delivers written notice of a claim to another party hereunder no later than the applicable limitation date, the indemnifying party shall be required to indemnify the indemnified party as provided in this Article VII for all losses (subject to the limitations in Section 7.3) that the indemnified party may incur in respect of the matters that are the subject of such claim, regardless of when incurred.

(b) Subject to the provisions of Section 7.3, from and after the Closing, the Seller shall promptly indemnify, defend, and hold harmless the Buyer and its affiliates, against any and all losses, costs, expenses (including reasonable cost of investigation, court costs and legal fees actually incurred) and other damages resulting from (i) any breach by Seller of any of the covenants, obligations or representations or warranties contained in this Agreement, (ii) any claim that is brought or asserted by any third party(s) against the Buyer arising from or relating to the ownership, licensing, operation or conduct of the Adult Day Care Program or the Facility or the conduct of any of the Seller's employees, agents or independent contractors, relating to all periods of time ending on or prior to Closing, (iii) any Excluded Liabilities, and (iv) any actions, suits, proceedings, judgments, costs and expenses, including reasonable attorneys' fees, incident to any of the foregoing, or incurred in enforcing any of the obligations under this Section 7.1(b).

7.2 Indemnification by the Buyer. Subject to the provisions of Section 7.3, from and after the Closing, the Buyer shall promptly indemnify, defend and hold the Seller harmless against any and all losses, costs and expenses (including reasonable cost of investigation, court costs and legal fees actually incurred) and other damages resulting from (i) any breach by the Buyer of any of the covenants, obligations or representations or warranties contained in this Agreement, (ii) any claim that is brought or asserted by any third party(s) against the Seller arising from or relating to the ownership, licensing, operation or conduct of the Facility or the conduct of any of the Buyer's employees, agents or independent contractors, relating to all periods of time from and after the Closing, and (iii) any actions, suits, proceedings, judgments, costs and expenses, including reasonable attorneys' fees, incident to any of the foregoing, or incurred in enforcing any of the obligations under this Section 7.2.

7.3 Limits on Indemnification.

(a) In no event will the Seller's indemnity obligations hereunder, and under the Land Sale Contract or any other document executed in connection herewith or therewith, exceed, in the aggregate, $5,000,000 plus the amount of any Excluded Liabilities, but only to the extent that one or more third parties asserts claims against the Buyer related to the Excluded Liabilities (the "Indemnification Cap").

(b) In no event will the Buyer's indemnity obligations hereunder, and under the Land Sale Contract or any document executed in connection herewith or therewith exceed, in the aggregate $5,000,000 (the "Buyer Cap").

(c) The indemnification provisions set forth in this Article VII are the exclusive remedy of the parties hereto for breaches of the representations and warranties contained in this Agreement; provided, however, nothing in this Agreement (including this

Section 7.3) shall limit or restrict any party's right to maintain or recover any amounts in connection with any action or claim based upon intentional misstatement or fraud. The limitations of the Seller's indemnification obligations provided in this Section 7.3 shall not apply to any loss, cost or expense arising out of any claim made by any person employed at the Facility or the Adult Day Care Program prior to Closing arising out of or related to such employee's employment by the Seller.

7.4 Rules Regarding Indemnification. The obligations and liabilities of each party which may be subject to indemnification liability hereunder (the "indemnifying party") to the other party (the "indemnified party") shall be subject to the following terms and conditions:

(a) Third-Party Claims. The indemnified party shall, within twenty (20) calendar days of first learning thereof, give written notice to the indemnifying party of any claim by a third party (including, without limitation, any audit, examination or other proceeding relating to taxes) (a "Third Party Claim") which is likely to give rise to a claim by the indemnified party against the indemnifying party, stating the nature of said claim and the amount thereof, to the extent known (including copies of any writings received) and stating that, pursuant to the indemnity, the indemnified party is asserting against the indemnifying party a claim with respect to a potential loss from the Third Party Claim, provided, however, that the failure to provide such written notice within such twenty (20) day period shall in no event impair the rights of the indemnified party or limit the obligations of the indemnifying party except to the extent that such failure materially prejudices the indemnifying party's ability to defend the claim. If, within twenty (20) days after receiving such notice, the indemnifying party advises the indemnified party that it will provide indemnification and assume the defense at its expense, then so long as such defense is being conducted, the indemnified party shall not settle or admit liability with respect to the claim and shall afford to the indemnifying party and defending counsel reasonable assistance (at indemnifying party's sole cost and expense) in defending against the claim. If the indemnifying party assumes the defense, counsel shall be selected by such party and if the indemnified party then retains its own counsel, it shall do so at its own expense. If within the aforesaid twenty (20) day period the indemnified party shall have received written objection to a claim (which written objection shall briefly describe the basis of the objection to the claim or the amount thereof, all in good faith), then for a period of ten (10) days after receipt of such objection the parties shall attempt to settle the dispute as between the indemnified and indemnifying parties. If the parties have not settled the dispute by the expiration of the foregoing ten (10) day period, the indemnified party shall be free to exercise any and all of its rights. The indemnifying party may settle any such Third Party Claim without the consent of the indemnified party if the settlement, (A) involves only the payment of money against which the indemnified party is indemnified under this Agreement and (B) provides for full release of the indemnified party.

(b) Claims by a Party. The determination of a claim asserted by a party hereunder (other than as set forth in section (a) above) pursuant to this Article VII shall be made as follows: The indemnified party shall give written notice to the indemnifying party of any claim by the indemnified party which has not been made pursuant to subsection (a) above, and shall cause such notice to specify in reasonable detail to the extent then known each individual item of losses suffered or incurred, the basis for any anticipated liability and the nature of the

misrepresentation, breach of warranty, breach of covenant or agreement or other claim to which each such item is related and the computation of the amount to which the indemnified party claims to be entitled hereunder. If, within twenty (20) days after receiving the notice, the indemnified party shall have received written objection to a claim (which written objection shall briefly describe the basis of the objection to the claim or the amount thereof, all in good faith) then for a period of ten (10) days after receipt of such objection the parties shall attempt to settle the disputed claim as between the indemnified and indemnifying parties. If the parties have not settled the dispute by the expiration of the foregoing ten (10) day period, the indemnified party shall be free to exercise any and all of its rights. The indemnified party shall reasonably cooperate and assist the indemnifying party in determining the validity of any claim. Such assistance and corporation will include providing reasonable access to and copies of information, records and documents relating to such matters and furnishing employees to assist in the investigation and resolution of such matters.

7.5 Other Provisions. Notwithstanding anything to the contrary, the provisions of this Article VII are not intended to and shall not limit or modify the parties' obligations under Article IX below. The obligations of the parties under Article IX are in addition to and are independent of their indemnification obligations pursuant to this Article VII.

ARTICLE VIII.
TERMINATION

8.1 Failure to Timely File Application. Contingent upon Seller's cooperation, if Buyer shall fail to file the Application for Establishment within forty-five (45) calendar days after the date Seller provides Buyer with written notice of the Suffolk County Legislature approval of this transaction, Seller may terminate this Agreement. Upon termination of this Agreement, pursuant to this Section 8.1, Escrowed Funds plus accrued interest thereon shall be paid to Seller as its sole remedy and the parties shall have no further obligations under this Agreement.

8.2 Suffolk County Legislature Approval. If, before December 31, 2010 (a) the Suffolk County Legislature has not approved the sale of the Assets or (b) the Suffolk County Legislature disapproves the sale of the Assets, Seller shall, within three (3) days of the occurrence under (a) or (b), provide Buyer with notice of the same. In such event, either Seller or Buyer shall have the right to terminate this Agreement upon ten (10) days prior written notice to the other. Upon termination of this Agreement, pursuant to this Section 8.2, Escrowed Funds plus accrued interest thereon shall be paid to Buyer as its sole remedy and the parties shall have no further obligations.

8.3 Buyer's Default. If Buyer shall be disapproved by the Department of Health or the Public Health Council due to a character and competence issue or inability to demonstrate sufficient financial resources necessary for the acquisition of the Assets under this Agreement, or if a negative staff report shall be issued by the Department of Health or the Public Health Council regarding the Buyer upon its review of the Application, then Buyer shall have the right to substitute members and/or assign this Agreement to another purchaser (AAssigneeA) which shall assume this Agreement on Buyer's behalf, and Buyer may amend the Application to

reflect such substitution of members and/or Assignee, subject to Seller's consent which shall not be unreasonably conditioned, withheld or delayed. If (a) after such member substitution and/or assignment the Department of Health or Public Health Council still denies approval of Buyer's or its Assignee's Application, as amended, due to a character and competence issue or inability to demonstrate sufficient financial resources necessary for the acquisition of the Assets under this Agreement, (b) Buyer breaches any of its obligations hereunder, in any material respect, and fails to cure such default within thirty (30) days after notice from Seller of the event causing default, (c) Buyer fails to close within the time period set forth in Section 1.7 (other than Buyer's failure to close as a result of Seller's failure to comply with its obligations under this Agreement), then Buyer shall be deemed to have breached its obligatlons hereunder and Seller may at its option and upon ten (10) days prior notice to Buyer, cancel this Agreement, as its sole remedy, in which event this Agreement shall be terminated and the Escrowed Funds plus accrued interest thereon shall be paid to the Seller as and for its liquidated damages and not as penalty and the parties shall have no further obligations under this Agreement. Notwithstanding anything herein to the contrary, in the event the Department of Health or Public Health Council denies approval of Buyer's or its Assignee's Application due to a public need issue or any other issue other than character and competence or inability to demonstrate sufficient financial resources necessary for the acquisition of the Assets under this Agreement, then this Agreement shall be deemed cancelled and the Escrowed Funds and accrued interest thereon shall be paid to Buyer and neither party shall have any further claim against the other pursuant to this Agreement. This provision shall survive any termination of this Agreement.

8.4 Seller's Default. If Seller breaches any of its obligations hereunder in any material respect, and fails to cure such default within thirty (30) days after notice from Buyer of the event causing default, then Seller shall be deemed to have breached its obligations hereunder and Buyer may at its option and upon ten (10) days prior notice to Seller, to cancel this Agreement, in which event this Agreement shall be terminated and the Escrowed Funds plus accrued interest thereon, shall be paid to Buyer and Buyer shall cumulatively have all rights and remedies available under this Agreement at law or in equity, including, without limitation, an action to recover damages and/or to obtain specific performance of the Seller's obligations under this Agreement and the reimbursement of all costs and expenses, including, but not limited to reasonable attorneys fees and court costs incurred in connection with Seller's default and/or the enforcement of this provision. This provision will survive any termination of this Agreement.

8.5 Cross-Default with Land Sale Contract. Subject to any opportunity to cure as may be set forth in this Agreement: (a) a default by Land Sale Contract Seller under the Land Sale Contract shall be deemed as a Seller default hereunder and a default by Seller hereunder shall be deemed as a Land Sale Contract Seller default under the Land Sale Contract, and (b) a default by Real Estate Buyer under the Land Sale Contract shall be deemed as a Buyer default hereunder and a default by Buyer hereunder shall be deemed as a Real Estate Buyer default under the Land Sale Contract. In addition, if (i) Real Estate Buyer is entitled to cancel or terminate the Land Sale Contract in accordance with its terms, Buyer shall be entitled to cancel or terminate this Agreement and visa versa, and (ii) Real Estate Seller is entitled to cancel or terminate the Land Sale Contract, Seller shall be entitled to cancel or terminate this Agreement and visa versa. Upon any cancellation or termination of the Land Sale Contract, other than as a result of a Real Estate Buyer uncured default, or upon any cancellation or termination of the Land Sale Contract entitling the Real Estate Buyer to the deposit paid thereunder or the

Escrowed Funds in accordance with its terms, the Buyer under this Agreement shall be entitled to terminate this Agreement and shall be entitled to receive the Escrowed Funds and all interest thereon and vice versa. Upon any cancellation or termination of the Land Sale Contract as a result of a Real Estate Buyer uncured default entitling the Real Estate Seller to the deposit paid thereunder or the Escrowed Funds in accordance with its terms, the Seller under this Agreement may terminate this Agreement and shall be entitled to receive the Escrowed Funds and all interest thereon and vice versa.

8.6 Termination by Mutual Consent. This Agreement may be terminated and abandoned at any time prior to the Closing by the mutual written agreement of the Parties hereto whereupon the Escrowed Funds plus all accrued interest thereon shall be paid to the Buyer and the parties shall have no further obligations under this Agreement.

8.7 Termination by Either Party. This Agreement may be terminated by either the Seller or the Buyer by written notice to the other of a United States federal or state court of competent jurisdiction or United States federal or state governmental, regulatory, or administrative agency or commission shall have issued an order, decree, or ruling or taken any action permanently restraining, enjoying or otherwise prohibiting the transactions contemplated by this Agreement and such order, decree, ruling, or other action shall become final and non-appealable. Upon any termination pursuant to this Section 8.7, the Escrowed Funds plus all accrued interest thereon shall be paid to the Buyer and the parties shall have no further obligations under this Agreement.

8.8 Material Adverse Effect.

(a) This Agreement may be terminated at any time prior to Closing by the Buyer if, following the date of this Agreement, any event or circumstance occurs which causes (i) the Seller to be unable to satisfy the condition precedent to closing specified in Section 5.2(b) hereof or (ii) causes the Seller to modify its disclosure schedules pursuant to Section 4.10 hereof. Upon any termination pursuant to this Section 8.8(a), the Escrowed Funds, plus all accrued interest thereon shall be paid to the Buyer and the parties shall have no further obligations under this Agreement.

(b) This Agreement may be terminated at any time prior to Closing by the Seller if, following the date of this Agreement, any event or circumstance occurs which causes (i) the Buyer to be unable to satisfy the conditions precedent to Closing set forth in Section 5.1(b) hereof or (ii) causes the Buyer to modify its disclosure schedules pursuant to Section 4.10 hereof. Upon any termination pursuant to this Section 8.8(b), the Escrowed Funds, plus accrued interest thereon, shall be paid to the Seller and the parties shall have no further obligations under this Agreement.

8.9 Buyer's Right Under Section 2.23 to Terminate. Upon any termination of this Agreement by Buyer pursuant to the provisions of Section 2.23, the Escrowed Funds plus accrued interest thereon shall be paid to the Buyer and the parties shall have no further obligations under this Agreement.

8.10 **Survival.** The provisions of this Article VIII shall survive termination of this Agreement.

ARTICLE IX.
OVERPAYMENTS, UNDERPAYMENTS AND APPEALS

9.1 **Responsibility for Overpayments and Audits.** Seller is, and after the Closing shall remain, liable for all overpayments or audit liabilities due to Medicare, Medicaid or any other health care reimbursement or payment intermediary or third party payor, and all cash receipts assessments relating to such revenues, and all other third party payor liabilities with respect to services provided at the Facility or the Adult Day Care Program prior to the Closing Date (collectively, the "Overpayment Obligations"). Seller acknowledges that the Department of Health or other third party payors may collect the Overpayment Obligations by lump sum or by decreasing the third party payments that are otherwise payable to Buyer for services provided by Buyer on or after the Closing Date. Seller shall reimburse Buyer with respect to Overpayment Obligations paid by or withheld from the Buyer as provided below in this Article IX.

9.2 **Right to Appeal.** Each party shall retain the sole and absolute right to protest, contest or appeal any Medicaid or Medicare rate determinations or any other third party reimbursement relating solely to services rendered by the Facility or the Adult Day Care Program during such party's period of ownership and operation of the Facility or the Adult Day Care Program and to receive and retain any additional reimbursement resulting therefrom limited, however, to the reimbursement for services rendered during such party's period of ownership and operation of the Facility or the Adult Day Care Program.

9.3 **Retroactive Payment Adjustments.** If any retroactive adjustment in payments is made as a result of an audit, rate appeal or otherwise, with respect to Medicaid or Medicare rate payments, cash receipts assessments or other liabilities to the State of New York or any other third party reimbursement paid or owing to or by Seller for services rendered by the Facility or the Adult Day Care Program before the Closing Date and such adjustment is made by increasing or decreasing the Medicare, Medicaid or other third party payments made by such payor to Buyer for the Facility or the Adult Day Care Program on or after the Closing Date, then:

(a) Buyer shall promptly notify the Seller of such retroactive adjustment.

(b) in the case of an increase, the monies received by Buyer attributable to such increase, net of assessments thereon, shall be deemed trust funds belonging to Seller and Buyer shall pay the net of the same to Seller within ten (10) calendar days of the receipt thereof by Buyer. Buyer shall pay the cash receipts assessments relating to the monies referred to in the first sentence of this subsection utilizing the withheld portion of the monies referred to in the first sentence of this subsection allocable to such assessments and shall provide Seller with all statements and supporting documentation relating thereto;

(c) in the case of a decrease, as a result of which money is withheld or otherwise recovered from payments due to Buyer, Seller shall pay to Buyer the amount withheld within ten (10) calendar days after receipt of notice from Buyer of such withholding, together

with all statements and supporting documentation relating thereto and failure of Seller to so pay shall provide Buyer with the right, not to the exclusion of any other right or remedy, to setoff any such sums against any sums otherwise owing to Seller under this Agreement; and

(d) any amounts required to be paid by Seller or Buyer to the other pursuant to this Section 9.3 that are not paid when due shall bear interest at the rate of 6% per annum from the date payment was due until the date payment is received.

9.4 Claim Notice. After the Closing Date, if either party receives a notice relating to any audit, rate appeal, retroactive rate adjustment, or other rate determination, or of the results of any protest, contest or appeal thereof, which is attributable in whole or in part to pre-Closing Date periods (the "Claim Notice") the receiving party shall deliver to the other party, within ten (10) business days of receipt, a true and correct copy of any such Claim Notice.

9.5 Rate Appeals.

(a) Participating Appeals. If on or after the Closing Date, either Buyer or Seller (an "Initiating Party") intends to protest, contest or appeal any Medicaid or Medicare rate determinations or any third party reimbursement relating to any period that commenced prior to the Closing Date and ends after the Closing Date, then the Initiating Party shall notify the other party (the "Receiving Party") of such intention in writing (a "Protest Notice") within twenty (20) days after receipt of the Claim Notice. The Receiving Party shall have the right to participate in such protest, contest or appeal by giving the Initiating Party notice of such election within ten (10) business days after the receipt of the Protest Notice.

(b) Effect of Participation. If the Receiving Party elects to participate in such protest, contest or appeal, then:

(i) it shall pay its *pro rata* share of the Initiating Party's legal, accounting and other costs of pursuing such protest, contest or appeal. The Receiving Party's *pro rata* share of such costs shall be equal to the product of (A) the amount of such costs and (B) the number of calendar days in the period which is subject to the protest, contest or appeal that Receiving Party operated the Facility divided by the total number of calendar days in the period which is the subject of the protest, contest or appeal;

(ii) the Receiving Party shall cooperate in the protest, contest or appeal to the extent reasonably necessary to pursue such action and shall provide access to the Facility's books and records;

(iii) so long as either party is contesting any such claim in good faith, the other party shall not pay or settle such claim;

(iv) Seller shall be entitled to receive all increased reimbursements resulting from such protest, contest or appeal that relate to services provided at the Facility prior to the Closing Date; and

(v) Buyer shall be entitled to receive all increased reimbursements resulting from such protest, contest or appeal that relate to services provided at the Facility on or after to the Closing Date.

(c) Failure to Elect. If the Receiving Party does not elect in a timely manner to participate in any such protest, contest or appeal, then the Initiating Party shall bear the entire cost of such proceeding and, notwithstanding any other provision of this Agreement, shall be entitled to receive and retain all increased reimbursements resulting from such proceeding regardless of when the services were provided subject, however, to a maximum aggregate sum equal to the costs of such proceeding actually incurred by such Initiating Party. Upon recoupment of such costs by the Initiating Party all increased reimbursements resulting from the proceeding shall be allocated between Buyer and Seller as set forth in 9.5 (b) (iv) and (v) above.

9.6 Notwithstanding anything to the contrary, all capital improvement related rate increases for which Seller shall have filed a rate appeal prior to Closing and capital improvement related retroactive payment increases for which Seller shall have filed a rate appeal prior to Closing shall belong to Seller, other than those capital improvement related rate increases and retroactive payment increases directly attributable to capital improvements made by the Seller with the proceeds of the New York State Dormitory Authority grant referred to in Section 11.17 which shall belong to the Buyer. All other capital improvements related rate increases and capital improvement related retroactive payment increases, including those related to the capital improvements to be made by the Buyer pursuant to Section 11.17, shall belong to the Buyer.

9.7 The provisions of this Article 9 shall survive the Closing.

ARTICLE X.
RESIDENT ASSETS

10.1 Delivery of Resident Assets. At Closing, Seller shall deliver to Buyer (i) a schedule, certified by Seller as being accurate to its best knowledge after reasonable inquiry, of all Resident funds held by it as of the close of business on the day prior to the Closing Date, with all such funds designated on a Resident by Resident basis; (ii) a check drawn on the Residents' Allowance Account maintained by Seller for the full amount of any such account which shall be deposited by the Buyer in a new Residents' Allowance Account to be maintained by Buyer for the benefit of such Residents in accordance with legal requirements; (iii) a schedule, certified by Seller as being accurate to its best knowledge after reasonable inquiry, of all bank accounts maintained by the Facility on behalf of its Residents; (iv) all bankbooks and other assets belonging to Residents of the Facility maintained in the custody of the Facility together with a schedule thereof listing such bankbooks and other assets and the name of the Resident for whom they are being so held; and (v) a schedule, certified by Seller as being accurate to its best knowledge after reasonable inquiry, of all Resident security deposits and prepayments designated on a patient by patient basis, together with a check in the amount of such security deposits and unexpended prepayments (collectively, AResident Accounts@). Seller shall correct any

discrepancies between the amounts actually in such accounts and the amounts shown as belonging to the Residents and shall transfer all the correct sums due hereunder.

10.2 **Indemnification**. Buyer shall acknowledge receipt of the schedules described in Section 10.1 above and the Resident Accounts in writing and, provided that any discrepancies referred to in Section 10.1 have been corrected, Buyer shall indemnify, defend and hold Seller harmless against any claims made by or on behalf of Residents or others relating to Resident Accounts, including but not limited to all costs, expenses and reasonable attorneys fees but in all events limited to the amounts actually transferred by Seller to Buyer under this Article. Seller shall indemnify, defend and hold Buyer harmless against any claims made by or on behalf of Residents, including but not limited to all costs, expenses and reasonable attorneys fees, relating to any Resident Accounts which claims arise on account of periods prior to the Closing Date, or in respect of which Seller fails to properly schedule, correct and/or remit the proper funds in accordance with Section 10.1. The provisions of this Section 10.2 shall survive the Closing.

10.3 **Notices**. Buyer and Seller will jointly and promptly give all notices required by law in connection with the aforesaid transfer of the Residents' assets. This provision shall survive the Closing.

ARTICLE XI.
GENERAL PROVISIONS

11.1 **Notices**. All notices and other communications hereunder shall be in writing and shall be deemed provided to a Party hereto if delivered personally, mailed by registered or certified mail (return receipt requested), sent by nationally recognized overnight delivery service or sent via facsimile to such Party at the address therefore as follows (or at such other address for such Party as shall be specified by similar such notice):

If to the Seller:

County of Suffolk
Leonard J. Marchese, MBA, CPA
Director of Management and Research
Suffolk County Department of Health Services

with copies to:

Christine Malafi, County Attorney
Suffolk County Department of Law
H. Lee Dennison Building
100 Veterans Memorial Highway
Hauppauge, NY 11788-0099

and

Farrell Fritz, P.C.
1320 RXR Plaza
Uniondale, NY 11556-1320
Attention: Robert Creighton, Esq.
Christopher J. Kutner, Esq.

If to the Buyer, to:

Foley Operating LLC
c/o Isidor Friedenberg
2 Cara Drive
Suffern, NY 10901
Attention: Kenneth Rozenberg

with a copy to:
Isidor D. Friedenberg, Esq.
2 Cara Drive
Suffern, New York 10901

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

11.3 **Rules of Construction**. The Parties hereto agree that they have been represented by counsel during the negotiation, preparation, and execution of this Agreement, and therefore waive the application of any law, regulation, holding, or rule of construction providing that ambiguities in an agreement or other document will be construed against the Party drafting such agreement or document.

11.4 **Entire Agreement**. This Agreement (including the documents and instruments referred to herein and the Exhibits and Schedules attached hereto) constitutes the entire agreement, and supersedes all other prior agreements and understandings (both written and oral), among the parties hereto, or any of them, with respect to the subject matter hereof. This Agreement shall not be assigned by operation of law or otherwise except as otherwise provided in this Agreement.

11.5 **Governing Law**. **THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS EXECUTED AND TO BE PERFORMED WHOLLY WITHIN SUCH STATE AND ANY AND ALL DISPUTES SHALL BE RESOLVED IN THE SUPREME COURT FOR THE STATE OF NEW YORK IN AND**

FOR THE COUNTY OF SUFFOLK OR IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE NON EXCLUSIVE JURISDICTION OF SAID COURTS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR THE RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED BY SUCH NEW YORK STATE COURT OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT.

11.6 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF THE PARTIES HERETO IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.

11.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement. Furthermore, the parties agree that the signature of any party may be delivered by facsimile, or transmission of a PDF file or any other form of electronic delivery.

11.8 Severability. Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is deemed unenforceable, such provision shall be deemed to be reformed and modified to the minimum amount required to make such provision enforceable. Unless otherwise specifically set forth in this Agreement, all provisions of this Agreement shall survive the Closing.

11.9 Expenses. The Buyer and the Seller shall each pay their own costs and expenses relating to this Agreement, the negotiations leading up to this Agreement, and the performance of this Agreement.

11.10 Assignment. Neither Party may assign or delegate any rights or obligations set forth in this Agreement without the prior written consent of the other Party, provided that the Buyer shall have the right, subject to obtaining applicable Governmental Authorizations, to assign its rights and delegate its obligations, without relieving itself of any obligations hereunder, to one or more Affiliates which shall take title to, or to a successor to the interest of the Buyer in, the Assets and Buyer shall have the right to assign set forth in Section 8.3 hereof. This Agreement shall be binding upon the Parties hereto and their respective successors and permitted assigns.

11.11 No Third Party Beneficiaries. This Agreement is for the sole benefit of the Buyer and the Seller and is not for the benefit of any third party. Nothing contained in this

Agreement is intended to relieve or discharge the obligations or liability of any third party to the Seller or the Buyer, nor shall this Agreement give any third party any right of subrogation or action over or against the Seller or the Buyer.

11.12 Further Assurances and Records. From time to time after the Closing Date, the Buyer or the Seller, at the request of the other and without further consideration but at the expense of the requesting party, shall sign and deliver or cause to be signed and delivered such other instruments of transfer and take such other actions as reasonably may be requested by the other in order further to effectuate the consummation of the Asset Purchase. In addition, the Buyer and the Seller acknowledge that there may be occasions in the future when a Party or Affiliates of a Party will need access to certain documentation of the other in order to prepare financial statements, tax returns or other reports to third parties, or in order to facilitate audits or legal proceedings, comply with laws or Governmental Authorizations or otherwise conduct its affairs in a proper manner. Accordingly, the Buyer and the Seller shall exercise their respective reasonable commercial efforts to achieve the purposes of this Section in such case at the expense of the requesting party.

11.13 Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing signed by the Buyer and the Seller. No waiver by any Party of any provision of this Agreement or any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be valid unless the same shall be in writing and signed by the Party making such waiver nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

11.14 Captions. The titles of the Articles and Sections of this Agreement are for convenience only and shall not be construed as limiting, defining or affecting the substantive terms of this Agreement.

11.15 Exhibits, Schedules and Annexes. The Exhibits, Schedules and Annexes are a part of this Agreement as if fully set forth herein. All references herein to Sections, subsections, clauses, Exhibits, Schedules and Annexes shall be deemed references to such parts of this Agreement, unless the context shall otherwise require.

11.16 Brokers. Each Party to this Agreement agrees that it shall be responsible to pay fees, commissions and expenses of any broker, financial advisor or other third party retained by it in connection with the transactions contemplated hereby.

11.17 Agreement with Respect to Violations on Schedule 2.3. The Buyer acknowledges that the Facility shall be transferred subject only to the violations identified (i) in the December 19, 2007 New York State Department of Health Recertification/Complaint Survey referred to on Schedule 2.3 annexed to this Agreement (the "DOH Survey Violations") and (ii) in the April 14, 2010 Department of Health Survey to the extent they are duplicative of the DOH Survey Violations, and agrees the Buyer shall be responsible for making all necessary repairs or improvements to correct such violations. The Buyer's obligations under this Section 11.17 shall be to make necessary repairs or improvements only. The Buyer is not assuming and Seller shall

retain responsibility for any fines or penalties arising out of such violations for the period ending on the Closing Date. Notwithstanding any other provision of this Agreement, Buyer shall have no right or remedy against Seller with respect to the costs of making the improvements which Buyer is responsible to make under this Section 11.17. In consideration of the Buyer agreeing to undertake such repairs and alterations as aforesaid, the Seller agrees to complete, by the Closing, the improvements to be funded by a $2,600,000 New York State Dormitory Authority grant, which improvements are described on Schedule 11.17. Notwithstanding anything to the contrary, but subject to the provisions contained hereinabove in this Section 11.17, all violations arising or noted before Closing shall be remedied and cleared by Seller at its expense prior to the Closing.

11.18 Agreement with Respect to Employees Post Closing. The Seller shall pay all employees of the Facility as of the Closing Date for accrued benefits earned by such employees for the period through the Closing Date. In addition, in order to provide for the smooth transition of the Facility to the Buyer, at Closing, the Seller shall pay to the Buyer an amount equal to two weeks salary plus FICA payroll tax for each Hired Employee (as such term is defined in Section 6.3) based upon the compensation to be paid to such Hired Employee by Buyer (the "Pool") which amount shall be applied by the Buyer on a dollar for dollar basis against paid time off taken by Hired Employees following the Closing. On the first anniversary of the Closing Date, if any of the Pool remains, such amounts shall be paid to the Hired Employees in such manner as the Buyer determines.

[THE NEXT TWO PAGES ARE THE SIGNATURE PAGES]

IN WITNESS WHEREOF, the Buyer and the Seller have caused this Agreement to be signed as of the date that appears in its first paragraph.

SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES

By: _____
Name: Leonard J. Marchese
Title: Director of Management & Research

FOLEY OPERATING LLC

By: _____
Name: Kenneth Rozenberg
Title: Managing Member

Approved as to Legality:
Christine Malafi, County Attorney

By: _____
Name: Jessica H. Hogan
Title: Assistant County Attorney

IN WITNESS WHEREOF, the Buyer and the Seller have caused this Agreement to be signed as of the date that appears in its first paragraph.

SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES

By: _____
Name: Leonard J. Marchese
Title: Director of Management & Research

FOLEY OPERATING LLC

By: _____
Name: Kenneth Rozenberg
Title: Managing Member

Approved as to Legality:
Christine Malafi, County Attorney

By: _____
Name: Jessica H. Hogan
Title: Assistant County Attorney

EXHIBIT A

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Agreement") is entered into as of _____ __, ____ by and among County of Suffolk, a municipal corporation of the State of New York, acting through its duly constituted Department of Health Services (the "Assignor"), and Foley Operating LLC, a New York limited liability company (the "Assignee").

WHEREAS, Assignor and Assignee entered into that certain Asset Purchase Agreement dated April 20, 2010 (the "Purchase Agreement'); and

WHEREAS, pursuant to the Purchase Agreement, Assignor has agreed to assign certain rights and agreements to Assignee, and Assignee has agreed to assume certain obligations of Assignor, as set forth herein.

NOW, THEREFORE, in consideration of the premises, the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto mutually covenant and agree as follows:

1. Effective as of 12:01 a.m. EST on the date hereof (the "Effective Time"), Assignor hereby sells, transfers and assigns (collectively the "Assignment") to Assignee all of Assignor's right, title, benefit, privileges and interest in and to the contracts, agreements or commitments listed on Schedule A hereto ("Rights"), and Assignee hereby accepts the Assignment and agrees to assume, observe and perform any obligations in connection with the Rights exclusively first arising from and after the Effective Time, provided that Assignee assumes no Excluded Liabilities and the parties hereto agree that all such Excluded Liabilities shall remain the sole responsibility of Assignor. The foregoing assignment shall be subject, in case of contracts, to a valid assignment of such contracts to the Assignee.

2. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

3. This Agreement shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of New York, without regard to its conflict of law principle provisions.

4. This Agreement may be executed in counterpart signature pages all of which when so executed and attached hereto shall constitute one and the same original.

5. Capitalized terms used but not otherwise defined herein have the meanings given them in the Purchase Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Assignment and Assumption Agreement as of the date first set forth above.

ASSIGNOR:

COUNTY OF SUFFOLK

By:_____
Name:
Title:

ASSIGNEE:

FOLEY OPERATING LLC

By:_____
Name:
Title:

By:_____
Name:
Title:

SCHEDULE A
TO ASSIGNMENT AND ASSUMPTION TO AGREEMENT

EXHIBIT B

BILL OF SALE

THIS BILL OF SALE dated as of _____, 20___ by County of Suffolk, a municipal corporation of the State of New York, acting through its duly constituted Department of Health Services (the "Seller"), and Foley Operating LLC, a New York, a limited liability company (the "Buyer").

WITNESSETH:

WHEREAS, the parties hereto have entered into an Asset Purchase Agreement dated April 20, 2010 (the "Purchase Agreement") providing for the purchase by the Buyer of substantially all of the assets of the Seller used in connection with the business of the John J. Foley Skilled Nursing Facility, other than the Excluded Assets, and the parties now desire to carry out such transaction by the Seller's execution and delivery to the Buyer of this instrument evidencing the vesting in the Buyer of all of the assets and rights of the Seller hereinafter described. Capitalized terms used but not defined herein have the meanings given them in the Purchase Agreement.

NOW, THEREFORE, in consideration of the premises and of other valuable consideration to the Seller in hand paid by the Buyer, at or before the execution and delivery hereof, the receipt and sufficiency of which by the Seller is hereby acknowledged, the Seller hereby conveys, grants, bargains, sells, transfers, sets over, assigns, remises, releases, delivers and confirms unto the Buyer, its successors and assigns forever, effective as of 12:01 a.m. EST on the date hereof (the "Effective Time"), all of the Seller's right, title and interest in the Assets, free and clear of all Liens and Excluded Liabilities.

TO HAVE AND TO HOLD all of the foregoing business, rights, privileges, properties, and assets unto the Buyer, its successors and assigns for its and their own use forever.

The Seller hereby covenants that, from time to time after the delivery of this instrument, at the Buyer's request and without further consideration, the Seller will do, execute, acknowledge, and deliver, or will cause to be done, executed, acknowledged and delivered, all and every such further acts, deeds, conveyances, transfers, assignments, powers of attorney and assurances as reasonably may be required more effectively to convey, transfer to and vest in the Buyer, and to put the Buyer in possession of, any of the Assets as required under the Purchase Agreement.

Nothing in this instrument, express or implied, is intended or shall be construed to confer upon, or give to, any person, firm or corporation other than the Buyer and its successors and assigns, any remedy or claim under or by reason of this instrument or any terms, covenants or condition hereof, and all of the terms, covenants and conditions, promises and agreements in this instrument contained shall be for the sole and exclusive benefit of the Buyer and its successors and assigns.

SCHEDULE 1.2
Excluded Assets

In addition to all items listed in Section 1.2 of this APA, the following are excluded from sale.

	Excluded Assets
1.	All separately titled and registered autos, vans, trucks, buses or vehicles.
2.	Personal hand tools of maintenance mechanics.
3.	Contents of the Department of Public Works tool room, including table saw, drill press, band saw, 50 gal upright air compressor, pressure washer, 2 bench grinders, 2 radial arm saws
4.	Residents' personal possessions, including televisions, hot plates, compact disc players, etc.
5.	Leased photocopiers, pagers, oxygen tanks and owned blackberry devices.
6.	Fax machines (Owned by Chem-Rx)
7.	Fire alarm monitoring
8.	Phone service
9.	Computer data trunk
10.	Jett Sanitation Garbage Compactors
11.	Bioterrorism Hub – Cablevision cable modem.
12.	Any and all items under lease, license, or rental to the County.

SCHEDULE 1.5
Allocation of Purchase Price

The parties agree that the Purchase Price will be allocated to the Assets for all purposes in a manner consistent with the Internal Revenue code and the regulations promulgated thereunder. The parties shall endeavor in good faith to agree the asset allocation prior to the Closing Date.

SCHEDULE 2.3
Schedule of Violations

#	Date	Title	Liability	From	To
1	12/19/07	NYS Department of Health Recertification/ Complaint Survey – Survey Exit Date 12/28/07	All survey deficiencies not approved as corrected by NYS Department of Health as of date of close.	Richard Healion, New York State	Brian Harper, Suffolk County Health Commissioner
2	3/15/10	Suffolk County Fire Marshal Inspection Report	All violations not approved as corrected by the Suffolk County Department of Fire, Rescue & Emergency Services Fire Marshal as of date of close.	Joseph H. Kuethen, Fire Marshal	Linda Mermelstein, Suffolk County Acting Health Commissioner
3		Adult Care Program	Approved for 24 slots, currently operating at 60 slots and all violations noted on the NYS Department of Health Survey dated April 14, 2010.		

SCHEDULE 2.4
Consents and Approvals

- Approval of the Suffolk County Legislature, together with all necessary committees thereof.

- State Hospital Review and Planning Council and approval of the Public Health Council of the Department of Health.

- Any required approvals from the Town of Brookhaven or any divisions thereof.

- Any approvals as may be necessary for access and provision of utilities including but not limited to, approvals of Suffolk County Water Authority and the Suffolk County Sewer Agency.

SCHEDULE 2.5
Litigation

Litigation			
	Caption	Index #	Summary
13.	*Miglino v. County of Suffolk, Suffolk County Skilled Nursing Facility*	04669-97	Medical malpractice action
14.	*Estate of Schroeder v. John J. Foley Skilled Nursing Facility, Suffolk County Department of Health Services and County of Suffolk*	27697-05	Medical malpractice action
15.	*McKesson Medical-Surgical Minnesota Supply Inc. v. Department of Health Services Suffolk County, John J. Skilled Nursing Facility*	08-46138	Contract dispute regarding payment for medications/supplies

SCHEDULE 2.8
Material Contracts
Other Agreements

	Material Contracts and Other Agreements			
	Vendor	Contract Provided	From	To
1	Spanier Building Maintenance Corp.	Window Washing - Skilled Nursing Facility	10/01/09	09/30/10
2	Home Audiology Services, PC	Audiology Services	08/01/08	07/31/11
3	DiBenedetto, Gary, DC	Chiropractor- No Cost	04/01/07	03/31/10
4	DentServ Dental Services, PC	Dental Care Services	11/01/09	03/31/10
5	Tetra Dynamics, Inc.	Dental Laboratory Services	02/01/10	12/31/12
6	Visiting Eyecare Services	Optometry Services	01/01/08	12/31/10
7	SUNY Stony Brook, School of Dental Medicine	Oral and Maxillofacial Surgery Services	01/01/09	08/31/10
8	Pollick, Sharon A., DMD, PC	Oral Surgery Services	05/01/08	12/31/10
9	Rx Consulting Solutions, LLC.	Pharmacy Consultation Services	02/01/08	12/31/10
10	Chem RX	Pharmacy Services	07/01/07	06/30/10
11	Degere Physical Therapy Services, PC	Physical Therapy Management Services	08/01/08	11/30/10
12	Behavioral Health Medical Practice, PC	Physician- No Cost	01/01/10	12/31/12
13	Ilkay, M.D. Altan	Physician- No Cost	01/01/10	12/31/12
14	Jayamaha, M.D., Sharmini	Physician- No Cost	01/01/10	12/31/12
15	Latt, M.D., Khin M.	Physician- No Cost	01/01/10	12/31/12
16	Long Island Surgery, PC	Physician- No Cost	01/01/10	12/31/12
17	Mathew, M.D., Jacob K.	Physician- No Cost	01/01/10	12/31/12
18	Pascual, M.D., Margarita C.	Physician- No Cost	01/01/10	12/31/12
19	Peconic Bay Primary Medical Care	Physician- No Cost	06/01/09	12/31/12
20	Weitzman, M.D., Stephen	Physician- No Cost	01/01/10	12/31/12
21	Crowley, Brooke V, D.P.M.	Physician- Podiatry	01/01/10	12/31/12
22	Eastern Portable X-Ray Corp.	Portable Radiology Services	04/01/10	12/31/12
23	RG Psychological Services, P.C.	Psychology	01/01/08	12/31/10
24	North Fork Radiology, P.C.	Radiology Services	01/01/08	03/31/11
25	Beacon Speech-Language Pathology, Physical and Occupational Therapy, Psychological Services, Registered Professional Nursing	Temporary Healthcare Staffing	01/01/10	12/31/12
26	ExecuSearch Group, Inc.	Temporary Healthcare Staffing	01/01/10	12/31/12
27	HealthPro Nursing Solutions, LLC	Temporary Healthcare Staffing	01/01/10	12/31/12
28	J&P Watson, Inc. d/b/a Interm HealthCare of Greater New York	Temporary Healthcare Staffing	01/01/10	12/31/12
29	Maxim Healthcare Services, Inc., d/b/a Maxim Staffing Solutions	Temporary Healthcare Staffing	01/01/10	12/31/12
30	Medical Staffing Network, Inc.	Temporary Healthcare Staffing	01/01/10	12/31/12

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
31	Huberman, Debra	Speech Therapy	01/01/08	12/31/10
32	Medical Staffing Network, Inc.	Speech Therapy	01/01/10	12/31/12
33	Father John E. Madden	Religious Services	01/01/10	12/31/12
34	Mary Immaculate Church	Religious Services	01/01/09	12/31/11
35	Rabbi Steven Moss	Religious Services	01/01/09	12/31/11
36	Neighborhood Health Providers, LLC	Revenue Generating Managed Care Provider Svs	10/01/08	09/30/11
37	Long Island Care Services, LLC	Salon Services	01/01/09	12/31/11
38	Bruno, Carl	Entertainer Services	01/01/10	12/31/12
39	Bruno, Patricia	Entertainer Services	01/01/10	12/31/12
40	Fuhr, Bob	Entertainer Services	01/01/10	12/31/12
41	Goldberg, Elliot	Entertainer Services	01/01/10	12/31/12
42	Grant, Tony	Entertainer Services	01/01/10	12/31/12
43	Graziano, Anthony	Entertainer Services	01/01/10	12/31/12
44	Izzo, Ralph	Entertainer Services	01/01/10	12/31/12
45	Maida, Donna	Entertainer Services	01/01/10	12/31/12
46	Maselli, George	Entertainer Services	01/01/10	12/31/12
47	McFadden, Roseann	Entertainer Services	01/01/10	12/31/12
48	McNeill, Carol	Entertainer Services	01/01/10	12/31/12
49	Patchogue Rotary Animal Assisted Therapy, Inc.	Entertainer Services	01/01/10	12/31/12
50	Smith, Lillian	Entertainer Services	01/01/10	12/31/12
51	Affinity Health Plan, Inc.	Network Participation	09/01/09	08/31/10
52	Empire Blue Cross Blue Shield	Network Participation	08/15/09	08/14/11
53	GuildNet Inc.	Network Participation	09/01/09	08/31/10
54	Heritage New York IPA, Inc. d/b/a HealthCare Partners IPA	Network Participation	09/01/09	08/31/10
55	Suffolk Transportation Services Inc.	Transportation (Adult Daycare Busing)	09/01/03	06/30/12
56	Servisair, LLC	Transportation Management Services	09/01/08	06/30/11
57	Hunter EMS, Inc.	Transportation Services	01/01/08	12/31/10
58	Phoenix Transport Corp d/b/a Emergency Ambulance Service	Transportation Services	01/01/08	12/31/10
59	Ricar Medical Transportation Service	Transportation Services	01/01/08	12/31/10
60	TRICARE Prime Network	Network Participation	9/29/2008	9/29/2011
61	HIP Health Plan of New York	Network Participation	1/21/2009	1/15/2012

SCHEDULE 2.11
Material Adverse Change

None.

SCHEDULE 2.16
Absence of Certain Events

None.

SCHEDULE 2.18
Management & Employment Agreements

Management & Employment Agreements				
#	Vendor	Service	From	To
1	The Fein Group, LLC	Administrator & Management Services	8/1/08	7/31/10
2	Degere Physical Therapy Management Services, PC	Physical Therapy	8/1/08	11/30/10
3	Association of Municipal Employees White Collar Unit No. 2	Collective Bargaining Agreement	1/1/04	12/31/08
4	Association of Municipal Employees Blue Collar Unit No. 6	Collective Bargaining Agreement	1/1/04	12/31/08

SCHEDULE 3.4

Litigation

None

SCHEDULE 6.8
Telephone Numbers

Buyer may choose up to 25 of the following numbers to have forwarded for a period of one year, post Closing Date.

John J. Foley Skilled Nursing Facility			
Telephone Directory			
DEPARTMENT	Phone Number (631)	DEPARTMENT	Phone Number (631)
Administration		**Medical Director**-Anthony Bennardo, MD, MPH,CMD	852-4476
Lowell Fein, LNHA, MPA, CDP, FACHE, **Administrator**	852-4404	**Medical Records** - Carol Salvatore	852-4450
Assistant - Christine Ebmeyer	852-4403	Medical Records Clerk - Bruni Aldarondo	852-4451
Admininistrator For Support Services-Kim Gierasch, BA	852-5401	**Multi-Purpose Room**	**852-4473**
		Nurse Practitioners	
Admissions		Vicki Stelzel, N.P.	852-4409
Trisha Eiden-Loesch, R.N.	852-4470	Alison Abrams, N.P.	852-4409
Linda Chester, L.P.N.	852-6818		
Helen Budny, R.N.	852-4431	**Nursing Administration-**	
ADHC		Al Carfora, R.N., Director	852-4443
AnneMarie Sarich, CTRS, Director	852-5421	Inservice Education/Staff Dev./QA-Barbara Parrillo	852-4442
Secretary - Cheryl Milward	852-4677	Secretary-Kari Ingegno	852-4444
Nursing Office - Renee Pelletier, R.N.	852-4479	MDS Coordinator-	852-4453
Nursing Office	852-4478	Employee Health	852-4340
Social Worker - Lois Byalick, LMSW	852-4452	**Nursing Rehab.**-Rose Schmidt,RN/Cheryl Holmes,LPN	852-4411
ADHC Kitchen	852-4477	**Nursing Supervisor's Office**	2-4440/2-4441
Activity Rooms	852-5228	**Nursing Supervisors**	
Beauty Parlor	852-4421	**7-3** - S. Pispisa/B. Peterson/H. Guida	852-4440/2-4441
Computer Room	852-4499	**3-11** - S. Theinert	852-4440/2-4441
Dental	852-4423	**11-7 -**	852-4440/2-4441
Dietary - Andrea Schramm, RD, Director	852-4435	**Nursing Stations**	
Dietitians - Maryanne Moro	852-5229	2N Chart Room	852-4639
Dietetic Technician - Kelly Jack	852-5227	2N Chart Room	852-5402/2-4455
Secretary - Lorraine Spataro	852-4434	2S Chart Room	852-5412/2-4446
Asst. Foodservice Supv.-Catherine Beardslee/Steve Sacher	852-4436	3N Chart Room	852-5403/2-4456
Kitchen	852-4437	3S Chart Room	852-5413/2-4448

John J. Foley Skilled Nursing Facility
Telephone Directory

DEPARTMENT	Phone Number (631)	DEPARTMENT	Phone Number (631)
Dining Room (Staff)	852-4438	4N Chart Room	852-5404/2-4454
Dining Rooms (Residents)		4S Chart Room	852-5411/2-4457
2nd Floor	852-4482	5T Chart Room	852-5405/2-4447
3rd Floor	852-4483		
4th Floor	852-4484	**Occupational Therapy** - Isabel Melazzini, OTR	852-4469
5th Floor	852-4485	**Physical Therapy**-Peter Degere,PT, Rehab Coord.	852-4465
DPW- Dave Nulty / DPW Shop	2-4490/2-4460	Physical Therapy - Joe Clemente, PT	852-4410
EMR Computer Training Room	852-4413	**Physicians**	
Exam Room 5th Floor	852-5407	Dr. Santos	852-4409
Finance-	852-4464		
Financial Analyst/Contracts - Barbara Russo	852-4334	**Psychologists**-Dr. Schlee/Dr. McClusky/Dr. Katz	852-5416
Accounts Payable - Larry Roth	852-5409		
Medicare - James Lawry	852-4405	**Reception Desk** - JoAnn Miano	852-4400
Medicaid - Marlene Madorran	852-5523	**Small Conference Room**	852-4412
Cash Receipts/Patient Funds- Anastasia Zoas	852-4406	**Social Work Services**	
Insurance - Gail Freeborn	852-4333	Lynne Mauss, LCSW-R, Director	852-4433
Housekeeping- Diane Blum, Director	852-4425	Secretary- Sandy Smith	852-4430
Human Resources - Colleen Truocchio, Director	852-4466	SWA-	852-4432
Secretary - Denise Barrett	852-4467	Social Work Assistant - Michelle Burstin, SWA	852-5418
Information Technology-Susan Nappi-Bonilla/Rich Palazzo	852-4674	Social Work Assistant - Karen Nobs, SWA	852-4781
In-Service Education - Barbara Parrillo, R.N.	852-4442		
Classroom- Barbara Parrillo, R.N.	852-4676	**Speech Therapy** - Debbie Huberman	852-4420
Infection Control- Barbara Parrillo, R.N.	852-4442	**Staffing Office/Sick calls** - Linda Molinelli	852-4445
Laundry - Sewing Room	2-4458/2-4459	**Therapeutic Recreation**	
		Laura Stein, CTRS, Director	852-4415
Lobby	852-5420	Assistant - Pat Culkin	852-4416
Maintenance - Larry Stumpo, Director	852-4428	**Therapeutic Room**	
Maintenance Shop	852-4429	4th Floor	852-4491
Material Control - Peter Mastando/John Thornton	852-4418	**Volunteer & Community Programs**-Laura Stein	852-4415
		2nd Floor	852-4468

John J. Foley Skilled Nursing Facility
Telephone Directory

DEPARTMENT	Phone Number ((631))	DEPARTMENT	Phone Number ((631))
		FAX NUMBERS	
		Administration	852-4475
		Admissions	852-5261
		Adult Day Care Program	852-4414
		Chart Room 2N	852-4449
		Chart Room 2S	852-4894
		Chart Room 3N	852-4487
		Chart Room 3S	852-4497
		Chart Room 4N	852-4488
		Chart Room 4S	852-4498
		Chart Room 5T	852-4899
		Dietary & Food Service	852-4338
		Infection Control	852-4787
		Material Control	852-4337
		Medical Records	852-4424
		Nursing Administration	852-4678
		Nursing Office	852-4784
		Personnel	852-4762
		Social Services/Admission	852-5400
		Patient Accounts	852-4373
		Pantries	
		2nd Floor	852-4492
		3rd Floor	852-4493
		4th Floor	852-4494

SCHEDULE 11.17
Description of Improvements

Pursuant to funding provided through New York State Dormitory Authority grants, the Seller agrees to the following improvements, in substantially the following allocations.

SUFFOLK COUNTY DEPT OF HEALTH SERVICES - JJFSNF Dormitory Authority Grants

Combined Awards	**$2,600,000**

Acquisition of Machinery and Equipment for the John J. Foley Skilled Nursing Facility			
Equipment:			
	Office Machines	$371,000	
	Camera & Photographic Equip	$25,000	
	Medical, Dental & Laboratory Equip	$50,000	
Supplies, Materials & Other Expenses			
	Computer Software	$2,000	
	Other Unclassified	$2,000	
Contractual Expenses			
	Fees for Services: Non-employees	$700,000	
		Total of Grant	**$1,150,000**

Renovation and Infrastructure Improvements to the John J. Foley Skilled Nursing Facility, Fifth Floor			
Equipment:			
	Furniture & Fixtures	$50,000	
	Other Equipment, not otherwise specified	$400,000	
Supplies, Materials & Other Expenses			
	Repairs: Buildings	$400,000	
	Total of Grant		
		Total of Grant	**$850,000**

Safety Enhancements to the John J. Foley Skilled Nursing Facility			
Equipment:			
	Garage, Shop & Building Equipment	$215,375	
	Other Equipment	$5,600	
Supplies, Materials & Other Expenses			
	Repairs: Buildings	$145,025	
	Total of Grant		
		Total of Grant	**$366,000**

Enhancements to the John J. Foley Skilled Nursing Facility, including Construction of a Walkway and Garden			
Equipment:			
	Garage, Shop & Building Equipment	$15,000	
	Other Equipment	$10,500	
Supplies, Materials & Other Expenses			
	Repairs: Buildings	$208,500	
	Total of Grant	***Total of Grant***	**$234,000**

Exhibit B
Restated Escrow Agreement

AMENDED AND RESTATED

ESCROW AGREEMENT

THIS **AMENDED AND RESTATED ESCROW AGREEMENT** (this "Escrow Agreement"), is made and entered into as of April 20, 2010, by and among the **COUNTY OF SUFFOLK**, a municipal corporation of the State of New York, ("Seller"), **FOLEY OPERATING LLC** ("Foley Operating") and **FOLEY LAND LLC** ("Foley Land"), each a New York limited liability company having offices c/o Isidor Friedenberg, Esq., 2 Cara Drive, Suffern, NY 10901 (Foley Operating and Foley Land collectively referred to as, the "Buyers") ("Buyer"), and **FARRELL FRITZ, P.C.**, as escrow agent, with an address at 1320 RXR Plaza, Uniondale, NY 11556 (the "Escrow Agent").

WHEREAS, pursuant to a letter of intent dated March 17, 2010 between Seller and Kenneth Rozenberg (the "Letter of Intent") Seller and Buyers anticipate executing and becoming parties to (i) an Asset Purchase Agreement whereby Seller agrees to sell and Foley Operating agrees to purchase the assets and the Adult Day Care Center, other than the real property, of the John J. Foley Skilled Nursing Facility (the "Facility") (the "Asset Purchase Agreement") and (ii) an Agreement of Sale whereby Seller agrees to sell and Foley Land agrees to purchase the real property associated with the Facility (the "Land Sale Contract"; collectively with the Asset Purchase Agreement, the "Transaction Documents"); and

WHEREAS, pursuant to the Letter of Intent, the Initial Deposit (hereinafter defined) has been deposited on behalf of Buyers in escrow to be held and disbursed on the terms set forth herein; and

WHEREAS, it is the intent of the Buyers and Seller to agree, pursuant to terms and conditions to be set forth in the Transaction Documents, that certain additional funds be placed in escrow to be held and disbursed on the terms and conditions set forth herein;

WHEREAS, the Seller and Kenneth Rozenberg hereto have previously executed an Escrow Agreement dated as of March 17, 2010 (the "Prior Agreement") and the parties hereto desire to amend and restate the Prior Agreement in its entirety as set forth herein;

Accordingly, for the purpose of establishing the terms and provisions of such escrow, the parties hereto agree as follows:

1. Defined Terms. Capitalized terms and phrases used in this Escrow Agreement without definition shall have the respective meanings set forth in the Transaction Documents.

2. Appointment of Escrow Agent and Deposit.

(a) Seller and Buyers hereby appoint and designate the Escrow Agent as escrow agent hereunder, and the Escrow Agent hereby accepts such appointment and agrees to serve hereunder on the terms set forth in this Escrow Agreement.

(b) Upon execution of the Letter of Intent and the Prior Agreement, the sum of Five Hundred Thousand Dollars ($500,000) (the "Initial Deposit") was deposited on behalf of the Buyers with the Escrow Agent to hold in an interest bearing account pursuant to the provisions hereof. Within two business days after execution and exchange of the Transaction Documents, the Buyers shall deposit additional funds equal to One Million Three Hundred Thousand ($1,300,000) by certified or official bank teller check or wire transfer (the "Signing Deposit") with the Escrow Agent. Upon execution of the Transaction Documents by the Suffolk County Executive after approval by the Suffolk County Legislature, the Buyers shall deposit additional funds equal to (i) 10% of the aggregate purchase price under the Asset Purchase Agreement and under the Land Sale Contract less (ii) the sum of the Initial Deposit and the Signing Deposit (such additional deposit being the "Final Deposit") with the Escrow Agent to be held in the same interest bearing account as the Initial Deposit. All amounts on deposit in such account, including the interest accrued thereon, are hereinafter referred to as the "Escrowed Funds".

(c) The Escrow Agent agrees to accept the Escrowed Funds and hold and dispose of the Escrowed Funds only as set forth in this Escrow Agreement. In the event of a dispute between the parties arising after the execution and exchange of the Transaction Documents, the Escrow Agent shall continue to hold the Escrowed Funds until release is authorized in accordance with this Escrow Agreement.

(d) The Escrow Agent shall not be liable for any error of judgment, fact or law, or any act done or omitted to be done, except to the extent of any damage caused by its own gross negligence in performing its express duties under this Escrow Agreement, as determined by a court of competent jurisdiction; provided, however, Escrow Agent shall have no liability under any circumstances for Buyers' or Seller's failure to comply with the Transaction Documents, for the Escrow Agent's compliance with proper written instructions or for the Escrow Agent exercising its rights or remedies as contemplated by this Escrow Agreement. The Escrow Agent shall not exercise any discretion under this Escrow Agreement. The Escrow Agent's determination as to whether an event or condition has occurred, or has been met or satisfied, or as to whether a provision of this Escrow Agreement has been complied with, or as to whether sufficient evidence of the event or condition or compliance with the provision has been furnished to it, shall not subject the Escrow Agent to any claim, liability or obligation whatsoever, even if it shall be found that such determination was improper or incorrect, except to the extent required above in this paragraph. The Escrow Agent shall be entitled to rely for all purposes of this Escrow Agreement upon any notice, demand or other communication given to it pursuant to this Escrow Agreement with respect to the matters stated therein, and each such notice, demand or communication shall be full authority to the Escrow Agent for any action taken, suffered or omitted in reliance thereon. The Escrow Agent shall not be required in any way to determine the validity or sufficiency, whether in form or substance, of any instrument, document, certificate, statement, notice, demand or other communication referred to in this Escrow Agreement or contemplated hereby, or the identity or authority of the persons executing the same, and it shall be sufficient if any writing purporting to be such instrument, document, certificate, statement or notice is delivered to the Escrow Agent and purports to be correct in form and signed or otherwise executed by the party or parties required to sign or execute the same under this Escrow Agreement.

(e) If at any time after the execution and exchange of the Transaction Documents the Escrow Agent shall (i) receive conflicting notices, claims, demands or instructions with respect

to any matter under this Escrow Agreement, or (ii) for any other reason in good faith be unable to determine the party or parties entitled to receive the Escrowed Funds or any part thereof or the resolution of any other matter under this Escrow Agreement, the Escrow Agent shall retain the Escrowed Funds or any other amount held under this Escrow Agreement safely in its possession until it shall have received instructions in writing signed by both Seller and Buyers, or until directed by a final order or judgment of a court of competent jurisdiction, whereupon it shall make such disposition in accordance with such instructions or such order or judgment. The Escrow Agent may cause any questions concerning the Escrowed Funds or this Escrow Agreement to be submitted to a court of competent jurisdiction and the Escrow Agent shall have no liability for complying with or requesting the determination of said court. Without limiting the generality of the foregoing, after the execution and exchange of the Transaction Documents, should the Escrow Agent be in doubt as to what action to take, notwithstanding anything contained in this Escrow Agreement, the Escrow Agent shall have the right to institute a bill of interpleader to determine the rights of the parties hereto.

3. Terms of Disbursement of the Escrowed Funds. The Escrowed Funds shall be delivered by the Escrow Agent only in accordance with the following:

(a) Upon demand by Buyers to the Escrow Agent (i) at any time prior to completion of the Due Diligence Period (as such term is defined in the Letter of Intent) or (ii) at any time after the Due Diligence Period but prior to the execution and exchange of the Transaction Documents, the Escrow Agent shall deliver the Escrowed Funds, together with all interest and proceeds thereon to Buyer within five business days of the Escrow Agent's receipt of said demand Notice.

(b) After the execution and exchange of the Transaction Documents, upon notice to the Escrow Agent from both Buyers and Seller that the Transaction Documents have been terminated in accordance with their terms, the Escrow Agent shall deliver all of the Escrowed Funds, together with all interest and proceeds thereon, to Buyers within five (5) business days of the Escrow Agent's receipt of said notice.

(c) After the execution and exchange of the Transaction Documents, upon notice to the Escrow Agent and each other party hereto by either Buyers or Seller demanding the Escrowed Funds pursuant to the terms of the Transaction Documents, absent a court order, judgment or notice from the other party pursuant to Section 3(g) below to the contrary, the Escrow Agent shall deliver the Escrowed Funds, together with all interest and proceeds thereon, to the party providing the aforementioned demand notice within fifteen (15) business days of the Escrow Agent's receipt of said demand notice .

(d) After the execution and exchange of the Transaction Documents, upon notice to the Escrow Agent from both Buyers and Seller on a date which is less than ten (10) and more than five (5) days before the Closing has been scheduled, the Escrow Agent shall attend the Closing and, if the Closing occurs, the Escrow Agent shall deliver the Escrowed Funds to Seller at the Closing, with the principal portion of such Escrowed Funds to be applied to the purchase price to be set forth in the Transaction Documents.

(e) After the execution and exchange of the Transaction Documents, upon notice to the Escrow Agent from both Buyers and Seller to deliver the Escrowed Funds (with clear

indication in such notice of the person or entity to whom the Escrowed Funds should be delivered), absent a court order or judgment to the contrary, the Escrow Agent shall deliver the Escrowed Funds in accordance with said notice within five (5) business days of the Escrow Agent's receipt of said notice.

(f) After the execution and exchange of the Transaction Documents, the Escrow Agent shall deliver the Escrowed Funds in accordance with a judgment or order of a court of competent jurisdiction.

(g) Buyers and Seller each has the right to dispute a disbursement of the Escrowed Funds pursuant to Subsection 3(c) by delivering a notice of dispute to the Escrow Agent, with a copy thereof to the demanding party, within ten (10) days of the receipt of a copy of the demand notice pursuant to Subsection 3(c). Any disputed amounts shall be held by the Escrow Agent until either the (i) applicable dispute has been finally resolved and written notice of such resolution has been provided to the Escrow Agent pursuant to Subsection 3(e) or (ii) a notice pursuant to Subsection 3(f) is received by all the parties hereto, in which case the Escrowed Funds shall be disbursed in accordance with such final resolution or Subsection 3(f) notice, as applicable.

4. Indemnity. Seller and Buyers hereby agree, jointly and severally, to indemnify the Escrow Agent and its partners and their respective successors, heirs, estates and representatives and to hold the Escrow Agent and its partners and their respective successors, heirs, estates and representatives harmless from, any and all losses, costs, damages, expenses, claims and attorneys' fees suffered or incurred by the Escrow Agent or any of its partners or any of their respective successors, heirs, estates or representatives, directly or indirectly, as a result of, in connection with, or arising from or out of this Escrow Agreement, the Transaction Documents or the Escrowed Funds or any of the acts or omissions of the Escrow Agent or any of its partners or employees in connection with this Escrow Agreement, except to the extent of any damages directly and exclusively caused by the Escrow Agent's gross negligence in performing its express duties under this Escrow Agreement as determined by a final non-appealable judgment of a court of competent jurisdiction. Seller and Buyers also hereby agree, jointly and severally, to advance all above potential indemnitees with all costs and expenses (including, without limitation, reasonable attorneys' fees) of investigating or defending any litigation relating to this Escrow Agreement, it being agreed that the above potential indemnitees shall repay any such advances only to the extent it is ultimately determined by a final non-appealable judgment of a court of competent jurisdiction they were not entitled to be indemnified for such costs and expenses.

5. Resignation; Removal. The Escrow Agent may resign at any time upon giving the parties hereto five (5) business days notice. Any successor Escrow Agent shall be such person or entity as shall be selected by both Buyers and Seller; and in such event the Escrow Agent's resignation shall not be effective until a successor Escrow Agent agrees to act hereunder; provided, however, that in the event no successor escrow agent is appointed and acting hereunder within thirty (30) days of such resignation notice, the Escrow Agent may deliver the Escrowed Funds into a court of competent jurisdiction and its resignation shall then be effective upon such delivery. Upon delivery of the Escrowed Funds to a successor escrow agent or into a court, the Escrow Agent shall be released and discharged from any and all further liabilities and obligations hereunder. Buyers and Seller may jointly remove the Escrow Agent for any reason at any time. Upon such removal,

Buyer and Seller shall designate a substitute escrow agent or if the parties cannot agree on a substitute, then a substitute shall be appointed by a court of competent jurisdiction.

6. Termination. This Escrow Agreement shall be deemed terminated after the Escrow Agent delivers all of the Escrowed Funds in accordance with this Escrow Agreement and the Escrow Agent thereupon shall be released and discharged from all further obligations hereunder.

7. Reimbursement. The Escrow Agent shall be entitled to receive its regular fee for preparation of this Escrow Agreement and for its services rendered and expenses incurred hereunder payable by Seller.

8. Severability. If one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and this Escrow Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

9. Relief from Counsel Conflict. Notwithstanding its duties as Escrow Agent hereunder, all of the parties are aware that the Escrow Agent acts as counsel for Seller and accordingly all parties agree that neither its services as escrow agent hereunder, nor any provision hereof, either express or implied, shall restrict or inhibit the Escrow Agent from representing Seller or any of its affiliates in any action, dispute, controversy, arbitration, suit or negotiation arising (a) under the Transaction Documents or under or in connection with any matter or context whatsoever whether or not directly or indirectly involving any of the parties hereto, or (b) under this Escrow Agreement after Escrow Agent's resignation hereunder is effective and the Escrowed Funds have been transferred to a successor escrow agent or deposited into a court of competent jurisdiction.

10. Role of Escrow Agent. The Escrow Agent is acting hereunder as a stakeholder only, without compensation and for the convenience and at the request of the parties. The duties of the Escrow Agent shall be determined solely by the express provisions of this Escrow Agreement and are purely ministerial in nature. Moreover, nothing in this Escrow Agreement shall impose any duty upon the Escrow Agent to exercise discretion, it being the intention of the parties that the Escrow Agent shall not be obligated to act except as set forth in this Escrow Agreement. The Escrow Agent may act or refrain from acting in respect of any matter referred to herein in full reliance upon and with the advice of counsel which may be selected by it (including any member of its firm) and shall be fully protected in so acting or refraining from acting upon the advice of such counsel. The Escrow Agent shall be fully protected regarding any action or omission to act taken in good faith hereunder and shall not be liable for any mistake of fact or error in judgment or any act or omission relating to the performance of its obligations hereunder unless caused by wilful misconduct. Furthermore, the Escrow Agent shall not be liable if it is unable to make any required disbursement from the Escrow Fund because of any loss incurred on the account in which such Escrow Fund is held pursuant to this Escrow Agreement, nor shall the Escrow Agent be liable for the rate of interest paid on the account in which the Escrow Fund is held.

11. Taxes. Upon request of the Escrow Agent, each party will provide the Escrow Agent with his or its Federal Identification Number or social security number, as the case may be,

and the party and/or parties receiving any of the Escrowed Funds or interest accrued on the Escrowed Funds shall be solely responsible for the payment of any and all taxes payable thereon.

12. Entire Agreement. This Escrow Agreement and the Transaction Documents and all documents referred to herein or therein contain the complete agreement among the parties with respect to the subject matter of this Escrow Agreement and supersede all prior understandings, agreements and representations, whether oral or written, among the parties which may have related to the subject matter of this Escrow Agreement in any way.

13. Binding Effect. This Escrow Agreement and the rights, interests and obligations hereunder shall be binding upon the parties hereto and their successors and inure to the benefit of their respective heirs, personal representatives, successors and permitted assigns. Neither this Escrow Agreement nor any rights, benefits or obligations set forth herein may be assigned by any of the parties hereto, except that Buyers may assign this Escrow Agreement and any of the provision hereof without the written consent of the other parties hereto to any assignee(s).

14. Notices. All notices or communications required or permitted by, or given with reference to, this Escrow Agreement (collectively, "Notices") shall be in writing and shall be given to all parties hereto as follows: by (a) personal delivery, (b) established overnight commercial courier, or (c) registered or certified mail, return receipt request, first-class postage prepaid. Such Notices shall be addressed to the applicable addresses of the Buyers, Seller and Escrow Agent as set forth below, or to any other address or addresses as any party entitled to receive Notices under this Escrow Agreement shall designate, from time to time, by Notice given to the others in the manner provided in this Section.

If to Buyers or to either of them:

Foley Operating LLC
Foley Land LLC
c/o Isidor D. Friedenberg, Esq.
2 Cara Drive
Suffern, NY 10901

with a copy to:

Isidor D. Friedenberg, Esq.
2 Cara Drive
Suffern, New York 10901

If to Seller:

Suffolk County Department of Health Services
Attn: Leonard J. Marchese, MBA, CPA
Director of Management and Research
Suffolk County Department of Health Services
225 East Rabro Drive
Hauppauge, NY 11788

with a copy to:

Suffolk County Attorney's Office
Attn: Christine Malafi, Esq.
H. Lee Dennison Bldg.
100 Veterans Highway
P.O. Box 6100
Hauppauge, NY 11788

If to Escrow Agent:

Farrell Fritz, P.C.
1320 RXR Plaza
Uniondale, NY 11556
Attn: Robert Creighton, Esq.

15. Amendments. This Escrow Agreement may be amended, modified or restated only in writing signed by Seller, Buyers and the Escrow Agent.

16. Counsel Representation. Each party agrees and acknowledges that he or it has been represented by competent legal counsel in connection with this Escrow Agreement.

17. Waiver of Breach. The waiver of any breach of this Escrow Agreement by any party at any time shall not be effective unless in writing, and no such waiver shall constitute the waiver of the same or another breach on a subsequent occasion. Moreover, no delay or failure by any party to exercise any right under this Escrow Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right.

18. Amendment and Restatement. This Agreement amends and restates the Prior Agreement in its entirety. Upon execution and delivery of this Agreement, the Prior Agreement shall have no force or effect. All rights of Kenneth Rozenberg under the Prior Agreement are hereby assigned by him to the Buyers.

19. Buyer's Relationship. The parties acknowledge and agree that the Buyers have a business relationship to each other and, as a result, the other parties hereto shall consider any notice from or to a Buyer to be a notice from or to both Buyers. Furthermore, the Escrow Agent shall make payments to the Buyers hereunder as instructed by Buyers and shall have no obligation to allocate payments due to the Buyers between the Buyers. Any payment made to either Buyer shall be for all purposes a payment made to the Buyers collectively.

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

THE COUNTY OF SUFFOLK

By: _____
Name:
Title:

FOLEY OPERATING LLC

By:_____
Name: Kenneth Rozenberg, Managing Member

FOLEY LAND LLC

By:_____
Name: Kenneth Rozenberg, Manager

_____
KENNETH ROZENBERG

FARRELL FRITZ, P.C., as Escrow Agent

By: _____
Name: Robert C. Creighton, Esq.
Title: Shareholder

Interwoven\1396622.4

Schedule 10-2

1. **Underground Fuel Storage Tanks.** There are underground fuel storage tank(s) containing diesel fuel used to power the back-up electrical generators at the Premises.

2. **Violations.** Violations are as set forth in Schedule 2.3 of the APA as of the date hereof.

ex.2

ASSET PURCHASE AGREEMENT

By and Between

THE COUNTY OF SUFFOLK, a Municipal Corporation of the State of New York,

And

FOLEY OPERATING LLC

Dated as of April 20, 2010

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ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT** (this "Agreement"), dated as of April 20, 2010, is entered into by and between the County of Suffolk, a municipal corporation of the State of New York, acting through its duly constituted Department of Health Services (the "Seller"), and **FOLEY OPERATING LLC**, a New York limited liability company having offices c/o Isidor D. Friedenberg, Esq., 2 Cara Drive, Suffern, New York 10901 (the "Buyer"). The Seller and the Buyer are referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the Seller owns a 264 certified bed licensed skilled nursing facility known as John J. Foley Skilled Nursing Facility (the "Facility"), an enterprise fund of the County of Suffolk, which Seller operates under the Department of Health Services of the County of Suffolk;

WHEREAS, on March 5, 2009, pursuant to Suffolk County Resolution No. 881-08 the County Executive, through the Department of Health Services issued a request for expressions of interest ("RFEI") to transfer ownership and/or operation and management of the Facility and

WHEREAS, Seller is the owner and licensed operator of an Adult Day Care Program (the "Adult Day Care Program"); and

WHEREAS, qualified RFEI respondents received a request for proposals ("RFP") to transfer ownership and/or operation and management of the Facility issued on September 21, 2009; and

WHEREAS, on February 23, 2010, based on the evaluation of the RFP Review Committee, an award letter for the sale of the Facility was issued to the Buyer's principal; and

WHEREAS, the parties executed a Letter of Intent, dated March 17, 2010, which, inter alia, permitted Buyer to enter into this Agreement for the sale and purchase of the operations of the Facility and the Adult Day Care Program; and

WHEREAS, the Seller desires to sell, assign, and deliver to the Buyer, and the Buyer desires to acquire, purchase, accept assignment, and accept delivery from the Seller, the assets of the Facility and the Adult Day Care Program, including an assignment by the Seller of its rights, title and interest in and to the license to operate the Facility; provided that to the extent such license cannot be assigned, the Seller shall cooperate with the Buyer to assist the Buyer in obtaining new license from the New York State Health Department;

WHEREAS, the Buyer and the Seller wish to set forth the terms and conditions under which the Buyer will buy and the Seller will sell, or cause to be sold, the assets of the Facility's business; and

WHEREAS, concurrently herewith Seller and Foley Land LLC, a New York limited liability company with offices c/o Isidor D. Friedenberg, Esq., 2 Cara Drive, Suffern, New York 10901 (the "Real Estate Buyer"), are entering into an agreement in the form annexed hereto as Exhibit C (the "Land Sale Contract") whereby Real Estate Buyer will purchase and acquire from Seller the real property site on which Seller operates the Facility (the "Real Estate", the "Real Property" or the "Premises"), the closing of which shall occur simultaneously with the Closing hereunder and shall be a contingency hereof.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants, agreements, representations, and warranties contained herein, and for other good and valuable consideration, the Seller and the Buyer hereby agree as follows:

DEFINITIONS

Definitions. When used in this Agreement, these terms shall have these meanings:

"Actions" means any action, claim, suit, litigation, proceeding, arbitration action, audit, or investigation by or before any Governmental Authority or Person.

"ADC Adjustment" shall have the meaning assigned to such term in Section 4.12 of this Agreement.

"Adult Day Care Program" shall have the meaning assigned to such term in the Recitals hereto.

"Application" has the meaning assigned to such term in Section 4.4 hereof.

"Asset Purchase" means the sale by the Seller and the purchase by the Buyer of the Assets and the assumption of the Assumed Liabilities by the Buyer pursuant to this Agreement and the documents executed in connection herewith.

"Assets" mean those assets and all of the rights accruing thereunder after the Closing Date as more particularly described in Section 1.1.

"Assumed Liabilities" means those liabilities, if any, identified on Schedule 1.3.

"Assignment and Assumption Agreement" means that agreement substantially in the form attached hereto as Exhibit A, and subject to such amendments as may be required in order to obtain the necessary Governmental Authorizations, pursuant to which the Seller assigns to the Buyer and the Buyer assumes those obligations of the Seller accruing from and after the Closing under the Material Contracts which Buyer may elect to have assigned to it at Closing.

"Bill of Sale" means that certain bill of sale substantially in the form attached hereto as Exhibit B pursuant to which the Buyer agrees to purchase the Assets from the Seller.

"Business" means the business of operating the Facility and the Adult Day Care Program operated by the Seller as of the Closing Date.

"Business Days" means any day other than a Saturday or Sunday or any other day on which commercial banks located in the State of New York generally are authorized to close for business other than the retail depository business.

"Certificate of Need" shall mean the consent and/or approval, and such other authorizations or certifications, the Buyer is required to obtain from the Department of Health of New York and/or the Public Health Council of New York before the Buyer becomes licensed to operate the Facility enabling the Parties to consummate the transaction contemplated by this Agreement.

"Closing" means the closing of the sale, assignment, and purchase of the Assets by the Buyer effective as of the Closing Date, in accordance with and subject to Article I and all of the terms and conditions of this Agreement.

"Closing Date" means the date on which the Closing becomes effective.

"Code" means the Internal Revenue Code of 1986, as amended.

"Confidentiality Agreement" means that certain letter agreement, dated March 17, 2010, entered into by and between the Seller and the Buyer.

"Contracts" means contracts the Facility and/or Seller has entered into concerning the operations and services at the Facility.

"Department of Health" means the New York State Department of Health and, when applicable to the Public Health Council of the State of New York.

"Enterprise Fund (Fund 632)" means the enterprise fund established by the Seller for operation of the Facility.

"Escrow Funds" has the meaning assigned to such terms in Section 1.4(d) hereof

"Escrow Agent" shall mean Farrell Fritz, P.C., having offices at 1320 RXR Plaza, Uniondale, NY 11556.

"Excluded Assets" shall have the meaning assigned to such term in Section 1.2.

"Excluded Liabilities" shall have the meaning assigned to such term in Section 1.3.

"Exhibits" mean the exhibits attached hereto by the Seller and the Buyer which form part of this Agreement.

"Facility" shall have the meaning assigned to such term in the Recitals hereto.

"Final Deposit" has the meaning assigned to such term in Section 1.4(a) hereof.

"Governmental Authority" means court, tribunal, arbitrator or any government or political subdivision thereof, whether federal, state, county, local or foreign, or any agency, authority, official or instrumentality of any such government or political subdivision.

"Governmental Authorizations" means the licenses, permits, consents, approvals and other authorizations required by law or any Governmental Authority to be held by a Person for a particular purpose, including for the purposes of transferring, acquiring or using any of the Assets and/or the Premises.

"Hired Employees" has the meaning given to such term in Section 6.3 hereof.

"Hospital Contracts" has the meaning assigned to such term in Section 2.8 hereof.

"Initial Deposit" means the initial deposit made on behalf of the Buyer to the Escrow Agent upon execution of the letter of intent with respect to the transactions contemplated hereby.

"Land Sale Contract" has the meaning assigned to such term in the Recitals hereto.

"Law" means any law, statute, rule, regulation, ordinance and other pronouncement having the effect of law of the United States, any foreign country or any domestic or foreign state, county, city or other political subdivision or of any Governmental Authority.

"Lien" means any lien, pledge, hypothecation, mortgage, assessment, charge, security interest, claim, lease, charge, option, right of first refusal, easement, servitude, transfer restriction under any stockholder or similar agreement, encumbrance or any other restriction or limitation or adverse claim whatsoever.

"Material Adverse Effect" means, with respect to any Person or the Facility, any change, effect, or circumstance that, individually or in the aggregate, is or is reasonably likely to be materially adverse to the financial condition, results of operations, or membership of such Person or the Facility; provided, however, that the following shall not be taken into account in determining whether there has been or would be a Material Adverse Effect on or with respect to such Person or the Facility: (a) any change, effect, or circumstance relating to conditions affecting the economy of any part of the world generally, or any change, effect, or circumstance relating to conditions generally affecting the health care industry, and, in either case, not affecting such Person or the Facility in a materially disproportionate manner, (b) any change, circumstance, or effect caused by the announcement or pendency of the Asset Purchase and the related transactions and (c) any change, circumstance or effect related to changes in third party reimbursement rates paid to the Facility for services rendered.

"Material Contracts" shall have the same meaning assigned to such term in Section 2.8 hereof.

"Medical Claims" means any and all claims, bills, invoices or requests for payment submitted to Payors for health care services rendered to Residents.

"Order" means any writ, judgment, award, decree, consent decree, injunction or similar order of any Governmental Authority, in each case whether preliminary or final.

"Payor Contracts" shall mean those agreements by and between Seller or the Facility and Payors governing, among other things, the terms and conditions for reimbursement of Medical Claims by Payor to the Facility for Services rendered to the Residents.

"Payors" means any individual or entity obligated by policy, contract or law to pay for goods and services rendered to a Resident of the Facility.

"Person" means any individual, partnership, limited liability company, corporation, estate, trust, unincorporated association, business, or other legal entity, and any government or any governmental agency or political subdivision thereof.

"Pre-Closing Receivables" means all rights to reimbursement or other funds related to, among other things, goods and services provided or rendered to a Resident occurring prior to 12:01 a.m. local time on the Closing Date.

"Programs" means, collectively, Medicare, Medicaid and all other government and commercial sources of payment or reimbursement for care and/or services provided at the Facility to a Resident.

"Provider" shall mean an individual or entity providing professional medical, dental, behavioral or other professional services at the Facility.

"Provider Agreements" has the meaning assigned to such term in Section 2.8 hereof.

"Purchase Price" has the meaning assigned to such term in Section 1.4.

"Premises" means the real property to be sold pursuant to the Land Sale Contract, together with the fixtures appurtenant thereto, the improvements thereon and the easements for access to be conveyed, including the real property upon which the Facility and the Program are located and the real property used in connection therewith.

"Registrants" means those individuals enrolled to attend the Facility's Adult Day Care Program.

"Representatives" means, with respect to any Party, such Party's counsel, accountants, investment bankers, employees, agents or other representatives.

"Residents" means those individuals residing at Facility on the date of Closing.

"Responsible Person" means one of the following individuals who are employed by the Seller and are directly involved with the Facility:

Leonard J. Marchese, MBA, CPA
Director of Management and Research
Suffolk County Department of Health Services

"Seller's Knowledge" means, when modifying a representation or warranty of the Seller in this Agreement or in any other document delivered by the Seller pursuant to the provisions of this Agreement, that the fact, situation or circumstance described therein or the nonexistence of a fact, situation or circumstance referred to therein is actually known, or reasonably could or should be known, by a Responsible Person after due inquiry.

"Services" means those professional and related services rendered to Residents at the Facility or Registrants at the Adult Day Care Program by a Provider or other authorized individual.

"Signing Deposit" has the meaning assigned to such term in Section 1.4(a) hereof.

"Transaction Documents" means this Agreement, the Bill of Sale, the Assignment and Assumption Agreement, and all other documents to be executed by the Parties hereto in connection with the consummation of the transactions contemplated hereby.

ARTICLE I.
SALE AND PURCHASE OF ASSETS

1.1 **Purchase of Assets**. At the Closing, on the terms and conditions set forth in this Agreement, the Seller shall sell, convey, assign, transfer, and deliver without recourse (except as expressly provided herein) to the Buyer, and the Buyer shall purchase, accept assignment and acquire from the Seller, the Assets free and clear of all liens. "Assets" shall mean all of the assets, properties and rights used or usable in the operation of the Facility, of every type and description, tangible or intangible, wherever located and whether or not reflected on the books and records of the Seller, other than the Premises which purchase shall be addressed in the Land Sale Contract and those excluded pursuant to Section 1.2 hereof. Subject to such exceptions, Assets shall include, without limitation, all of the right, title and interest of the Seller in or to the following:

(a) All of the Seller's rights to continue to participate in the Programs, including, but not limited to the rights of the Seller, to the extent transferable, pursuant to the Payor Contracts, or to enter into new contracts with the counterparties to the Payor Contracts, all rights to provide Services to Residents at the Facility and the Registrants at the Adult Day Care Program, and the corresponding rights to receive reimbursement and any other revenues payable for Services rendered to Residents and/or Registrants from and after the Closing;

(b) To the extent transferable, all licenses, certificates and permits held or owned by Seller relating to the ownership or operation of the Facility, the Adult Day Care Program and the assets;

(c) All of the Seller's rights, title and interests in all other Contracts, to the extent transferable and to the extent terminable by Buyer after Closing without cost or penalty or those contracts as Buyer may elect at Closing to have assigned to it at the Closing;

(d) True and correct copies of the financials and other books, records, information and title documents necessary for the Buyer to operate the Facility on and after the Closing Date;

(e) Books, records, medical charts and information pertaining to the Residents, including lists of all names, addresses, identification numbers, provider data, and copies (electronic and/or hard copy) of all books and records maintained for such Residents, including medical and claim histories;

(f) Any payments made by Payors for goods or Services rendered on and after the Closing;

(g) Books, records, and information pertaining to the Facility's Providers, including without limitation, lists of all such Providers for the Services and the Provider Agreements, if any, including names, addresses, and other data maintained for each Provider; provided that the provision of such information does not violate any contractual confidentiality provisions or the confidentiality restrictions of applicable law;

(h) All tangible assets, including without limitation, those located on or within the Real Property otherwise related to the Facility including without limitation machinery and equipment, including without limitation, those located at the Real Property or otherwise related to the Facility (including without limitation linens and purchased parts and supplies) furniture, office equipment, and all inventories and supplies and all engineering plans relating to the Facility and the Premises;

(i) Originals or duplicate copies of all financial, accounting and operating data and records, including without limitation all books, records, notes, sales and sales promotional data, advertising materials, credit information, cost and pricing information, customer and supply lists, business plans, projections, reference catalogs, payroll and personnel records to the extent allowed by law, and other similar property, rights and information;

(j) Subject to the terms and conditions imposed by lessors and licensors and to the extent transferable, all computer software, programs and similar systems owned or leased by or licensed to the Facility are used in operation of the Facility together with menus, policies and procedure manuals and compliance programs;

(k) Seller's right to intellectual property, including the name John J. Foley Skilled Nursing Facility (the "Name");

(l) Seller's Medicare and Medicaid provider numbers and provider agreements, to the extent assignable;

(m) All security deposits and prepayments, if any, for future services;

(n) All Resident funds held in trust for the Residents; and

(o) All other assets of Seller used exclusively in the operation of the Facility and the Adult Day Care Program, other than the Excluded Assets.

The Buyer acknowledges and agrees that to the extent that any contract or agreement of the Seller which Buyer may elect to have assigned to it cannot be assigned to the Buyer, the Buyer may negotiate new contracts or agreements with the counterparties to such contracts and, upon such agreements being finalized, the Seller shall be deemed to have satisfied its obligations under this Section 1.1.

1.2 Excluded Assets. Any provision of this Agreement to the contrary notwithstanding, the Buyer shall not acquire and there shall be excluded from the Assets, the following (the "Excluded Assets") to the extent existing as of 12:01 a.m. local time on the Closing Date

(a) All cash on hand or in banks, cash equivalents, other investments, Pre-Closing Receivables, all rights in any funds of any nature wherever maintained or held especially the balances remaining in the Enterprise Fund (Fund 632);

(b) The Seller's rights, title and interests in the Contracts to the extent that they give rise to Pre-Closing Receivables;

(c) The Seller's rights, title and interests in the insurance policies covering the Seller, its officers, directors, employees and agents, and any claims for refunds or recoveries under any insurance policy, including without limitation, directors and officers liability insurance, error and omissions insurance, and stop loss insurance related to Services or events prior to the Closing;

(d) The Seller's rights, title and interest in claims against third parties arising with respect to acts and omissions occurring on dates prior to the Closing Date, if any, including proceeds of insurance paid or payable, whether prior to or following the Closing Date, related to the period prior to the Closing Date or to any Excluded Liabilities;

(e) The Seller's rights, title and interest in and to any rebates, refunds, settlements from class actions or other legal proceedings and/or other amounts due to the Seller, related to the operation of the Facility for periods prior to the Closing;

(f) All accounts and loans receivable, regardless of when billed, relating to Services rendered by the Facility prior to the Closing Date;

(g) Subject to the provisions of Section 9.6, all retroactive rate increases and/or lump sum or other payments resulting from rate appeals, audits or otherwise with respect to third party payments from any source which may be paid on or after the Closing Date for goods or services rendered at the Facility prior to the Closing Date;

(h) All payments or cash equivalent credits relating to the Facility resulting from claims, insurance premium rate reductions or insurance or other dividends paid or accruing for periods prior to the Closing Date;

(i) All insurance policies not transferred to Buyer;

(j) All motor vehicles of every kind or description;

(k) All telephone numbers and fax numbers associated with the Premises;

(l) All rights and interests of Seller under and pursuant to this Agreement and any documents executed in connection with the Closing.

(m) To the extent not otherwise addressed pursuant to clauses (a)-(n) above, those assets identified on Schedule 1.2 annexed hereto.

1.3 Liabilities.

(a) The Buyer shall only assume at the Closing, pursuant to a written assumption agreement to be entered into at Closing (collectively, the "Assumed Liabilities"): (i) the obligations of Seller exclusively arising on and after the Closing Date with respect to the Assets, and (ii) all such other liabilities of Seller as may be expressly assumed by Buyer and which are the subject of an adjustment at Closing pursuant to Section 1.6 hereof and limited to the amount of such adjustment. Notwithstanding anything in this Agreement to the contrary, Buyer shall not assume, nor be responsible or otherwise liable for anything related to or arising out of, any collective bargaining or other Labor or union contract or agreements related to the Facility or the Adult Day Care Program. Except as otherwise expressly provided in this Agreement, the Buyer shall not be responsible for any other obligations or liabilities of the Seller or the Facility arising from or relating to the period prior to the Closing.

(b) Notwithstanding the provisions of Section 1.3(a) hereof, the Buyer is not assuming, and the Seller is retaining and shall remain liable for, the following liabilities or obligations arising from or relating to the Assets, the ownership or operation of the Facility, the Adult Day Care Program or the Real Property prior to the Closing Date (collectively, the "Excluded Liabilities"):

(i) all accounts and loans payable;

(ii) any other liabilities or obligations related to the Assets, the ownership or operation of the Facility, the Adult Day Care Program or the Real Property, arising from or relating to any period prior to the Closing Date, other than the Assumed Liabilities;

(iii) any amounts due or to become due to Payors as a result of audit, rate change or otherwise, related to goods or services rendered at the Facility or by the Adult Day Care Program prior to the Closing Date;

(iv) all cash receipt assessments related to all revenue received by the Facility or the Adult Day Care Program before and after the Closing Date relating to services rendered prior to the Closing Date;

(v) any and all liabilities arising from or relating to collective bargaining or other labor or union contracts or agreements relating to the Facility or the Adult Day Care Program, all COBRA obligations of the Facility and the Adult Day Care Program relating to the termination of employment of any employee employed prior to the Closing Date, and any other obligation of every kind or description owing to employees of the Facility arising out of their employment at the Facility prior to closing; and

(v) any and all obligations of the Seller pursuant to this Agreement, the Transaction Documents, the Land Sale Contract and the documents executed in connection therewith.

1.4 Purchase Price. In consideration of the sale, assignment and transfer of the Assets pursuant to Section 1.1, the Buyer shall pay a purchase price of Eighteen Million Dollars ($18,000,000) (the "Purchase Price") at the Closing. The Purchase Price shall be paid as follows:

(a) Within two business days following the full execution hereof and the exchange of a fully executed original of this Agreement between the parties hereto, Buyer shall pay an additional sum of One Million Three Hundred Thousand Dollars ($1,300,000.00) (the "Signing Deposit") to the Escrow Agent;

(b) Upon execution of this Agreement by the County Executive, after the approval of the Suffolk County Legislative, the Buyer shall pay an additional sum of One Million Eight Hundred Thousand Dollars ($1,800,000.00) (the "Final Deposit") to the Escrow Agent. At Closing the parties shall instruct the Escrow Agent to release the Escrow Funds to the Seller in immediately available funds and the principal portion of the Escrow Funds shall be applied against the Purchase Price;

(c) The balance of the Purchase Price as adjusted pursuant to the provisions of this Agreement (the "Balance Payment") shall be paid at the Closing by Buyer to Seller by wire transfer or immediately available funds; and

(d) For purposes hereof, the "Escrow Funds" shall mean the sum of all amounts deposited by or on behalf of the Buyer and the Real Estate Buyer with the Escrow Agent including the Initial Deposit, the Signing Deposit and the Final Deposit, and as set forth in the Escrow Agreement annexed hereto as Exhibit D, including any interest earned in such funds.

1.5 Purchase Price Allocation. The Seller and the Buyer agree to cooperate with each other in meeting the requirements of the Internal Revenue Code of 1986, as amended, and each agree to file the requisite Internal Revenue Service Forms and any similar returns or reports required under other applicable law, in accordance with the allocation of the Purchase Price to the Assets as set forth in Schedule 1.5 hereto. The Parties agree that (i) they shall be bound by the allocations determined pursuant to this paragraph for the purpose of determining taxes, (ii) they shall prepare and file all tax returns in a manner consistent with such allocations

and (iii) neither will take a position on any income tax return before any governmental agency charged with the collection of any income tax nor in any proceeding that is any way inconsistent with such allocation without the prior written consent of the other. In the event that any such allocation is disputed by any taxing authority, the Party receiving notice of such dispute shall promptly notify, consult and cooperate in good faith with the other Party concerning resolution of such dispute.

1.6 Closing Adjustments. The purpose and intent of the provisions of prorations and apportionments set forth in this Section 1.6 and elsewhere in this Agreement are that Seller shall bear all expenses of ownership and operation of the Facility and the Adult Day Care Program, and shall receive all income therefrom, accruing through midnight at the end of the day preceding the Closing Date, and Buyer shall bear all such expenses and receive all such income accruing thereafter. Except as specifically otherwise set forth hereinafter, the following closing adjustments (the "Closing Adjustments") shall be apportioned by and between Seller and Buyer as of midnight at the end of the day preceding the Closing Date and the net of the same ("Net Closing Adjustments") shall be added to or subtracted, as the case may be, from the Purchase Price:

(a) Security deposits and prepayments for Resident charges covering periods on and after the Closing Date, if any;

(b) Water taxes and sewer rentals, if any;

(c) Equipment lease, rental and service contract payments, pursuant to Contracts conveyed under this Agreement;

(d) Telephone, gas, water, electric and any other utility charges upon actual reading where practicable;

(e) Heating fuel;

(f) Prepaid fees, fees payable in installments and fees due prior to Closing, covering assigned licenses and permits, including, but not limited to, dues and subscriptions, if any;

(g) Prepayments, charges and security deposits, if any, relating to any of the Assets or the Premises, including, but not limited to, service, maintenance and other similar agreements assigned to Buyer under this Agreement; and

(h) Real Estate taxes and assessments, if any, provided that if the actual taxes and assessments owed are not known on the Closing Date, the adjustment shall be based on the prior tax period and reconciled when the actual amounts are known.

In the event an error is made in the calculation of any of the Closing Adjustments, the party discovering such error shall, within six (6) months after the Closing Date, send notice of such correction (the "Correction Notice") to the other party, and the party benefiting from such error shall pay the amount of such error to the party to which such payment is due within ten (10) days after the sending of the Correction Notice. If the Seller and Buyer can not agree on the Closing

Adjustments or any correction(s) to the Closing Adjustments, then the parties shall submit their dispute to an arbitration administered by the American Arbitration Association and the judgment of the arbitrator shall be the final binding decision with respect to any such Closing Adjustment or correction to the Closing Adjustments. In the event the Net Closing Adjustments shall be a negative sum, then Buyer shall receive at Closing a Purchase Price credit equal to such negative sum. In the event the Net Closing Adjustments shall be determined after Closing to be a negative sum Seller shall pay Buyer such negative sum immediately upon the determination of such sum in the form of an official bank teller check. The provision of this Section 1.6 shall survive the Closing.

1.7 The Closing. Subject to the fulfillment (or waiver, as applicable) of all conditions of Sections 5.1 and 5.2, and subject to the parties obligations pursuant to Section 4.7 to use reasonable commercial efforts to close on or before December 31, 2011 the closing of the purchase and sale of the Assets of the Facility and the Adult Day Care Program as contemplated hereunder (the AClosing@) shall take place on or prior to the 60th day following receipt by Buyer of the written non-contingent approval of the Public Health Council of Buyer's Application or at such other time as the parties may mutually agree in writing, but in all events on the last day of a calendar month (the "Closing Date"). Notwithstanding the foregoing, the Closing shall take place at the Suffolk County Offices at the H. Lee Dennison Building, 100 Veterans Memorial Highway, Hauppauge, New York, or, if required by the Buyer's lenders, at such location as may be designated by the Buyer's lenders, or at such other location as the parties shall mutually agree. The Closing shall occur simultaneously with the closing under the Land Sale Contract and shall be a contingency hereof. Upon consummation, the effective time of the Closing shall be deemed to have taken place at 12:01 a.m. on the Closing Date.

1.8 Instruments of Conveyance and Transfer. At the Closing or prior to Closing, the following deliveries shall be made:

(a) The Purchase Price, as adjusted pursuant to this Agreement;

(b) Seller will assign and transfer to the Buyer good and valid marketable title in and to all the Assets, free and clear of all Liens, subject to the Assumed Liabilities, by delivery of (i) the Bill of Sale (ii) the Assignment and Assumption Agreement for the Contracts and agreements referred to in and subject to the provisions of Section 1.1 and (iii) such other endorsements and other instruments of transfer, conveyance and assignment (in form and substance reasonably satisfactory to the Seller and the Buyer) as shall be necessary in the reasonable judgment of the Buyer to transfer, convey and assign the Assets to the Buyer;

(c) Seller shall deliver to Buyer a schedule of any pending administrative and/or judicial proceedings contesting the Facility's third party reimbursement rates;

(d) Buyer and Seller shall deliver to the other a copy of the resolution(s), certified as true and of full force and effect as of the Closing Date, duly executed by a manager or the chief executive officer of such party, duly authorizing and approving: (i) the transactions contemplated herein; and (ii) the execution, performance and delivery of this Agreement, and of all of the documents to be executed and performed by such party in connection with the transactions contemplated herein;

(e) Seller shall deliver the schedule of Residents' funds and related items referred to in Section 10.1 hereof; and

(f) Seller and Buyer shall execute and deliver to each other certificates, which shall survive the Closing, certifying that all representations, warranties and covenants of such party as contained in this Agreement and all the information contained in the Schedules and Exhibits as provided by Seller hereunder or in connection herewith, are true and correct and without breach or default on each day after the date of this Agreement through and including the day of Closing.

ARTICLE II.
REPRESENTATIONS AND WARRANTIES OF THE SELLER

In order to induce Buyer to enter into this Agreement and close the transactions contemplated hereunder, the Seller represents and warrants to the Buyer that, except as specifically noted in a Schedule hereto:

2.1 Organization, Standing and Power. The Seller is a municipal corporation of the State of New York duly organized, validly existing, and in good standing under the laws of the State of New York, has the requisite power and authority to own the Assets and to operate the Facility and the Adult Day Care Program, and to carry on the business of the Facility and the Adult Day Care Program as now being conducted except as disclosed on Schedule 2.1 with respect to the Adult Day Care Program.

2.2 Authority; No Conflicts.

(a) Subject only to obtaining the permits, consents, certificates, authorizations and approvals described on Schedule 2.4, the Seller has all requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary municipal action on the part of the Seller. This Agreement has been duly executed and delivered by the Seller and constitutes a valid and binding agreement of the Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, and similar laws relating to or affecting creditors generally or by general equity principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(b) The execution and delivery of this Agreement by the Seller does not or will not, as the case may be, and the consummation by the Seller of the transactions contemplated hereby, and the performance of its obligations hereunder will not, conflict with or result in any violation of, or constitute a default under: (A) any provision of its charter, or local laws or ordinances, codes, rules or regulations of the Seller, or (B) any loan or credit agreement, security agreement, note, mortgage, bond, indenture, lease, benefit facility or other agreement, obligation, instrument, permit, concession, franchise, license, judgment, order, decree, statute, law, ordinance, rule or regulation applicable to the Seller, or its properties or assets. Seller has not entered into any other agreement concerning the sale or transfer of any of the Assets. There

are no other applications filed with or pending at the Department of Health other than those filed in the ordinary course of business of the Seller as it relates to the Facility.

2.3 No Violation of Law, Licenses, Permits, and Registrations. Except as disclosed on Schedule 2.3, the Facility is not in violation of, and has not been given notice or been charged with any violation of, any law, statute, order, rule, regulation, ordinance, or judgment (including, without limitation, any applicable environmental law, ordinance, or regulation) of any Governmental Authority. Except as disclosed on Schedule 2.3, no investigation, audit or review by any Governmental Authority (including Medicare and Medicaid) is pending involving the Facility or the Adult Day Care Program nor, to the Seller's Knowledge, has any Governmental Authority indicated an intention to conduct any such investigation, audit or review. Except as disclosed on Schedule 2.3, the Facility has all permits, licenses, approvals, and authorizations of, and registrations with and under all federal, state and local laws, and from all applicable Governmental Authorities, required thereby to operate the Facility. Except as disclosed on Schedule 2.3, the Facility is currently operating in substantial compliance in all material respects with the laws, statutes, orders, rules, regulations, ordinances, and judgments of all federal, state, local, and foreign governmental and regulatory bodies and authorities.

2.4 Approvals and Consents. Except as disclosed on Schedule 2.4 annexed hereto, no permit, consent, approval, or authorization of, or declaration or notice to, or report of filing with, any Governmental Authority is required in connection with the execution, delivery, or performance by the Seller of this Agreement.

2.5 Litigation; Compliance with Laws. Except as disclosed on Schedule 2.5, there are no Actions pending or against or affecting the Facility, the Assets or the Adult Day Care Program, nor is there any judgment, decree, injunction, rule, or order of any Governmental Authority or arbitrator outstanding against the Seller related to the operation of the Facility or the Adult Day Care Program.

2.6 Statement of Revenues and Expenses. The audited balance sheets of the Facility as of December 31, 2008 and the related statements of revenue and expenses, changes in net assets and cash flow for the periods then ended and the unaudited balance sheet of the Facility as of September 30, 2009 and the related statements of revenue and expenses, changes in net assets and cash flow for the periods then ended (the "Facility Financial Statements") are true and complete copies of which have been heretofore delivered to the Buyer, fairly present, in all material respects, the financial position of the Facility as at such dates or the results of operations of the Facility for the periods then ended (subject in the case of the September 30, 2009 statements to year-end adjustments and the absence of footnotes). The Facility Financial Statements have been prepared on a consistent basis throughout the periods presented and are consistent with each other. The Facility Financial Statements fairly and accurately present the revenues and expenses, and the operating income (loss), of the Facility as of the dates, and for the periods, indicated therein, subject, in the case of the September 30, 2009 statements, to normal year-end adjustments and the absence of footnotes. The Facility maintains a system of internal accounting controls sufficient to provide reasonable assurance that transactions are executed in accordance with management's general or specific authorizations, and transactions are recorded as necessary to permit preparation of the Facility Financial Statements.

2.7 Good Title to Assets. The Seller has good and marketable title to the Assets. As of the date of Closing, the Assets shall be free and clear of all liens, charges and other encumbrances. Except as disclosed on Schedule 2.3, the Assets are being utilized by the Seller in substantial compliance with all applicable federal, local, and state rules, regulations, laws, statutes, and permits applicable to the Assets. The Seller has not created nor suffered to exist any Lien on any of the Assets or any current or future revenues resulting from the Assets.

2.8 Contracts and Other Agreements. Schedule 2.8 contains a complete list of all Contracts and other Agreements (i) entered into by the Seller exclusively related to the Facility; (ii) entered into between the Seller and any Provider which provides Services to Residents of the Facility (the "Provider Agreements"); (iii) entered into by the Facility and any hospital which provides Services to Residents of the Facility (the "Hospital Contracts"); (iv) that cannot be terminated without cost or penalty on 30 days or less notice, to which the Facility is a party or by which the Facility or the Assets are bound (collectively, the "Material Contracts"). True and complete copies of the Material Contracts have been provided to the Buyer. All of the Material Contracts are valid, subsisting, in full force and effect and the Facility has satisfied or provided for all of its liabilities and obligations thereunder requiring performance prior to the date hereof, is not in default in any material respect under any of them, nor, to the Seller's Knowledge, does any condition exist that with the giving of notice or the lapse of time or both would constitute such a default. To the Seller's Knowledge, no other party to any such Material Contract is in default thereunder, nor does any condition exist that with notice or the lapse of time or both would constitute such a default.

2.9 Compliance with Laws. Except as disclosed on Schedule 2.3, the Facility (i) is, and at all times during the last twelve months has been, in substantial compliance, in all material respects, with all, and not in violation of any, and has not received any claim or notice that it is not in compliance with any, or that it is in violation of any, Laws or Orders to which the Facility or any of its business, operations, assets or properties are subject, and (ii) has not failed at any time to obtain or to adhere to the requirements of any governmental permit, license, registration and other governmental consent or authorization necessary in connection with the operation of the Facility.

2.10 Entire Business. By delivering the Assets to the Buyer pursuant to this Agreement and by closing the sale of the Premises pursuant to the Land Sale Contract, the Seller will convey to the Buyer the Facility, its Assets and all of the tangible and intangible property used by the Seller in connection with the conduct of the Facility's business as heretofore conducted by the Seller (except for the Excluded Assets). There are no facilities, services, assets or properties shared with any other Person which are used by the Seller or used in the business of the Facility (except for the Excluded Assets).

2.11 No Material Adverse Change. Since December 31, 2008, there has been no material adverse change in the business, operations, prospects or condition (financial or otherwise) of the Facility, or in the Assets of the Facility, nor to the Seller's Knowledge is any such change threatened, which could materially affect the Business, operations, products or condition (financial or otherwise) of the Facility (except for changes generally affecting health facilities similar to the Facility).

2.12 Cost Reports. Buyer has been provided with true and correct copies of Seller's Medicare and Medicaid cost reports for the year ending December 31, 2008 (the "Cost Report"). Medicare and Medicaid Cost Reports filed in August 2009 applicable to Seller and the Facility are accurate and have all been timely filed. Seller shall file all Medicare and Medicaid Cost Reports which are required to be filed for any periods prior to the Closing Date. This provision shall survive the Closing.

2.13 No Other Sale Agreements. There are no outstanding contracts or options to purchase any of the Assets or the Premises.

2.14 Notices. Except as disclosed on Schedule 2.3, the Facility has not been served with any notice which: (a) requires the performance of any work or alterations on the Facility, or in the streets bounding thereon; or (b) orders the installation, repair or alteration of any improvements on the Facility or the streets bounding thereon, in each case, including but limited to, notices received under the Americans With Disabilities Act of 1990, as amended.

2.15 Furniture, Fixtures and Equipment. The furniture, fixtures and equipment included in the Assets are of sufficient quality and quantity to operate the Facility in material compliance with applicable statutes, rules and regulations which govern the Facility.

2.16 Absence of Certain Changes or Events. Except as disclosed on Schedule 2.16, since December 31, 2008, Seller has not:

(a) made any material change in the Facility or operations or in the manner of conducting the business of the Facility;

(b) suffered any Material Adverse Effect with respect to the Facility and no fact or condition exists or is contemplated or threatened that might reasonably be expected to cause a Material Adverse Effect with respect to the Facility in the future;

(c) suffered any material casualty loss (whether or not insured) or condemnation or other taking adversely affecting the Facility;

(d) incurred any liability or indebtedness (whether absolute, accrued, contingent or otherwise and whether due to or to become due directly related to the operation of the Facility) that will obligate the Buyer or the Facility following the Closing;

(e) terminated or amended or suffered the termination or amendment of any contract related to the operation of the Facility, except in each case in the ordinary course of its business consistent with past practice and, only, as disclosed in the attached Schedule 2.16(g) provided that no such amendment shall obligate the Buyer or the Facility following the Closing;

(f) sold, transferred, or leased any property or assets (real, personal or mixed, tangible or intangible) used or useful in connection with the operation of the Facility other than the sale of inventory in the ordinary course of business;

(g) created, granted or suffered to exist any Liens or encumbrances of any kind or description on any of the Assets that will survive the Closing; or

(h) entered into any transaction involving, or suffered any development affecting, the Facility or the Assets other than in the ordinary course of business.

2.17 Brokers, etc. Except for fees payable by the Seller to the Seller's agent, Loeb and Troper, the Seller has not paid or become obligated to pay any fee or commission to any broker, finder, investment banker, or other intermediary in connection with the transactions contemplated by this Agreement.

2.18 Employees. Seller has complied with all laws relating to the employment of all employees of Seller at the Facility or the Adult Day Care Program (the "Employees"), including provisions relating to wages, hours, ERISA, equal opportunity, and the payment of Social Security, withholding, unemployment insurance and other taxes. There are no ERISA plans. Except as disclosed on Schedule 2.18, there are no written or oral employment agreements between Seller and any of its officers or employees employed at the Facility or the Adult Day Care Program, and, each such relationship is terminable at will without penalty or cost, no representations have been made orally which alter the at-will relationship between Seller and any of its employees and, in any event, Buyer shall not assume any obligations pursuant to any such agreements at Closing.

2.19 HIPAA Compliance. The Seller has been determined to be a Covered Entity pursuant to the Health Insurance Portability and Accountability Act of 1996 and any regulations promulgated thereunder ("HIPAA") Seller (i) is executing transactions in compliance with, or is capable of submitting transactions in compliance with (in the event that insurers or payors are not yet accepting standard transactions), the standard transaction requirements established by HIPAA for "Covered Entities;" (ii) is operating in compliance in all material respects with the HIPAA privacy regulations and comparable state statutes and regulations for "Covered Entities" including without limitation executing all necessary business associate agreements as required by HIPAA; and (iii) has developed and implemented appropriate safeguards to comply with the final HIPAA security regulations and comparables statutes and regulations.

2.20 Insurance. The Seller is self insured.

2.21 Engineering Plans and Projects. Seller has made available to Buyer all of the current engineering plans and projects in its possession relating to the Facility.

2.22 Disclosure. All information to be supplied by Seller to Buyer pursuant to this Article 2 is true and correct to the best of Seller's knowledge.

2.23 Nonreimbursed Aliens and/or Reduction In Authorized Beds. Seller represents and warrants to Buyer that to its knowledge, there are no illegal aliens admitted as a resident or patient of the Facility for which the Facility is not receiving reimbursement from Medicaid or any other governmental agency ("Nonreimbursed Alien"). Seller represents and warrants to Buyer that the number of beds which the Facility is authorized and licensed to have and operate is 264 skilled nursing facility beds. In the event that at any time prior to the Closing the number of certified beds in the Facility are howsoever reduced to less than 264 certified skilled nursing facility beds or there are any Nonreimbursed Aliens, then Buyer shall receive at

Closing a credit of One Hundred Thirty-Six Thousand Three Hundred Sixty-Three and 63/100 Dollars ($136,363.63) against the Purchase Price for each Nonreimbursed Alien and/or for each certified skilled nursing facility bed less than 264 skilled nursing facility beds. Notwithstanding the foregoing, upon receipt by Seller of any information concerning, seeking or proposing a reduction in the number of skilled nursing facility beds at the Facility, Seller shall promptly notify Buyer of the same and provide Buyer with a copy of the same, if in written form, and Seller agrees that it shall not engage in any communication, negotiation or interaction with any governmental authority which seeks to reduce such number of beds without Buyer's involvement in any and all discussions, meetings and decisions with respect to any such proposed bed reduction. Seller's failure to comply with the foregoing sentence shall be deemed a material default and shall provide Buyer with the right, but not the obligation, to cancel this Agreement. in which event the Escrow Funds plus accrued interest thereon shall be paid to Buyer and this Agreement shall be terminated without any further obligations or liabilities between the parties. This provision shall survive the Closing and any termination of this Agreement.

2.24 Inventory. The inventory of the Facility is of a quality and quantity previously used by the Facility in the ordinary course of the Facility's business consistent with past practice and contains no significant excess, dated or obsolete inventory.

2.25 Limitation. Except as explicitly provided in this Article II, Buyer's purchase of the Assets is on an "as is, where is" basis, and the Seller has not made and shall not be deemed to have made any representation or warranty regarding the Assets.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES OF THE BUYER

The Buyer represents and warrants to the Seller that, except as specifically noted in a Schedule hereto, as of the date of execution of this Agreement:

3.1 Organization, Standing, and Power. The Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of New York, has the requisite power and authority to own and operate its properties and to carry on its business as now being conducted, except where the failure to be so organized, existing, and in good standing or to have such power and authority would not reasonably be expected to have a Material Adverse Effect on the Buyer, and is duly qualified and in good standing to do business in New York.

3.2 Authority; Conflicts.

(a) The Buyer has all requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of the Buyer. This Agreement has been duly executed and delivered by the Buyer and constitutes a valid and binding agreement of the Buyer, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws relating

to or affecting creditors generally or by general equity principles (regardless of whether such enforceability is considered in a proceeding in equity or at law) or by an implied covenant of good faith and fair dealing.

(b) The execution and delivery of this Agreement by the Buyer does not or will not, as the case may be, and the consummation by the Buyer of the Asset Purchase and the other transactions contemplated hereby will not, conflict with or result in any violation pursuant to, or constitute a default under: (A) any provision of the articles of incorporation or bylaws of the Buyer, or (B) except as would not reasonably be expected to have a Material Adverse Effect on the Buyer, subject to obtaining or making the consents and filings referred to in Section 3.3 below, any loan or credit agreement, note, mortgage, bond, indenture, lease, benefit Facility or other agreement, obligation, instrument, permit, concession, franchise, license, judgment, order, decree, statute, law, ordinance, rule or regulation applicable to the Buyer, or its properties or assets.

3.3 Consents and Approvals. Except as disclosed on Schedule 2.4 annexed hereto, no permit, consent, approval, or authorization of, or declaration or notice to, or report or filing with, any Governmental Authority is required to be obtained by Buyer in connection with the execution, delivery or performance by the Buyer of this Agreement.

3.4 Litigation; Compliance with Laws. Except as disclosed in Schedule 3.4 hereto, there is no suit, action, investigation, or proceeding pending or, to the Buyer's knowledge, threatened against, or affecting the Buyer having, or which would reasonably be expected to have, a Material Adverse Effect on the Buyer, nor is there any judgment, decree, injunction, rule, or order of any Governmental Authority or arbitrator outstanding against the Buyer having, or which would reasonably be expected to have, a Material Adverse Effect on the Buyer.

3.5 Regulatory Approvals. To the knowledge of the Buyer, there is no reason that the Department of Health or any other governmental authority would reject or delay the processing and approval of the Application. No requirement that may be imposed by the Department of Health as a condition of its approving the transfer of the operation of the Facility to the Buyer or the establishment of the Buyer as the operator of the Facility or which may be imposed subsequent to the Closing shall be deemed an obligation of the Seller and all expenses of compliance with such requirements shall be the obligation of the Buyer.

3.6 Financial Resources. The Buyer has or will have at Closing sufficient unencumbered funds to complete the transaction contemplated hereby and to provide necessary working capital for the Facility. The Closing obligation of the Buyer with respect to the transactions contemplated by this Agreement is not contingent upon the Buyer obtaining any financing for the Purchase Price, the Facility, the Assets or working capital.

3.7 Own Investigation; etc.

(a) The Buyer understands and agrees to the limitations and other matters set forth in this Section 3.7 and that THE SELLER IS NOT MAKING ANY, AND THE SELLER DISCLAIMS ALL REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR

IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR AS TO THE CONDITION OF THE SELLER OR THE ASSETS OR THE FACILITY, EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT.

(b) The Buyer acknowledges and agrees that (i) it has made its own inquiry and investigation into, and, based thereon and upon the representations and warranties made by the Seller, has formed an independent judgment concerning the Seller, the Facility and the Assets, and (ii) it has relied upon the representations of Seller to the effect that it has been furnished with or been given adequate access to such information about the Seller, the Facility and the Assets, as it has requested.

(c) In connection with the Buyer's investigation of the Seller, the Facility and the Assets, the Buyer has received information from the Seller that the Buyer could use to prepare projections and other forecasts, facilities and budgets. The Buyer acknowledges that there are uncertainties inherent in attempting to make such projections, forecasts, facilities and budgets, that the Buyer is familiar with such uncertainties and is not relying upon such projections, forecasts, facilities or budgets, that the Buyer is taking responsibility for making its own evaluation of the adequacy and accuracy of all estimates, projections, forecasts, facilities and budgets based on such information, and that the Buyer will not assert or permit to be asserted any claim against the Seller or any direct or indirect owner of any of them or any of their respective directors, officers, employees, agents, managers, Affiliates, consultants, counsel, accountants, investment bankers or representatives, or hold the Seller or any of the foregoing liable with respect to Buyer's own projections and forecasts, provided however that nothing herein shall act as a release of Seller with respect to information provided to Buyer by Seller or its agents which information is incorrect. Seller represents and warrants that Seller in good faith believes such information to be reasonably based. The Buyer acknowledges and agrees that the Seller has not made, directly or indirectly, any representations or warranties regarding pro-forma financial information, financial projections or other forward-looking statements regarding the Seller or the Facility.

(d) Other than as specifically set forth in this Agreement, the Buyer is acquiring the Assets "as is and where is" and in their then present physical condition.

ARTICLE IV.
COVENANTS OF THE PARTIES PENDING CLOSING

4.1 Seller's Conduct of the Business. From and after the date of this Agreement and until the date of the Closing, or until this Agreement has been terminated, except as otherwise consented to by Buyer in writing:

(a) Seller shall operate the business of the Facility only in the ordinary course, in a businesslike manner and in substantially the same manner as it has heretofore, in material compliance with applicable Federal and State laws, regulations and rules;

(b) Seller shall not option, sell, dispose of or make any other disposition or abandonment of any of the Assets of the Facility, or make any capital expenditures, except in the ordinary course of business;

(c) The Facility shall not enter into, amend or terminate, any contract, which cannot be terminated without penalty, cost or expense to Buyer;

(d) Seller will perform and observe all of the material terms, covenants, conditions and agreements on its part to be performed and observed under (i) any equipment leases and (ii) all Contracts and will promptly deliver to Buyer copies of any notices received by Seller from, or given by Seller to, any contracting parties under such agreements that Buyer may acquire hereunder;

(e) Seller shall preserve, maintain, repair and replace and keep all Assets and properties used or useful in the operation of the Facility and the Assets in their current condition, repair and working order, ordinary wear and tear excepted;

(f) Seller shall maintain insurance with respect to the Assets of the Facility in accordance with past practice;

(g) Seller shall keep proper books of record and accounts in accordance with past practice;

(h) Seller shall pay or discharge or cause to be paid or discharged, before the same become delinquent, all taxes, assessments, charges, levies and claims that may affect the Assets of the Facility or the consummation of the transaction contemplated hereunder, and shall timely file all cost reports covering any periods prior to the Closing. The provisions hereof shall survive the Closing;

(i) Seller will comply in all material respects with all statutes, laws, ordinances, or rules and regulations and orders of governmental bodies to which it is subject;

(j) Subject to the provisions of Section 11.17 hereof regarding existing violations described on Schedule 2.3, Seller shall be and remain in material compliance of any and all requirements set forth in survey reports received by Seller from the New York State Department of Health or the U.S. Department of Health and Human Services and shall, at Seller's cost and expense, promptly submit acceptable plans of correction with respect to any operating deficiencies cited in such reports and Seller shall promptly provide Buyer with copies of all such reports and plans of correction;

(k) Seller shall not enter into any agreements that will be binding upon the Facility or its Assets or otherwise encumber any of the Assets following the Closing and;

(l) Seller shall keep in full force and effect all licenses currently in effect unless such licenses are no longer necessary for the operation of the Facility and the Adult Day Care Program;

(m) Subject to the provisions of Section 11.17 hereof regarding existing violations described on Schedule 2.3, Seller shall remedy and clear any violations occurring or noticed prior to the Closing Date;

(n) Seller shall not enter into any agreement, other than this Agreement, for the sale of the Assets or make or allow any application to be made with the Department of Health other than the Application under this Agreement;

(o) Seller shall, at the request of Buyer, execute such documents as may be necessary to assign Seller's Medicaid and Medicare provider numbers and provider agreements to Buyer. Seller shall file, on a timely basis, all Medicare and Medicaid reports as required by applicable regulations to be filed by Seller. This provision shall survive the Closing.

(p) Seller shall use its reasonable efforts to maintain and preserve intact the business organization relating to the Facility, to retain adequate staffing of the Facility and to maintain the Facility's relationship with physicians, employees, residents, residents' families, suppliers, customers, and others having business relationships with the Facility so that they shall be preserved for Buyer on the Closing Date;

(q) Seller shall promptly advise Buyer in writing if Seller becomes aware of any threatened or actual claim, action, suit or proceeding, arbitration or investigation against the Facility; and

(r) Seller shall not engage in any activity which breaches any term or condition of this Agreement.

4.2 Access to Information. From and after the date hereof, Seller shall provide Buyer and its authorized agents and representatives (including but not limited to its auditors) reasonable access to its books, contracts, records, properties, and proceedings relating to the Facility and the Premises during regular business hours upon one (1) business days' prior written notice. Seller shall deliver to Buyer such regularly prepared periodic audited and unaudited financial statements and/or operating data with respect to the Assets and/or the Facility as and when the same are prepared and/or delivered to Seller and/or its representatives along with and any cost reports that are required to be filed for any periods prior to Closing (which Seller shall timely file) and Seller shall provide Buyer with such additional information as Buyer may reasonably and periodically request Seller shall provide Buyer with monthly internal operating statements.

4.3 Cooperation with Buyer. Seller shall assist and cooperate with Buyer upon Buyer's reasonable requests in regard to Buyer's Application and in regard to the Department of Health requirements for approval of Buyer's Application and in regard to any financing Buyer may seek to obtain for the consummation of the transactions herein described. Seller shall promptly deliver to Buyer all materials that may be in Seller's possession and/or other documents periodically requested or required by the Department of Health as part of the Application and/or for the approval of the same. Seller further agrees with Buyer that in Buyer's

Application, Buyer may propose additional individuals to become members of Buyer upon the approval of the Application by the Department of Health; however, the parties understand and agree that in the event any such new parties cause the Application to be disapproved, Buyer shall not be relieved of its obligations hereunder. Furthermore, Buyer shall not propose additional individuals without first having obtained the consent of Seller, which consent shall not be unreasonably withheld, delayed or conditioned.

4.4 Certificate of Need Approval. Contingent upon Seller's cooperation and required timely deliveries as set forth elsewhere in this Agreement, Buyer, at Buyer's own expense, will promptly prepare and submit to the Department of Health not later than forty-five (45) calendar days after the date Seller provides Buyer with notice of the Suffolk County Legislature approval of this transaction, and shall diligently prosecute, the Buyer's Certificate of Need application seeking the establishment and licensure of the Buyer as the operator of the entire 264 certified bed Facility and the Adult Day Care Program (the "Application"). As part of such Application, Buyer may propose additional individuals to become members of Buyer upon the approval of the Application by the Department of Health provided that any such additional individuals must be approved in advance by Seller, which approval shall not be unreasonably withheld, delayed or conditioned. Buyer shall promptly (and no later than thirty (30) business days after the receipt thereof) fully comply with requests for additional information from such agencies, and shall take all other steps required to obtain consent for the transactions contemplated hereby including approval of the Application. Buyer shall deliver to Seller, within five regular (5) business days of its submission or receipt, a complete copy of the Application and all correspondence and submissions to or from the Department of Health relating thereto.

4.5 Necessary Governmental Consents. Each party shall provide promptly to the other parties all correspondence and keep the other parties apprised of all communications by and between itself and any Governmental Authority related to the governmental consents which are its responsibility to obtain. In the event that the Seller on the one hand, or the Buyer, on the other hand, is informed that any of the governmental consents or approvals will not be obtained, the party that received such notice will attempt in good faith and use its reasonable best efforts to make inquiry to the applicable Governmental Authority as to the reason that the consent or approval was not obtained and to share promptly any responses related thereto with the other party.

4.6 Access to Premises and Information; Confidentiality. Seller shall afford to Buyer, and its Representatives, upon appointment, reasonable access during normal business hours during the period prior to the Closing Date or the termination of this Agreement to the Facility and Premises systems, books, contracts, commitments, personnel (for the purpose of evaluating future employment with the Buyer or otherwise) and records and, during such period, Seller shall furnish promptly to the Buyer (a) a copy of each report, schedule and other document filed by Seller during such period pursuant to the requirements of Federal or state laws and (b) consistent with its legal obligations all other information concerning Seller and its business, properties and personnel as the Buyer may reasonable request; provided, however, that Seller may restrict the foregoing access to the extent that any law, treaty, rule or regulation of any Governmental Authority applicable to Seller (including, without limitation, patient confidentiality laws) requires Seller to restrict access to such properties or information. Buyer

shall hold, and shall cause its Representatives to hold, all information received from the Seller, directly or indirectly, as well as this Agreement, in confidence in accordance with the Confidentiality Agreement. No investigation pursuant to this Section 4.6 or information provided, made available or received by Buyer pursuant to this Agreement will affect any of the representations or warranties of the parties hereto contained in this Agreement or the conditions hereunder to the obligations of the parties hereto.

4.7 Reasonable Commercial Efforts. Upon the terms and subject to the conditions set forth in this Agreement, each of the parties agree to use its reasonable commercial efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other parties hereto in doing, all things necessary, proper or advisable to consummate and make effective in the most expeditious manner practicable, the transactions contemplated by this Agreement, by December 31, 2011, including using reasonable best efforts to accomplish the following: (a) the taking of all acts necessary on its part to cause the conditions to Closing to be satisfied as promptly as practicable; (b) the obtaining of all necessary actions or nonactions, waivers, consents and approvals from Governmental Authorities that it is required to obtain and the making of all necessary registrations and filings and the taking of all steps as may be necessary that it is required to make or take to obtain approval or waiver from, or to avoid an action or proceeding by any Governmental Authority; (c) the obtaining of all necessary consents, approvals or waivers from third parties, including the governmental consents and approvals required to on Schedules 2.4 and 3.3 and (d) the execution and delivery of any additional instruments consistent with the terms hereof that are necessary to consummate the transactions contemplated by, and to fully carry out the purposes of this Agreement. In furtherance of the foregoing, the Seller shall provide in a reasonable and timely manner, to the extent permitted by applicable law, all documentation within its control as may be requested by the Buyer in connection with its processing of the Application and securing Certificate of Need approval. If the parties have used reasonable commercial efforts to close the transactions contemplated hereby but have been unable to effect a closing on or before December 31, 2011, such failure shall not relieve the parties of the obligations to proceed hereunder.

4.8 Provider Numbers. At the request of the Buyer, the Seller shall execute such documents as may be necessary to assign Seller's Medicaid and Medicare provider numbers and provider agreements to the Buyer.

4.9 Expenses. Subject to the indemnification provisions of this Agreement, each party hereto shall bear their own fees and expenses incurred in connection with this Agreement and the consummation of the transaction contemplated hereunder.

4.10 Notice of Events. Each party shall promptly notify the other of any event, circumstance or condition which would cause any representation or warranty made by such party to be untrue or incorrect in any material respect as of the Closing Date. To the extent that any event or condition occurs following execution at delivery of this Agreement which causes a representation or warranty of a party to be untrue, such party shall modify its disclosure schedules or to add additional disclosure schedules to the extent necessary to permit it to make its representations and warranties hereunder at Closing, provided that, in such event, the other party shall have the rights specified in Section 8.8 hereof.

4.11 Risk of Loss. Seller shall bear all loss or damage to the Assets of the Facility occurring prior to the Closing Date. In the event of any such loss or damage, Seller shall give prompt notice thereof to Buyer. In the event repairs or replacement are required to be made promptly in the reasonable judgment of Seller, Seller shall proceed with the required repairs or replacements at its cost or expense. In the event repairs or replacement are not promptly required, Buyer may, within ten (10) business days after receipt of notice of the loss or damage, give notice to Seller that: (a) it does not require the repair or replacement of the loss or damage, in which case Seller shall have no obligation to make such repair or replacement and any insurance proceeds received by it as a result thereof shall belong to Seller and the Purchase Price shall be reduced by the value of such loss or damage plus the amount of the deductible attributable by the insurer to such loss or damage, or (b) it elects to make the repair or replacement of the loss or damage after the Closing, in which case the Purchase Price shall be reduced by the value of such loss or damage plus the amount of the deductible attributable by the insurer to such loss or damage. Notwithstanding the foregoing, in the event that the loss or damage to the Facility is significant and materially interferes with the operation of the Facility and/or the Adult Day Care Program the Seller may elect not to proceed with such repair or replacement and to close the Facility. In such event, this Agreement shall be deemed terminated and Buyer shall receive the Escrow Funds, and all interest accrued thereon as its sole remedy. The parties shall have no further obligations hereunder.

4.12 Adult Day Care Program. The Seller has disclosed to the Buyer that it is currently licensed to operate an adult day care program for twenty-four (24) participants. Seller shall use commercially reasonable efforts to obtain necessary licenses to operate an adult day care program for sixty (60) participants prior to Closing. If the Seller fails to obtain such license prior to Closing, such failure shall not effect Buyer's obligation to close hereunder provided that the Buyer shall be entitled to an amount (the "ADC Adjustment") calculated as follows:

(60-N) X 61,111 = ADC Adjustment

where "N" equals the maximum number of participants that may participate in the Adult Day Care Program pursuant to Seller's license immediately prior to Closing. The ADC Adjustment shall be paid to the Buyer as provided in Section 6.10.

ARTICLE V.
CONDITIONS PRECEDENT TO THE CLOSING

5.1 Conditions to Obligation of the Seller to Close. The obligation of the Seller to close the transactions contemplated under this Agreement shall be further subject to the satisfaction and fulfillment, at or prior to the Closing, of each of the following conditions, any of which may be waived in writing by the Seller:

(a) Compliance With Agreements and Covenants. The Buyer shall have performed and complied in all material respects with all of its covenants, obligations, and agreements contained in this Agreement that are required to be performed and complied with on or prior to the Closing Date;

(b) Representations and Warranties. The representations and warranties of the Buyer contained herein (i) shall be true and correct in all material respects on and as of the date of this Agreement, and (ii) shall also be true and correct on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date;

(c) Closing Certificate. The Seller shall have received a certificate of Chief Executive Officer of the Buyer, dated the Closing Date, certifying that the conditions set forth in Sections 5.1(a) and 5.1(b) have been satisfied; and the Seller shall also have received a certificate of the Buyer, dated the Closing Date, certifying as to the Buyer's authority to consummate the transactions hereunder;

(d) Payment of Purchase Price. The Buyer shall have delivered immediately available funds in the amount of the Purchase Price, as adjusted, to the Seller in accordance with Section 1.4(b) hereof;

(e) Other Closing Documents. Each of the Transaction Documents shall have been executed and delivered by the Buyer and be in full force and effect as of the Closing Date, including:

(i) the Assignment and Assumption Agreement; and

(ii) the Bill of Sale.

(f) Governmental Approvals. The Buyer shall have received in final, non-contingent written approval of the Department of Health to the Application, and all other governmental approvals referred to in Schedules 2.4 or 3.3 shall have been obtained;

(g) No Adverse Proceedings. There shall not be in effect any Order or Law restraining, enjoining or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by this Agreement;

(h) Closing of Real Property. Simultaneously herewith Seller shall have closed with the Real Estate Buyer on the Land Sale Contract concerning the real property upon which the Facility is situated.

5.2 Conditions to Obligation of the Buyer to Close. The obligations of the Buyer to close the transactions contemplated under this Agreement shall be further subject to the satisfaction and fulfillment, at or prior to the Closing, of each of the following conditions, any of which may be waived in writing by the Buyer:

(a) Compliance With Agreements and Covenants. The Seller shall have performed and complied in all material respects with all of covenants, obligations, and agreements contained in this Agreement that are required to be performed and complied with on or prior to the Closing Date;

(b) Representations and Warranties. The representations and warranties of the Seller contained herein (i) shall be true and correct in all material respects on and as of the date

of this Agreement and (ii) shall also be true and correct on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date;

(c) Closing Certificate. The Buyer shall have received a certificate of a Responsible Person, dated the Closing Date, certifying that the conditions set forth in Sections 5.2(a) and 5.2(b) have been satisfied;

(d) Other Closing Documents. The Seller shall have executed and delivered to the Buyer (i) an Assignment and Assumption Agreement, (ii) a Bill of Sale and (iii) such further instruments and documents as may be reasonably requested by the Buyer in order to complete the transfer of the Assets to the Buyer;

(e) Proceedings; Certificates. All municipal proceedings of the Seller that are required in connection with the transactions contemplated hereby shall be reasonably satisfactory in form and substance to the Buyer and its counsel, and the Buyer and its counsel shall have received such evidence of such proceedings, certified if requested, by the Buyer;

(f) No Material Adverse Effect. No Material Adverse Effect shall have occurred with respect to the Seller or the Assets;

(g) Governmental Approvals. The Buyer shall have received a final, non-contingent written approval of the Department of Health to the Application and all other governmental approvals referred to in Schedules 2.4 or 3.3 shall have been obtained;

(h) No Adverse Proceedings. No suit of any kind or nature shall have been commenced which would materially adversely affect the Assets, the Facility or the Premises and no injunction, temporary restraining order, judgment or other order of any court or governmental agency or instrumentality shall have issued or have been entered which would be violated by the consummation of the transactions contemplated herein; and no suit, action or other proceedings brought by the United States or the State of New York, or any agency or instrumentality of the United States or the State of New York shall be pending in which it is sought to restrain or prohibit the effectuation of this Agreement or the consummation of the transactions contemplated herein.

(i) Closing of Real Property. Simultaneously herewith Seller shall have closed with the Real Estate Buyer on the Land Sale Contract concerning the real property upon which the Facility is situated.

ARTICLE VI.
POST CLOSING COVENANTS

The parties covenant to take the following actions after the Closing Date:

6.1 Resident Retention. The Buyer shall continue treatment to each Patient receiving Services at the Facility as of the date of Closing. Only Patients requiring services not available at the Facility may be eligible for transfer. To the extent any Resident is being treated

at a facility other than the Facility, the Buyer shall reserve such Resident's bed in accordance with applicable law and comply with all applicable "bed hold" regulations.

6.2 Registrant Retention. As of the date of Closing, the Buyer shall continue providing Services to Registrants in the Adult Day Care Program.

6.3 Employee Retention.

(a) The parties intend that before Closing the Buyer shall interview all employees who are employed at the Facility immediately prior to the Closing who are not offered the opportunity to continue to be employed by Seller following the Closing. For purposes hereof, such employees are referred to as the "Existing Employees". The Buyer agrees that until the date three months following the Closing, prior to offering positions which Buyer determines as necessary at the Facility to third parties, it shall offer Existing Employees such positions provided that such Existing Employees are qualified to perform the job requirements of such positions and have otherwise completed the application and interview process with the Buyer. This Section 6.3 shall not require Buyer to employ such employees on the same terms and conditions as they are employed by the Seller prior to Closing. To the extent that Buyer offers employment to Existing Employees, their rates of pay shall be consistent with nursing homes in Suffolk County. Each such employee hired by Buyer is hereinafter referred to as a "Hired Employee".

(b) Buyer shall not assume any responsibility for any of the Seller's obligations to employees arising out of their employment prior to the Closing Date.

(c) Buyer will be responsible for providing compensation and benefits to Hired Employees for periods on and after the Closing Date during the respective periods of employment of such Hired Employees with Buyer. On and after the Closing Date, the Hired Employees will accrue employment benefits only in accordance with the policies applicable to Buyer's employees.

(d) Nothing in this Agreement shall limit the right of Buyer to terminate the employment of any Hired Employee following the Closing Date.

(e) As of the first day following the Closing Date, all Hired Employees shall be permitted to participate in the plans, programs and arrangements of Buyer relating to compensation and employee benefits as may be available on such date.

(f) If any of the arrangements described in this Section are determined to be prohibited by applicable legal requirement, Seller and Buyer shall modify such arrangements to as closely as possible reflect their expressed intent and retain the allocation of economic benefits and burdens to the parties contemplated herein in a manner that is not prohibited by applicable legal requirement.

6.4 Further Information. Following the Closing, Seller will afford to the Buyer, or its Representatives, during normal business hours, reasonable access to the books, records and other data of the Seller relating to the Facility, the Adult Day Care Program, the Assets, the Excluded Assets, the Assumed Liabilities or the Seller in its possession with respect

to periods prior to the Closing and the right to make copies and extracts therefrom, to the extent that such access may be reasonably required by the requesting party (i) to facilitate the investigation, litigation and final disposition of any claims which may have been or may be made by or against such requesting party or its Affiliates, and (ii) for any other reasonable business purpose.

6.5 Record Retention. Each party agrees that for a period of not less than six (6) years following the Closing Date, it shall not destroy or otherwise dispose of any of the Books and Records relating to the Facility, the Adult Day Care Program, the Assets, the Assumed Liabilities or the Excluded Assets in its possession with respect to the periods prior to the Closing. Each party shall have the right to destroy all or part of such Books and Records (other than the Tax Returns and related work papers and letters from the accountants of each party) after the sixth anniversary of the Closing Date or, at an earlier time by giving each other party hereto thirty (30) days prior written notice of such intended disposition and by offering to deliver to the other parties, at the other parties' expense, custody of such Books and Records (other than the Tax Returns and related work papers and letters from the accountants of each party) as such party may intend to destroy.

6.6 Sales and Income Taxes.

(a) The Buyer shall pay all sales taxes ("Taxes"), if any, applicable to, imposed upon or arising out of or in connection with the transactions effected pursuant to this Agreement, and shall indemnify, defend and hold harmless the Seller and its Affiliates with respect to any such Taxes. The Seller shall prepare and file all necessary documentation and Tax Returns with respect to such Sales Taxes.

(b) The Buyer shall pay all taxes applicable to, imposed upon or arising out of the sale of the Assets to the Buyer other than taxes imposed on or measured by the income of the Seller.

6.7 Covenants Regarding Tax Matters. The Seller and the Buyer shall (i) each provide the other with such assistance as may reasonably be requested by either of them in connection with the preparation of any return, audit or other examination by any tax authority or judicial or administrative proceedings relating to a liability for taxes, (ii) each retain and provide the other with any records or other information which may be relevant to any such return, audit or examination, proceeding or determination, and (iii) each provide the other with any final determination of any such audit or examination, proceeding or determination that affects any amount required to be shown on any return of the other for any period.

6.8 Telephone Forwarding. The Seller agrees that, for the period commencing on the Closing Date and continuing until the first anniversary of the Closing Date, Seller shall at its expense forward all calls received on the twenty-five telephone lines identified on Schedule 6.8 to telephone numbers identified by the Buyer. Following the first anniversary of the Closing Date, the Seller shall leave no further obligation to Buyer with respect to such telephone lines.

6.9 **Collections**. The parties intend that the Buyer and Seller shall enter into a separate agreement pursuant to which the Buyer shall assist the Seller in collecting its accounts receivable for services rendered at the Facility or by the Adult Day Care Program prior to Closing. The parties have agreed that in consideration of the Buyer's agreements in Section 11.17, the Buyer shall be entitled to retain for its own account the first $750,000 of funds collected with respect to such receivables. The Buyer shall be entitled to retain two and one-half percent (2.5%) of all collections made on behalf of Seller in excess of the sum of (i) $750,000 and (ii) amounts retained by the Buyer to be applied against the ADC Adjustment in the relevant calendar year as provided in Section 6.10 below

6.10 **Payment of and Adjustments to the ADC Adjustment**. If the Buyer is entitled to an ADC Adjustment pursuant to Section 4.12 of this Agreement, then the amount of the ADC Adjustment shall be paid to or credited to the Buyer as follows:

(a) In addition to the $750,000 the Buyer is entitled to retain for its own account pursuant to Section 6.9 above, the Buyer shall be entitled to retain for its own account up to $500,000 of funds collected with respect to receivables pursuant to Section 6.9 in each of the first two years following Closing Date;

(b) If the Buyer retains less than $500,000 for its own account pursuant to Section 6.10(a) in either of the first two years following the Closing Date, it shall so notify the Seller within 10 business days following the relevant anniversary of the Closing Date, and Seller shall pay to the Buyer the amount of such shortfall within 90 days following receipt of such notice from Buyer;

(c) In addition, the Seller shall pay to the Buyer on or before each of the first through eighth anniversaries of the Closing Date, the sum of $150,000;

(d) The parties acknowledge that the ADC Adjustment was designed to compensate the Buyer for the revenue that would be lost over five years as a result of being licensed to operate the Adult Day Care Program with fewer than 60 participants. Therefore, if during the three year period following Closing the Buyer is able to obtain licenses to increase the number of participants in the Adult Day Care Program, the ADC Adjustment shall be reduced on a pro rata basis over the remaining time prior to the third anniversary of the Closing Date for each additional slot secured. If as a result of such adjustment the ADC Adjustment is reduced to an amount less than amounts credited or paid to the Buyer, the Buyer shall promptly refund to the Seller the difference.

(e) In no event shall the aggregate amounts paid or credited to Buyer pursuant to this Section 6.10 exceed the ADC Adjustment, as it may be reduced pursuant to subsection (c) above. If amounts paid pursuant to this Section 6.10 are less than the ADC Adjustment, the Seller shall pay to the Buyer the shortfall within 90 days following receipt of such notice from the Buyer to such effect.

ARTICLE VII.
SURVIVAL; INDEMNIFICATION

7.1 **Survival of Provisions and Indemnification by the Seller.**

(a) The representations and warranties set forth in Articles II and III shall survive for the thirty-six (36) month period subsequent to Closing. Notwithstanding any implication to the contrary contained in this Agreement, so long as any party delivers written notice of a claim to another party hereunder no later than the applicable limitation date, the indemnifying party shall be required to indemnify the indemnified party as provided in this Article VII for all losses (subject to the limitations in Section 7.3) that the indemnified party may incur in respect of the matters that are the subject of such claim, regardless of when incurred.

(b) Subject to the provisions of Section 7.3, from and after the Closing, the Seller shall promptly indemnify, defend, and hold harmless the Buyer and its affiliates, against any and all losses, costs, expenses (including reasonable cost of investigation, court costs and legal fees actually incurred) and other damages resulting from (i) any breach by Seller of any of the covenants, obligations or representations or warranties contained in this Agreement, (ii) any claim that is brought or asserted by any third party(s) against the Buyer arising from or relating to the ownership, licensing, operation or conduct of the Adult Day Care Program or the Facility or the conduct of any of the Seller's employees, agents or independent contractors, relating to all periods of time ending on or prior to Closing, (iii) any Excluded Liabilities, and (iv) any actions, suits, proceedings, judgments, costs and expenses, including reasonable attorneys' fees, incident to any of the foregoing, or incurred in enforcing any of the obligations under this Section 7.1(b).

7.2 Indemnification by the Buyer. Subject to the provisions of Section 7.3, from and after the Closing, the Buyer shall promptly indemnify, defend and hold the Seller harmless against any and all losses, costs and expenses (including reasonable cost of investigation, court costs and legal fees actually incurred) and other damages resulting from (i) any breach by the Buyer of any of the covenants, obligations or representations or warranties contained in this Agreement, (ii) any claim that is brought or asserted by any third party(s) against the Seller arising from or relating to the ownership, licensing, operation or conduct of the Facility or the conduct of any of the Buyer's employees, agents or independent contractors, relating to all periods of time from and after the Closing, and (iii) any actions, suits, proceedings, judgments, costs and expenses, including reasonable attorneys' fees, incident to any of the foregoing, or incurred in enforcing any of the obligations under this Section 7.2.

7.3 Limits on Indemnification.

(a) In no event will the Seller's indemnity obligations hereunder, and under the Land Sale Contract or any other document executed in connection herewith or therewith, exceed, in the aggregate, $5,000,000 plus the amount of any Excluded Liabilities, but only to the extent that one or more third parties asserts claims against the Buyer related to the Excluded Liabilities (the "Indemnification Cap").

(b) In no event will the Buyer's indemnity obligations hereunder, and under the Land Sale Contract or any document executed in connection herewith or therewith exceed, in the aggregate $5,000,000 (the "Buyer Cap").

(c) The indemnification provisions set forth in this Article VII are the exclusive remedy of the parties hereto for breaches of the representations and warranties contained in this Agreement; provided, however, nothing in this Agreement (including this

Section 7.3) shall limit or restrict any party's right to maintain or recover any amounts in connection with any action or claim based upon intentional misstatement or fraud. The limitations of the Seller's indemnification obligations provided in this Section 7.3 shall not apply to any loss, cost or expense arising out of any claim made by any person employed at the Facility or the Adult Day Care Program prior to Closing arising out of or related to such employee's employment by the Seller.

7.4 Rules Regarding Indemnification. The obligations and liabilities of each party which may be subject to indemnification liability hereunder (the "indemnifying party") to the other party (the "indemnified party") shall be subject to the following terms and conditions:

(a) Third-Party Claims. The indemnified party shall, within twenty (20) calendar days of first learning thereof, give written notice to the indemnifying party of any claim by a third party (including, without limitation, any audit, examination or other proceeding relating to taxes) (a "Third Party Claim") which is likely to give rise to a claim by the indemnified party against the indemnifying party, stating the nature of said claim and the amount thereof, to the extent known (including copies of any writings received) and stating that, pursuant to the indemnity, the indemnified party is asserting against the indemnifying party a claim with respect to a potential loss from the Third Party Claim, provided, however, that the failure to provide such written notice within such twenty (20) day period shall in no event impair the rights of the indemnified party or limit the obligations of the indemnifying party except to the extent that such failure materially prejudices the indemnifying party's ability to defend the claim. If, within twenty (20) days after receiving such notice, the indemnifying party advises the indemnified party that it will provide indemnification and assume the defense at its expense, then so long as such defense is being conducted, the indemnified party shall not settle or admit liability with respect to the claim and shall afford to the indemnifying party and defending counsel reasonable assistance (at indemnifying party's sole cost and expense) in defending against the claim. If the indemnifying party assumes the defense, counsel shall be selected by such party and if the indemnified party then retains its own counsel, it shall do so at its own expense. If within the aforesaid twenty (20) day period the indemnified party shall have received written objection to a claim (which written objection shall briefly describe the basis of the objection to the claim or the amount thereof, all in good faith), then for a period of ten (10) days after receipt of such objection the parties shall attempt to settle the dispute as between the indemnified and indemnifying parties. If the parties have not settled the dispute by the expiration of the foregoing ten (10) day period, the indemnified party shall be free to exercise any and all of its rights. The indemnifying party may settle any such Third Party Claim without the consent of the indemnified party if the settlement, (A) involves only the payment of money against which the indemnified party is indemnified under this Agreement and (B) provides for full release of the indemnified party.

(b) Claims by a Party. The determination of a claim asserted by a party hereunder (other than as set forth in section (a) above) pursuant to this Article VII shall be made as follows: The indemnified party shall give written notice to the indemnifying party of any claim by the indemnified party which has not been made pursuant to subsection (a) above, and shall cause such notice to specify in reasonable detail to the extent then known each individual item of losses suffered or incurred, the basis for any anticipated liability and the nature of the

misrepresentation, breach of warranty, breach of covenant or agreement or other claim to which each such item is related and the computation of the amount to which the indemnified party claims to be entitled hereunder. If, within twenty (20) days after receiving the notice, the indemnified party shall have received written objection to a claim (which written objection shall briefly describe the basis of the objection to the claim or the amount thereof, all in good faith) then for a period of ten (10) days after receipt of such objection the parties shall attempt to settle the disputed claim as between the indemnified and indemnifying parties. If the parties have not settled the dispute by the expiration of the foregoing ten (10) day period, the indemnified party shall be free to exercise any and all of its rights. The indemnified party shall reasonably cooperate and assist the indemnifying party in determining the validity of any claim. Such assistance and corporation will include providing reasonable access to and copies of information, records and documents relating to such matters and furnishing employees to assist in the investigation and resolution of such matters.

7.5 Other Provisions. Notwithstanding anything to the contrary, the provisions of this Article VII are not intended to and shall not limit or modify the parties' obligations under Article IX below. The obligations of the parties under Article IX are in addition to and are independent of their indemnification obligations pursuant to this Article VII.

ARTICLE VIII.
TERMINATION

8.1 Failure to Timely File Application. Contingent upon Seller's cooperation, if Buyer shall fail to file the Application for Establishment within forty-five (45) calendar days after the date Seller provides Buyer with written notice of the Suffolk County Legislature approval of this transaction, Seller may terminate this Agreement. Upon termination of this Agreement, pursuant to this Section 8.1, Escrowed Funds plus accrued interest thereon shall be paid to Seller as its sole remedy and the parties shall have no further obligations under this Agreement.

8.2 Suffolk County Legislature Approval. If, before December 31, 2010 (a) the Suffolk County Legislature has not approved the sale of the Assets or (b) the Suffolk County Legislature disapproves the sale of the Assets, Seller shall, within three (3) days of the occurrence under (a) or (b), provide Buyer with notice of the same. In such event, either Seller or Buyer shall have the right to terminate this Agreement upon ten (10) days prior written notice to the other. Upon termination of this Agreement, pursuant to this Section 8.2, Escrowed Funds plus accrued interest thereon shall be paid to Buyer as its sole remedy and the parties shall have no further obligations.

8.3 Buyer's Default. If Buyer shall be disapproved by the Department of Health or the Public Health Council due to a character and competence issue or inability to demonstrate sufficient financial resources necessary for the acquisition of the Assets under this Agreement, or if a negative staff report shall be issued by the Department of Health or the Public Health Council regarding the Buyer upon its review of the Application, then Buyer shall have the right to substitute members and/or assign this Agreement to another purchaser (AAssignee@) which shall assume this Agreement on Buyer's behalf, and Buyer may amend the Application to

reflect such substitution of members and/or Assignee, subject to Seller's consent which shall not be unreasonably conditioned, withheld or delayed. If (a) after such member substitution and/or assignment the Department of Health or Public Health Council still denies approval of Buyer's or its Assignee's Application, as amended, due to a character and competence issue or inability to demonstrate sufficient financial resources necessary for the acquisition of the Assets under this Agreement, (b) Buyer breaches any of its obligations hereunder, in any material respect, and fails to cure such default within thirty (30) days after notice from Seller of the event causing default, (c) Buyer fails to close within the time period set forth in Section 1.7 (other than Buyer's failure to close as a result of Seller's failure to comply with its obligations under this Agreement), then Buyer shall be deemed to have breached its obligations hereunder and Seller may at its option and upon ten (10) days prior notice to Buyer, cancel this Agreement, as its sole remedy, in which event this Agreement shall be terminated and the Escrowed Funds plus accrued interest thereon shall be paid to the Seller as and for its liquidated damages and not as penalty and the parties shall have no further obligations under this Agreement. Notwithstanding anything herein to the contrary, in the event the Department of Health or Public Health Council denies approval of Buyer's or its Assignee's Application due to a public need issue or any other issue other than character and competence or inability to demonstrate sufficient financial resources necessary for the acquisition of the Assets under this Agreement, then this Agreement shall be deemed cancelled and the Escrowed Funds and accrued interest thereon shall be paid to Buyer and neither party shall have any further claim against the other pursuant to this Agreement. This provision shall survive any termination of this Agreement.

8.4 Seller's Default. If Seller breaches any of its obligations hereunder in any material respect, and fails to cure such default within thirty (30) days after notice from Buyer of the event causing default, then Seller shall be deemed to have breached its obligations hereunder and Buyer may at its option and upon ten (10) days prior notice to Seller, to cancel this Agreement, in which event this Agreement shall be terminated and the Escrowed Funds plus accrued interest thereon, shall be paid to Buyer and Buyer shall cumulatively have all rights and remedies available under this Agreement at law or in equity, including, without limitation, an action to recover damages and/or to obtain specific performance of the Seller's obligations under this Agreement and the reimbursement of all costs and expenses, including, but not limited to reasonable attorneys fees and court costs incurred in connection with Seller's default and/or the enforcement of this provision. This provision will survive any termination of this Agreement.

8.5 Cross-Default with Land Sale Contract. Subject to any opportunity to cure as may be set forth in this Agreement: (a) a default by Land Sale Contract Seller under the Land Sale Contract shall be deemed as a Seller default hereunder and a default by Seller hereunder shall be deemed as a Land Sale Contract Seller default under the Land Sale Contract, and (b) a default by Real Estate Buyer under the Land Sale Contract shall be deemed as a Buyer default hereunder and a default by Buyer hereunder shall be deemed as a Real Estate Buyer default under the Land Sale Contract. In addition, if (i) Real Estate Buyer is entitled to cancel or terminate the Land Sale Contract in accordance with its terms, Buyer shall be entitled to cancel or terminate this Agreement and visa versa, and (ii) Real Estate Seller is entitled to cancel or terminate the Land Sale Contract, Seller shall be entitled to cancel or terminate this Agreement and visa versa. Upon any cancellation or termination of the Land Sale Contract, other than as a result of a Real Estate Buyer uncured default, or upon any cancellation or termination of the Land Sale Contract entitling the Real Estate Buyer to the deposit paid thereunder or the

Escrowed Funds in accordance with its terms, the Buyer under this Agreement shall be entitled to terminate this Agreement and shall be entitled to receive the Escrowed Funds and all interest thereon and vice versa. Upon any cancellation or termination of the Land Sale Contract as a result of a Real Estate Buyer uncured default entitling the Real Estate Seller to the deposit paid thereunder or the Escrowed Funds in accordance with its terms, the Seller under this Agreement may terminate this Agreement and shall be entitled to receive the Escrowed Funds and all interest thereon and vice versa.

8.6 Termination by Mutual Consent. This Agreement may be terminated and abandoned at any time prior to the Closing by the mutual written agreement of the Parties hereto whereupon the Escrowed Funds plus all accrued interest thereon shall be paid to the Buyer and the parties shall have no further obligations under this Agreement.

8.7 Termination by Either Party. This Agreement may be terminated by either the Seller or the Buyer by written notice to the other of a United States federal or state court of competent jurisdiction or United States federal or state governmental, regulatory, or administrative agency or commission shall have issued an order, decree, or ruling or taken any action permanently restraining, enjoying or otherwise prohibiting the transactions contemplated by this Agreement and such order, decree, ruling, or other action shall become final and non-appealable. Upon any termination pursuant to this Section 8.7, the Escrowed Funds plus all accrued interest thereon shall be paid to the Buyer and the parties shall have no further obligations under this Agreement.

8.8 Material Adverse Effect.

(a) This Agreement may be terminated at any time prior to Closing by the Buyer if, following the date of this Agreement, any event or circumstance occurs which causes (i) the Seller to be unable to satisfy the condition precedent to closing specified in Section 5.2(b) hereof or (ii) causes the Seller to modify its disclosure schedules pursuant to Section 4.10 hereof. Upon any termination pursuant to this Section 8.8(a), the Escrowed Funds, plus all accrued interest thereon shall be paid to the Buyer and the parties shall have no further obligations under this Agreement.

(b) This Agreement may be terminated at any time prior to Closing by the Seller if, following the date of this Agreement, any event or circumstance occurs which causes (i) the Buyer to be unable to satisfy the conditions precedent to Closing set forth in Section 5.1(b) hereof or (ii) causes the Buyer to modify its disclosure schedules pursuant to Section 4.10 hereof. Upon any termination pursuant to this Section 8.8(b), the Escrowed Funds, plus accrued interest thereon, shall be paid to the Seller and the parties shall have no further obligations under this Agreement.

8.9 Buyer's Right Under Section 2.23 to Terminate. Upon any termination of this Agreement by Buyer pursuant to the provisions of Section 2.23, the Escrowed Funds plus accrued interest thereon shall be paid to the Buyer and the parties shall have no further obligations under this Agreement.

8.10 **Survival.** The provisions of this Article VIII shall survive termination of this Agreement.

ARTICLE IX.
OVERPAYMENTS, UNDERPAYMENTS AND APPEALS

9.1 **Responsibility for Overpayments and Audits.** Seller is, and after the Closing shall remain, liable for all overpayments or audit liabilities due to Medicare, Medicaid or any other health care reimbursement or payment intermediary or third party payor, and all cash receipts assessments relating to such revenues, and all other third party payor liabilities with respect to services provided at the Facility or the Adult Day Care Program prior to the Closing Date (collectively, the "Overpayment Obligations"). Seller acknowledges that the Department of Health or other third party payors may collect the Overpayment Obligations by lump sum or by decreasing the third party payments that are otherwise payable to Buyer for services provided by Buyer on or after the Closing Date. Seller shall reimburse Buyer with respect to Overpayment Obligations paid by or withheld from the Buyer as provided below in this Article IX.

9.2 **Right to Appeal.** Each party shall retain the sole and absolute right to protest, contest or appeal any Medicaid or Medicare rate determinations or any other third party reimbursement relating solely to services rendered by the Facility or the Adult Day Care Program during such party's period of ownership and operation of the Facility or the Adult Day Care Program and to receive and retain any additional reimbursement resulting therefrom limited, however, to the reimbursement for services rendered during such party's period of ownership and operation of the Facility or the Adult Day Care Program.

9.3 **Retroactive Payment Adjustments.** If any retroactive adjustment in payments is made as a result of an audit, rate appeal or otherwise, with respect to Medicaid or Medicare rate payments, cash receipts assessments or other liabilities to the State of New York or any other third party reimbursement paid or owing to or by Seller for services rendered by the Facility or the Adult Day Care Program before the Closing Date and such adjustment is made by increasing or decreasing the Medicare, Medicaid or other third party payments made by such payor to Buyer for the Facility or the Adult Day Care Program on or after the Closing Date, then:

(a) Buyer shall promptly notify the Seller of such retroactive adjustment.

(b) in the case of an increase, the monies received by Buyer attributable to such increase, net of assessments thereon, shall be deemed trust funds belonging to Seller and Buyer shall pay the net of the same to Seller within ten (10) calendar days of the receipt thereof by Buyer. Buyer shall pay the cash receipts assessments relating to the monies referred to in the first sentence of this subsection utilizing the withheld portion of the monies referred to in the first sentence of this subsection allocable to such assessments and shall provide Seller with all statements and supporting documentation relating thereto;

(c) in the case of a decrease, as a result of which money is withheld or otherwise recovered from payments due to Buyer, Seller shall pay to Buyer the amount withheld within ten (10) calendar days after receipt of notice from Buyer of such withholding, together

with all statements and supporting documentation relating thereto and failure of Seller to so pay shall provide Buyer with the right, not to the exclusion of any other right or remedy, to setoff any such sums against any sums otherwise owing to Seller under this Agreement; and

(d) any amounts required to be paid by Seller or Buyer to the other pursuant to this Section 9.3 that are not paid when due shall bear interest at the rate of 6% per annum from the date payment was due until the date payment is received.

9.4 Claim Notice. After the Closing Date, if either party receives a notice relating to any audit, rate appeal, retroactive rate adjustment, or other rate determination, or of the results of any protest, contest or appeal thereof, which is attributable in whole or in part to pre-Closing Date periods (the "Claim Notice") the receiving party shall deliver to the other party, within ten (10) business days of receipt, a true and correct copy of any such Claim Notice.

9.5 Rate Appeals.

(a) Participating Appeals. If on or after the Closing Date, either Buyer or Seller (an "Initiating Party") intends to protest, contest or appeal any Medicaid or Medicare rate determinations or any third party reimbursement relating to any period that commenced prior to the Closing Date and ends after the Closing Date, then the Initiating Party shall notify the other party (the "Receiving Party") of such intention in writing (a "Protest Notice") within twenty (20) days after receipt of the Claim Notice. The Receiving Party shall have the right to participate in such protest, contest or appeal by giving the Initiating Party notice of such election within ten (10) business days after the receipt of the Protest Notice.

(b) Effect of Participation. If the Receiving Party elects to participate in such protest, contest or appeal, then:

(i) it shall pay its *pro rata* share of the Initiating Party's legal, accounting and other costs of pursuing such protest, contest or appeal. The Receiving Party's *pro rata* share of such costs shall be equal to the product of (A) the amount of such costs and (B) the number of calendar days in the period which is subject to the protest, contest or appeal that Receiving Party operated the Facility divided by the total number of calendar days in the period which is the subject of the protest, contest or appeal;

(ii) the Receiving Party shall cooperate in the protest, contest or appeal to the extent reasonably necessary to pursue such action and shall provide access to the Facility's books and records;

(iii) so long as either party is contesting any such claim in good faith, the other party shall not pay or settle such claim;

(iv) Seller shall be entitled to receive all increased reimbursements resulting from such protest, contest or appeal that relate to services provided at the Facility prior to the Closing Date; and

(v) Buyer shall be entitled to receive all increased reimbursements resulting from such protest, contest or appeal that relate to services provided at the Facility on or after to the Closing Date.

(c) Failure to Elect. If the Receiving Party does not elect in a timely manner to participate in any such protest, contest or appeal, then the Initiating Party shall bear the entire cost of such proceeding and, notwithstanding any other provision of this Agreement, shall be entitled to receive and retain all increased reimbursements resulting from such proceeding regardless of when the services were provided subject, however, to a maximum aggregate sum equal to the costs of such proceeding actually incurred by such Initiating Party. Upon recoupment of such costs by the Initiating Party all increased reimbursements resulting from the proceeding shall be allocated between Buyer and Seller as set forth in 9.5 (b) (iv) and (v) above.

9.6 Notwithstanding anything to the contrary, all capital improvement related rate increases for which Seller shall have filed a rate appeal prior to Closing and capital improvement related retroactive payment increases for which Seller shall have filed a rate appeal prior to Closing shall belong to Seller, other than those capital improvement related rate increases and retroactive payment increases directly attributable to capital improvements made by the Seller with the proceeds of the New York State Dormitory Authority grant referred to in Section 11.17 which shall belong to the Buyer. All other capital improvements related rate increases and capital improvement related retroactive payment increases, including those related to the capital improvements to be made by the Buyer pursuant to Section 11.17, shall belong to the Buyer.

9.7 The provisions of this Article 9 shall survive the Closing.

ARTICLE X.
RESIDENT ASSETS

10.1 Delivery of Resident Assets. At Closing, Seller shall deliver to Buyer (i) a schedule, certified by Seller as being accurate to its best knowledge after reasonable inquiry, of all Resident funds held by it as of the close of business on the day prior to the Closing Date, with all such funds designated on a Resident by Resident basis; (ii) a check drawn on the Residents' Allowance Account maintained by Seller for the full amount of any such account which shall be deposited by the Buyer in a new Residents' Allowance Account to be maintained by Buyer for the benefit of such Residents in accordance with legal requirements; (iii) a schedule, certified by Seller as being accurate to its best knowledge after reasonable inquiry, of all bank accounts maintained by the Facility on behalf of its Residents; (iv) all bankbooks and other assets belonging to Residents of the Facility maintained in the custody of the Facility together with a schedule thereof listing such bankbooks and other assets and the name of the Resident for whom they are being so held; and (v) a schedule, certified by Seller as being accurate to its best knowledge after reasonable inquiry, of all Resident security deposits and prepayments designated on a patient by patient basis, together with a check in the amount of such security deposits and unexpended prepayments (collectively, AResident Accounts@). Seller shall correct any

discrepancies between the amounts actually in such accounts and the amounts shown as belonging to the Residents and shall transfer all the correct sums due hereunder.

10.2 **Indemnification**. Buyer shall acknowledge receipt of the schedules described in Section 10.1 above and the Resident Accounts in writing and, provided that any discrepancies referred to in Section 10.1 have been corrected, Buyer shall indemnify, defend and hold Seller harmless against any claims made by or on behalf of Residents or others relating to Resident Accounts, including but not limited to all costs, expenses and reasonable attorneys fees but in all events limited to the amounts actually transferred by Seller to Buyer under this Article. Seller shall indemnify, defend and hold Buyer harmless against any claims made by or on behalf of Residents, including but not limited to all costs, expenses and reasonable attorneys fees, relating to any Resident Accounts which claims arise on account of periods prior to the Closing Date, or in respect of which Seller fails to properly schedule, correct and/or remit the proper funds in accordance with Section 10.1. The provisions of this Section 10.2 shall survive the Closing.

10.3 **Notices**. Buyer and Seller will jointly and promptly give all notices required by law in connection with the aforesaid transfer of the Residents' assets. This provision shall survive the Closing.

ARTICLE XI.
GENERAL PROVISIONS

11.1 **Notices**. All notices and other communications hereunder shall be in writing and shall be deemed provided to a Party hereto if delivered personally, mailed by registered or certified mail (return receipt requested), sent by nationally recognized overnight delivery service or sent via facsimile to such Party at the address therefore as follows (or at such other address for such Party as shall be specified by similar such notice):

If to the Seller:

County of Suffolk
Leonard J. Marchese, MBA, CPA
Director of Management and Research
Suffolk County Department of Health Services

with copies to:

Christine Malafi, County Attorney
Suffolk County Department of Law
H. Lee Dennison Building
100 Veterans Memorial Highway
Hauppauge, NY 11788-0099

and

Farrell Fritz, P.C.
1320 RXR Plaza
Uniondale, NY 11556-1320
Attention: Robert Creighton, Esq.
Christopher J. Kutner, Esq.

If to the Buyer, to:

Foley Operating LLC
c/o Isidor Friedenberg
2 Cara Drive
Suffern, NY 10901
Attention: Kenneth Rozenberg

with a copy to:
Isidor D. Friedenberg, Esq.
2 Cara Drive
Suffern, New York 10901

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

11.3 **Rules of Construction**. The Parties hereto agree that they have been represented by counsel during the negotiation, preparation, and execution of this Agreement, and therefore waive the application of any law, regulation, holding, or rule of construction providing that ambiguities in an agreement or other document will be construed against the Party drafting such agreement or document.

11.4 **Entire Agreement**. This Agreement (including the documents and instruments referred to herein and the Exhibits and Schedules attached hereto) constitutes the entire agreement, and supersedes all other prior agreements and understandings (both written and oral), among the parties hereto, or any of them, with respect to the subject matter hereof. This Agreement shall not be assigned by operation of law or otherwise except as otherwise provided in this Agreement.

11.5 **Governing Law**. **THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS EXECUTED AND TO BE PERFORMED WHOLLY WITHIN SUCH STATE AND ANY AND ALL DISPUTES SHALL BE RESOLVED IN THE SUPREME COURT FOR THE STATE OF NEW YORK IN AND**

FOR THE COUNTY OF SUFFOLK OR IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE NON EXCLUSIVE JURISDICTION OF SAID COURTS IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR THE RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED BY SUCH NEW YORK STATE COURT OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT.

11.6 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF THE PARTIES HERETO IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.

11.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement. Furthermore, the parties agree that the signature of any party may be delivered by facsimile, or transmission of a PDF file or any other form of electronic delivery.

11.8 Severability. Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is deemed unenforceable, such provision shall be deemed to be reformed and modified to the minimum amount required to make such provision enforceable. Unless otherwise specifically set forth in this Agreement, all provisions of this Agreement shall survive the Closing.

11.9 Expenses. The Buyer and the Seller shall each pay their own costs and expenses relating to this Agreement, the negotiations leading up to this Agreement, and the performance of this Agreement.

11.10 Assignment. Neither Party may assign or delegate any rights or obligations set forth in this Agreement without the prior written consent of the other Party, provided that the Buyer shall have the right, subject to obtaining applicable Governmental Authorizations, to assign its rights and delegate its obligations, without relieving itself of any obligations hereunder, to one or more Affiliates which shall take title to, or to a successor to the interest of the Buyer in, the Assets and Buyer shall have the right to assign set forth in Section 8.3 hereof. This Agreement shall be binding upon the Parties hereto and their respective successors and permitted assigns.

11.11 No Third Party Beneficiaries. This Agreement is for the sole benefit of the Buyer and the Seller and is not for the benefit of any third party. Nothing contained in this

Agreement is intended to relieve or discharge the obligations or liability of any third party to the Seller or the Buyer, nor shall this Agreement give any third party any right of subrogation or action over or against the Seller or the Buyer.

11.12 Further Assurances and Records. From time to time after the Closing Date, the Buyer or the Seller, at the request of the other and without further consideration but at the expense of the requesting party, shall sign and deliver or cause to be signed and delivered such other instruments of transfer and take such other actions as reasonably may be requested by the other in order further to effectuate the consummation of the Asset Purchase. In addition, the Buyer and the Seller acknowledge that there may be occasions in the future when a Party or Affiliates of a Party will need access to certain documentation of the other in order to prepare financial statements, tax returns or other reports to third parties, or in order to facilitate audits or legal proceedings, comply with laws or Governmental Authorizations or otherwise conduct its affairs in a proper manner. Accordingly, the Buyer and the Seller shall exercise their respective reasonable commercial efforts to achieve the purposes of this Section in such case at the expense of the requesting party.

11.13 Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing signed by the Buyer and the Seller. No waiver by any Party of any provision of this Agreement or any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be valid unless the same shall be in writing and signed by the Party making such waiver nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

11.14 Captions. The titles of the Articles and Sections of this Agreement are for convenience only and shall not be construed as limiting, defining or affecting the substantive terms of this Agreement.

11.15 Exhibits, Schedules and Annexes. The Exhibits, Schedules and Annexes are a part of this Agreement as if fully set forth herein. All references herein to Sections, subsections, clauses, Exhibits, Schedules and Annexes shall be deemed references to such parts of this Agreement, unless the context shall otherwise require.

11.16 Brokers. Each Party to this Agreement agrees that it shall be responsible to pay fees, commissions and expenses of any broker, financial advisor or other third party retained by it in connection with the transactions contemplated hereby.

11.17 Agreement with Respect to Violations on Schedule 2.3. The Buyer acknowledges that the Facility shall be transferred subject only to the violations identified (i) in the December 19, 2007 New York State Department of Health Recertification/Complaint Survey referred to on Schedule 2.3 annexed to this Agreement (the "DOH Survey Violations") and (ii) in the April 14, 2010 Department of Health Survey to the extent they are duplicative of the DOH Survey Violations, and agrees the Buyer shall be responsible for making all necessary repairs or improvements to correct such violations. The Buyer's obligations under this Section 11.17 shall be to make necessary repairs or improvements only. The Buyer is not assuming and Seller shall

retain responsibility for any fines or penalties arising out of such violations for the period ending on the Closing Date. Notwithstanding any other provision of this Agreement, Buyer shall have no right or remedy against Seller with respect to the costs of making the improvements which Buyer is responsible to make under this Section 11.17. In consideration of the Buyer agreeing to undertake such repairs and alterations as aforesaid, the Seller agrees to complete, by the Closing, the improvements to be funded by a $2,600,000 New York State Dormitory Authority grant, which improvements are described on Schedule 11.17. Notwithstanding anything to the contrary, but subject to the provisions contained hereinabove in this Section 11.17, all violations arising or noted before Closing shall be remedied and cleared by Seller at its expense prior to the Closing.

11.18 **Agreement with Respect to Employees Post Closing.** The Seller shall pay all employees of the Facility as of the Closing Date for accrued benefits earned by such employees for the period through the Closing Date. In addition, in order to provide for the smooth transition of the Facility to the Buyer, at Closing, the Seller shall pay to the Buyer an amount equal to two weeks salary plus FICA payroll tax for each Hired Employee (as such term is defined in Section 6.3) based upon the compensation to be paid to such Hired Employee by Buyer (the "Pool") which amount shall be applied by the Buyer on a dollar for dollar basis against paid time off taken by Hired Employees following the Closing. On the first anniversary of the Closing Date, if any of the Pool remains, such amounts shall be paid to the Hired Employees in such manner as the Buyer determines.

[THE NEXT TWO PAGES ARE THE SIGNATURE PAGES]

IN WITNESS WHEREOF, the Buyer and the Seller have caused this Agreement to be signed as of the date that appears in its first paragraph.

SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES

By: _____
Name: Leonard J. Marchese
Title: Director of Management & Research

FOLEY OPERATING LLC

By: _____
Name: Kenneth Rozenberg
Title: Managing Member

Approved as to Legality:
Christine Malafi, County Attorney

By: _____
Name: Jessica H. Hogan
Title: Assistant County Attorney

IN WITNESS WHEREOF, the Buyer and the Seller have caused this Agreement to be signed as of the date that appears in its first paragraph.

SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES

By: _____

Name: Leonard J. Marchese

Title: Director of Management & Research

FOLEY OPERATING LLC

By: _____

Name: Kenneth Rozenberg

Title: Managing Member

Approved as to Legality:

Christine Malafi, County Attorney

By: _____

Name: Jessica H. Hogan

Title: Assistant County Attorney

EXHIBIT A

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Agreement") is entered into as of _____ __, ____ by and among County of Suffolk, a municipal corporation of the State of New York, acting through its duly constituted Department of Health Services (the "Assignor"), and Foley Operating LLC, a New York limited liability company (the "Assignee").

WHEREAS, Assignor and Assignee entered into that certain Asset Purchase Agreement dated April 20, 2010 (the "Purchase Agreement'); and

WHEREAS, pursuant to the Purchase Agreement, Assignor has agreed to assign certain rights and agreements to Assignee, and Assignee has agreed to assume certain obligations of Assignor, as set forth herein.

NOW, THEREFORE, in consideration of the premises, the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto mutually covenant and agree as follows:

1. Effective as of 12:01 a.m. EST on the date hereof (the "Effective Time"), Assignor hereby sells, transfers and assigns (collectively the "Assignment") to Assignee all of Assignor's right, title, benefit, privileges and interest in and to the contracts, agreements or commitments listed on Schedule A hereto ("Rights"), and Assignee hereby accepts the Assignment and agrees to assume, observe and perform any obligations in connection with the Rights exclusively first arising from and after the Effective Time, provided that Assignee assumes no Excluded Liabilities and the parties hereto agree that all such Excluded Liabilities shall remain the sole responsibility of Assignor. The foregoing assignment shall be subject, in case of contracts, to a valid assignment of such contracts to the Assignee.

2. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

3. This Agreement shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of New York, without regard to its conflict of law principle provisions.

4. This Agreement may be executed in counterpart signature pages all of which when so executed and attached hereto shall constitute one and the same original.

5. Capitalized terms used but not otherwise defined herein have the meanings given them in the Purchase Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Assignment and Assumption Agreement as of the date first set forth above.

ASSIGNOR:

COUNTY OF SUFFOLK

By:_____
Name:
Title:

ASSIGNEE:

FOLEY OPERATING LLC

By:_____
Name:
Title:

By:_____
Name:
Title:

SCHEDULE A
TO ASSIGNMENT AND ASSUMPTION TO AGREEMENT

EXHIBIT B

BILL OF SALE

THIS BILL OF SALE dated as of _____, 20___ by County of Suffolk, a municipal corporation of the State of New York, acting through its duly constituted Department of Health Services (the "Seller"), and Foley Operating LLC, a New York, a limited liability company (the "Buyer").

WITNESSETH:

WHEREAS, the parties hereto have entered into an Asset Purchase Agreement dated April 20, 2010 (the "Purchase Agreement") providing for the purchase by the Buyer of substantially all of the assets of the Seller used in connection with the business of the John J. Foley Skilled Nursing Facility, other than the Excluded Assets, and the parties now desire to carry out such transaction by the Seller's execution and delivery to the Buyer of this instrument evidencing the vesting in the Buyer of all of the assets and rights of the Seller hereinafter described. Capitalized terms used but not defined herein have the meanings given them in the Purchase Agreement.

NOW, THEREFORE, in consideration of the premises and of other valuable consideration to the Seller in hand paid by the Buyer, at or before the execution and delivery hereof, the receipt and sufficiency of which by the Seller is hereby acknowledged, the Seller hereby conveys, grants, bargains, sells, transfers, sets over, assigns, remises, releases, delivers and confirms unto the Buyer, its successors and assigns forever, effective as of 12:01 a.m. EST on the date hereof (the "Effective Time"), all of the Seller's right, title and interest in the Assets, free and clear of all Liens and Excluded Liabilities.

TO HAVE AND TO HOLD all of the foregoing business, rights, privileges, properties, and assets unto the Buyer, its successors and assigns for its and their own use forever.

The Seller hereby covenants that, from time to time after the delivery of this instrument, at the Buyer's request and without further consideration, the Seller will do, execute, acknowledge, and deliver, or will cause to be done, executed, acknowledged and delivered, all and every such further acts, deeds, conveyances, transfers, assignments, powers of attorney and assurances as reasonably may be required more effectively to convey, transfer to and vest in the Buyer, and to put the Buyer in possession of, any of the Assets as required under the Purchase Agreement.

Nothing in this instrument, express or implied, is intended or shall be construed to confer upon, or give to, any person, firm or corporation other than the Buyer and its successors and assigns, any remedy or claim under or by reason of this instrument or any terms, covenants or condition hereof, and all of the terms, covenants and conditions, promises and agreements in this instrument contained shall be for the sole and exclusive benefit of the Buyer and its successors and assigns.

SCHEDULE 1.2
Excluded Assets

In addition to all items listed in Section 1.2 of this APA, the following are excluded from sale.

	Excluded Assets
1.	All separately titled and registered autos, vans, trucks, buses or vehicles.
2.	Personal hand tools of maintenance mechanics.
3.	Contents of the Department of Public Works tool room, including table saw, drill press, band saw, 50 gal upright air compressor, pressure washer, 2 bench grinders, 2 radial arm saws
4.	Residents' personal possessions, including televisions, hot plates, compact disc players, etc.
5.	Leased photocopiers, pagers, oxygen tanks and owned blackberry devices.
6.	Fax machines (Owned by Chem-Rx)
7.	Fire alarm monitoring
8.	Phone service
9.	Computer data trunk
10.	Jett Sanitation Garbage Compactors
11.	Bioterrorism Hub – Cablevision cable modem.
12.	Any and all items under lease, license, or rental to the County.

SCHEDULE 1.5
Allocation of Purchase Price

The parties agree that the Purchase Price will be allocated to the Assets for all purposes in a manner consistent with the Internal Revenue code and the regulations promulgated thereunder. The parties shall endeavor in good faith to agree the asset allocation prior to the Closing Date.

SCHEDULE 2.3
Schedule of Violations

#	Date	Title	Liability	From	To
1	12/19/07	NYS Department of Health Recertification/ Complaint Survey – Survey Exit Date 12/28/07	All survey deficiencies not approved as corrected by NYS Department of Health as of date of close.	Richard Healion, New York State	Brian Harper, Suffolk County Health Commissioner
2	3/15/10	Suffolk County Fire Marshal Inspection Report	All violations not approved as corrected by the Suffolk County Department of Fire, Rescue & Emergency Services Fire Marshal as of date of close.	Joseph H. Kuethen, Fire Marshal	Linda Mermelstein, Suffolk County Acting Health Commissioner
3		Adult Care Program	Approved for 24 slots, currently operating at 60 slots and all violations noted on the NYS Department of Health Survey dated April 14, 2010.		

SCHEDULE 2.4
Consents and Approvals

- Approval of the Suffolk County Legislature, together with all necessary committees thereof.
- State Hospital Review and Planning Council and approval of the Public Health Council of the Department of Health.
- Any required approvals from the Town of Brookhaven or any divisions thereof.
- Any approvals as may be necessary for access and provision of utilities including but not limited to, approvals of Suffolk County Water Authority and the Suffolk County Sewer Agency.

SCHEDULE 2.5
Litigation

	Caption	Index #	Summary
13.	*Miglino v. County of Suffolk, Suffolk County Skilled Nursing Facility*	04669-97	Medical malpractice action
14.	*Estate of Schroeder v. John J. Foley Skilled Nursing Facility, Suffolk County Department of Health Services and County of Suffolk*	27697-05	Medical malpractice action
15.	*McKesson Medical-Surgical Minnesota Supply Inc. v. Department of Health Services Suffolk County, John J. Skilled Nursing Facility*	08-46138	Contract dispute regarding payment for medications/supplies

SCHEDULE 2.8
Material Contracts
Other Agreements

	Material Contracts and Other Agreements			
	Vendor	Service Provided	From	To
1	Spanier Building Maintenance Corp.	Window Washing - Skilled Nursing Facility	10/01/09	09/30/10
2	Home Audiology Services, PC	Audiology Services	08/01/08	07/31/11
3	DiBenedetto, Gary, DC	Chiropractor- No Cost	04/01/07	03/31/10
4	DentServ Dental Services, PC	Dental Care Services	11/01/09	03/31/10
5	Tetra Dynamics, Inc.	Dental Laboratory Services	02/01/10	12/31/12
6	Visiting Eyecare Services	Optometry Services	01/01/08	12/31/10
7	SUNY Stony Brook, School of Dental Medicine	Oral and Maxillofacial Surgery Services	01/01/09	08/31/10
8	Pollick, Sharon A., DMD, PC	Oral Surgery Services	05/01/08	12/31/10
9	Rx Consulting Solutions, LLC.	Pharmacy Consultation Services	02/01/08	12/31/10
10	Chem RX	Pharmacy Services	07/01/07	06/30/10
11	Degere Physical Therapy Services, PC	Physical Therapy Management Services	08/01/08	11/30/10
12	Behavioral Health Medical Practice, PC	Physician- No Cost	01/01/10	12/31/12
13	Ilkay, M.D. Altan	Physician- No Cost	01/01/10	12/31/12
14	Jayamaha, M.D., Sharmini	Physician- No Cost	01/01/10	12/31/12
15	Latt, M.D., Khin M.	Physician- No Cost	01/01/10	12/31/12
16	Long Island Surgery, PC	Physician- No Cost	01/01/10	12/31/12
17	Mathew, M.D., Jacob K.	Physician- No Cost	01/01/10	12/31/12
18	Pascual, M.D., Margarita C.	Physician- No Cost	01/01/10	12/31/12
19	Peconic Bay Primary Medical Care	Physician- No Cost	06/01/09	12/31/12
20	Weitzman, M.D., Stephen	Physician- No Cost	01/01/10	12/31/12
21	Crowley, Brooke V, D.P.M.	Physician- Podiatry	01/01/10	12/31/12
22	Eastern Portable X-Ray Corp.	Portable Radiology Services	04/01/10	12/31/12
23	RG Psychological Services, P.C.	Psychology	01/01/08	12/31/10
24	North Fork Radiology, P.C.	Radiology Services	01/01/08	03/31/11
25	Beacon Speech-Language Pathology, Physical and Occupational Therapy, Psychological Services, Registered Professional Nursing	Temporary Healthcare Staffing	01/01/10	12/31/12
26	ExecuSearch Group, Inc.	Temporary Healthcare Staffing	01/01/10	12/31/12
27	HealthPro Nursing Solutions, LLC	Temporary Healthcare Staffing	01/01/10	12/31/12
28	J&P Watson, Inc. d/b/a Interm HealthCare of Greater New York	Temporary Healthcare Staffing	01/01/10	12/31/12
29	Maxim Healthcare Services, Inc., d/b/a Maxim Staffing Solutions	Temporary Healthcare Staffing	01/01/10	12/31/12
30	Medical Staffing Network, Inc.	Temporary Healthcare Staffing	01/01/10	12/31/12

	Vendor	Service Provided	From	To
31	Huberman, Debra	Speech Therapy	01/01/08	12/31/10
32	Medical Staffing Network, Inc.	Speech Therapy	01/01/10	12/31/12
33	Father John E. Madden	Religious Services	01/01/10	12/31/12
34	Mary Immaculate Church	Religious Services	01/01/09	12/31/11
35	Rabbi Steven Moss	Religious Services	01/01/09	12/31/11
36	Neighborhood Health Providers, LLC	Revenue Generating Managed Care Provider Svs	10/01/08	09/30/11
37	Long Island Care Services, LLC	Salon Services	01/01/09	12/31/11
38	Bruno, Carl	Entertainer Services	01/01/10	12/31/12
39	Bruno, Patricia	Entertainer Services	01/01/10	12/31/12
40	Fuhr, Bob	Entertainer Services	01/01/10	12/31/12
41	Goldberg, Elliot	Entertainer Services	01/01/10	12/31/12
42	Grant, Tony	Entertainer Services	01/01/10	12/31/12
43	Graziano, Anthony	Entertainer Services	01/01/10	12/31/12
44	Izzo, Ralph	Entertainer Services	01/01/10	12/31/12
45	Maida, Donna	Entertainer Services	01/01/10	12/31/12
46	Maselli, George	Entertainer Services	01/01/10	12/31/12
47	McFadden, Roseann	Entertainer Services	01/01/10	12/31/12
48	McNeill, Carol	Entertainer Services	01/01/10	12/31/12
49	Patchogue Rotary Animal Assisted Therapy, Inc.	Entertainer Services	01/01/10	12/31/12
50	Smith, Lillian	Entertainer Services	01/01/10	12/31/12
51	Affinity Health Plan, Inc.	Network Participation	09/01/09	08/31/10
52	Empire Blue Cross Blue Shield	Network Participation	08/15/09	08/14/11
53	GuildNet Inc.	Network Participation	09/01/09	08/31/10
54	Heritage New York IPA, Inc. d/b/a HealthCare Partners IPA	Network Participation	09/01/09	08/31/10
55	Suffolk Transportation Services Inc.	Transportation (Adult Daycare Busing)	09/01/03	06/30/12
56	Servisair, LLC	Transportation Management Services	09/01/08	06/30/11
57	Hunter EMS, Inc.	Transportation Services	01/01/08	12/31/10
58	Phoenix Transport Corp d/b/a Emergency Ambulance Service	Transportation Services	01/01/08	12/31/10
59	Ricar Medical Transportation Service	Transportation Services	01/01/08	12/31/10
60	TRICARE Prime Network	Network Participation	9/29/2008	9/29/2011
61	HIP Health Plan of New York	Network Participation	1/21/2009	1/15/2012

SCHEDULE 2.11
Material Adverse Change

None.

SCHEDULE 2.16
Absence of Certain Events

None.

SCHEDULE 2.18
Management & Employment Agreements

Management & Employment Agreements				
#	Vendor	Service	From	To
1	The Fein Group, LLC	Administrator & Management Services	8/1/08	7/31/10
2	Degere Physical Therapy Management Services, PC	Physical Therapy	8/1/08	11/30/10
3	Association of Municipal Employees White Collar Unit No. 2	Collective Bargaining Agreement	1/1/04	12/31/08
4	Association of Municipal Employees Blue Collar Unit No. 6	Collective Bargaining Agreement	1/1/04	12/31/08

SCHEDULE 3.4

Litigation

None

SCHEDULE 6.8
Telephone Numbers

Buyer may choose up to 25 of the following numbers to have forwarded for a period of one year, post Closing Date.

John J. Foley Skilled Nursing Facility
Telephone Directory

DEPARTMENT	Phone Number (631)	DEPARTMENT	Phone Number (631)
Administration		**Medical Director**-Anthony Bennardo, MD, MPH,CMD	852-4476
Lowell Fein, LNHA, MPA, CDP, FACHE, **Administrator**	852-4404	**Medical Records** - Carol Salvatore	852-4450
Assistant - Christine Ebmeyer	852-4403	Medical Records Clerk - Bruni Aldarondo	852-4451
Admininistrator For Support Services-Kim Gierasch, BA	852-5401	**Multi-Purpose Room**	**852-4473**
		Nurse Practitioners	
Admissions		Vicki Stelzel, N.P.	852-4409
Trisha Eiden-Loesch, R.N.	852-4470	Alison Abrams, N.P.	852-4409
Linda Chester, L.P.N.	852-6818		
Helen Budny, R.N.	852-4431	**Nursing Administration-**	
ADHC		Al Carfora, R.N., Director	852-4443
AnneMarie Sarich, CTRS, Director	852-5421	Inservice Education/Staff Dev./QA-Barbara Parrillo	852-4442
Secretary - Cheryl Milward	852-4677	Secretary-Kari Ingegno	852-4444
Nursing Office - Renee Pelletier, R.N.	852-4479	MDS Coordinator-	852-4453
Nursing Office	852-4478	Employee Health	852-4340
Social Worker - Lois Byalick, LMSW	852-4452	**Nursing Rehab.**-Rose Schmidt,RN/Cheryl Holmes,LPN	852-4411
ADHC Kitchen	852-4477	**Nursing Supervisor's Office**	2-4440/2-4441
Activity Rooms	852-5228	**Nursing Supervisors**	
Beauty Parlor	852-4421	**7-3** - S. Pispisa/B. Peterson/H. Guida	852-4440/2-4441
Computer Room	852-4499	**3-11** - S. Theinert	852-4440/2-4441
Dental	852-4423	**11-7** -	852-4440/2-4441
Dietary - Andrea Schramm, RD, Director	852-4435	**Nursing Stations**	
Dietitians - Maryanne Moro	852-5229	2N Chart Room	852-4639
Dietetic Technician - Kelly Jack	852-5227	2N Chart Room	852-5402/2-4455
Secretary - Lorraine Spataro	852-4434	2S Chart Room	852-5412/2-4446
Asst. Foodservice Supv.-Catherine Beardslee/Steve Sacher	852-4436	3N Chart Room	852-5403/2-4456
Kitchen	852-4437	3S Chart Room	852-5413/2-4448

John J. Foley Skilled Nursing Facility
Telephone Directory

DEPARTMENT	Phone Number (631)	DEPARTMENT	Phone Number (631)
Dining Room (Staff)	852-4438	4N Chart Room	852-5404/2-4454
Dining Rooms (Residents)		4S Chart Room	852-5411/2-4457
2nd Floor	852-4482	5T Chart Room	852-5405/2-4447
3rd Floor	852-4483		
4th Floor	852-4484	**Occupational Therapy** - Isabel Melazzini, OTR	852-4469
5th Floor	852-4485	**Physical Therapy**-Peter Degere,PT, Rehab Coord.	852-4465
DPW- Dave Nulty / DPW Shop	2-4490/2-4460	Physical Therapy - Joe Clemente, PT	852-4410
EMR Computer Training Room	852-4413	**Physicians**	
Exam Room 5th Floor	852-5407	Dr. Santos	852-4409
Finance-	852-4464		
Financial Analyst/Contracts - Barbara Russo	852-4334	**Psychologists**-Dr. Schlee/Dr. McClusky/Dr. Katz	852-5416
Accounts Payable - Larry Roth	852-5409		
Medicare - James Lawry	852-4405	**Reception Desk** - JoAnn Miano	852-4400
Medicaid - Marlene Madorran	852-5523	**Small Conference Room**	852-4412
Cash Receipts/Patient Funds- Anastasia Zoas	852-4406	**Social Work Services**	
Insurance - Gail Freeborn	852-4333	Lynne Mauss, LCSW-R, Director	852-4433
Housekeeping- Diane Blum, Director	852-4425	Secretary- Sandy Smith	852-4430
Human Resources - Colleen Truocchio, Director	852-4466	SWA-	852-4432
Secretary - Denise Barrett	852-4467	Social Work Assistant - Michelle Burstin, SWA	852-5418
Information Technology-Susan Nappi-Bonilla/Rich Palazzo	852-4674	Social Work Assistant - Karen Nobs, SWA	852-4781
In-Service Education - Barbara Parrillo, R.N.	852-4442		
Classroom- Barbara Parrillo, R.N.	852-4676	**Speech Therapy** - Debbie Huberman	852-4420
Infection Control- Barbara Parrillo, R.N.	852-4442	**Staffing Office/Sick calls** - Linda Molinelli	852-4445
Laundry - Sewing Room	2-4458/2-4459	**Therapeutic Recreation**	
		Laura Stein, CTRS, Director	852-4415
Lobby	852-5420	Assistant - Pat Culkin	852-4416
Maintenance - Larry Stumpo, Director	852-4428	**Therapeutic Room**	
Maintenance Shop	852-4429	4th Floor	852-4491
Material Control - Peter Mastando/John Thornton	852-4418	**Volunteer & Community Programs**-Laura Stein	852-4415
		2nd Floor	852-4468

John J. Foley Skilled Nursing Facility
Telephone Directory

DEPARTMENT	Phone Number (631)

DEPARTMENT	Phone Number (631)
FAX NUMBERS	
Administration	852-4475
Admissions	852-5261
Adult Day Care Program	852-4414
Chart Room 2N	852-4449
Chart Room 2S	852-4894
Chart Room 3N	852-4487
Chart Room 3S	852-4497
Chart Room 4N	852-4488
Chart Room 4S	852-4498
Chart Room 5T	852-4899
Dietary & Food Service	852-4338
Infection Control	852-4787
Material Control	852-4337
Medical Records	852-4424
Nursing Administration	852-4678
Nursing Office	852-4784
Personnel	852-4762
Social Services/Admission	852-5400
Patient Accounts	852-4373
Pantries	
2nd Floor	852-4492
3rd Floor	852-4493
4th Floor	852-4494

SCHEDULE 11.17
Description of Improvements

Pursuant to funding provided through New York State Dormitory Authority grants, the Seller agrees to the following improvements, in substantially the following allocations.

SUFFOLK COUNTY DEPT OF HEALTH SERVICES - JJFSNF Dormitory Authority Grants

Combined Awards	**$2,600,000**

Acquisition of Machinery and Equipment for the John J. Foley Skilled Nursing Facility

Equipment:			
	Office Machines	$371,000	
	Camera & Photographic Equip	$25,000	
	Medical, Dental & Laboratory Equip	$50,000	
Supplies, Materials & Other Expenses			
	Computer Software	$2,000	
	Other Unclassified	$2,000	
Contractual Expenses			
	Fees for Services: Non-employees	$700,000	
		Total of Grant	**$1,150,000**

Renovation and Infrastructure Improvements to the John J. Foley Skilled Nursing Facility, Fifth Floor

Equipment:			
	Furniture & Fixtures	$50,000	
	Other Equipment, not otherwise specified	$400,000	
Supplies, Materials & Other Expenses			
	Repairs: Buildings	$400,000	
	Total of Grant		
		Total of Grant	**$850,000**

Safety Enhancements to the John J. Foley Skilled Nursing Facility

Equipment:			
	Garage, Shop & Building Equipment	$215,375	
	Other Equipment	$5,600	
Supplies, Materials & Other Expenses			
	Repairs: Buildings	$145,025	
	Total of Grant		
		Total of Grant	**$366,000**

Enhancements to the John J. Foley Skilled Nursing Facility, Including Construction of a Walkway and Garden			
Equipment:			
	Garage, Shop & Building Equipment	$15,000	
	Other Equipment	$10,500	
Supplies, Materials & Other Expenses			
	Repairs: Buildings	$208,500	
	Total of Grant	***Total of Grant***	**$234,000**

ex 3

REPORT TO THE SUFFOLK COUNTY LEGISLATURE PURSUANT TO SUFFOLK COUNTY ADMINISTRATIVE CODE, SECTION A9-6

PROCEDURES FOR REVIEW OF PRIVATIZATION INITIATIVES

SUBMITTED BY THE SUFFOLK COUNTY DEPARTMENT OF HEALTH SERVICES

SUFFOLK COUNTY
DEPARTMENT OF HEALTH SERVICES

April, 2010

INTRODUCTION & PURPOSE

Suffolk County Administrative Code, Article IX, Section A9-6, "*Procedures for Review of Privatization Initiatives,*" details a process that must be followed if a proposal or plan to provide services at Suffolk County's skilled nursing facility is submitted to the County Executive for the purpose of providing these services through entities other than Suffolk County Government and/or the Suffolk County Department of Health Services. The process specified in the code includes submission of written reports that address a variety of items, including the evaluation of the proposal, identification of expenditures under the plan, and a comparison of the level and quality of services to be provided under the plan as compared to Suffolk County.

An RFP for the sale of the John J. Foley Skilled Nursing Facility (JJFSNF) was recently awarded, and a resolution authorizing the sale of the facility to a private entity has been submitted to the Suffolk County Legislature for consideration. This report has been prepared in accordance with the reporting requirements of Section A9-6. It also provides important historical background information regarding the efforts made by the Suffolk County Department of Health Services to improve nursing home operations, and outlines a four year process that has resulted in the recommendation to sell of the JJFSNF.

HISTORICAL OVERVIEW OF THE JJFSNF, OPERATIONAL STUDIES AND FACILITY IMPROVEMENTS

John J. Foley Skilled Nursing Facility Historical Overview

The John J. Foley Skilled Nursing Facility (JJFSNF) is a 264 bed skilled nursing facility located in Yaphank New York. The Suffolk County Department of Health Services holds the New York State operating license for the facility.

The origins of the facility date back to the 1870's, when the County purchased a farm in Yaphank to construct an almshouse for the poor, aged and destitute. An adjacent building was acquired in 1919 and became the infirmary for the almshouse. A new facility was constructed in 1937 with federal assistance to be used as a nursing home as well as a hospital for the aged and chronically ill population. In 1995, a new facility on County property was opened, which is the current nursing home structure.

In the 100+ years since the County nursing home was established, there have been vast changes to the health care environment in both the availability of government funded

nursing home care and the type of long term care in demand[1]. Where the County had once been a home of last resort for County residents who had no where else to go, this is no longer the case. All nursing homes are eligible to receive payments from Medicaid and uninsured and underinsured patients can be cared for at any of Suffolk's 40+ nursing homes. Suffolk County reviews all patients prior to admittance to determine a clear payor source. Those patients without a clear payment source are not necessarily admitted.

Operating Losses & Impact on County Nursing Homes in New York State

County administered nursing homes generally require taxpayer subsidies to fund operations. Counties throughout New York State have been struggling with increasing operational losses from their nursing homes operations. Labor costs associated with municipal employee contracts are generally higher than those of private sector nursing homes, and have increased at a rate that surpasses the cost of living increases built into Medicaid reimbursement rates. This creates an ever widening gap between expenditures and revenues resulting in operating losses that must be covered by county tax dollars.

The Suffolk County General Fund pays the JJFSNF's annual operating losses. The net operating losses for operation of the JJFSNF totaled almost $43 million between 2000 and 2006[2]. A number of New York State counties have closed, downsized, privatized or are considering privatizing their nursing homes in recent years due to the fiscal pressure of continuing operations:

- Closed county-operated nursing homes include:
  - Dutchess County
  - Niagara county
  - Westchester County
- Downsized nursing homes include:
  - Orange County
  - Nassau County
  - Albany County (*which closed one of its two nursing homes, downsizing 345 beds).*

[1] Center for Government Research, Inc, *County Nursing Facilities in New York State: Current Status, Challenges and Opportunities*, September 2007, p. 8: "demands are increasing for different types of services at lower levels of care that enable older persons and persons with disabilities to remain in independent , community-based settings for longer periods of time. These trends and new directions have significant implications for the future of county skilled nursing facilities."

[2] *"John J. Foley Skilled Nursing Facility Operational Study Report to the Suffolk County Executive & Suffolk County Legislature*, May 2008, Horan, Martello, Morrone, PC, page i.

- Recently privatized county-operated nursing homes include:
  - Montgomery County (which was losing $3 million a year on operations)[3]
- Counties considering privatization include:
  - Fulton County, 176 beds, issued RFP for privatization options, currently analyzing first round of proposals.
  - Genesee County, 160 beds, hired a consultant to identify the pros and cons of selling the nursing home. The facility is incurring losses of more than $3.6 million from 2004-2008, "caught in fiscal constraints of tightened reimbursements, state and federally controller payment rates and intense scrutiny from the State Health Department and State Attorney General's Office....[the] situation gives no indication of change in the foreseeable future."[4]
  - Ulster County, 280 beds, creating task force to examine the long-term financial viability of the nursing home, including the privatization option.[5]

Improvements to Facility Operations

The process that ultimately resulted in the proposed sale of the JJFSNF began four years ago, when the Department of Health Services hired a consultant through the County RFP process with expertise in private nursing home operations to perform an operational study of the facility.[6] The winning bidder, Horan, Martello, Morrone (PC) (HMM) began their study in 2007, and issued a report in 2008.[7] The HMM report outlined both short term and long term recommendations for improving operations at the facility, and was presented to the Suffolk County Legislature's Health Committee on June 5, 2008.

A variety of expenditure savings and revenue generating recommendations were made to improve the facility's bottom line. The majority of the recommendations were implemented by the Health Department, which has resulted in reducing operational losses, including:

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[3] "Owner Touts Success of Privatized Nursing Home," Leader-Herald, March 28, 2010

[4] "Rochester Consultant to Study Nursing Home," Bativa News, April 6, 2010.

[5] "Inaction at Golden Hills Spurs Yet Another Study," Shawanguk Journal, April 15, 2010.

[6] The RFP "Consultant Services to Enhance Operations of the John J. Foley Skilled Nursing Facility" was issued by the Suffolk County Division of Purchasing in August of 2006. A total of six proposals were received in response to the RFP, and the winning bidder was Horan, Martello, Morrone (PC) (HMM) a local firm with extensive fiscal experience in nursing home operations.

[7] The 2403 page HMM report is available online at http://www.co.suffolk.ny.us/upload/healthservices/JJFSNFReport.pdf. The report has been available on the website since 2008 and was the subject of four public hearings held by the Suffolk County Legislature (11/25/08 & 12/3/08) and the Suffolk County Executive (11/19/08 & 11/26/08).

- Reduction of staff through attrition to better align staffing levels with reimbursement methodologies and industry standards.
- Reduction of agency nursing staff.
- Reduction of bad debt through development of a detailed accountability system.
- Continuation of Medicare Part-B billing for physical therapy, occupational therapy and speech services.
- Perform Medicare Part B physician billing.
- Change in Medicaid reimbursement methodology.

Efforts to reduce costs have resulted in operating losses being reduced from approximately $15 million annually to an estimated $8 million in 2009.[8]

JOHN J. FOLEY SKILLED NURSING FACILITY MANAGEMENT OVERSIGHT COMMITTEE

Resolution 882-08[9], adopted by the Suffolk County Legislature on November 5, 2008, created a committee for the purpose of achieving cost efficiencies and enhanced revenues. The Committee is comprised of four members: the Suffolk County Executive's Budget Office, the Suffolk County Legislature, the Department of Health Services, and a representative for the employees of Foley Skilled Nursing Facility. The charge of the committee, as outlined in Resolution 882-08, includes:

1. Oversee and work with the new management consultant hired pursuant to Resolution 334-08;

2. Seek to assist in the implementation of cost savings and revenue enhancing measures identified in the JJFSNF Task Force Report of 2004, the "*Marchese and Weiler Health Department Report*" of November of 2004 and the HMM report of 2008;

3. Meet with the management consultant[10] at least twice monthly to ensure that all practicable steps are being implemented to improve the Foley Facility's balance sheet.

[8] Based on 2009 unaudited financial statements.

[9] Resolution 882-2008 is attached in Appendix. A

[10] A contracted facility administrator was hired in August in 2008.

The JJFSNF Oversight Committee met bi-weekly for approximately six months, and then changed the frequency of meetings to monthly, pursuant to Resolution No. 400-2009.[11] The Committee continues to meet on a monthly basis.

The efforts of the JJFSNF Oversight Committee were important in reducing some of the operational costs of the facility, improving revenue collections and increasing the facility census to obtain "bed hold." Bed hold results in the facility receiving revenues to hold a bed for a resident that has been transferred to a hospital. As per New York State Health Department regulations, only nursing homes that have a 95% occupancy rate are eligible for bed hold revenues. The Committee has reached a consensus that all of major improvements that can impact the facility's bottom line have been achieved, with the exception of contracted labor and benefit costs and other costs uniquely associated with municipalities. However, while personnel costs have decreased, revenues have increased and the facility is receiving "bed hold" payments, the JJFSNF continues to operate at a loss.

It should be noted that the Presiding Officer introduced a resolution in 2010 to change the monthly meeting requirement to a quarterly meeting because the Committee's "*efforts have helped the facility realize cost savings and achieve new revenues.*"[12]

REQUEST FOR PROPOSAL PROCESS OVERVIEW

Resolution 881-08[13] adopted by the Suffolk County Legislature on November 5, 2008, authorized, empowered and directed the County Executive to issue requests for proposals and/or expressions of interest to transfer ownership and/or operation and management of the JJFSNF to an entity other than Suffolk County. An RFP process that lasted more than a year from adoption of Resolution 881-08 then took place. A consultant with expertise in nursing home operations and transactions was engaged to prepare the RFP and assist with the process.[14]

The RFP was issued in two parts:

1. Part One was an RFEI[15] (Requests for Expressions of Interest), issued in March of 2009, which prequalified potential bidders for the acquisition/lease of the

[11] See Appendix B for Resolution 400-2009.

[12] IR 1103-10, Amending Resolution No. 882-08, Creating an Oversight Management Committee for the John J. Foley Skilled Nursing Facility" was laid on the table 2/2/10, and withdrawn on 3/16/10.

[13] See Appendix C for Resolution 881-08

[14] The consultant hired to assist with the RFP process is Loeb & Troper.

[15] See Appendix D for the Request for Expressed Interest in Acquisition/Lease of JJFSNF.

JJFSNF. The RFEI was publically advertised and sent to over 130 potential bidders including all nursing home owners on Long Island, hospitals, non-profit agencies, etc.

2. Part Two was an RFP[16] (Request for Proposals), issued in September of 2009. An amendment to the RFP was issued in December of 2009. The RFP was distributed to all potential bidders that were pre-qualified through Part I of the RFP process.

The RFP Evaluation Committee was comprised of the Presiding Officer, and representatives of the Health Department, County Executive's Office and the Office of Budget and Management. Committee members reviewed all RFP responses, interviewed potential bidders and ranked the bidders according to the terms of the RFP, which included:

- **Structure/Operating History and Experience** : Including, but not limited to, demonstrated experience and/or management of long-term care or other service entity; size, scope and location of other programs; regulatory compliance history.
- **Bidder Character and Competence, Regulatory, and Acquisition History:** Including, but not limited to, demonstrated track record in the successful acquisition and financing of health care facilities and/or other major projects involving, among other things, the Certificate of Need application/approval; character and competence documentation indicative of likelihood of achieving favorable determination from New York State Public Health Council; ability to provide continuity of care to current resident population; expressed ability to provide appropriate transition for those employees retained.
- **Financial Resources/Viability:** Including, but not limited to, demonstrated resources and ability to meet acquisition, equity and working capital requirements associated with acquisition of assets and operation; demonstrated ability in obtaining necessary financing.
- **Other Information In Support of Proposal:** Any additional information provided that distinguishes the Bidder for consideration by the County.

The highest bidder was issued an award letter[17] in February of 2010, and then contract negotiations with the bidder began.

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[16] See Appendix E for the Request for Proposals for Acquisition/Lease of the JJFSNF, RFP No. 0990026.

[17] See Appendix F for the Award Letter for RFP No. 0990026.

The RFP Committee unanimously selected Kenneth Rozenberg, from the Centers for Specialty Care as the top bidder for the purchase of the John J. Foley Skilled Nursing Facility.

The ranking of the Kenneth Rozenberg, from the Centers for Specialty Care as the top bidder was made for the following reasons:

- Character & competency of the bidder is high;

- The bidder operates a number of nursing homes in New York State and is well known by the New York State Department of Health as a reputable owner with well-run facilities.

- The bidder's desire to operate the John J. Foley Skilled Nursing Facility in its current configuration: A total of 264 beds (including 12 AIDS beds) and continue operations of the Adult Day Care Program.

- The bidder's stated plan for the continuity of care of the facility's patients.

- The bidder's desire to provide job offers to existing facility staff.

- The purchase price offered.

Consistent with Mr. Rozenberg's proposal to provide continuity of care to current residents, New York State Department of Health regulations protect against arbitrary or indiscriminate discharge of patients.

A-96 D – EVALUATION AND ANALYSIS

According to Suffolk County Administrative Code, Article IX, Section A9-6D:

> *"A written evaluation shall accompany any such plan or proposal [to privatize the county nursing home]. Such written report shall include an evaluation and analysis of the cost of performing services through county government as compared to the cost of performing the services through the pertinent plan or proposal and shall include an evaluation and analysis of the quality of services to be provided by the plan or proposal, as compared to the quality of services being provided by the County of Suffolk through the Department of Health Services."*

The total net benefit to Suffolk County for selling the JJFSNF to the Centers for Specialty Care as awarded through the RFP process, is calculated by analyzing the net proceeds from the actual sale and adding the operational savings achieved by no longer operating the facility. A five-year analysis of the fiscal impact for selling the facility as proposed totals $60.6 million, as summarized below:

2011 - 2016 Five Year Total Net Benefit to Suffolk County for Sale of JJFSNF	
Net Sale Proceeds	$24,798,750
Net Operating Savings	$35,870,526
Grand Total Suffolk County Net Benefits:	**$60,669,276**

A detailed five-year analysis of the net sale and operating savings resulting from the sale of the JJFSNF is attached as Appendix G[18]. The cost of performing services through

[18] See Appendix G for Suffolk County Administrative Code A9-6D, Required Schedule of Fiscal Comparison Plans.

Suffolk County as compared to the proposed bidder is detailed in Appendix G. In accordance with Section A9-6H, the proposed plan *"will result in a cost savings to the county in at least each of the first five years of said plan or proposal of at least 10% in each of those first five years, as measured by net county expenditures…"*

To compare the quality of services that are being provided by Suffolk County at the JJFSNF as compared to the services that will be provided by the proposed bidder, several quality measures can be examined:

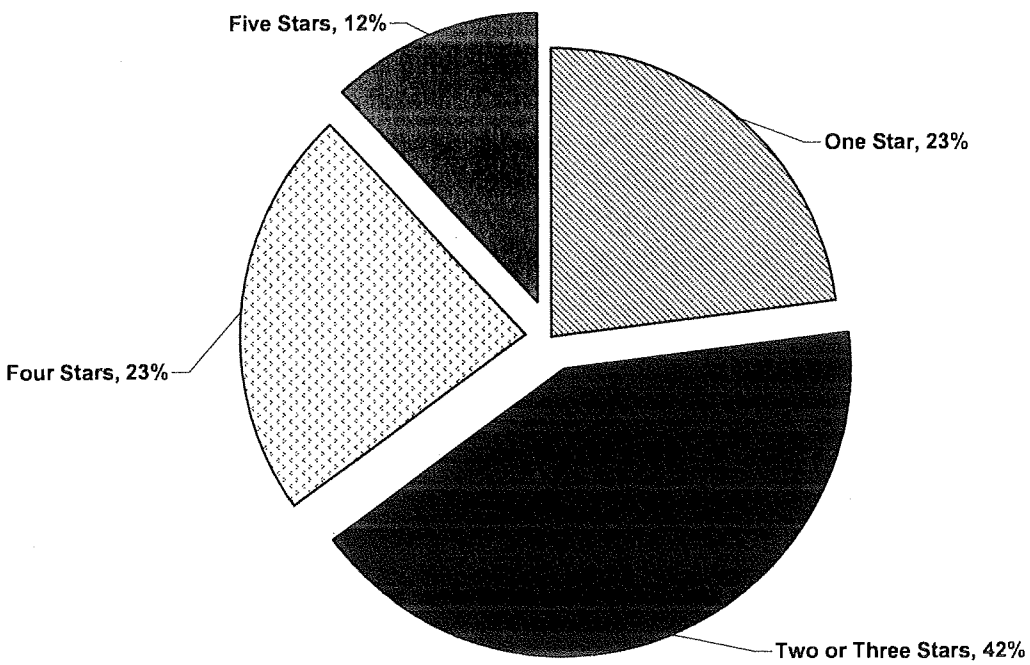
1. Centers for Medicare & Medicaid Services (CMS) Five-Star Quality Rating System for Nursing Homes

   - CMS ranks nursing homes throughout the United States on a five star basis, with one being the lowest rating and five being the highest rating. The rating is based on a number of factors, which are weighted and displayed as an Overall Rating.

   - Nursing homes with five stars are considered to have above average quality compared to other nursing homes in the state, while those with one star have quality much below the average in that state (*but still meet Medicare's minimum requirements.)*

   - The majority of nursing homes nationally have an overall ranking of 2. The distribution is as follows:

Centers for Medicare and Medicaid Services
Nationwide Distribution of Five Star Ratings*



* *Source: Centers for Medicare and Medicaid Services Nursing Home Compare Website - as of 4-10*

- The ratings are not meant to be used as the only way to evaluate a facility's quality. According to CMS, the ratings should be used with other sources of information on nursing homes, i.e. inspections from state health departments.

- The CMS most recent Overall Rating for the John J. Foley Skilled Nursing Facility is one out of five.

- The proposed buyer of the JJFSNF currently operates ten nursing homes in New York State, with over 1,100 total beds. The average Overall Rating for the Centers for Specialty Cares nursing homes is double that of the JJSNF, 2 on the Five Star Scale.

2. New York State Department of Health Survey Deficiencies

- A comparison of the number of NYS Department of Health Deficiencies may be used to assess the quality of services being provided to residents. The New York State Health Department website of Nursing Home profiles includes information about various survey results and deficiencies of all nursing homes in New York State.[19]

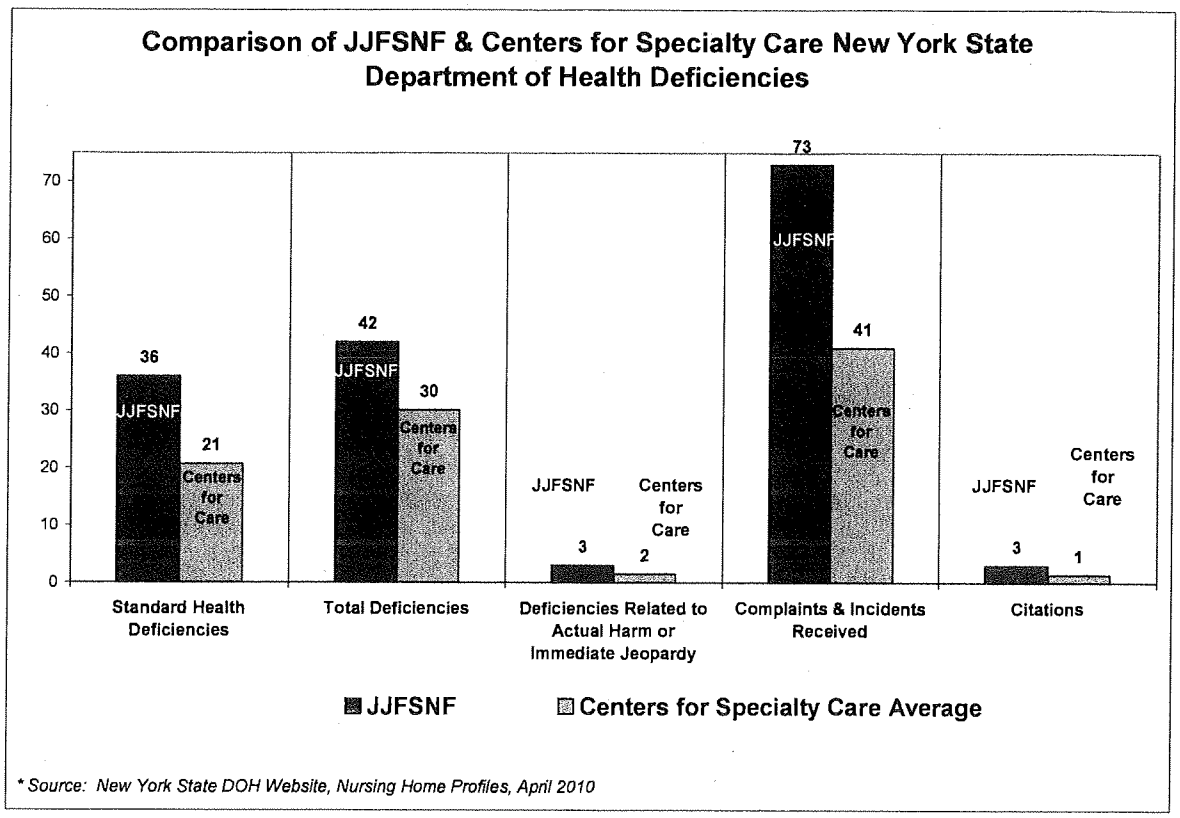
- A review of State Health Department reports of several major survey indicators including complaints received, show that the proposed buyer has a better rating than the JJFSNF for deficiencies related to actual harm or immediate jeopardy, total deficiencies, life safety code violations and standard health deficiencies.

- The buyer's nursing homes have a high quality of care according to major quality indicators tracked by the New York State Department of Health. Comparing the JJFSNF to the buyer's nursing homes in major quality indicators:

    - JJFSNF had 40% more complaints and incidents received.
    - JJFSNF had 25% more deficiencies related to actual harm or immediate jeopardy.
    - JJFSNF had 59% more total deficiencies.
    - JJSNF had 43% more standard health deficiencies.
    - JJFSNF had 53% more citations.

[19] http://nursinghomes.nyhealth.gov/index.php

- The following chart illustrates the JJFSNF's score as compared to an average of the buyer's ten nursing home scores.



* *Source: New York State DOH Website, Nursing Home Profiles, April 2010*

A-96 E – WRITTEN DOCUMENTATION FROM NEW YORK STATE

According to Suffolk County Administrative Code, Article IX, Section A9-6E:

> *"Written documentation from the appropriate state department or state governmental entity, including a statement expressing approval of the plan or proposal and outlining projected subsequent state aid for such plan or proposal, shall accompany the proposal or plan."*

A copy of the approval letter is attached as Appendix H.[20]

[20] See Appendix H for Written Documentation from New York State – Pursuant to A9-6E.

A-96 F – EXPENDITURE & SERVICE ANALYSIS

According to Suffolk County Administrative Code, Article IX, Section A9-6F:

> *"A report identifying expenditures for services under the proposal or plan, including such sums as must be expended by the County of Suffolk and/or voluntary agencies, shall also accompany the plan or proposal and shall specifically identify the precise level of services to be provided under the plan or proposal, as compared to the level of the services provided by the County of Suffolk."*

A detailed analysis of the expenditures for services under the proposed plan is attached as Appendix I.[21]

The comparison of the level of services to be provided under the plan or proposal as compared to the level of the services provided by Suffolk County is shown below:

Comparison of Level of Services to be Provided Suffolk County Compared to Proposed Plan

Category of Service	Services Provided by Suffolk County	Services Provided Under Privatization Plan	Difference in Services Provided
Skilled Nursing Facility (SNF) Beds	252	252	**None**
AIDS Beds	12	12	**None**
Total Beds	**264**	**264**	**None**
Adult Day Care Program	Yes	Yes	**None**

[21] See Appendix I for Suffolk County Administrative Code A9-6F, Required Schedule of Fiscal Comparison Plans.

SUMMARY

As this report details, it is evident from the financial analysis and quality comparison that the County will benefit significantly from the proposed transaction. We are confident that the requirements of A9-6 have been fully met and that this transaction will result in the best outcomes for the County as well as the residents of the John J. Foley Skilled Nursing Facility.

APPENDIX A

RESOLUTION 882-2008

Intro. Res. No. 1971-2008 Laid on Table 10/14/2008
Introduced by Presiding Officer Lindsay and Legislators Schneiderman, Browning

RESOLUTION NO. 882 -2008, CREATING AN OVERSIGHT MANAGEMENT COMMITTEE FOR THE JOHN J. FOLEY SKILLED NURSING FACILITY

WHEREAS, the John J. Foley Skilled Nursing Facility provides a wide range of services to hundreds of Suffolk County residents, including long-term care, short-term rehabilitation and adult day care; and

WHEREAS, in a good faith effort to reduce the operating deficit at the Nursing Facility, the County enacted Resolution No. 334-2008, which authorized the issuance of a Request for Proposals (RFP) to secure new management consulting services for the facility; and

WHEREAS, notwithstanding the passage of Resolution No. 334-2008, the County Executive proposed closing the Foley Facility in the proposed 2009 Operating Budget and, in the alternative, has suggested pursing the sale or lease of the Foley Facility; and

WHEREAS, this Legislature continues to believe that a good faith effort must be made during the remainder of 2008 and in 2009 to improve the management of the Facility and realize cost savings and new revenues; now, therefore be it

1st **RESOLVED**, that the Foley Nursing Facility Management Oversight Committee (Committee) is hereby established for the purpose of achieving cost efficiencies and enhanced revenues at the facility; and be it further

2nd **RESOLVED**, that the Committee shall have four (4) members, one (1) representative from the Suffolk County Executive's Budget Office, one (1) representative from the Department of Health Services, one (1) representative from the Suffolk County Legislature and one (1) representative of the employees of the Foley Skilled Nursing Facility; and be it further

3rd **RESOLVED**, that the representative of the Suffolk County Legislature and the representative of the employees of the Foley Skilled Nursing Facility will be appointed by the Presiding Officer of the Legislature; and be it further

4th **RESOLVED**, that this Committee shall oversee and work with the new management consultant hired pursuant to Resolution No. 334-2008; and be it further

5th **RESOLVED**, that the Committee shall seek to assist in the implementation of cost savings and revenue enhancing measures identified in the John J. Foley Skilled Nursing Facility Task Force Report of July 2004, the Marchese and Weiler Health Department Report of November 2004 and the Horan, Martell and Morrone Report of May 2008; and be it further

6th **RESOLVED**, that the Committee shall meet with the management consultant at least twice monthly to ensure that all practicable steps are being implemented to improve the Foley Facility's balance sheet; and be it further

7th **RESOLVED**, that the Committee shall regularly provide a status update on its effort and those of the management consultant at meetings of the County Legislature's Health and Human Services Committee; and be it further

8th **RESOLVED**, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20), (21) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED: November 5, 2008

APPROVED BY:

County Executive of Suffolk County

Date: 11/6/08

APPENDIX B

RESOLUTION 400-2009

Intro. Res. No. 1408-2009 Laid on Table 4/28/2009
Introduced by Presiding Officer Lindsay and Legislator Browning

RESOLUTION NO. 400 -2009, TO AMEND RESOLUTION 882-2008, CREATING AN OVERSIGHT MANAGEMENT COMMITTEE FOR THE JOHN J. FOLEY SKILLED NURSING FACILITY

WHEREAS, Resolution No. 882-2008 created an Oversight Management Committee for the John J. Foley Skilled Nursing Facility; and

WHEREAS, the requirement that the Committee meet twice monthly has proven to be unnecessary; now, therefore be it

1st **RESOLVED**, that the 6th RESOLVED clause of Resolution No. 882-2008 is hereby amended as follows:

> **6th** **RESOLVED**, that the Committee shall meet with the management consultant at least [twice] monthly to ensure that all practicable steps are being implemented to improve the Foley Facility's balance sheet; and be it further

and be it further

2nd **RESOLVED**, that all other terms and conditions of Resolution No. 882-2008 shall remain in full force and effect; and be it further

3rd **RESOLVED**, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20), (21) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

DATED: MAY 12 2009

APPROVED BY:

County Executive of Suffolk County

Date: MAY 21 2009

APPENDIX C

RESOLUTION 881-2008

Intro. Res. No. 1966-2008 Laid on Table 10/14/2008
Introduced by Presiding Officer, on request of the County Executive

RESOLUTION NO. 881 -2008, AUTHORIZING PUBLIC HEARINGS RELATIVE TO PROPOSALS AND PLANS SET FORTH IN THE REPORT PREPARED BY HORAN, MARTELLO, MORRONE, P.C. DATED MAY 2008 ON THE MANAGEMENT AND OPERATION OF THE JOHN J. FOLEY SKILLED NURSING FACILITY

WHEREAS, on August 10, 2006 a request for proposals was issued for management consultant services relative to the management and operation of the John J. Foley Skilled Nursing Facility (hereinafter "Foley"); and

WHEREAS, pursuant to Suffolk County Charter § 38-1(C), notice of the request for proposals was filed with the Clerk of the Legislature on August 8, 2006 (Exhibit "A"); and

WHEREAS, on March 27, 2007, Horan, Martello, Morrone, P.C. (hereinafter "HMM") was chosen to conduct a comprehensive study of the management and operation of Foley; and

WHEREAS, HMM issued its report, dated May 2008 of its findings with recommendations, copies of which were previously distributed to the Legislators, and the Executive Summary, which is annexed hereto as Exhibit "B"; and

WHEREAS, HMM gave a presentation of its findings on June 5, 2008 to the Legislature of Suffolk County; and

WHEREAS, Section A9-6 of the Suffolk County Code requires that, in the event a proposal or plan to provide services at the County's skilled nursing facility is submitted to the County Executive for the purpose of providing these services through entities other than Suffolk County Government and/or the Suffolk County Department of Health Services, using employees other than employees of the County of Suffolk, then at least two public hearings shall be held by the County Executive and two public hearings shall be held by the County Legislature on the particular proposal or plan; and

WHEREAS, it is also prudent to adopt a dual approach to explore and compare all budget mitigating options by pursuing requests for proposals to transfer ownership and/or operation and management of Foley to an entity other than Suffolk County; now, therefore be it

1st **RESOLVED**, that the County Executive and the County Legislature shall each hold public hearings in both the western portion of Suffolk County and the eastern portion of Suffolk County, at locations to be determined within a reasonable time subsequent to the adoption of this resolution, for consideration of the proposals and plans set forth in the HMM study dated May 2008; and be it further

2nd **RESOLVED**, that the County Executive and the County Legislature shall have completed the four (4) required public hearings by December 5, 2008; and be it further

3rd **RESOLVED**, that the aforesaid hearings to be held by the Legislature shall be set by the Presiding Officer; to be held by December 5, 2008; and be it further

4th **RESOLVED**, that the County Executive is hereby authorized, empowered, and directed to issue requests for proposals and/or expressions of interest to transfer ownership and/or operation and management of Foley to an entity other than Suffolk County; and be it further

5th **RESOLVED**, that within two weeks following receipt of the County Executive's final recommendations on the proposals submitted in response to the requests for proposals and/or expressions of interest, the Presiding Officer shall schedule and conduct two additional Legislative public hearings, for further consideration of the proposals and recommendations of the County Executive; and be it further

6th **RESOLVED**, that after thorough legal and financial analysis and review, only the more fiscally and socially prudent options set forth hereinabove, as determined by resolution, shall be pursued.

DATED: November 5, 2008

APPROVED BY:

County Executive of Suffolk County

Date: 11/6/08

APPENDIX D

REQUEST FOR EXPRESSED INTEREST IN ACQUISITION/LEASE OF JJFSNF

March 5, 2009

[ADDRESS BLOCK]

Dear [NAME]:

Enclosed please find the Request For Expressed Interest (RFEI) for the acquisition of operations of John J. Foley Skilled Nursing Facility located in Yaphank, Suffolk County, New York. As detailed in the RFEI, proposals are currently being sought from qualified bidders to acquire 264 skilled nursing beds and 60 Adult Day Health Care Program slots in addition to leasing the associated property. Interested parties must respond to the RFEI in order to be considered for the second level proposal process.

Proposals are due Friday, March 20, 2009, as detailed in the RFEI.

Sincerely,

David Adest

David Adest, CPA
Managing Partner

Enclosure

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REQUEST FOR EXPRESSED INTEREST IN:

ACQUISITION OF 264 SKILLED NURSING BEDS, INCLUDING 12 AIDS BEDS 60 ADULT DAY HEALTH CARE PROGRAM SLOTS AND LEASE OF ASSOCIATED PROPERTY FOR JOHN J. FOLEY SKILLED NURSING FACILITY

ISSUED: March 5, 2009

Initial Due Date: March 20, 2009

REQUEST FOR EXPRESSED INTEREST IN:
ACQUISITION OF 264 SKILLED NURSING BEDS, INCLUDING 12 AIDS BEDS, 60 ADULT DAY HEALTH CARE PROGRAM SLOTS AND LEASE OF THE FACILITY FOR JOHN J. FOLEY SKILLED NURSING FACILITY

BACKGROUND

John J. Foley Skilled Nursing Facility (JJF) is a 264-bed facility located on approximately 14 acres in Yaphank in Suffolk County (the County). In addition to operating 252 residential health care facility beds (including an Alzheimer's unit) and 12 designated AIDS beds, the nursing facility operates a 60-slot Adult Day Health Care Program (ADHCP). JJF is a public, County-run facility serving residents of Suffolk County, Long Island. The facility was constructed and operations began in 1995 in a newly-constructed facility. The total building size is approximately 181,749 square feet with recent (2005) expansions to the adult day health and rehabilitation program space as well as dining and recreational areas on the second floor.

The County intends to sell the operating license and lease the JJF facility to a qualified bidder as described below. This Request for Expressed Interest (RFEI) is part one of a two-part process. The initial RFEI seeks preliminary evidence, from potential operators, of their qualifications for the acquisition of the nursing facility operations as well as leasing the JJF facility. **In step two, a Request for Proposal (RFP) will be sent only to qualified bidders, as determined solely by the County based on responses to the RFEI.**

PURPOSE

The County is seeking proposals from qualified bidders for 1) the sale of the County's operating certificate for the JJF; and 2) the lease of the JJF facility. This process will involve the submission of the RFEI (Level I) and a subsequent formal response to a Request for Proposal (Level II) to be distributed to qualified bidders who will be selected from among the RFEI responders. **Only respondents to this RFEI will be eligible for consideration for the Level II RFP.**

Upon receipt of the New York State Department of Health approvals, and subject to the necessary County approvals, a qualified bidder would assume the operations of 264 skilled nursing beds as well as the 60-slot ADHCP and an associated lease, subject to negotiation, for the JJF facility. There will also be an option to purchase related JJF facility equipment and supplies.

Recognizing that the County has provided institutional-based care to the residents of Suffolk County since the 1880s, a qualified bidder must demonstrate a commitment to continue services to the current resident population. In addition, the County is interested in providing a suitable transition for those employees of JJF who may be retained by the new operator.

The successful respondent may participate in future opportunities relating to the purchase of land adjacent to the JJF facility. All such opportunities are subject to County, town and other approvals and all related regulations and requirements.

The County will consider proposals addressing the following:

- Purchase of the JJF operating license to include 264 skilled nursing and AIDS beds; and ADHCP (60 slots).
- Lease of the JJF facility and sale of the associated equipment and supplies.

A. SUBMISSION REQUIREMENTS IN RESPONSE TO THIS RFEI

The submission requirements are outlined below. The County will not consider any responses that do not fulfill these requirements.

- All proposers must respond to all questions in the format indicated.
- All copies of the proposals must be in writing and be submitted to:

  David Adest, CPA
  Managing Partner
  Loeb & Troper LLP
  655 Third Avenue, 17th Floor
  New York, NY 10017

- Seven (7) copies of the RFEI response and all other required documents must be received no later than **March 20, 2009, at 3:30 p.m.**
- Those submitting RFEI responses do so at their own expense. The County will not be obligated to reimburse any costs incurred in preparing or submitting the RFEI response, including additional requests for information and interviews.
- No verbal proposals will be accepted.
- In order to be considered, proposals must be accompanied by a signed Confidentiality Agreement, Public Disclosure Statement and Proposal Bid/Certification (see attachments).

- The County may request additional written or oral information from proposers, as needed.

- **Only respondents to this RFEI will be eligible for consideration for the Level II RFP.**

- All proposals will be held in confidence until completion of the selection process, except as required by law.

B. CONTENT OF SUBMISSION

The purpose of this solicitation is to identify potential proposers likely to meet the qualification criteria for acquiring JJF's operating licenses and operations and the lease of the JFF building itself. Successful proposers will also demonstrate that they have the necessary funds and financial viability to support the acquisition and lease. The County will review the RFEI responses with the goal of identifying those proposers who meet the New York State Department of Health (NYSDOH) and Public Health Council's financial and character/competence criteria. As noted previously, the County seeks assurances regarding continuity of care for the current resident population and a good faith effort for the appropriate transition of those employees of JJF, who may be retained by the new operator.

The **RFEI Response** must include the following:

- The names of and contact information for:

  (i) the proposer(s);
  (ii) all persons who will hold an ownership, equity or other economic interest with proposer;
  (iii) all individuals who will be listed on the application for Certificate of Need to be submitted to the NYSDOH in connection with the proposed transaction; and
  (iv) the names, affiliates and addresses of the individuals who prepared, or assisted in preparing, the response to this RFEI.

- A history and description of the proposer, including experience in the operation and/or management of long-term care and/or other health care service entity. Please detail program size, location and regulatory compliance history.

- A statement as to whether the proposer has ever filed an application for a Certificate of Need with the NYSDOH, and if so, the dates and resulting approval or disapproval.

- Full description of the proposer's financial status demonstrating the ability to acquire the assets and operations and to obtain the necessary financing arrangements.

- All additional information relating to the proposer's character, reputation, and competence, including any information relevant to the ability to achieve approval from the NYSDOH/Public Health Council.

- Any additional, relevant information that would distinguish the proposer for consideration by the County.

C. TIMELINE

The County will endeavor to follow the timetable below; however, the activities and timetable are guidelines only, subject to change at the County's discretion and without prior notice.

- RFEI Response: Seven (7) copies of the written response must be submitted in writing and received no later than 3:30 p.m. on March 20, 2009, to the attention of:

  David Adest, CPA
  Managing Partner
  Loeb & Troper LLP
  655 Third Avenue, 17th Floor
  New York, NY 10017

- Level I screening of applicants: A selection committee shall evaluate all RFEI applications and make appropriate recommendations on the selection of potential qualified candidates for the Level II RFP. The Level II RFP will be issued on a timetable to be determined by the county.

D. RFEI SUBMISSION EVALUATION

The County will have sole discretion to determine the composition of the selection committee, who will, in turn, evaluate the RFEI responses.

- The evaluation process is designed to identify proposers who would be most successful in submitting a proposal for the acquisition of JJF's operations and the lease of JJF building and successfully obtaining approval from the NYSDOH and the required County approvals to operate/lease JJF.

- On a date to be determined, the County will notify the selected entities who have qualified to submit an RFP.

E. RESERVATION OF RIGHTS AND MISCELLANEOUS CONDITIONS

The County reserves the following rights with respect to this RFEI:

- To request more detailed information.
- To utilize criteria of its choosing to select the entity whose proposal best satisfies the interests of the County.
- To take no action on the responses received.
- To reject all submissions that are submitted under this RFEI.
- To change any portion of the RFEI at any time.
- To issue additional, subsequent solicitations for proposals.
- To negotiate with proposers for amendments or other modifications to their proposals.
- To modify deadline for submissions.
- To conduct investigations with respect to the qualifications of each proposer and its personnel who may bid on this proposal.

ATTACHMENTS

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS AGREEMENT (this "Agreement") is made as of the ____ day of _____, 2009, by and between _____ ("Proposed Buyer") in favor of SUFFOLK COUNTY ("Seller").

WHEREAS, Proposed Buyer is interested in purchasing/leasing from Seller operations commonly known as JOHN J. FOLEY SKILLED NURSING FACILITY (the "Property"); and

WHEREAS, Proposed Buyer desires to obtain certain information regarding the Property from Seller and Proposed Buyer understands that Seller will provide such information only if Proposed Buyer enters into this Agreement with respect to such information.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Proposed Buyer covenants and agrees as follows:

1. Confidential Information. For purposes of this Agreement, the term "Confidential Information" shall mean all information disclosed, distributed or presented to Proposed Buyer by Seller, including the proposed offering whether in writing, electronic form or at oral presentations or interviews, in connection with the Property, including financial, technical, tenant, marketing, and strategic information, and any supplements or updates to any of the foregoing. The term Confidential Information does not include any information which becomes generally available to and known by the public (other than as a result of a disclosure in violation of this Agreement).

2. Use/Nondisclosure of Information. Proposed Buyer agrees that it shall not, without the express written consent of the Seller: (i) disclose, furnish or deliver any of the Confidential Information or communicate any of the Confidential Information, in any manner, to any person, company, corporation, entity, institution, cooperative, venture, limited liability company, partnership, individual or any consultant, or (ii) utilize the Confidential Information, whether directly or indirectly, to compete against the Seller or utilize such information in conjunction with any other venture or business combination to compete against the Seller.

Proposed Buyer may disclose the Confidential Information to its legal counsel and accountants utilized by it for purposes of conducting its due diligence review of the Property ("Representatives"); provided, however, that Proposed Buyer shall: (i) inform each of the Representatives receiving the Confidential Information of the confidential nature of the Confidential Information and of this Agreement, (ii) direct the Representatives to treat the information confidentially, (iii) use reasonable efforts to take appropriate precautions (including but not limited to) ensuring that the Representatives are under confidentiality restrictions sufficient to protect Seller, and (iv) have the Representatives acknowledge and agree to the terms of this Agreement in writing.

3. Compelled Disclosure. In the event that either Party or their Representatives are requested or required by law, regulation, or legal process to disclose Evaluation Material, that party shall notify the other Party within five (5) business days of learning of such request or requirement, so that the other Party may seek a protective order or other appropriate remedy, and/or waive its right to seek such relief. Notice to the County shall be delivered to Christine Malafi, County Attorney, Suffolk County Department of Law, P.O. Box 6100, 100 Veterans Memorial Highway, Hauppauge, New York 11788-0099 in the following manner: (i) personally (personal service on the County must be pursuant to New York Civil Practice Law and Rules Section 311; or (ii) by nationally recognized overnight courier services; or (iii) mailed by regular and certified mail in an addressed postpaid envelope. Proposed Buyer shall cooperate in the efforts of the Seller to obtain a protective order or other reasonable assurance that confidential treatment shall be accorded the Confidential Information.

4. Treatment of Information. Upon the written request of Seller, Proposed Buyer shall return to Seller all tangible Confidential Information and copies thereof and shall use commercially reasonable efforts to destroy all tangible materials and copies thereof prepared by the Proposed Buyer or its Representatives containing or referring to the Confidential Information. Any Confidential Information not so returned or destroyed shall remain subject to the terms and conditions of this Agreement.

All submissions from the Buyer for the County's consideration will be held in confidence pending final execution of contract(s), except as otherwise required by law. However, fully executed agreements, including, but not limited to, leases, bill of sales, and all other forms of contract, are subject to the New York State Freedom of Information Law (FOIL). Therefore, if the Buyer believes that any information in its submission constitutes a trade secret or is otherwise information which if disclosed would cause substantial injury to the competitive position of the Buyer's enterprise and the Buyer wishes such information to be withheld if requested pursuant to FOIL (Article 6 of the Public Officers' Law), the Buyer shall submit with its submission a separate letter addressed to David Adest, Managing Partner, Loeb & Troper LLP, 655 Third Avenue, 17th Floor, New York, NY 10017, specifically identifying the page number(s), line(s) or other appropriate designation(s) containing such information, explaining in detail why such information is a trade secret or is other information which if disclosed would cause substantial injury to the competitive position of the Buyer's enterprise, and formally requesting that such information be kept confidential. Failure by a Buyer to submit such a letter with its submission will constitute a waiver by the Buyer of any rights it may have under Section 89(5) of the Public Officers' Law relating to protection of trade secrets. The proprietary nature of the information designated confidential by the Buyer may be subject to disclosure if it is requested and the County deems it disclosable or if ordered by a court of competent jurisdiction. A request that an entire submission be kept confidential may not be considered reasonable since a submission cannot reasonably consist of all data subject to FOIL proprietary status.

5. Enforcement. Proposed Buyer agrees that breach of this Agreement will produce severe damage and injury to Seller and that money damages may be inadequate to fully compensate the other resulting from such breach. In the event of a breach or a proposed breach of this Agreement by Proposed Buyer, the Seller shall be entitled to seek equitable and other relief, in the form of injunctive relief, both preliminary and permanent, enjoining and restraining such breach or threatened breach. Such remedies shall be in addition to all other remedies available at law or in equity. In addition, Proposed Buyer agrees to compensate Seller for any and all reasonable attorney's fees and costs incurred by Seller in enforcing its obligations under this Agreement. If any term, provision, covenant or restriction of this Agreement is unenforceable, the remainder of the terms, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or in any way invalidated by such court action.

6. General Provisions. Proposed Buyer shall be responsible for any breach of this Agreement by its Representatives. No failure or delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to the principles of conflict of laws thereof.

7. Term. This Agreement will begin on the date specified above and will remain in effect unless terminated by mutual agreement of the parties hereto.

IN WITNESS WHEREOF, the undersigned has executed this Confidentiality and Non-Disclosure Agreement as of the date first above written.

PROPOSED BUYER:

_____

By: _____

Print Name:_____

Title:_____

Suffolk County Form 22
Contractor's/Vendor's Public Disclosure Statement

Pursuant to Section A5-7 of the Suffolk County Administrative Code, this Public Disclosure Statement must be completed by all contractors/vendors that have a contract with Suffolk County, with the exception of hospitals; educational or governmental entities; not-for-profit corporations; and contracts providing foster care, family day care providers, or child protective services.

1. Contractor's/Vendor's Name_____

Address_____

City and State_____Zip Code_____

2. Contracting Department's Name_____

Address_____

3. Payee Identification or Social Security No._____

4. Type of Business: __Corporation __Partnership __Sole Proprietorship __Other

5.a Is contractor/vendor entering into or has contractor/vendor entered into a contract with Suffolk County in excess of $1,000? __Yes __No.

5.b Has contractor/vendor entered into three or more contracts, including the one for which you are now completing this form, with Suffolk County, any three of which, when combined, exceed $1,000? __Yes __No.

6. Table of Organization. List names and addresses of all principals; that is, all individuals serving on the Board of Directors or comparable body, names and addresses of all partners, and names and addresses of all corporate officers. Conspicuously identify any person in this table of organization who is also an officer or an employee of Suffolk County. (Attach additional sheet if necessary.)

_____
_____
_____
_____

7. List all names and addresses of those individual shareholders holding more than five percent (5%) interest in the contractor/vendor. Conspicuously identify any shareholder who is also an officer or an employee of Suffolk County. (Attach additional sheet if necessary).

_____
_____
_____
_____

8. Does contractor/vendor derive 50% or more of its total revenues from its contractual or vendor relationship with Suffolk County? ___Yes ___No.

9. If you answered yes to 8 above, you must submit with this disclosure statement, a complete financial statement listing all assets and liabilities as well as a profit and loss statement. These statements must be certified by a Certified Public Accountant. (Strike this out if not applicable.)

10. The undersigned shall include this Contractor's/Vendor's Public Disclosure Statement with the contract. (Describe general nature of the contract.)_____

_____

11. Remedies. The failure to file a verified public disclosure statement as required under local law shall constitute a material breach of contract. Suffolk County may resort, use or employ any remedies contained in Article II of the Uniform Commercial Code of the State of New York. In addition to all legal remedies, Suffolk County shall be entitled, upon a determination that a breach has occurred, to damages equal to fifteen percent (15%) of the amount of the contract.

12. Verification. This section must be signed by an officer or principal of the contractor/vendor authorized to sign for the company for the purpose of executing contracts. The undersigned being sworn, affirms under the penalties of perjury, that he/she has read and understood the foregoing statements and that they are, to his/her own knowledge, true.

Dated: _____ Signed: _____

Printed Name of Signer: _____

Title of Signer: _____

Name of Contractor/Vendor: _____

UNIFORM CERTIFICATE OF ACKNOWLEDGMENT
(Within New York State)

STATE OF NEW YORK)
COUNTY OF) ss.:

On the ____ day of _____ in the year 2009 before me, the undersigned, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies) and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
(signature and office of individual taking acknowledgement)

UNIFORM CERTIFICATE OF ACKNOWLEDGEMENT
(Without New York State)

STATE OF)
)ss.:
COUNTY OF)

On the_____day of_____ in the year 2009 before me, the undersigned, personally appeared_____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies) and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual(s) made such appearance before the undersigned in_____
_____
(Insert the city or other political subdivision and the state or country or other place the acknowledgement was taken)

_____
(signature and office of individual taking acknowledgement)

APPENDIX E

REQUEST FOR PROPOSALS FOR ACQUISITION/LEASE OF THE JJFSNF RFP NO. 0990026 INCLUDING ORIGINAL AND AMENDED RFP DOCUMENT

LOEB & TROPER LLP
Consultants to the Health Care Industry

December 29, 2009

[MR.] [FIRST NAME] [LAST NAME]
[TITLE]
[FACILITY]
[ADDRESS]
[CITY], [STATE] [ZIP]

Re: Addendum — RFP No. 0990026
John J. Foley Skilled Nursing Facility-
Acquisition of 264 skilled nursing beds, including 12 AIDS beds, 60 adult day health care program slots and **lease or purchase** of associated property for John J. Foley Skilled Nursing Facility

Dear [MR.] [LAST NAME]:

Thank you for your interest in a potential transaction involving the operations and programs of John J. Foley Skilled Nursing Facility (JJFSNF), a residential health care facility operated by Suffolk County (the County). As you are aware, Loeb & Troper LLP ("Loeb & Troper" has been engaged by the County to serve as consultants in connection with this transaction. Based on the County's evaluation of the bids submitted and the interest of several bidders in purchasing the associated property, the County, pursuant to Section VI, Paragraph 5 of the JJFSNF Request for Proposals ("RFP") dated September 21, 2009, has elected to expand said RFP to include a potential sale of the building and the associated property (the "Addendum").

The County now wishes to extend an opportunity to all of those parties who originally responded to the Expressions of Interest for the acquisition of JJFSNF operations to submit bids to purchase the JJFSNF premises and associated property. The transaction contemplated by the County will be structured to include:

1) sale of the operating license for the JJFSNF (264 skilled nursing beds including 12 AIDS beds and 60 Adult Day Health Care Program slots); and
2) the **sale** of the JJFSNF building and the associated land (approximately 14 acres) **or** the long-term lease of the JJFSNF premises.

Please be advised that the transaction contemplated by the original RFP and this Addendum is for the purchase of the JJFSNF license and either a long-term lease of the JJFSNF premises or a purchase of the JJFSNF premises and accompanying land (*e.g.*, the building "foot print" with parking). The County will not consider any proposals for the purchase of the JJFSNF license absent an accompanying proposal for the lease or the purchase of the JJFSNF premises. For the purposes of this RFP, each transaction is contingent on the sale of the JJFSNF license and either the lease or purchase of the premises. All other terms and requirements of the RFP remain in full force and effect.

655 Third Avenue, 17th Floor, New York, NY 10017
(212) 697-3000 • Fax (212) 697-8893 • *www.loebandtroper.com*

As set forth in the RFP and in our accompanying letter to you of September 22, 2009 (Exhibit 1), there is certain fundamental information that each Invited Bidder's bid must contain in order for the Invited Bidder's bid to be deemed to be a "Qualified Bid" and eligible for consideration by the County. We invite you to submit all required information set forth in the RFP under "Qualified Bid Requirements" (Initial Bid) with the amendment that the sale of the JJFSNF building and associated property is contemplated as part of the transaction no later than January 11, 2010, to:

David Adest, CPA
Managing Partner
Loeb & Troper LLP
655 Third Avenue, 17th Floor
New York, New York 10017
Phone: 212-697-3000
Fax: 212-697-8893
E-mail: dadest@loebandtroper.com

As an Invited Bidder, if you have already responded to the outlined request for information and provided the requested information and submitted forms, you are invited to submit only a revised cost proposal and any material terms and conditions of your offer that may have changed. Additionally, the County has requested that all Bidders execute the attached Confidentiality Agreement (Exhibit 2) as a requirement of this amendment.

In consideration of the time and resources expended by the Initial Bidders, the rebidding process will be expedited. Bidders who seek additional information are invited to submit written questions to the County. These inquiries and any communications shall be directed only to the County's agent, David Adest at Loeb & Troper, and must be received **no later than January 4, 2010**. **All bids must be received no later than 2:00 PM EST on or before January 11, 2010**. All bids will again be presented to the County for review and consideration. Certain top bidders will be selected to participate in the final phase of the bid process.

On behalf of JJFSNF, we thank you for your interest and look forward to receiving your bid.

Very truly yours,

David Adest
Managing Partner

Enclosures

EXHIBIT 1

LOEB & TROPER LLP
Consultants to the Health Care Industry

September 22, 2009

[MR.] [FIRST NAME] [LAST NAME]
[FACILITY]
[ADDRESS]
[CITY], [STATE] [ZIP CODE]

Dear [NAME]:

Enclosed please find the Request For Proposals (RFP) for the acquisition of operations of John J. Foley Skilled Nursing Facility located in Yaphank, Suffolk County, New York. As detailed in the RFP, proposals are currently being sought from bidders who responded to a Request For Expressions of Interest for the acquisition of 264 skilled nursing beds including 12 AIDS beds and 60 Adult Day Health Care Program slots and lease of the associated property.

Proposals are due Monday, October 26, 2009, as detailed in the RFP.

Sincerely,

David Adest, CPA
Managing Partner

Enclosure

655 Third Avenue, 17th Floor, New York, NY 10017
(212) 697-3000 • Fax (212) 697-8893 • *www.loebandtroper.com*

Request for Proposals (RFP)
for
ACQUISITION OF 264 SKILLED NURSING BEDS, INCLUDING 12 AIDS BEDS, 60 ADULT DAY HEALTH CARE PROGRAM SLOTS AND LEASE OF THE FACILITY FOR JOHN J. FOLEY SKILLED NURSING FACILITY

Proposals must be submitted no later than 3:30 p.m. on October 26, 2009
Proposals must be returned to **David Adest, CPA**
Managing Partner
Loeb & Troper LLP

Number of Copies of Proposal to be submitted: One Original plus five (5) copies and one electronic copy (e-mail or compact disc is acceptable)

For additional information, and to submit inquiries, please contact the County's agent on this transaction:
David Adest, CPA
Managing Partner
Loeb & Troper LLP
655 Third Avenue, 17th Floor
New York, NY 10017
Phone: 212-697-3000
Fax: 212-697-6893
E-mail: dadest@loebandtroper.com

ALL INQUIRIES MUST BE SUBMITTED IN WRITING.

All packages containing Initial Bids must clearly state the RFP No. (located on upper right hand corner of this page) on each outer mailing envelope or packing box.

The Original Initial Bid and each required copy must be clearly marked with the RFP No. on the outer binder or cover page. The Original Initial Bid must be labeled "ORIGINAL" and must contain the original, ink-signed, County-required forms, and original transmittal letter, in addition to your proposed Initial Bid. Finally, add the sealed envelope with the required number of cost proposals only to your Original set.

All extra sets must be photocopies of the ENTIRE Original Initial Bid submitted, including the transmittal letter and all required County forms. Each member of the Evaluation Committee is provided with one of the sets you send to us, so make sure each set is complete. The only item your extra sets do NOT include is your cost information – the sealed envelope containing the required number of cost proposals is only placed into the "Original" set. Do NOT return this RFP document; keep it for your reference.

LATE PROPOSALS WILL BE REJECTED

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Section I Introduction

Section II Purchase of JJFSNF Operational License and Lease of JJFSNF Premises

Section III Submission Process

Section IV Evaluation and Award

Section V Cost Proposal

Section VI RFP Policies and Procedures

Attachment I "Confidentiality Agreement"

Attachment II "Bidder Materials"

Attachment III "Suffolk County Request for Proposals (RFP) Legal Appendices/Forms"

Section I
Introduction

Preliminarily, on March 5, 2009, Suffolk County (the "County") issued a Request for Expressions of Interest ("RFEI") for the Acquisition of 264 Skilled Nursing Beds, Including 12 AIDS Beds, 60 Adult Day Health Care Program Slots and Lease of Associated Property for John J. Foley Skilled Nursing Facility ("JJFSNF") (SC Purchasing RFEI No. 09/99002). In that RFEI, also referred to herein as the JJFSNF RFEI, the County indicated that it would be conducting a two-step process in considering proposals for the possible disposition of the JJFSNF license and the lease of the JJFSNF premises. Specifically, the County advised that following the RFEI, the County would issue a Request for Proposal ("RFP") to qualified bidders (the "Bidders"), as determined solely by the County based on responses to the RFEI. The County indicated that only respondents to JJFSNF RFEI would be eligible for consideration as Bidders for the RFP. Thus, in order to be eligible for consideration pursuant to this RFP, a Bidder must have responded to the JJFSNF RFEI and have been notified by the County or its representative that such Bidder had been chosen by the County to proceed with the Step II, RFP.

Purpose of RFP

The County operates JJFSNF, a 264-bed facility located on approximately 14 acres in Yaphank, New York. In addition to operating 252 residential health care facility beds (including an Alzheimer's unit) and 12 designated AIDS beds, the nursing facility operates a 60-slot Adult Day Health Care Program ("ADHCP"). JJFSNF is a public, County-run facility serving residents of Suffolk County, Long Island. The County constructed the current JJFSNF facility and began operations at the current site in 1995, though the County has provided institutional-based care to the residents of Suffolk County since the 1880s. The total building size is approximately 181,749 square feet, with recent (2005) expansions to the adult day health and rehabilitation program space, as well as dining and recreational areas on the second floor. Additional information regarding JJFSNF is contained in Attachment II, "Bidder Materials." The Bidder Materials include: 2008 RHCF-4 Cost Report, 2008 Certified Financial Statements, 2009 RHCF Rate Sheets, Census Data and 2009 First Quarter Internal Financial Statements.

The County has examined the operations at JJFSNF in order to determine the feasibility of continuing its operation as a County facility. The County has determined that, due to business impediments unique to municipalities (*e.g.*, rising municipal labor and employee benefit costs and unreliability of continued intergovernmental transfer (IGT) payments), operating a municipal skilled nursing home may no longer be in the best fiscal interest of the County. However, it is the belief of the County that JJFSNF could provide a great opportunity for individuals or entities that do not face the operational restrictions particular to municipalities. Thus, the County is seeking proposals for the purchase of the JJFSNF operating license and the lease of the current facility for a period of at least 25 years, with a twenty-five year mutual renewal option. The County shall choose a buyer (the "Buyer") for the sale of the JJFSNF License and the lease of the JJFSNF premises as contemplated by this RFP from among the Bidders to this RFP. The Buyer, after negotiation of an asset purchase agreement, upon receipt of the New York State Department of Health approvals, and any other regulatory approvals as may be applicable, and subject to the necessary County approvals, shall assume the operations of 264 skilled nursing beds as well as the 60-slot ADHCP and an associated lease, subject to negotiation, for JJFSNF.

In considering any disposition of the JJFSNF license and lease of the facility, the County's priorities are the safety and well-being of JJFSNF's current residents, the financial impact to County taxpayers, and providing a suitable transition for those employees of JJFSNF who may be retained by the Buyer. To this end, the bidding process will be completed in two phases. The initial phase requires each Bidder to submit all

required information set forth below under "Qualified Bid Requirements" ("Initial Bid") no later than 3:30 PM EST on or before October 26, 2009 ("Bid Submission Date") to:

David Adest, CPA
Managing Partner
Loeb & Troper LLP
655 Third Avenue, 17th Floor
New York, NY 10017
Phone: 212-697-3000
Fax: 212-697-8893
E-mail: dadest@loebandtroper.com

All Initial Bids will be presented to the County for review and consideration. Certain top bidders will be selected to participate in the final phase of the bid process. As representatives of the County, Loeb & Troper may contact you during the County's evaluation process in order to request additional information to the extent necessary to clarify any terms or conditions of the Initial Bid that you submitted.

NOTE: THE TRANSACTION CONTEMPLATED BY THIS RFP IS FOR THE PURCHASE OF THE JJFSNF LICENSE AND THE LONG-TERM LEASE OF THE JJFSNF PREMISES. The County will not consider any proposals which treat the sale of the JJFSNF License or the lease of the JJFSNF Premises as separate transactions. For the purposes of this RFP each transaction is contingent on the other.

End of Section I

Section II
Purchase of JJFSNF Operational License and Lease of JJFSNF Premises

Qualified Bid Requirements: The County has determined that Initial Bids must contain certain minimum information in order for the County to consider such bid as a "Qualified Bid." Specifically, an Initial Bid must address and/or include, at a minimum, and the Bidder must agree to, the following:

A. Asset Sale/Lease of JJFSNF:

The transaction contemplated by the County will be structured as a 1) sale of the operating certificate for the JJFSNF (the "License"), which shall include the sale of certain JJFSNF inventory and 2) the lease of the JJFSNF Premises. For the purposes of this RFP, the JJFSNF Premises is defined as the physical JJF facility, including all capital improvements as well as the parking areas directly adjacent to the physical JJFSNF.

All terms of the final transaction (both the sale of the License and the lease of the JJFSNF Premises) shall be subject to negotiation, including, but not limited to, lease negotiation, employee retention negotiation, patient retention and/or transfer negotiation, negotiation involving restrictions on use of JJFSNF premises for other than a skilled nursing facility, and negotiation involving contingencies in case of a successful Bidder's loss of License. The final transaction shall also be subject to obtaining all of the necessary State and local approvals, in whatever form, including, but not limited to, approvals for lease term and sale of inventory. The transaction shall include:

1. Purchase of the JJFSNF operating license to include 264 skilled nursing and AIDS beds; and Adult Day Health Care Program (60 slots).

2. Lease of JJFSNF premises for a twenty-five (25) year term, with an option to renew up to an additional twenty-five (25) years.

   a. **JJFSNF Premises - Location**

      JJFSNF is located on approximately 14 acres in Yaphank, New York.

   b. **Minimum Lease Requirements**

      The specific terms of the lease agreement for the JJFSNF Premises, including, but not limited to, annual lease payment increases, provisions for financial guarantees and recourse in case of default, will, as generally noted above, be subject to negotiation. However, such lease agreement shall include, at a minimum, provisions regarding the following:

      1) Maintenance and Inspection

      The Buyer shall be required to maintain the physical JJFSNF premises, including the site, building, building systems, and all equipment, fixtures, and appurtenances furnished by the County under lease in good repair and condition so that they are suitable in appearance and

capable of supplying such heat, air conditioning, light ventilation, safety systems, access and other things to the premises, without reasonably preventable or recurring disruption.

The County, upon reasonable prior notice to the successful Bidder shall be permitted access to the premises and associated maintenance records to insure the site, building and associated systems are being maintained as above.

2) Capital Improvements and Expenses

Subject to lease negotiations, the Buyer will pay the cost of all capital improvements. At this time, the County anticipates that "capital improvement" will be defined as any single piece of equipment, the cost of which exceeds twenty-five thousand dollars ($25,000) and which has more than five (5) years estimated use of life or a single maintenance repair which exceeds twenty-five thousand dollars ($25,000). Subject to lease negotiations, at the end of the lease term, the County will return the unreimbursed cost of any capital improvement(s) to the successful Bidder.

3) Compliance with Laws

The JJFSNF site is located within the jurisdiction of the Town of Brookhaven. While the County is not subject to local land use laws for County functions and facilities, the Buyer will need to comply with all Town, County, State, and Federal laws and requirements, as necessary.

4) Indemnification

The Buyer must agree that it shall protect, indemnify and hold harmless the County and its officers, officials, employees, contractors, agents and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorneys' fees, arising out of the acts or omissions or the negligence of the Buyer in connection with the sale of the JJFSNF license and/or the lease and use of the JJFSNF Premises. The Buyer shall defend the County and its officers, officials, employees, contractors, agents and other persons in any suit, including appeals, or at the County's option, pay reasonable attorneys' fees for defense of any such suit arising out of the acts or omissions or negligence of the Buyer, its officers, officials, employees, subcontractors or agents, if any, in connection with the sale of the JJFSNF license and/or the lease and use of the JJFSNF Premises.

B. Purchase Price and Lease Amount

The bid must set forth the total purchase price for the operations that Bidder is prepared to deliver to the County at closing, and the proposed dollar lease amount that Bidder is willing to pay to the County. Annual increases to the dollar lease amount may be subject to negotiation. The County will not entertain bids that involve promissory notes, installment payments or any other form of County financing. The bid must state the nature and timing of any contemplated adjustments.

C. Financial Viability

1. Bidder must provide a list of all contracts with the County of Suffolk within the last five years (regardless of type of service), the time period for those services and the name of the Bidder's primary County contact.

2. The Bidder must provide all documentation necessary for the County to independently determine the Bidder's financial ability to purchase the JJFSNF operational license and to comply with all payments necessary pursuant to the negotiated lease.

3. Finalist Bidders may be required to submit additional financial information as requested by the County.

D. Financing

As set forth above, the County will not entertain bids that involve promissory notes, installment payments or any other form of County financing. Although bids that include no financing contingency will be preferred, the County will entertain bids that contemplate government and third-party commercial financing, including financing through U.S. Department of Housing and Urban Development programs. In the event a bid is contingent on third-party financing, the Bidder must agree to obtain a binding commitment for commercially reasonable financing within a reasonable time frame, to be specified in Asset Purchase Agreement, through any generally available sources. The Initial Bid should include as much detail as possible with respect to any financing plan, preferably with a preliminary commitment letter from any third party financing source.

E. Buyer Closing Contingencies

1. In addition to acquiring the JJFSNF operational license and lease of the JJFSNF premises, a successful Bidder must agree that it will use its best efforts to secure all necessary approvals to operate JJFSNF as soon as possible after the execution of the Asset Purchase Agreement, and to assume and perform in good faith all obligations to the residents of the JJFSNF (as prescribed by their agreements with the County and applicable law) upon the closing of the transaction. The County would prefer to complete this transaction in an expeditious manner.

2. The County is willing to retain all existing JJFSNF liabilities.

F. Residents

The County is committed to continue services to the current resident population. All Initial Bids should include a brief discussion of the plans for the residents.

G. Employees

The Bidder must specify its general or specific intent in regard to the retention of current JJFSNF employees.

It is preferable that the Bidder indicate, to the extent possible at this time, its specific intention to 1) not retain or 2) retain some or 3) retain all of the current employees of JJFSNF. It is also preferable that the Bidder specify the terms and conditions of employment pursuant to which such employees would be retained (for example, will employees have individual employment contracts, or will they be covered under terms of an 1199 Service Employees International Union collective bargaining agreement, or will they simply work set hours and receive company provided benefits, *etc.?*)

If the Bidder does not have a specific plan for the retentions of JJFSNF employees, the Bidder may express its general intent in regard to employee retention.

H. Taxes and Fees

The Initial Bid must expressly provide that the Bidder will agree to be responsible for paying all applicable taxes associated with the asset purchase transaction and the lease, including, but not limited to, any taxes associated with use of the property on which the JJFSNF premises is located.

I. Due Diligence

An Initial Bid must specify all material conditions that such Bidder may require to consummate the contemplated transaction.

J. Approvals

An Initial Bid must include a statement regarding the level of review that the transaction will require in the Bidder's organization, as well as a list of any corporate, regulatory or third-party approvals, including the approvals of any existing lenders, required to consummate the contemplated transaction and the timing to obtain such approvals.

K. Advisors and Contacts

The Bidder should include in the Initial Bid a list of the names and respective functions of any advisors the Bidder has engaged, or would plan to engage in connection with the transaction and the names, phone numbers, email addresses and fax numbers of the parties that the Bidder wishes to designate to answer any questions regarding the bid.

L. Conflicts of Interest and/or Potential Conflicts of Interest

1. Relationships with Third Parties

Each Bidder is charged with the continuing duty to disclose to the County the existence of any interests it may have, contractual or otherwise, ongoing or previous, with any companies or individuals with whom the County of Suffolk does business with respect to the services required by this RFP. This duty continues for so long as the Bidder maintains a contract or lease with the County.

2. Relationships with County Departments/Agencies/Employees

Entities doing business with the County are charged with the continuing duty to disclose to the County the existence of any interests it may have, contractual or otherwise, ongoing or previous, with any

County department, agency or employee. This duty continues for so long as the Bidder maintains a contract or lease with the County.

O. **County Review and Approval**

1. As part of the approval process, Bidders may be required to, among other things, conduct management presentations to County personnel, provide testimony before the Suffolk County Legislature, and answer questions from the Suffolk County Legislature.

2. The County may conduct such reviews as it deems necessary to determine the ability of each Bidder to meet all requirements under this RFP.

P. **Additional Information**

Each Bidder must specify all material conditions that such Bidder may require to consummate the contemplated transaction.

Initial Bids should include all such other terms and conditions which are material to the Bidder's offer to purchase the JJFSNF operational license and the JJFSNF Premises lease agreement.

End of Section II

Section III
Submission Process

A. Initial Bids

1. Each Bidder must submit an executive summary, not to exceed three written pages providing an overview of their submission. The executive summary shall include a general description of the components of the RFP Initial Bid and relevant qualifications. Bidders are encouraged to provide a comprehensive description that details an accurate and complete overview of their proposal.

2. All Initial Bids must include all of the information required in this RFP.

3. As lessees of the County, the successful Bidder (e.g., the Buyer) will be required to comply with all Suffolk County Legislative Requirements (See Attachment III), thus **Initial Bids Must Include the Following COMPLETELY FILLED OUT, if such was not, for any reason, submitted with the JJFSNF RFEI response:**

   a) Suffolk County SCEX Form 22 Contractor's/Vendor's Public Disclosure Statement (2 pages)

   The Contractor's/Vendor's Public Disclosure Statement is included in the section entitled "Suffolk County Request for Proposals (RFP) Legal Appendices/Forms."

   A corporate officer or an authorized agent of the Bidder must sign one (1) original of form and have it notarized.

   b) Proposal/Bid Certification form (1 page)

   The Proposal/Bid Certification form is included in the Section entitled "Suffolk County Request for Proposals (RFP) Legal Appendices/Forms" and must be signed by a corporate officer or an authorized agent of the Bidder.

   c) Living Wage Forms

   These forms are included in the Attachment entitled "Suffolk County Request for Proposals (RFP) Legal Appendices/Forms." See that Attachment for Instructions.

   The Labor Department's Living Wage Unit may be reached at (631) 853-3808 for specific questions.

   d) Lawful Hiring Forms

   These forms are included in the Section entitled "Suffolk County Request for Proposals (RFP) Legal Appendices/Forms". See that Section for instructions. The Labor Department's Lawful Hiring of Employees Unit may be reached at (631) 853-3808 for specific questions.

4. Conflict of Interest

Each Bidder must disclose to the County the existence of any conflicts of interests, whether existing or potential. If none exist, so state.

B. Final Bid Process

1. Final Bid

The County will select top Bidders ("Top Bidders") based on the criteria contained in this RFP. The County may select any number of Top Bidders. The County shall give such Top Bidders the option to: (i) modify their Initial Bid in any way that the Top Bidder believes will make the bid more attractive to the County (the "Final Bid"), (ii) review the draft asset purchase agreement, which will be provided at a later date, prepared by Farrell Fritz, P.C., counsel retained by the County for the purposes of this transaction (the "Asset Purchase Agreement"), and provide any proposed modifications to the draft Asset Purchase Agreement to reflect the terms and conditions under which the Top Bidder is prepared to consummate the transaction, and (iii) review the draft lease agreement provided by the County (the "Lease Agreement") and submit any proposed modifications to the draft Lease Agreement to reflect the terms and conditions under which the Top Bidder is prepared to assume the Lease of the JJFSNF Premises.

2. Deposit

a. Bid Deposit

At the time each of the Top Bidders submits its Final Bid and its proposed modifications to the draft Asset Purchase Agreement and proposed modifications to the draft Lease Agreement, each Top Bidder must also deliver a certified check, in an amount equal to five percent (5%) of the Top Bidder's proposed purchase price for the JJFSNF License (the "Bid Deposit"). The Bid Deposit will not be deposited unless the Top Bidder is selected as the Buyer, as discussed below. The Buyer's Bid Deposit shall be credited toward the price of the final asset transaction as set forth below.

In the event that a Top Bidder is not chosen as the Buyer, the check representing the Bid Deposit will be promptly returned to such Top Bidder.

b. Final Deposit

The person or entity selected by the County from the Top Bidders to be awarded the sale and lease of JJFSNF, as contemplated in this RFP shall be known as the "Buyer." Upon selection of the Buyer, the Buyer must submit, in the form of a certified check, an additional five percent (5%) of the Buyer's proposed purchase price for the JJFSNF License. This additional five percent (5%) shall, along with the Buyer's Bid Deposit constitute the "Final Deposit". The Final Deposit shall then be deposited and held in escrow by the Suffolk County Treasurer. In the event that the Buyer fails to consummate the contemplated acquisition within a reasonable period (to be specified in the Asset Purchase Agreement) after entering into the definitive Asset Purchase Agreement through no fault of the County, including without limitation, by reason of the Buyer failing to obtain the requisite Certificate of Need approval or any other approval as may legally be required from appropriate entities, including, but not limited to, the New York State Department of Health and the New York State Attorney General, and/or Buyer's inability to procure

adequate financing, **the Buyer shall forfeit the Final Deposit to the County.** The balance of the total purchase price shall be payable by the Buyer at Closing.

C. Inquiries

Bidders who seek additional information are invited to submit written questions to the County. These inquiries and any communications shall be directed only to the County's agent, David Adest at Loeb & Troper and must be received no later than October 12, 2009.

D. Site Visit

JJFSNF premises will be available for Bidders to visit upon reasonable notice to the County. Interested Bidders should contact David Adest (contact information on pg 1 of this RFP) to arrange a site visit. No substantive questions involving this RFP will be addressed during the site visit. All technical and substantive questions should be addressed in writing to David Adest at Loeb & Troper prior to the date listed on the first page of this RFP.

E. Submission Deadline

RFP Initial Bids must be delivered to David Adest at Loeb & Troper no later than October 26, 2009 by 3:30 p.m.

Each RFP Initial Bid must include one (1) original plus five (5) copies, as well as a copy of the Initial Bid in electronic form (e-mail or compact disc is acceptable).

Do not submit Initial Bids that are permanently bound.

End of Section III

Section IV
Evaluation and Award

A. Evaluation Committee and Award of Contract

The award of any contract will be made as judged to be in the best interest of the County.

The RFP Evaluation Committee shall include County personnel, including, but not limited to, representatives from the County Executive's Office, the office of the Presiding Officer of the Suffolk County Legislature, the County Budget Office and Health Services. The Department of Law shall serve in a non-voting advisory capacity to the RFP Evaluation Committee.

B. Award Criteria

1. Structure/Operating History and Experience

Including, but not limited to, demonstrated experience and/or management of long-term care or other service entity; size, scope and location of other programs; regulatory compliance history

_____**30 points**

2. Bidder Character and Competence, Regulatory, and Acquisition History

Including, but not limited to, demonstrated track record in the successful acquisition and financing of health care facilities and/or other major projects involving, among other things, the Certificate of Need application/approval; character and competence documentation indicative of likelihood of achieving favorable determination from New York State Public Health Council; ability to provide continuity of care to current resident population; expressed ability to provide appropriate transition for those employees retained.

_____**35 points**

3. Financial Resources/Viability

Including, but not limited to, demonstrated resources and ability to meet acquisition, equity and working capital requirements associated with acquisition of assets and operation; demonstrated ability in obtaining necessary financing.

_____**30 points**

4. Other Information In Support of Proposal

Any additional information provided that distinguishes the Bidder for consideration by the County.

_____**5 points**

Each proposal will be examined to determine whether it is responsive to the requirements of this RFP. All responsive proposals will be evaluated in accordance with the above criteria.

Based on the evaluation criteria, please note that the County will not necessarily choose the Bidder with the highest bid. A competitive range consisting of those proposals which are acceptable to the County, or which could be made acceptable following written or oral presentations, will be determined.

End of Section IV

Section V
Cost Proposals

1. Separate Envelope

The Bidder's Original, plus all of the Bidder's required extra copies of the Cost Proposal should be submitted in one sealed envelope and packaged only in the "Original" proposals set. The Bidder should not include cost information in the body of the Initial Bid, or include cost proposals in sealed envelopes in any of the extra sets submitted. Each Bidder should put all the cost proposals in one labeled and sealed envelope with the "Original" set. Each Bidder should label the header or footer of EACH page of the cost proposal with the name of the Bidder or, if applicable, the name of the Bidder's company.

2. Bid is One of Several Evaluation Criteria

Based on the evaluation criteria set forth herein, please note that the County will not necessarily choose the Bidder with the highest bid.

3. Additional Information

The Bidder should provide any additional information it deems necessary to explain or clarify its Bid Proposal.

4. Alternative Proposals

The Bidder may submit an alternative Initial Bid, if there is more than one viable approach to performing the requirements under this RFP.

End of Text for Section V

Section VI
RFP Policies and Procedures

1. Terms of any transaction or transactions contemplated pursuant to this RFP shall be subject to negotiation.

2. The County believes that the financial and other information contained herein is accurate to the best of its knowledge, but the County expressly disclaims any and all liability for the contents of, or omissions from, this RFP and for any other written or oral communication transmitted or made available to the Bidders. Only those particular representations and warranties that may be made by the County in a definitive agreement when, as, and if it is executed, and subject to such limitations and restrictions as may be specified in the definitive agreement, shall have any legal effect.

3. All projections and estimates of JJFSNF's financial and operating performance, including, but not limited to information provided herein as Attachment II, "Bidder Materials," are provided to assist Bidders interested in a transaction for the purchase of the JJFSNF License and lease of the JJFSNF premises as contemplated in this RFP. The County makes no guarantees or assurances as to the reliability of the projections and/or estimates contained herein. These projections and estimates are not intended and should not be relied upon, as an accurate representation of future results. The assumptions underlying the estimates and projections contained herein are subject to economic and competitive uncertainties and contingencies beyond the County's control. They do not account for, nor are they intended to account for, among other things, any future changes in New York State and Federal rate reimbursement. Thus, the inclusion of the projections and estimates herein should not be regarded as a representation or a guarantee by the County or the County's consultants and/or agents that the projected results will be achieved by the Buyer.

4. This RFP and the information contained herein are subject to the terms of the Confidentiality Agreement (See Attachment I) entered into between the County and the Bidder. Except as otherwise may be permitted in writing, by the County, the Bidder agrees not to use or disclose to any person any information contained herein, the fact that it obtained confidential information concerning JJFSNF, the fact that discussions or negotiations are taking place, or have taken place concerning a possible transaction involving JJFSNF, or any of the terms, conditions or other facts with respect to any such possible transaction.

5. The County reserves the right to amend this RFP. The County reserves the right to reject any or all of the proposals, or any part thereof, submitted in Initial Bid or Final Bid to this RFP, and reserves the right to waive formalities, if such action is deemed to be in the best interest of the County. The County reserves the right to request additional information from any Bidder. The County reserves the right to award negotiated contracts to one or more Bidders.

6. This RFP is not intended and shall not be construed to commit the County to pay any costs incurred in connection with any sale, proposal, lease, or to procure or contract for any services.

7. The decision to award a contract and/or lease shall be based on, among other things, the financial ability of the Bidder and the Bidder's Initial Bid to this RFP as well as the Bidder's agreement to comply with all applicable laws, rules and regulations, including without limitation, the local preference and other Suffolk County local laws set forth in the Attachment III entitled "Legal Appendices/County Forms."

8. The award of any asset agreement, contract and/or lease will be made as judged to be in the best interest of the County.

9. While the County is under no obligation to contact a Bidder for clarifications, it reserves the right to do so. Depending on the number and quality of the proposals submitted, the County, at the sole discretion of the Evaluation Committee, may elect to interview all or some of the Bidders during the selection process and to request presentations.

End of Section VI

ATTACHMENT I

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS AGREEMENT (this "Agreement") is made as of the ____ day of _____, 2009, by and between _____ (the "Bidder") in favor of SUFFOLK COUNTY "County").

WHEREAS, the Bidder is interested in purchasing/leasing from the County operations commonly known as JOHN J. FOLEY SKILLED NURSING FACILITY (the "Property"); and

WHEREAS, the Bidder desires to obtain certain information regarding the Property from the County and the Bidder understands that the County will provide such information only if the Bidder enters into this Agreement with respect to such information.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Bidder covenants and agrees as follows:

1. Confidential Information. For purposes of this Agreement, the term "Confidential Information" shall mean all information disclosed, distributed or presented to the Bidder by the County, including the proposed offering whether in writing, electronic form or at oral presentations or interviews, in connection with the Property, including financial, technical, tenant, marketing, and strategic information, and any supplements or updates to any of the foregoing. The term Confidential Information does not include any information which becomes generally available to and known by the public (other than as a result of a disclosure in violation of this Agreement).

2. Use/Nondisclosure of Information. The Bidder agrees that it shall not, without the express written consent of the County: (i) disclose, furnish or deliver any of the Confidential Information or communicate any of the Confidential Information, in any manner, to any person, company, corporation, entity, institution, cooperative, venture, limited liability company, partnership, individual or any consultant, or (ii) utilize the Confidential Information, whether directly or indirectly, to compete against the County or utilize such information in conjunction with any other venture or business combination to compete against the County.

The Bidder may disclose the Confidential Information to its legal counsel and accountants utilized by it for purposes of conducting its due diligence review of the Property ("Representatives"); provided, however, that Bidder shall: (i) inform each of the Representatives receiving the Confidential Information of the confidential nature of the Confidential Information and of this Agreement, (ii) direct the Representatives to treat the information confidentially, (iii) use reasonable efforts to take appropriate precautions (including but not limited to) ensuring that the Representatives are under confidentiality restrictions sufficient to protect the County, and (iv) have the Representatives acknowledge and agree to the terms of this Agreement in writing.

3. Compelled Disclosure. In the event that either Party or their Representatives are requested or required by law, regulation, or legal process to disclose Confidential Information, that party shall notify the other Party within five (5) business days of learning of such request or requirement, so that the other Party may seek a protective order or other appropriate remedy, and/or waive its right to seek such relief. Notice to the County shall be delivered to Christine Malafi, County Attorney, Suffolk County Department of Law, P.O. Box 6100, 100 Veterans Memorial Highway, Hauppauge, New York 11788-0099 in the following manner: (i) personally (personal service on the County must be pursuant to New York Civil Practice Law and Rules Section 311; or (ii) by nationally recognized overnight courier services; or (iii) mailed by regular and certified mail in an addressed postpaid envelope. The Bidder shall cooperate in the efforts of the County to obtain a protective order or other reasonable assurance that confidential treatment shall be accorded the Confidential Information.

4. Treatment of Information. Upon the written request of the County, the Bidder shall return to the County all tangible Confidential Information and copies thereof and shall use commercially reasonable efforts to destroy all tangible materials and copies thereof prepared by the Bidder or its Representatives containing or referring to the Confidential Information. Any Confidential Information not so returned or destroyed shall remain subject to the terms and conditions of this Agreement.

All submissions from the Bidder for the County's consideration will be held in confidence pending final execution of contract(s), except as otherwise required by law. However, fully executed agreements, including, but not limited to, leases, bill of sales, and all other forms of contract, are subject to the New York State Freedom of Information Law (FOIL). Therefore, if the Bidder believes that any information in its submission constitutes a trade secret or is otherwise information which if disclosed would cause substantial injury to the competitive position of the Bidder's enterprise and the Bidder wishes such information to be withheld if requested pursuant to FOIL (Article 6 of the Public Officers' Law), the Bidder shall submit with its submission a separate letter addressed to David Adest, Managing Partner, Loeb & Troper LLP, 655 Third Avenue, 17th Floor, New York, NY 10017, specifically identifying the page number(s), line(s) or other appropriate designation(s) containing such information, explaining in detail why such information is a trade secret or is other information which if disclosed would cause substantial injury to the competitive position of the Bidder's enterprise, and formally requesting that such information be kept confidential. Failure by a Buyer to submit such a letter with its submission will constitute a waiver by the Bidder of any rights it may have under the New York Public Officers' Law relating to protection of trade secrets. The proprietary nature of the information designated confidential by the Bidder may be subject to disclosure if it is requested and the County deems it disclosable or if ordered by a court of competent jurisdiction. A request that an entire submission be kept confidential may not be considered reasonable since a submission cannot reasonably consist of all data subject to FOIL proprietary status.

5. Enforcement. The Bidder agrees that breach of this Agreement will produce severe damage and injury to the Bidder and that money damages may be inadequate to fully compensate the other resulting from such breach. In the event of a breach or a proposed breach of this Agreement by the Bidder, the County shall be entitled to seek equitable and other relief, in the form of injunctive relief, both preliminary and permanent, enjoining and restraining such breach or threatened breach. Such remedies shall be in addition to all other remedies available at law or in equity. In addition, the Bidder agrees to compensate the County for any and all reasonable attorney's fees and costs incurred by the County in enforcing its obligations under this Agreement. If any term, provision, covenant or restriction of this Agreement is unenforceable, the remainder of the terms, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or in any way invalidated by such court action.

6. General Provisions. The Bidder shall be responsible for any breach of this Agreement by its Representatives. No failure or delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to the principles of conflict of laws thereof.

7. Term. This Agreement will begin on the date specified above and will remain in effect unless terminated by mutual agreement of the parties hereto.

IN WITNESS WHEREOF, the undersigned has executed this Confidentiality and Non-Disclosure Agreement as of the date first above written.

BIDDER:

_____

By: _____

Print Name: _____

Title: _____

End of Attachment I

ATTACHMENT II

BIDDER MATERIALS

See Accompanying Packet Entitled Bidder Materials

Attachment III
Suffolk County Request for Proposals (RFP) Legal Appendices/Forms
Suffolk County Legislative Requirements

1. **Contractor's/Vendor's Public Disclosure Statement**

The Bidder represents and warrants that it has filed with the Comptroller of Suffolk County the verified public disclosure statement required by Suffolk County Administrative Code Article V, Section A5-7 and shall file an update of such statement with the said Comptroller on or before the 31st day of January in each year of this Agreement's duration. The Bidder acknowledges that such filing is a material, contractual and statutory duty and that the failure to file such statement shall constitute a material breach of this Agreement, for which the County shall be entitled, upon a determination that such breach has occurred, to damages, in addition to all other legal remedies, of fifteen percent (15%) of the amount of the Agreement.

Required Form: Suffolk County Form SCEX 22; entitled "Contractor's/Vendor's Public Disclosure Statement"

2. **Living Wage Law**

This Agreement is subject to the Living Wage Law of the County of Suffolk. The law requires that, unless specific exemptions apply all employers (as defined) under service contracts and recipients of County financial assistance, (as defined) shall provide payment of a minimum wage to employees as set forth in the Living Wage Law. Such rate shall be adjusted annually pursuant to the terms of the Suffolk County Living Wage Law of the County of Suffolk. Under the provisions of the Living Wage Law, the County shall have the authority, under appropriate circumstances, to terminate this Agreement and to seek other remedies as set forth therein, for violations of this Law.

The Bidder represents and warrants that it has read and shall comply with the requirements of Suffolk County Code Chapter 347, Suffolk County Local Law No. 12-2001, the Living Wage Law.

Required Forms: Suffolk County Living Wage Form LW-1; entitled "Suffolk County Department of Labor – Living Wage Unit Notice of Application for County Compensation (Contract)"

Suffolk County Living Wage Form LW-38; entitled "Suffolk County Department of Labor – Living Wage Unit Living Wage Certification/Declaration – Subject To Audit"

3. **Use of County Resources to Interfere with Collective Bargaining Activities**
Local Law No. 26-2003

The Bidder represents and warrants that it has read and is familiar with the requirements of Chapter 466, Article 1 of the Suffolk County Local Laws, "Use of County Resources to Interfere with Collective Bargaining Activities". County Contractors (as defined) shall comply with all requirements of Local Law No. 26-2003 including the following prohibitions:

a. The Bidder shall not use County funds to assist, promote, or deter union organizing.

b. No County funds shall be used to reimburse the Bidder for any costs incurred to assist, promote, or deter union organizing.

c. The County of Suffolk shall not use County funds to assist, promote, or deter union organizing.

d. No employer shall use County property to hold a meeting with employees or supervisors if the purpose of such meeting is to assist, promote, or deter union organizing.

If Bidder services are performed on County property the Bidder must adopt a reasonable access agreement, a neutrality agreement, fair communication agreement, nonintimidation agreement and a majority authorization card agreement.

If the Bidder services are for the provision of human services and such services are not to be performed on County property, the Bidder must adopt, at the least, a neutrality agreement.

Under the provisions of Local Law No. 26-2003, the County shall have the authority, under appropriate circumstances, to terminate this Agreement and to seek other remedies as set forth therein, for violations of this Law.

Required Form: Suffolk County Labor Law Form DOL-LO1; entitled "Suffolk County Department of Labor – Labor Mediation Unit Union Organizing Certification/Declaration – Subject to Audit"

4. Lawful Hiring of Employees Law

This Agreement is subject to the Lawful Hiring of Employees Law of the County of Suffolk (Local Law 52-2006). It provides that all covered employers, (as defined), and the owners thereof, as the case may be, that are recipients of compensation from the County through any grant, loan, subsidy, funding, appropriation, payment, tax incentive, contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or an awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit a completed sworn affidavit (under penalty of perjury), the form of which is attached, certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees (as defined) and with respect to the alien and nationality status of the owners thereof. The affidavit shall be executed by an authorized representative of the covered employer or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement with the County; and shall be made available to the public upon request.

All contractors and subcontractors (as defined) of covered employers, and the owners thereof, as the case may be, that are assigned to perform work in connection with a County contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit to the covered employer a completed sworn affidavit (under penalty of perjury), the form of which is attached, certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees and with respect to the alien and nationality status of the owners thereof, as the case may be. The affidavit shall be executed by an authorized representative of the contractor, subcontractor, or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement between the covered employer and the County; and shall be made available to the public upon request.

An updated affidavit shall be submitted by each such employer, owner, contractor and subcontractor no later than January 1 of each year for the duration of any contract and upon the renewal or amendment of the contract, and whenever a new contractor or subcontractor is hired under the terms of the contract.

The Bidder acknowledges that such filings are a material, contractual and statutory duty and that the failure to file any such statement shall constitute a material breach of this agreement.

Under the provisions of the Lawful Hiring of Employees Law, the County shall have the authority to terminate this Agreement for violations of this Law and to seek other remedies available under the law.

The Bidder represents and warrants that it has read, is in compliance with, and shall comply with the requirements of Suffolk County Code Chapter 234, Suffolk County Local Law No. 52-2006, the Lawful Hiring of Employees Law.

Required Forms: Suffolk County Lawful Hiring of Employees Law Form LHE-1; entitled "Suffolk County Department of Labor –"Notice Of Application To Certify Compliance With Federal Law (8 U.S.C. SECTION 1324a) With Respect To Lawful Hiring of Employees"

"Affidavit Of Compliance With The Requirements Of 8 U.S.C. Section 1324a With Respect To Lawful Hiring Of Employees" Form LHE-2.

5. **Gratuities**

The Bidder represents and warrants that it has not offered or given any gratuity to any official, employee or agent of Suffolk County or New York State or of any political party, with the purpose or intent of securing an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement, and that the signer of this Agreement has read and is familiar with the provisions of Local Law No. 32-1980 of Suffolk County (Chapter 386 of the Suffolk County Code).

6. **Prohibition Against Contracting with Corporations that Reincorporate Overseas**

The Bidder represents that it is in compliance with Suffolk County Administrative Code Article IV, §§A4-13 and A4-14, found in Suffolk County Local Law No. 20-2004, entitled "A Local Law To Amend Local Law No. 5-1993, To Prohibit The County of Suffolk From Contracting With Corporations That Reincorporate Overseas." Such law provides that no contract for consulting services or goods and services shall be awarded by the County to a business previously incorporated within the U.S.A. that has reincorporated outside the U.S.A.

7. **Child Sexual Abuse Reporting Policy**

The Bidder agrees to comply with Chapter 577, Article IV, of the Suffolk County Code, entitled "Child Sexual Abuse Reporting Policy", as now in effect or amended hereafter or of any other Suffolk County Local Law that may become applicable during the term of this Agreement with regard to child sexual abuse reporting policy.

8. **Non Responsible Bidder**

The Bidder represents and warrants that it has read and is familiar with the provisions of Suffolk County Code Chapter 143, Article II, §§143-5 through 143-9. Upon signing this Agreement the Bidder certifies that he, she, it, or they have not been convicted of a criminal offense within the last ten (10) years. The term "conviction" shall mean a finding of guilty after a trial or a plea of guilty to an offense covered under the provision of Section 143-5 of the Suffolk County Code under "Nonresponsible Bidder."

9. **Use of Funds in Prosecution of Civil Actions Prohibited**

Pursuant to the Suffolk County Code Section §590-3, the Bidder represents that it shall not use any of the monies received under this Agreement, either directly or indirectly, in connection with the prosecution of any civil action against the County of Suffolk or any of its programs, funded by the County, in part or in whole, in any jurisdiction or any judicial or administrative forum.

10. **Suffolk County Local Laws Website**

Suffolk County Local Laws, Rules and Regulations can be found on the Suffolk County web site at http://www.co.suffolk.ny.us.

End of Attachment III

ATTACHMENT I

CONFIDENTIALITY AGREEMENT

ATTACHMENT I

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS AGREEMENT (this "Agreement") is made as of the ____ day of _____, 2009, by and between _____ (the "Bidder") in favor of SUFFOLK COUNTY "County").

WHEREAS, the Bidder is interested in purchasing/leasing from the County operations commonly known as JOHN J. FOLEY SKILLED NURSING FACILITY (the "Property"); and

WHEREAS, the Bidder desires to obtain certain information regarding the Property from the County and the Bidder understands that the County will provide such information only if the Bidder enters into this Agreement with respect to such information.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Bidder covenants and agrees as follows:

1. Confidential Information. For purposes of this Agreement, the term "Confidential Information" shall mean all information disclosed, distributed or presented to the Bidder by the County, including the proposed offering whether in writing, electronic form or at oral presentations or interviews, in connection with the Property, including financial, technical, tenant, marketing, and strategic information, and any supplements or updates to any of the foregoing. The term Confidential Information does not include any information which becomes generally available to and known by the public (other than as a result of a disclosure in violation of this Agreement).

2. Use/Nondisclosure of Information. The Bidder agrees that it shall not, without the express written consent of the County: (i) disclose, furnish or deliver any of the Confidential Information or communicate any of the Confidential Information, in any manner, to any person, company, corporation, entity, institution, cooperative, venture, limited liability company, partnership, individual or any consultant, or (ii) utilize the Confidential Information, whether directly or indirectly, to compete against the County or utilize such information in conjunction with any other venture or business combination to compete against the County.

The Bidder may disclose the Confidential Information to its legal counsel and accountants utilized by it for purposes of conducting its due diligence review of the Property ("Representatives"); provided, however, that Bidder shall: (i) inform each of the Representatives receiving the Confidential Information of the confidential nature of the Confidential Information and of this Agreement, (ii) direct the Representatives to treat the Information confidentially, (iii) use reasonable efforts to take appropriate precautions (including but not limited to) ensuring that the Representatives are under confidentiality restrictions sufficient to protect the County, and (iv) have the Representatives acknowledge and agree to the terms of this Agreement in writing.

3. Compelled Disclosure. In the event that either Party or their Representatives are requested or required by law, regulation, or legal process to disclose Confidential Information, that party shall notify the other Party within five (5) business days of learning of such request or requirement, so that the other Party may seek a protective order or other appropriate remedy, and/or waive its right to seek such relief. Notice to the County shall be delivered to Christine Malafi, County Attorney, Suffolk County Department of Law, P.O. Box 6100, 100 Veterans Memorial Highway, Hauppauge, New York 11788-0099 in the following manner: (i) personally (personal service on the County must be pursuant to New York Civil Practice Law and Rules Section 311; or (ii) by nationally recognized overnight courier services; or (iii) mailed by regular and certified mail in an addressed postpaid envelope. The Bidder shall cooperate in the efforts of the County to obtain a protective order or other reasonable assurance that confidential treatment shall be accorded the Confidential Information.

4. Treatment of Information. Upon the written request of the County, the Bidder shall return to the County all tangible Confidential Information and copies thereof and shall use commercially reasonable efforts to destroy all tangible materials and copies thereof prepared by the Bidder or its Representatives containing or referring to the Confidential Information. Any Confidential Information not so returned or destroyed shall remain subject to the terms and conditions of this Agreement.

All submissions from the Bidder for the County's consideration will be held in confidence pending final execution of contract(s), except as otherwise required by law. However, fully executed agreements, including, but not limited to, leases, bill of sales, and all other forms of contract, are subject to the New York State Freedom of Information Law (FOIL). Therefore, if the Bidder believes that any information in its submission constitutes a trade secret or is otherwise information which if disclosed would cause substantial injury to the competitive position of the Bidder's enterprise and the Bidder wishes such information to be withheld if requested pursuant to FOIL (Article 6 of the Public Officers' Law), the Bidder shall submit with its submission a separate letter addressed to David Adest, Managing Partner, Loeb & Troper LLP, 655 Third Avenue, 17th Floor, New York, NY 10017, specifically identifying the page number(s), line(s) or other appropriate designation(s) containing such information, explaining in detail why such information is a trade secret or is other information which if disclosed would cause substantial injury to the competitive position of the Bidder's enterprise, and formally requesting that such information be kept confidential. Failure by a Buyer to submit such a letter with its submission will constitute a waiver by the Bidder of any rights it may have under the New York Public Officers' Law relating to protection of trade secrets. The proprietary nature of the information designated confidential by the Bidder may be subject to disclosure if it is requested and the County deems it disclosable or if ordered by a court of competent jurisdiction. A request that an entire submission be kept confidential may not be considered reasonable since a submission cannot reasonably consist of all data subject to FOIL proprietary status.

5. Enforcement. The Bidder agrees that breach of this Agreement will produce severe damage and injury to the Bidder and that money damages may be inadequate to fully compensate the other resulting from such breach. In the event of a breach or a proposed breach of this Agreement by the Bidder, the County shall be entitled to seek equitable and other relief, in the form of injunctive relief, both preliminary and permanent, enjoining and restraining such breach or threatened breach. Such remedies shall be in addition to all other remedies available at law or in equity. In addition, the Bidder agrees to compensate the County for any and all reasonable attorney's fees and costs incurred by the County in enforcing its obligations under this Agreement. If any term, provision, covenant or restriction of this Agreement is unenforceable, the remainder of the terms, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or in any way invalidated by such court action.

6. General Provisions. The Bidder shall be responsible for any breach of this Agreement by its Representatives. No failure or delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to the principles of conflict of laws thereof.

7. Term. This Agreement will begin on the date specified above and will remain in effect unless terminated by mutual agreement of the parties hereto.

IN WITNESS WHEREOF, the undersigned has executed this Confidentiality and Non-Disclosure Agreement as of the date first above written.

BIDDER:

_____

By: _____

Print Name: _____

Title: _____

End of Attachment I

APPENDIX F

AWARD LETTER FOR RFP NO. 0990026

LOEB & TROPER LLP
Consultants to the Health Care Industry

PRIVILEGED AND CONFIDENTIAL

February 23, 2010

Mr. Kenneth Rozenberg
Administration
Bronx Center for Rehabilitation and Health Care
1010 Underhill Avenue
Bronx, New York 10472

RFP No. 0990026
John J. Foley Skilled Nursing Facility
Acquisition of 264 skilled nursing beds, including 12 AIDS beds, 60 adult day health care program slots and **lease or purchase** of associated property for John J. Foley Skilled Nursing Facility

Dear Mr. Rozenberg:

On behalf of the Suffolk County RFP Evaluation Committee, as the County's agent, we are pleased to inform you that, as a result of the bid evaluation process, the RFP Evaluation Committee has chosen you as the Buyer of the operations and property/assets associated with John J. Foley Skilled Nursing Facility (JJFSNF). However, as you already know, the sale cannot be completed unless and until approval of the sale transaction and sale agreement is received by both the Suffolk County Legislature and the New York State Department of Health and any other regulatory bodies whose approval may be required.

It is the Suffolk County Department of Health Services' intention to present the license and land sale agreement to the Suffolk County Legislature for approval as soon as it has been negotiated and reduced to writing. To this end, representatives from the Suffolk County Department of Health Services look forward to meeting with you in the very near future to begin discussions on the sale agreement.

On behalf of JJFSNF, we congratulate you and look forward to the successful finalization of this transaction.

Sincerely,

David Adest
Managing Partner

655 Third Avenue, 17th Floor, New York, NY 10017
(212) 697-3000 • Fax (212) 697-8893 • *www.loebandtroper.com*

APPENDIX G

SUFFOLK COUNTY ADMINSITRATIVE CODE A9-6D, REQUIRED SCHEDULE OF FISCAL COMPARISON PLANS

Suffolk County Administrative Code A9-6D, Written Evaluation & Analysis of the Cost of Performing Services Through County Government as Compared to the Cost of Performing the Services Through the Pertinent Plan.

		Cost of Providing Services by the Suffolk County Department of Health	On-going Costs Under Proposed Privatization Plan	Net Savings to Suffolk County
2011	Projected Operating Loss	($7,501,562)		
	Increase to Pension Costs	($900,000)		
	Sub-total	**($8,401,562)**	**N/A**	**N/A**
2012	Projected Operating Loss	($8,776,640)		
	Ongoing Health Insurance Costs		$2,174,945	
	Pension Payment		$1,562,612	
	Sub-total	**($8,776,640)**	**$3,737,556**	**$5,039,084**
2013	Projected Operating Loss	($9,170,472)		
	Ongoing Health Insurance Costs		$2,146,120	
	Sub-total	**($9,170,472)**	**$2,146,120**	**$7,024,352**
2014	Projected Operating Loss	($9,583,996)		
	Ongoing Health Insurance Costs		$2,117,677	
	Sub-total	**($9,583,996)**	**$2,117,677**	**$7,466,318**
2015	Projected Operating Loss	($10,018,196)		
	Ongoing Health Insurance Costs		$2,089,612	
	Sub-total	**($10,018,196)**	**$2,089,612**	**$7,928,584**
2016	Projected Operating Loss	($10,474,105)		
	Ongoing Health Insurance Costs		$2,061,918	
	Sub-total	**($10,474,105)**	**$2,061,918**	**$8,412,187**
2012 - 2016 FIVE YEAR TOTAL		**($48,023,410)**	**$12,152,884**	**$35,870,526**

These projections include the amount the County must expend to effectuate the plan.

** Projected operating loss based on pre-audited 2009 numbers with a 5% growth factor*

APPENDIX H

WRITTEN DOCUMENTATION FROM NEW YORK STATE - PURSUANT TO A9-6E

STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

April 14, 2010

Dr. James L. Tomarken, MD, MSW, MPH, MBA, FRCPC, FACP
Commissioner of Health Services
Suffolk County Department of Health Services
225 Rabro Drive East
Hauppauge, NY 11788

RE: John J. Foley Skilled Nursing Facility

Dear Commissioner Tomarken:

In a letter dated April 17, 2008, the Suffolk County Department of Health informed the New York State Department of Health (the Department), that the County was contemplating its disposition options related to the John J. Foley Skilled Nursing Facility (JJFSNF) including the possibility of closure.

In November of 2008, the Suffolk County Legislature adopted Resolution Number 881-08 directing the County Executive to issue requests for proposals and/or expressions of interest to transfer ownership and/or operation and management of the JJFSNF to an entity other than Suffolk County.

We have been informed by the Suffolk County Executive's Office that the RFP process has been completed, and Ken Rozenberg of the Centers for Specialty Care has been chosen to purchase the JJFSNF. Our understanding is that Mr. Rozenberg plans to continue to operate the facility with the existing bed complement.

Mr. Rozenberg has received approval from the Department to be a Nursing Home Operator in the recent past. Accordingly, if all required certificate of need conditions are met, we believe he would receive approval to purchase the JJFSNF. If you have any questions regarding this, please contact Tom Jung in the Division of Health Facility Planning at 518-402-0967.

Sincerely,

Richard M. Cook
Deputy Commissioner
Office of Health Systems Management

Mark Kissinger
Deputy Commissioner
Office of Long Term Care

APPENDIX I

SUFFOLK COUNTY ADMINSITRATIVE CODE A9-6F, REQUIRED SCHEDULE OF FISCAL COMPARISON PLANS

Suffolk County Administrative Code A9-6F, Written Expenses for Services Under the Proposal or Plan.

		One-Time Proceeds Proposed Privatization Plan		
		Revenues	**Expenses**	**Net Difference**
2011	Sale Price	$36,000,000		
	Debt Defeasement & Trust		($16,000,000)	
	Sub-total			**$20,000,000**
2012	Net Accounts Receivable	$6,336,750		
	DOH Survey Violations		($750,000)	
	ADC Adjustment		($500,000)	
	Employee Incentive		($300,000)	
	Employee Accrual Pay & Incentive		($3,700,000)	
	Sub-total			**$1,086,750**
2013	Net Accounts Receivable	$3,159,000		
	ADC Adjustment		($500,000)	
	Sub-total			**$3,159,000**
2014	Net Accounts Receivable	$1,053,000		
	Sub-total			**$1,053,000**
2015				
	Sub-total			**$0**
2016				
	Sub-total			**$0**
2011 - 2016 FIVE YEAR TOTAL		**$46,548,750**	**($21,750,000)**	**$24,798,750**

These projections include the expenditures identified as required by pursuant to A96-F and are inclusive of all credits pursuant to the Asset Purchase Agreement.