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DEPARTMENT OF JUSTICE



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January 7, 2020

Pamela S. Kaufmann
Partner
Hanson Bridgett LLP
425 Market Street, 26th Floor
San Francisco, CA 94105

Sent by U.S. Mail and Internet

RE: Proposed Sale of the Assets of California-Nevada Methodist Homes

Dear Ms. Kaufmann:

Pursuant to Corporations Code section 5914 *et seq.*, the Attorney General hereby conditionally consents to the proposed sale of California-Nevada Methodist Homes pursuant to the terms of the Asset Purchase Agreement dated March 7, 2019 between California-Nevada Methodist Homes, a California nonprofit public benefit corporation, and Bay Capital Co, LLC, a Delaware for-profit corporation.

Corporations Code section 5914 and California Code of Regulations, title 11, section 999.5, subdivision (f) set forth factors that the Attorney General shall consider in determining whether to consent to a proposed transaction between a nonprofit corporation and a for-profit corporation or entity. The Attorney General has considered such factors and consents to the proposed transaction subject to the attached conditions that are incorporated by reference herein.

Thank you for your cooperation throughout the review process.

Sincerely,

A handwritten signature in blue ink that reads "Anita Garcia Velasco".

ANITA GARCIA VELASCO
Deputy Attorney General

For XAVIER BECERRA
Attorney General

Attachment

Conditions to Proposed Sale of California-Nevada Methodist Homes and Approval of the Asset Purchase Agreement by and between California-Nevada Methodist Homes and Bay Capital Co, LLC, the Lease Agreement by and between Lake Park PropCo LLC and Lake Park OpCo LLC; the Lease Agreement by and between Forest Hill PropCo LLC and Forest Hill OpCo LLC; Management Agreement by and between Life Care Services, LLC and Forest Hill OpCo LLC; and Management Agreement by and between Life Care Services, LLC and Lake Park OpCo LLC

I.

These Conditions shall be legally binding on Bay Capital Co, LLC, a Delaware limited liability company, Bay Senior Office PropCo LLC, a Delaware limited liability company, Lake Park PropCo LLC, a Delaware limited liability company, Lake Park OpCo LLC, a Delaware limited liability company, Lake Park Venture, LLC, a Delaware limited liability company, Lake Park OpCo Venture, LLC, a Delaware limited liability company, Lake Park OpCo Holding, LLC, a Delaware limited liability company, Forest Hill PropCo LLC, a Delaware limited liability company, Forest Hill OpCo LLC, a Delaware limited liability company, Forest Hill Venture, LLC, a Delaware limited liability company, Forest Hill OpCo Venture, LLC, a Delaware limited liability company, Forest Hill OpCo Holding, LLC, a Delaware limited liability company, Life Care Services, LLC, dba Life Care Services®, an Iowa limited liability company any other subsidiary, parent, general partner, limited partner, member, affiliate, successor, successor in interest, assignee, or person or entity serving in a similar capacity of any of the above-listed entities, any entity succeeding thereto as a result of consolidation, affiliation, merger, or acquisition of all or substantially all of the real property or operating assets of the Lake Park Facility¹ and the Forest Hill Facility² or the real property on which the Lake Park Facility and the Forest Hill Facility are located, any and all current and future owners, lessees, licensees, or operators of any of the facilities or units at the Lake Park Facility and the Forest Hill Facility,

¹ Throughout this document “the Lake Park Facility” shall mean the RCFE- Continuing Care Retirement Community located at 1850 Alice Street, Oakland, CA, 94612 that includes 147 residential independent living units and 37 assisted living apartments licensed by the California Department of Social Services effective June 28, 1993; a 35 bed skilled nursing facility licensed by the California Department of Public Health effective November 1, 2019, and any other clinics, outpatient facilities, programs, laboratories, centers, units, or services, unless otherwise indicated.

² Throughout this document, “the Forest Hill facility” shall mean the RCFE-Continuing Care Retirement Community located at 551 Gibson Avenue, Pacific Grove, CA, 93950 that includes 91 residential living units and 18 assisted living apartments licensed by the California Department of Social Services effective June 28, 1993; a 26 bed skilled nursing facility licensed by the California Department of Public health effective January 16, 2019, and any other clinics, outpatient facilities, programs, laboratories, centers, units, or services, unless otherwise indicated.

and any and all current and future lessees and owners of the real property on which Lake Park and Forest Hill are physically located.

II.

The transaction approved by the Attorney General consists of the Asset Purchase Agreement by and between California-Nevada Methodist Homes and Bay Capital Co, LLC dated March 7, 2019, the Lease Agreement by and between Lake Park PropCo LLC and Lake Park OpCo LLC, the Lease Agreement by and between Forest Hill PropCo LLC and Forest Hill OpCo LLC, the Management Agreement by and between Life Care Services, LLC and Forest Hill OpCo LLC dated September 25, 2019; and Management Agreement by and between Life Care Services, LLC and Lake Park OpCo LLC dated September 25, 2019, and any and all amendments, agreements, or documents referenced in or attached to as an exhibit or schedule to these agreements. All entities listed in Condition I shall fulfill the terms of these agreements and any other agreements or documents referenced therein or attached thereto, and shall notify the Attorney General in writing of any proposed modification or rescission of any terms of these agreements. Such notifications shall be provided at least sixty days prior to their effective date in order to allow the Attorney General to consider whether they affect the factors set forth in Corporations Code section 5917.

III.

For five years from the closing date of the Asset Purchase Agreement, Bay Capital Co, LLC, Bay Senior Office PropCo LLC, Lake Park PropCo LLC, Lake Park OpCo LLC, Lake Park Venture, LLC, Lake Park OpCo Venture, LLC, Lake Park OpCo Holding, LLC, Forest Hill PropCo LLC, Forest Hill OpCo LLC, Forest Hill Venture, LLC, Forest Hill OpCo Venture, LLC, Forest Hill OpCo Holding, LLC, Life Care Services, LLC and all owners, managers, lessees, or operators of the Lake Park Facility and the Forest Hill Facility or any portion thereof shall be required to provide written notice to the Attorney General sixty days prior to entering into any agreement or transaction to do any of the following:

(a) Sell, transfer, lease, exchange, option, convey, manage, or otherwise dispose of the Lake Park Facility or the Forest Hill Facility or any portion thereof;

(b) Transfer control, responsibility, management, or governance of the Lake Park Facility and the Forest Hill Facility or any portion thereof. The substitution, merger or addition of a new member of the governing body, general partner, or limited partner of Bay Capital Co, LLC; Bay Senior Office PropCo LLC, Lake Park PropCo LLC, Lake Park OpCo LLC, Lake Park Venture, LLC, Lake Park OpCo Venture, LLC, Lake Park OpCo Holding, LLC, Forest Hill PropCo LLC, Forest Hill OpCo LLC, Forest Hill Venture, LLC, Forest Hill OpCo Venture, LLC, Forest Hill OpCo Holding, LLC, Life Care Services, LLC that transfers the control of, responsibility for or governance of the Lake Park Facility and the Forest Hill Facility or any portion thereof shall be deemed a transfer for purposes of this Condition. The substitution or addition of one or more

members of the governing body, general partner, or limited partners of the Bay Capital Co, LLC, Bay Senior Office PropCo LLC, Lake Park PropCo LLC, Lake Park OpCo LLC, Lake Park Venture, LLC, Lake Park OpCo Venture, LLC, Lake Park OpCo Holding, LLC, Forest Hill PropCo LLC, Forest Hill OpCo LLC, Forest Hill Venture, LLC, Forest Hill OpCo Venture, LLC, Forest Hill OpCo Holding, LLC, Life Care Services, LLC or any arrangement, written or oral, that would transfer voting control of the members of the governing body, general partner, or limited partners of the Bay Capital Co, LLC, Bay Senior Office PropCo LLC, Lake Park PropCo LLC, Lake Park OpCo LLC, Lake Park Venture, LLC, Lake Park OpCo Venture, LLC, Lake Park OpCo Holding, LLC, Forest Hill PropCo LLC, Forest Hill OpCo LLC, Forest Hill Venture, LLC, Forest Hill OpCo Venture, LLC, Forest Hill OpCo Holding, LLC, Life Care Services, LLC shall also be deemed a transfer for purposes of this Condition.

IV.

For five years from the closing date of the Asset Purchase Agreement, the Lake Park Health Center³ shall be operated and maintained as a skilled nursing facility with 35 skilled nursing beds and shall maintain the same licensure, types, and or levels of services being provided as November 1, 2019 including, but not limited to, audiology, occupational therapy, outpatient services, physical therapy, and speech therapy.

Bay Capital Co, LLC, Bay Senior Office PropCo LLC, Lake Park PropCo LLC, Lake Park OpCo LLC, Lake Park Venture, LLC, Lake Park OpCo Venture, LLC, Lake Park OpCo Holding, LLC, and Life Care Services, LLC or the operator or licensee of the Lake Park Health Center shall not place all or any portion of the Lake Park Health Center's skilled nursing licensed-bed capacity or services in voluntary suspension or surrender its license for any beds or services.

V.

For five years from the closing date of the Asset Purchase Agreement, the Forest Hill Health Center⁴ shall be operated and maintained as a skilled nursing facility with 26 skilled nursing beds and shall maintain the same licensure, types, and or levels of services being provided as of

³ Throughout this document, the term "Lake Park Health Center" shall mean the skilled nursing facility located at 1850 Alice Street, Oakland, CA, 94612 and any other clinics, laboratories, units, services, or beds included on the license issued to California-Nevada Methodist Homes by the California Department of Public Health.

⁴ Throughout this document, the term "Forest Hill Health Center" shall mean the skilled nursing facility located at 551 Gibson Avenue, Pacific Grove, CA, 93950 and any other clinics, laboratories, units, services, or beds included on the license issued to California-Nevada Methodist Homes by the California Department of Public Health.

January 16, 2019 including, but not limited to, audiology, occupational therapy, outpatient services, physical therapy, and speech therapy.

Bay Capital Co, LLC, Bay Senior Office PropCo LLC, Forest Hill PropCo LLC, Forest Hill OpCo LLC, Forest Hill Venture, LLC, Forest Hill OpCo Venture, LLC, Forest Hill OpCo Holding, LLC, Life Care Services, LLC or the operator or licensee of the Forest Hill Health Center shall not place all or any portion of the Forest Hill Health Center's skilled nursing licensed-bed capacity or services in voluntary suspension or surrender its license for any beds or services.

VI.

For five years from the closing date of the Asset Purchase Agreement, Bay Capital Co, LLC, Bay Senior Office PropCo LLC, Lake Park PropCo LLC, Lake Park OpCo LLC, Lake Park Venture, LLC, Lake Park OpCo Venture, LLC, Lake Park OpCo Holding, LLC, Life Care Services, LLC or the operator or licensee of the Lake Park Health Center shall be certified to participate in the Medicare program and have a Medicare Provider Number (or provider number for any successor program to Medicare) to provide the same types and levels of skilled nursing services to Medicare beneficiaries (both Traditional and Managed Care) at the Lake Park Health Center as required in these Conditions.

VII.

For five years from the closing date of the Asset Purchase Agreement, Bay Capital Co, LLC, Bay Senior Office PropCo LLC, Forest Hill PropCo LLC, Forest Hill OpCo LLC, Forest Hill Venture, LLC, Forest Hill OpCo Venture, LLC, Forest Hill OpCo Holding, LLC, Life Care Services, LLC Life Care Services, LLC or the operator or licensee of the Forest Hill Health Center shall be certified to participate in the Medicare program and have a Medicare Provider Number (or provider number for any successor program to Medicare) to provide the same types and levels of skilled nursing services to Medicare beneficiaries (both Traditional and Managed Care) at the Forest Hill Health Center as required in these Conditions.

VIII.

For five years from the closing date of the Asset Purchase Agreement, Bay Capital Co, LLC, Bay Senior Office PropCo LLC, Lake Park PropCo LLC, Lake Park OpCo LLC, Lake Park Venture, LLC, Lake Park OpCo Venture, LLC, Lake Park OpCo Holding, LLC, Life Care Services, LLC and any other owner or operator of the Lake Park Facility or any portion thereof shall consult with a Community Advisory Board on a quarterly basis. The Community Advisory Boards shall consist of 7-12 residents at the Lake Park Facility chosen by the residents of the Lake Park Facility. The Community Advisory Board will provide advice and feedback on a

quarterly basis on the quality of care and quality of life being provided to the residents and patients.

IX.

For five years from the closing date of the Asset Purchase Agreement, Bay Capital Co, LLC, Bay Senior Office PropCo LLC, Forest Hill PropCo LLC, Forest Hill OpCo LLC, Forest Hill Venture, LLC, Forest Hill OpCo Venture, LLC, Forest Hill OpCo Holding, LLC, Life Care Services, LLC Life Care Services, LLC and any other owner or operator of the Forest Hill Facility or any portion thereof shall consult with a Community Advisory Board on a quarterly basis. The Community Advisory Board shall consist of 7-12 residents at the Forest Hill Facility chosen by the residents of the Forest Hill Facility. The Community Advisory Board will provide advice and feedback on a quarterly basis on the quality of care and quality of life being provided to the residents and patients.

X.

For five years from the closing date of the Asset Purchase Agreement, Bay Capital Co, LLC, Bay Senior Office PropCo LLC, Lake Park PropCo LLC, Lake Park OpCo LLC, Lake Park Venture, LLC, Lake Park OpCo Venture, LLC, Lake Park OpCo Holding, LLC, Forest Hill PropCo LLC, Forest Hill OpCo LLC, Forest Hill Venture, LLC, Forest Hill OpCo Venture, LLC, Forest Hill OpCo Holding shall undertake phased capital improvements at the facilities, Lake Park and Forest Hill inclusive, in the amount of approximately \$7,000,000 as set forth in Section 9.19 of the Asset Purchase Agreement and attached hereto as Exhibit D.

XI.

For five years from the closing date of the Asset Purchase Agreement, Bay Capital Co, LLC, Bay Senior Office PropCo LLC, Lake Park PropCo LLC, Lake Park OpCo LLC, Lake Park Venture, LLC, Lake Park OpCo Venture, LLC, Lake Park OpCo Holding, LLC, Life Care Services, LLC or operator or licensee of the Lake Park Health Center shall annually submit to the Attorney General, no later than four months after each anniversary of the closing date of the Asset Purchase Agreement, a report describing in detail its compliance with each Condition set forth herein. The Chief Executive Officers or their equivalents at the Lake Park OpCo and Life Care Services and any operator or licensee of the Lake Park Health Center shall each certify that the report is true, accurate, and complete.

XII.

For five years from the closing date of the Asset Purchase Agreement, Bay Capital Co, LLC, Bay Senior Office PropCo LLC, Forest Hill PropCo LLC, Forest Hill OpCo LLC, Forest Hill

Venture, LLC, Forest Hill OpCo Venture, LLC, Forest Hill OpCo Holding, LLC, Life Care Services, LLC or operator or licensee of the Lake Park Health Center shall annually submit to the Attorney General, no later than four months after each anniversary of the closing date of the Asset Purchase Agreement, a report describing in detail its compliance with each Condition set forth herein. The Chief Executive Officers or their equivalents at the Forest Hill OpCo and Life Care Services and any operator or licensee of the Forest Hill Health Center shall each certify that the report is true, accurate, and complete.

XIII.

At the request of the Attorney General, all parties listed in Condition I shall provide such information as is reasonably necessary for the Attorney General to monitor compliance with the terms and conditions of the transaction as set forth herein. The Attorney General shall, at the request of a party and, to the extent provided by law, keep confidential any information so produced to the extent that such information is a trade secret, or is privileged under state or federal law, or if the private interest in maintaining confidentiality clearly outweighs the public interest in disclosure.

XIV.

At the close of the transaction, all parties listed in Condition I are deemed to have explicitly and implicitly consented to the applicability and compliance with each and every Condition and to have waived any right to seek judicial relief with respect to each and every Condition.

The Attorney General reserves the right to enforce each and every Condition set forth herein to the fullest extent provided by law. In addition to any legal remedies the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and such other equitable remedies as a court may deem appropriate for breach of any of these Conditions. Pursuant to Government Code section 12598, the Attorney General's office shall also be entitled to recover its attorneys' fees and costs incurred in remedying each and every violation.

Exhibit 1

estimate of the Pension Fund Liability for the plan year ended December 31, 2019, which estimate(s) shall be provided to Buyer by Seller promptly upon receipt. Thereafter, promptly following March 31 of each subsequent year until such time as the Closing occurs or this Agreement is terminated pursuant to Section 5.2, Seller shall obtain from the Existing Pension Fund an estimate of the withdrawal liability for the most recently ended plan year, and make its reasonable best efforts to obtain from the Existing Pension Fund an estimate of the Pension Fund Liability for the then-current plan, which estimate(s) shall be provided to Buyer by Seller promptly upon receipt.

Section 9.19 Post-Closing Business Plans. From and after the Closing, Buyer or its Affiliates will continue to own and operate the Communities as senior housing communities and, in connection therewith, shall (i) undertake certain phased capital improvements at the Communities in the amount of approximately \$7,000,000, and (ii) grant Residents of the Communities the option to either maintain their existing Residency Agreements or to receive a full repayment of the repayable portion of their Entrance Fees and convert their existing Resident Agreements to alternative rental arrangements.

Section 9.20 Regulatory Approvals. Not earlier than fifteen (15) Business Days following the later of (i) Buyer's receipt from Seller of evidence reasonably satisfactory to Buyer that Seller has submitted its complete notice to the Attorney in accordance with Section 5914 (as contemplated by Section 9.16), or (ii) the Due Diligence Expiration Date, Buyer shall provide Seller with evidence of Buyer's initial filings with the appropriate State Regulatory Agencies to obtain the Regulatory Approvals; provided, however, that notwithstanding the foregoing, at least forty five (45) days prior to the Closing Date (or such other time period as is required by the California Department of Social Services), Buyer OpCo shall file an abbreviated "co-licensing" application with the California Department of Social Services to become the co-licensee with Seller for the Communities pending receipt of a new RCFE license, it being understood that, in connection therewith, and as required by California Law, at least thirty (30) days prior to the Closing Date, Buyer Opco shall notify the California Department of Public Health of the change in licensure.

ARTICLE 10

EMPLOYEE BENEFITS AND EMPLOYEE MATTERS

Section 10.1 Seller's Employee Benefit Plans.

(a) Except for the Assumed Pension Fund Liability assumed by Buyer or its permitted assignee (including Buyer OpCo, as designated by Buyer) under Section 3.1(a), Seller shall retain all obligations and liabilities under or relating to the Employee Benefit Plans, and Buyer or such permitted assignee shall assume none thereof. Neither Buyer nor any permitted assignee thereof shall have any responsibility, liability or obligation, whether to Property Employees, former employees, their beneficiaries or to any other person (including, without limitation, the Internal Revenue Service, the U.S. Department of Labor and the PBGC), with respect to any Employee Benefit Plans (including with respect to the establishment, operation, funding or termination thereof) maintained by Seller.