



June 1, 2024

Tennessee Department of Health
Division of Health Licensure & Regulation
665 Mainstream Drive, 2nd Floor
Nashville, TN 37243

RE: Unity Hospice Care of Tennessee, LLC (44-1596)
License #617
CHOW

To Whom It May Concern,

In compliance with state regulations, I am notifying you of a change in ownership for Unity Hospice Care of Tennessee, LLC. It has been acquired by Arden Hospice of Southern Tennessee, LLC. This change is effective June 01, 2024.

Please adjust your records accordingly and do not hesitate to contact me if you have questions or need any additional information in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Kristan Perkins".

Kristan Perkins
Chief Operating Officer
1125 Schilling Boulevard East, Suite 101
Collierville, TN 38017
(901)756-7322
kperkins@unityhospicecare.org





West / ITSD

App# 6567
LIC# 617

RECEIVED JUL 10 2024

**HOSPICE SERVICES
APPLICATION FOR CHANGE OF OWNERSHIP**

All applicable laws, rules, policies, and guidelines affecting your practice are available for viewing at <https://www.tn.gov/hfc/division-of-licensure-and-regulation/hfc-licensure/licensure-applications.html>. Please check this website periodically for updates.

Name of the Facility/Agency Arden Hospice of Southern Tennessee, LLC

Location of the Facility:

Street 202 East School Street City Linden

County Perry State Tennessee Zip 37096

Phone Number (931) 589-2010 Fax Number (931) 589-2060

Twenty-four (24) Hour Emergency Phone Number (931) 589-2010

E-Mail Address patpatterson@arden-cares.com

Administrator Information:

Administrator Christy Woods

Have you (Administrator) ever been convicted of a crime involving injury or harm to person(s), financial or business management (e.g., assault, battery, robbery, embezzlement or fraud)? Yes ☐ No ☒

If yes, what charge(s)? _____

Location of Conviction _____ Date _____
(City) (County) (State)

Mailing address if different from the Facility location address:

Name Christy Woods

Street 133 Mayfair Road

City Hattiesburg State Mississippi Zip 39402

Ownership of Building:

Name Jasbro Holdings James Broderick Phone Number (941) 769 9344

Street 844 Pld State Street

City Linden State Tennessee Zip 37096

FEE SCHEDULE: (FEES ARE NON-REFUNDABLE) - \$1,404

I. **Geographic area served by Agency:** (list county or counties) *If additional space is needed, please use a separate page.*

Humphreys, Henderson, Perry, Hardin, Wayne, Lewis, Lawrence

2. Number of branch offices: 3

Address of each branch office: *(If additional space is needed, please use a separate page)*

1. Arden Hospice of Lexington 250 Boswell Street Lexington TN 38351

2. Arden Hospice of Lawrenceburg 204 N Miatry Avenue Lawrenceburg, TN 38463

3. Arden Hospice of Savannah 888 Pickwick Street Savannah TN 38372

OWNERSHIP OF BUSINESS:

1. a. Check the type of Legal Entity:

☐ Individual ☐ Partnership ☐ Corporation ☒ Limited Liability Company

☐ Church Related ☐ Government/County ☐ Other

b. Check One: ☒ For Profit ☐ Non-profit

c. Legal Entity checked in 1.a:

Name Arden Hospice of Southern Tennessee, LLC Phone Number (601-582-6031)

Address 135 Mayfair Road Hattiesburg MS 39402

d. List name(s) and address(es) of individual owners, partners, directors of the corporation, or head of the governmental entity:

Wilford A Payne Jr. 135 Mayfair Road Hattiesburg MS 39402

Name Street City, State, Zip

Wilford A Payne III 135 Mayfiar Road Hattiesburg MS 39402

Name Street City, State, Zip

Name Street City, State, Zip

(If additional space is needed, please use a separate sheet)

e. If a government/county owned facility, does the administrator have authority to act on behalf of the government/county as it relates to the operation of this facility? Yes ☐ No ☒ N/a

f. If no to e., who has said authority? _____

2. a. In accordance with Rule 0720-28-.02, is this CHOW a lease of operation? Yes ☐ No ☒

b. If yes, please provide the lessor's information below:

Name _____ Phone Number () _____

Address _____

3. a. Is your facility/organization accredited by a **federally approved** accrediting body including but not limited to JCAHO, CARF, etc.? **Provide proof of accreditation.**

Yes ☐ No ☒ Expiration Date _____

4. Is this facility chain affiliated? Yes ☐ No ☒

5. If you have a parent company, please provide the following information:

Name Arden Home Health and Hospice, LLC Phone Number (601-582-6031)
Address 133 Mayfair Road Hattiesburg MS 39402

6. a. If a corporation, is there a holding company? Yes _____ No X

- b. If yes, list the name, address, and phone number of the holding company:

Name _____ Phone Number (_____)
Street _____
City _____ State _____ Zip _____

7. a. Are any owners of the disclosing entity or also owners of other health care facilities in Tennessee and/or other states? Yes X No _____

- b. If yes, list names and addresses of all such facilities:

Please see attachment #2

8. a. Do you have a contract with a management firm to operate this facility? Yes X No _____

If yes, specify dates: From May 1 2024 2023 To continual

- b. If yes, specify name of firm: Mayfair Mangement

Phone Number (601-582-6031)

133 Mayfair Road Hattiesburg MS 39402

Street

City, State, Zip

9. For any item in (9) a-h below, please identify, explain and provide documentation of the item(s) noted if response is "Yes". Have either the licensed entity for any of the other health care facilities in Tennessee and/or other states on the list in question (7.b.) above, OR the management firm listed in question (8.) above; been subjected to any of the following within the last (5) years:

a. Licensure

- i) denied a license ?

Yes _____ No ✓

- ii) had a license suspended or revoked by any state licensure agency?

Yes _____ No ✓

- iii) been subject to a final order or judgment in a state licensure action?

Yes _____ No ✓

b. Convictions

- i) convicted of a criminal offense related to that person's involvement in any program under any state or Federal health care program (including Medicare, Medicaid, and Tricare)?

Yes _____ No ✓

c. Exclusion

- i) excluded from participation in Federal health care programs (Medicare, Medicaid, CHIP, or Tricare) in the past?

Yes _____ No ✓

(Note: "Excluded" is defined as a provider or entity has been told by the Department of Health and Human Services, Office of the Inspector General (HHS-OIG) that they may no longer be a provider for any federally funded healthcare program).

d. Termination/Suspension

i) suspended or terminated from participation in Medicare or Medicaid/TennCare programs? Yes _____ No ☒

(Note: This would include involuntary termination of a nursing facility or skilled nursing facility by the Centers for Medicare and Medicaid Services (CMS) or state Medicaid agency).

e. Fraud and Abuse

i) paid through settlement, or civil or criminal fines, any monies to the federal government or any state as a result of any administrative or judicial proceeding based on allegations of fraud or abuse involving claims related to the provision of health care items and services? Yes _____ No ☒

f. Corporate Integrity Agreement

i) Is presently an entity covered by and subject the terms of a corporate integrity agreement? Yes _____ No ☒

(Note: If yes, provide a copy of CIA)

g. Bankruptcy

i) filed bankruptcy under any provision of the United States Bankruptcy Code? Yes _____ No ☒

h. Civil Monetary Penalty (CMP)

i) paid to the Centers for Medicare and Medicaid Services or any state Medicaid agency a civil money penalty equal to or greater than \$250,000.00 as a result of an enforcement action during a survey? Yes _____ No ☒

Failure to provide true and correct copies of any documents related to the items list in 9(a-h) listed above may be grounds for referral of the application for special consideration, and/or may be grounds for disciplines.

If the applicant answered "Yes" to any of the questions (a)-(h) above, please provide copies of any documentation associated with the event and/or sanction. The documentation should provide the Health Facilities Commission with sufficient information regarding the nature of the event and/or sanction, the current status of the issue, as well as details regarding what corrective action have been implemented (as applicable).

VERIFICATION BY NOTARY PUBLIC:

Signee for application certifies that he or she is of responsible character and able to comply with the minimum standards and regulations established by Tennessee pertaining to the type of facility or agency for which application for licensure is made and with the rules promulgated under Tennessee Code Annotated (TCA) § 68-11-201.

Signee also certifies that a policy has been implemented to inform all employees of their obligation under TCA § 71-6-103 to report incidents of abuse or neglect.

Signee acknowledges that the State of Tennessee may share information regarding the activities and compliance of the licensee, if the submitted CHOW application is a lessor and/or lessee transaction as described in the above Ownership of Business section of this application.


Applicant Signature


Title or Position


Date

Mississippi
STATE OF ~~TENNESSEE~~

County of Lamar

The above named applicant (print name) Wilford A. Payne III, being by me duly sworn on his/her oath, deposes and says that he/she has read the forgoing application and knows the contents thereof: that the statements concerning the above named facility or agency, therein contained, are correct and true to his/her own knowledge.

Subscribed to and sworn to on this 3rd day of July 2024
(Month) (Year)



Notary Public: Jennifer Brewer
My commission expires: 8-22-2027

**** DUPLICATE ****



STATE OF TENNESSEE
Health Services and Dev Agency
Office: Andrew Jackson, 8t
6/18/2024 1:51 PM

Cashier: NIRAB0824001
Batch #: 1611601
Trans #: 12

Health Care Facilities
Receipt #: 37996319
HA15 HCF

Payment Total: \$1,404.00
\$1,404.00

Transaction Total: \$1,404.00

Check 21 \$1,404.00

Thank you for your payment.

1102

CADENCE BANK

85-127/842

Mayfair Management LLC

135 Mayfair Road
Hattiesburg, MS 39402
601-582-6031



6/13/24

PAY TO THE
ORDER OF

DIVISION of licensure and Regulation

One thousand four hundred four & 00/100

\$ 1404.00

DOLLARS

Security features. Details on back



Michael Watson
SECRETARY OF STATE

Invoice Number: 15524153

Invoice Date: 05/21/2024

Customer Information

Leslie Bounds

Description	Tracking Number Qty	Item Cost	Amount Paid
LLC - Online	2024335050	\$ 50.00	\$ 50.00
MSI Transaction Fee		\$ 3.14	\$ 3.14

Payment Details

Invoice Total: \$ 53.14
Payment Total: \$ 53.14
Amount Due: \$ 0.00

Payment Method

Payment Type: Credit Card

Include invoice number on all correspondence and send to:

Mississippi Secretary of State's Office
P.O. Box 136
Jackson, MS 39205

To discuss payment for Corporation items
call:
(601) 359-1633



State of Tennessee

Health Facilities Commission

665 Mainstream Drive, 2nd Floor, Nashville, TN 37243

www.tn.gov/hsda Phone: 615-741-7221

July 10, 2024

Sent Via Email

Arden Hospice of Southern Tennessee, LLC fka Unity Hospice Care of Tennessee, LLC
202 East School Street
Linden, Tennessee 37096

Dear Administrator:

This letter acknowledges receipt of the application and fee for a change of ownership for Arden Hospice of Southern Tennessee, LLC fka Unity Hospice Care of Tennessee, LLC, license number 617, located at 202 East School Street, Linden, Tennessee 37096 effective date of closing on June 1, 2024.

A closing document showing the effective date of transfer to the new owner must be submitted to this office after the transaction is finalized. Prior to issuing a license the charter will be verified with the office of the Secretary of State in Tennessee to insure that the legal entity is registered as a Limited Liability Company.

Your application and fee will be held in a pending status until your application is recommended by the regional office for a change of ownership. Once the recommendation for a change of ownership is received from the regional office you will be initially approved, and your application will then be presented before the **Board for Licensing Health Care Facilities** for ratification at the next regularly scheduled board meeting.

This application will only be good for two (2) years from the date of receipt. If the change of ownership has not occurred within that two (2) year period you will be required to submit a new application and fee, unless you have contacted our office in writing extending your application.

Should you have any questions or need further assistance please feel free to contact me at (615) 741-7202.

Sincerely,

Mary Louise Clark

Mary Louise Clark, ASA 2



State of Tennessee

Health Facilities Commission

665 Mainstream Drive, 2nd Floor, Nashville, TN 37243
www.tn.gov/hsda Phone: 615-741-7221

MEMO

to: Kathy Zeigler, West Tennessee Regional Office Administrator (emailed)

From: Mary Louise Clark

Date: July 10, 2024

Subject: CHOW

A change of ownership will be occurred on merge from Unity Hospice Care of Tennessee, LLC to Arden Hospice of Southern Tennessee, LLC or about June 1, 2024, located at 202 East School Street, Linden, Tennessee 37096. This facility was previously owned by Unity Hospice Care of Tennessee, LLC (Hospice #617).

Please review your files to determine if there has been a survey conducted within the last fifteen (15) months with no major deficiencies. If a survey has not been conducted due to the facility being accredited, please review the file to determine if there have been any complaints that would prevent a recommendation for approval of the change of ownership at this time.

If you are unable to approve this change of ownership due to the survey being beyond the fifteen (15) months, please schedule an on-site survey as soon as possible.

If you have any questions, please call me at 615-741-7202 or email me at Mary.2.Clark@tn.gov.

**OFFICE OF HEALTHCARE FACILITIES, LICENSURE DOES
NOT HAVE TO WAIT FOR AN APPROVED 855 TO MOVE
FORWARD, IF APPLICABLE.**



**CHANGE OF OWNERSHIP APPROVAL/DENIAL
(For Office of Health Care Facilities USE ONLY)**

Facility Type: Hospice County: Perry

Facility Name: Arden Hospice of Southern Tennessee, LLC fka Unity Hospice Care of Tennessee, LLC

Street Address: 202 East School Street

City/State/Zip Code: Linden, TN 37096

**Health Licensure Last Survey Date: 4/27/2023 Annual or Complaint (circle one) Survey

Outstanding Complaint(s): Y or N (circle one; if yes, proceed to next question)

Number of Outstanding Complaint(s): _____

Date(s) of Outstanding Complaint(s): _____

**Life Safety Last Survey Date: NA Annual or Complaint (circle one) Survey

Outstanding Complaint(s): Y or N (circle one; if yes, proceed to next question)

Number of Outstanding Complaint(s): _____

Date(s) of Outstanding Complaint(s): _____

Approved: X Denied: _____

If denied, reason for denial: _____

Effective Date of Change of Ownership: 6/1/2024

Kathy Zeigler, RA/DPM 8/1/2024
Regional Administrator' Signature/Date

BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT

This BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is entered into and effective as of June 1, 2024 (the "**Effective Date**"), by and between Unity Hospice Care of Tennessee LLC, a Tennessee limited liability company ("**Seller**") and Arden Hospice of Southern Tennessee, LLC, a Mississippi limited liability company ("**Buyer**"). Capitalized terms used but not otherwise defined herein have the meanings given to such terms in the Purchase Agreement (as defined below).

Seller and Buyer are parties to that certain Asset Purchase Agreement dated as of the Effective Date (the "**Purchase Agreement**"). The execution and delivery of this Agreement is contemplated by the Purchase Agreement.

Now, therefore, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Seller and Buyer hereby agree as follows:

1. Transfer of Purchased Assets. Seller hereby contributes, assigns, grants, conveys, and transfers to Buyer, and Buyer hereby accepts, all of the Purchased Assets. Buyer hereby acknowledges and agrees that Seller is retaining, and Buyer will not accept, any Excluded Assets.
2. Assumption of Assumed Liabilities. Seller hereby assigns and delegates, and Buyer hereby assumes, the Assumed Liabilities. Seller hereby acknowledges and agrees that Seller is retaining, and Buyer will not assume or have any Liability with respect to, any Excluded Liabilities
3. Terms of the Purchase Agreement. This Agreement is subject to and controlled by the terms of the Purchase Agreement, including all of the representations, warranties, covenants, agreements, indemnifications, schedules, terms, conditions, and miscellaneous provisions set forth in the Purchase Agreement, all of which are incorporated herein by reference and made a part of this Agreement. In the event of a conflict between the terms and conditions of this Agreement and the terms and conditions of the Purchase Agreement, the terms and conditions of the Purchase Agreement shall govern, supersede, and prevail. Notwithstanding anything to the contrary in this Agreement, nothing herein is intended to, nor shall any provision herein be deemed to, extend, amplify, or otherwise alter the representations, warranties, covenants, and obligations of the parties contained in the Purchase Agreement or the survival thereof.

[Signature Page Follows]

Seller and Buyer have caused this Bill of Sale, Assignment, and Assumption Agreement to be duly executed as of the Effective Date

-Seller-

Unity Hospice Care of Tennessee, LLC

By: Patricia Sherman
Patricia A. Sherman,
Sole Member

-Buyer-

Arden Hospice of Southern Tennessee, LLC

By: The Payne Companies, LLC, Manager
By: Wilford A. Payne III
Wilford A. Payne, III, President

MANAGEMENT AGREEMENT

This MANAGEMENT AGREEMENT (this “Agreement”) is made and entered into as of the 1st day of May, 2023 (the “Effective Date”), by and between ARDEN HOME HEALTH AND HOSPICE LLC, a Mississippi limited liability company (“Arden”), and MAYFAIR MANAGEMENT, LLC, a Mississippi limited liability company (“Manager”). Arden and Manager are sometimes referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS:

WHEREAS, Arden intends to own and operate, through its Affiliates, home health and hospice agencies in certain counties in the State of Mississippi (each an “Agency” and collectively, the “Agencies”); and

WHEREAS, Manager is engaged in the business of providing management services to home health and hospice providers and Arden wishes to engage Manager to provide comprehensive management and oversight of the provision of home health hospice services to patients of the Agencies according to the terms and provisions of this Agreement.

NOW THEREFORE, in consideration of the mutual agreements contained in this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, Arden and Manager hereby agree as follows:

ARTICLE I DEFINED TERMS

Initially capitalized terms used in this Agreement, unless the context otherwise requires, or they are otherwise defined herein, shall have the following meanings:

“**Accounting Period**” means a calendar month.

“**Affiliate**” means, when used with reference to a specified Person or party, any Person that directly or indirectly, including through one or more intermediaries, controls or is controlled by or is under common control with the specified Person or party. For purposes of this Agreement, “control” (and, with correlative meaning, “controlled by” and “under common control with”) will be deemed to exist if the Person or party in question is, directly or indirectly, the owner of more than 50% of the voting equities of the Person or party in question or such Person or party has the ability, through contract or otherwise, to direct the management or operations of the party in question.

“**Agency Expenses**” means, for the applicable period of time, the sum of any and all costs and expenses of operating each Agency that are incurred in accordance with the limitations and other provisions of this Agreement, including those costs and expenses approved in the Annual Budget. The Agency Expenses may include, without limitation:

- (i) Costs and expenses of inventory and supplies used in the operation of the Agency;
- (ii) Costs and expenses payable to prevent, cure or correct any violation of federal, state or municipal laws, ordinances, regulations, restrictive covenants or orders or the rules of the applicable governmental agencies with respect to the operation of the Agency and any expense

incurred in order to obtain or maintain any operating permits or licenses, including any registration fees and expenses and legal fees associated therewith;

(iii) Costs and expenses payable for the collection of delinquent amounts due the Agency collected through an attorney or collection agency acceptable to Arden in its sole discretion;

(iv) Costs and expenses payable under service contracts to which Arden is a party with respect to the Agency;

(v) Costs and expenses payable to third parties for advertising and marketing expenses directly associated with or for the benefit of the Agency, such costs being approved by Arden in advance;

(vi) Costs and expenses payable to third parties for auditing, tax preparation and accounting services with respect to the Agency, and reasonable attorneys' fees incurred with respect to the Agency, as well as reasonable costs and fees of legal, technical and other independent professionals or other third parties who are acceptable to Arden (in its sole discretion) to perform services required or permitted hereunder;

(vii) The reasonable cost and expense of technical consultants and operational experts who are retained or employed by Manager or one of its Affiliates and who perform specialized services (that is, services not otherwise required to be provided by staff of Manager or its Affiliates hereunder or necessary for Manager to provide its services for and in consideration of the Management Fee payable hereunder) in connection with the Agency work;

(viii) All levies, taxes, assessments and similar charges for the Agency, including, without limitation, the following: quality assurance fees, license fees; inspection fees and other authorization fees and other charges by a Governmental Authority of any kind or nature whatsoever, whether general or special, ordinary or extraordinary, foreseen or unforeseen, or hereinafter levied or assessed of every character (including all interest and penalties thereon), which at any time during or in respect of the term of this Agreement may be assessed, levied, confirmed or imposed on Arden or Manager with respect to the Agency or the operation thereof, or otherwise in respect of or be a lien upon the Agency (including, without limitation, on any of the inventories located at or in the Agency), other than (a) any of the following payable by Arden (i) any income or franchise taxes, or (ii) any franchise, corporate, estate, inheritance, succession, capital levy or transfer tax imposed on Arden, all of which shall be paid solely by Arden, not from Gross Revenues or any other funds generated by or held with respect to the Agency or (b) any income, franchise, corporate, or other tax imposed on Manager with respect to the Management Fee or Reimbursable Expenses, which shall be paid solely by Manager. Non-Compliance Costs shall not be deemed an Agency Expense hereunder to the extent they result from an Event of Default by Manager;

(ix) The Management Fee and other compensation payable to Manager hereunder;

(x) Costs and expenses for electronic data processing equipment, systems, software or services purchased for and used at the Agency (including for electronic medical records purposes);

(xi) Any premium, self-insured retention or deductible on any insurance policies maintained by or for Arden as described in Section 2.22;

(xii) All other material costs and expenses specifically treated as Agency Expenses under this Agreement or that are specifically referenced in this Agreement as being part of the Annual Budget; and

(xiii) Without duplication, Reimbursable Expenses.

If an Agency Expense benefits the Agency and one or more other agencies managed by Manager, Manager shall allocate such Agency Expense on a reasonable basis among the Agency and such other agencies, and the amount allocated to the Agency shall be an Agency Expense. Manager shall provide a detailed explanation of shared costs as part of its annual financial reporting and in connection with the approval process for Annual Budgets for the Agency.

Agency Expenses shall not include the following:

(i) Except as expressly agreed to by Arden, or included in the Annual Budget, costs and expenses incurred by Manager for salary and wages (including costs of processing, printing, and mailing of payroll checks and W-2 forms), bonus, commission or incentive compensation (including, without limitation, non-incentive stock option grants), PTO, FICA and other payroll taxes and deductions, severance, unemployment compensation, workers' compensation, group life, health and accident insurance premiums (including deductibles and self-insured retention amounts), retirement, disability and other benefits, travel expenses and other reimbursable business expenses, recruiting, selecting, screening, hiring, training and terminating Home Office Employees, including but not limited to employment and employment agency fees, and any other remuneration or benefits payable to Home Office Employees;

(ii) Except as expressly agreed to by Arden as part of an annual request by Manager or as set forth in the Annual Budget, costs and expenses incurred by Manager for in-house accounting and reporting systems, software or services furnished by Manager under this Agreement, as distinguished from third party accounting and reporting costs (as, for example, the annual auditing costs of the Agency's accountants), which shall be Agency Expenses;

(iii) Except for (i) auditing expenses included in the Annual Budget, or (ii) as expressly agreed to by Arden as part of clinical auditing, costs and expenses incurred by Manager for in-house clinical oversight;

(iv) Costs and expenses incurred by Manager for forms, papers, ledgers and other supplies, equipment, copying and telephone of any kind used in Manager's or its Affiliates' office at any location other than the Agency;

(v) Except as expressly agreed to by Arden, costs and expenses incurred by Manager for political or other contributions;

(vi) Costs and expenses incurred by Manager for advertising related to Manager other than costs of marketing the Agency's services;

(vii) Costs and expenses incurred by Manager for dues of Manager or any of the Home Office Employees in professional organizations or for any of Manager's employees participating in industry conventions or meetings (except to the extent included in the Annual Budget or otherwise specifically approved by Arden);

(viii) Costs and expenses incurred by Manager in violation of this Agreement;

(ix) Costs and expenses attributable to any Non-Compliance Costs to the extent they result from an Event of Default by Manager; and

(x) Arden's Losses.

"Agency Standards" means the management, operational (e.g., staffing, services, and licensure) and quality control and improvement standards associated with the best practices of a first-class, quality agency of a type similar to the Agency, in compliance with this Agreement and all applicable laws, rules, regulations and requirements of any Governmental Authority having jurisdiction over the Agency, the Arden and/or the Manager.

"Approved Additional Expenses" has the meaning set forth in Section 2.5(c).

"Bad Act by Manager" means any gross negligence, fraud, abuse, misappropriation, willful or intentional misconduct or criminal conduct by Manager, Manager's Affiliates or any Home Office Employees or any willful breach by Manager, Manager's Affiliates or any Home Office Employees of its or their respective duties, obligations and covenants under this Agreement.

"Bad Act by Arden" means any gross negligence, fraud, abuse, misappropriation, willful or intentional misconduct or criminal conduct by Arden or Arden's Affiliates or any willful breach by Arden or Arden's Affiliates of its or their respective duties, obligations and covenants under this Agreement.

"Bank Accounts" has the meaning set forth in Section 2.20.

"Bankruptcy Event" means, with respect to any Person, (i) such Person commences a voluntary proceeding seeking liquidation, reorganization or other relief of or against such Person under any bankruptcy, insolvency or other similar law now or hereafter in effect, (ii) such Person is adjudged as bankrupt or insolvent, or a final and non-appealable order for relief under any bankruptcy, insolvency or similar law now or hereafter in effect has been entered against such Person, (iii) such Person executes and delivers a general assignment for the benefit of the Person's creditors, (iv) such Person files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against such Person in any proceeding of the nature described in clause (ii) above, (v) such Person seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator for such Person or for all or any substantial part of such Person's properties or assets, (vi) any proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereafter in effect has not been dismissed within one hundred twenty (120) days after the commencement thereof with respect to such Person, (vii) the appointment without such Person's consent or acquiescence of a trustee, receiver or liquidator has not been vacated or stayed within ninety (90) days of such appointment with respect to such Person, or (viii) an appointment referred to in clause (vii) above is not vacated within ninety (90) days after the expiration of any such stay.

"Change of Control" means, with respect to a Person, a transfer of fifty percent (50%) of the ownership interest in such Person or such lesser percentage if such lesser percentage gives the transferee the power, directly or indirectly, to "control" (as defined below) such Person. For purposes of this Agreement, "control", "is under common control with", or "is controlled by" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person.

"CPA" has the meaning set forth in Section 2.18(d).

“Department” means the Mississippi State Department of Health.

“Effective Date” has the meaning set forth in the preamble.

“Event of Default by Manager” has the meaning set forth in Section 4.2.

“Event of Default by Arden” has the meaning set forth in Section 4.4.

“Fiscal Year” has the meaning set forth in Section 2.5(a).

“For Cause” by Manager has the meaning set forth in Section 4.4.

“For Cause” by Arden has the meaning set forth in Section 4.2.

“GAAP” means, as in effect from time to time, generally accepted accounting principles consistently applied as promulgated by the American Institute of Certified Public Accountants.

“Governmental Authority” means (a) any federal, state, county, local or municipal government or political subdivision thereof, (b) any governmental or regulatory agency, authority, board, bureau, commission, department, instrumentality, or public body, or (c) any court, administrative tribunal, or similar body to any of the foregoing.

“Gross Revenues” means for the applicable period of time, but without duplication, all revenues and receipts of every kind derived from operating the Agency and all departments and parts thereof, including, but not limited to the following income and proceeds:

(i) Income from health care fees and services fees received pursuant to various agreements with patients; and

(ii) Proceeds, if any, from business interruption or other loss of income insurance (to the extent such insurance either reimburses on the basis of gross revenues or otherwise covers all expenses including any Management Fee or other compensation payable to Manager), as determined on an accrual basis in accordance with GAAP consistently applied.

Gross Revenues shall **not** include:

(i) Federal, state or municipal excise, goods and services, sales or use taxes or similar taxes imposed at the point of sale and collected directly from patients of the Agency or included as part of the sales price of any goods or services; and

(ii) Awards of damages, settlement proceeds and other payments in respect of any litigation in amounts in excess of any Agency Expenses incurred in pursuing such damages, settlement proceeds and other payments, other than litigation to collect fees due for patient services rendered at the Agency;

Any bad debt shall be credited against (deducted from) Gross Revenues during the Accounting Period in which such bad debt is recognized, if such amounts were previously included in Gross Revenues. Any bad debt which is recognized but is later collected shall be added to Gross Revenues.

“Health and Safety Expenses” has the meaning set forth in Section 2.5(c).

“**HIPAA**” means the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. Section 1320d through d-8.

“**Indemnification Notice**” has the meaning set forth in Section 6.4.

“**Indemnified Party**” has the meaning set forth in Section 6.4.

“**Indemnifying Party**” has the meaning set forth in Section 6.4.

“**Indemnitees**” with respect to a Party means each of its Affiliates and permitted assignees and each of the officers, directors, partners, members, managers, employees and agents of the Party, its Affiliates or any permitted assignee.

“**Initial Term**” has the meaning set forth in Section 4.1.

“**Management Fee**” has the meaning set forth in Exhibit B.

“**Manager Compensation**” has the meaning set forth in Exhibit B.

“**Manager’s Losses**” has the meaning set forth in Section 6.3.

“**Non-Compliance Costs**” has the meaning set forth in Section 2.18.

“**Objection Notice**” has the meaning set forth in Section 2.5(a).

“**OFAC**” has the meaning set forth in Section 7.18.

“**Arden’s Losses**” has the meaning set forth in Section 6.2.

“**Person**” means any individual, partnership, corporation, limited liability company, association, business, trust, government or political subdivision thereof, governmental agency or other entity.

“**Personnel**” means the personnel of the Manager whose services are utilized in connection with the operation of the Agency (whether as employees or independent contractors of the Manager).

“**Regulatory Warning**” has the meaning set forth in Section 2.18.

“**Regulatory Violation**” has the meaning set forth in Section 4.2(b).

“**Reimbursable Expenses**” means any Agency Expense incurred or paid by Manager to a third party solely for the Agency in the course of performing the Services which is (i) set forth in the Annual Budget, (ii) included in Approved Additional Expenses or Health and Safety Expenses, or (iii) otherwise approved by Arden pursuant to the terms of this Agreement. To the extent so approved, Reimbursable Expenses may include costs for: (i) the software licenses purchased solely for the Agency, including, but not limited to clinical, financial, timekeeping, payroll, and health information records; (ii) software maintenance fees and fees from central computer/server support vendor for the benefit of the Agency; (ii) local professional services fees required by licensing, human resources or other applicable laws, rules and regulations to operate the Agency; (iv) banking fees for the Agency; and (vii) other miscellaneous expenses relating to the Agency, in each case under subsections (i) through (iv) above, to the extent set forth in the Annual Budget or as otherwise expressly approved by Arden. Reimbursable Expenses will be based on Manager’s actual cost of the expenses being reimbursed.

“**Renewal Term**” has the meaning set forth in Section 4.1.

“**SDN List**” has the meaning set forth in Section 7.18.

“**Services**” has the meaning set forth in Article II.

“**State**” means State of Mississippi.

“**Term**” has the meaning set forth in Article IV.

ARTICLE II MANAGER’S SERVICES

2.1 Appointment and Acceptance of Manager. Arden hereby appoints and retains Manager, and Manager hereby accepts Arden’s appointment, to exclusively provide the services described in this Agreement, including on Exhibit A attached hereto and made a part hereof (collectively, the “Services”), with respect to each Agency set forth on Exhibit B as may be amended from time to time. All Services shall be performed (a) on the terms and conditions of this Agreement, (b) in accordance with the then-current Annual Budget prepared by Manager and approved by Arden pursuant to Section 2.5, and (c) in accordance with the Agency Standards. Notwithstanding the delegation by Arden to Manager of the management and day-to-day operation of the Agency and the Services to be provided by Manager under this Agreement, Arden reserves and retains the necessary rights, duties and obligations that are expressly required to be retained by Arden in order for Arden to continue to be validly licensed by the Department to operate the Agency as a home health or hospice agency (as the case may be). During the Term, Manager will not represent itself as, or give the appearance it is, Arden.

2.2 Ownership of Licenses and Permits. Unless otherwise required by Section 2.20 hereof, Manager shall obtain and maintain, in the name of the Arden, the home health or hospice license issued by the Department and all other licenses, permits, contracts and certifications obtained with respect to the Agency. Further, Manager shall disclose itself as the third-party manager of the Agency with the Department and any other applicable Governmental Authority to the extent required or requested on applicable application and/or disclosure notices. All costs incurred by Manager in obtaining a license (including license fees, bond fees, legal fees, etc.) shall be an Agency Expense. Upon termination of this Agreement for any reason, Manager shall cooperate with Arden or any successor to Arden or Manager to transfer the Agency license or assist such successor in obtaining a new license.

2.3 General Duties; Management Standards.

(a) Manager will manage, supervise and conduct the daily operation and management of the Agency, and perform the Services, in accordance with the terms and conditions of this Agreement, the then-current Annual Budget approved by Arden pursuant to Section 2.5 and the Agency Standards. Manager shall negotiate (with Arden’s approval before execution by Arden) and administer all contracts, leases and other instruments of every kind and perform all other activities that may be required, proper, or convenient in the daily operation and management of the Agency, subject to the terms of this Agreement.

(b) Arden and Arden’s designated consultants shall have the right at all times to enter the Agency, discuss Agency operations with any on-site or manager or other executive officer of Manager, review Manager’s records related to the Agency and take such other commercially reasonable actions as it may deem proper to ensure Manager’s compliance with this Agreement. If Arden requests or is required, Manager also will grant the same access and cooperation to Landlord

and its consultants, as well as the agents of any Governmental Authority with jurisdiction over the Agency, Arden, or Manager.

(c) Manager agrees to use its commercially reasonable efforts to manage and conduct the business at the Agency, to supervise all Agency Employees, to exercise professional skill and competence while performing the duties set forth in this Agreement, and to act in a manner consistent with prudent and best practices in the industry. Manager shall operate and manage the Agency in an efficient manner using the full benefit of the judgment, experience and advice of Manager's organization and staff and in accordance with the Annual Budget and the Agency Standards. Manager shall furnish to Arden for review and approval all policy manuals, handbooks and compliance programs with respect to the Agency, and shall propose revisions to such policy manuals from time to time.

2.4 Staffing and Personnel. Manager shall: (i) recruit, hire, train (on the basis of job-related criteria), supervise, promote, direct, discipline, suspend and discharge all Personnel; (ii) establish Personnel salary levels, policies and employee benefits; and (iii) establish Personnel performance standards, all as needed to ensure the efficient operation of the Agency.

2.5 Budget Approval Process; Expenses.

(a) The fiscal year of the Agency (the "**Fiscal Year**") shall begin on January 1 and end on December 31 of each calendar year; provided, that the first Fiscal Year shall begin on the Effective Date. Manager shall prepare and submit to Arden for Arden's approval by October 31 of each calendar year beginning on January 1, 2023, a detailed operating budget (in a format consistent with the Agency Standards) for the Agency for the following Fiscal Year. Arden shall approve or reject any budget within thirty (30) days of receipt (or such longer period as Arden may reasonably request by notice to Manager). If Arden objects to all or any portion of a proposed budget, Arden shall deliver a notice to Manager setting forth the nature of the objections to the proposed budget ("**Objection Notice**"). Upon receipt of any Objection Notice, Manager shall modify the proposed budget, taking into account Arden's objections, and shall resubmit the same to Arden for Arden's approval within fifteen (15) days thereafter, and Arden may deliver further Objection Notices (if any) within fifteen (15) days thereafter (in which event, the re-submission and review process described above shall continue in good faith until the proposed budget is accepted and approved by Arden). The final operating budget approved by Arden pursuant to this Section (collectively, the "**Annual Budget**") shall be used for the next Fiscal Year (or partial year for the year of the Effective Date). If the Parties cannot agree upon the final form and substance of the proposed budgets prior to the commencement of any particular Fiscal Year, then the Annual Budget used in the operation of the Agency during such Fiscal Year shall be (i) as to those items within the proposed budgets that Arden did not object, the amount set forth in the proposed budgets, and (ii) as to those items to which Arden objected and a variation was mutually agreed upon by Manager and Arden, the agreed upon amount, and (iii) as to those items to which Arden objected, but a variation was not mutually agreed upon, an amount determined by Arden in its sole discretion. The GAAP method of accounting shall be used, unless Arden notifies Manager that another method will apply.

(b) All capital expenditures and any cost that exceeds an expense in the Annual Budget by more than ten percent (10%) of the specific line item or five percent (5%) of the Annual Budget in the aggregate shall require prior written approval of Arden subject to exceptions for emergency expenditures as set forth in Section 2.6(c).

(c) Arden and Manager acknowledge and agree, with respect to the Annual Budgets, that Section 2.6(b) shall not apply (i) to any reasonable expenditures required to be incurred on an

immediate or emergency basis or in order to ensure the ongoing licensure and life-safety of the Agency, to comply with regulations or laws related to the operation of the Agency or to protect patient, staff and/or employee health and welfare ("Health and Safety Expenses"), nor (ii) to any expenses that are not approved in the Annual Budget, or are in excess of the amounts set forth in the Annual Budget, but are otherwise approved by Arden in writing ("Approved Additional Expenses"). All expenditures required for insurance required under this Agreement that are in excess of the budgeted amounts for such expenses in the Annual Budget shall be deemed to be Approved Additional Expenses. Notwithstanding anything herein to the contrary, legal and accounting costs not covered by the Annual Budget shall require Arden's prior written approval under all circumstances.

2.6 Census Development and Marketing. Manager shall create census development processes and develop (or overseeing a third-party in the development of) marketing materials, media releases and such other publicity materials necessary for the marketing of the Agency.

2.7 Billing and Collection. Manager shall perform all billing functions and use commercially reasonable efforts to collect all fees, charges, and other amounts receivable in connection with the management and operation of the Agency (including any Medicare and Medicaid receivables). Manager shall enforce the rights of Arden as creditor under any contract or in connection with the rendering of any services, but Manager may not institute any legal action without Arden's prior written approval. Manager shall obtain Arden's prior written approval to write off accounts receivable which Manager believes are not collectable and should be written off.

2.8 Quality Assurance Program. Manager shall implement and maintain on a continuing basis a quality assurance program in order to provide objective measurements of the quality of services provided at the Agency, and shall utilize patient interviews, patient/family satisfaction surveys, physician interviews, periodic inspections and such other techniques as Manager may reasonably deem necessary to measure, maintain and improve the quality of the Agency.

2.9 Audits. Manager shall coordinate any audit that may be required by any Governmental Authority.

2.10 Business Office Support. Manager shall perform all standard business office functions handled by the Agency.

2.11 Denials Support and Appeals. Manager shall coordinate responses to denials of claims by any third-party payor and shall coordinate, file and pursue all appeals.

2.12 Investigation and Reporting Support. Manager shall investigate any incident, unwitnessed injury, or reportable event in connection with the Services provided by Manager and assemble documentation and other information for submission to the relevant Governmental Authority related to such incident, unwitnessed injury, or reportable event.

2.13 Medical Records. Manager shall establish and maintain an electronic medical records program. Manager shall review medical records to assess compliance with state and federal guidelines.

2.14 Clinical Support Consultation. Manager shall provide clinical consulting in long term care to assist in the identification and development of quality patient care delivery by Arden.

2.15 Mock Surveys and Survey Preparation. Manager shall (i) conduct mock surveys to help prepare Arden for periodic surveys by state and federal agencies and accreditation organizations and (ii) participate as directed by Arden in state and federal surveys and quality assurance surveys.

2.16 Staff Education and Training. Manager shall provide education, training, and in-service opportunities to the Personnel regarding patient rights, patient care, clinical findings, survey preparedness, and other areas of focus in the home health or hospice industry from time to time.

2.17 Accounting, Reporting, and Financial Controls. Manager shall provide home office and accounting support for the proper operation of the Agency, including the preparation of all reports required by this Agreement or as otherwise requested by Arden. Manager shall establish and maintain a system of accounting, reporting, and financial controls for the Agency using software similar to other agencies managed by Manager and consistent with customary practices in the industry. Accounting procedures and systems shall conform to the method of accounting adopted by Arden under Section 2.5. All books, records and accounts related to the operations of the Agency, regardless of where they are housed, shall be considered the property of Arden and Arden shall have the absolute right to inspect and copy the books and records upon reasonable notice to Manager. Upon termination of this Agreement for any reason, Manager shall promptly deliver all books, records and reports and materials relating to the Agency to Arden. Arden (or any representative or designee of Arden) shall have at all times, full and free access to all books and records relating to the Agency. Manager shall maintain and retain all books and records (including all patient and employee records and reports) in the manner and for the time period required under any applicable law or regulation or, with Arden's written approval, surrender such books and records to Arden prior to the expiration of such period. All financial information prepared by Manager hereunder shall be prepared in accordance with GAAP. In addition, as an Agency Expense, Manager shall reasonably assist Arden with the preparation of all tax returns for the Agency, including payroll tax returns for Agency Employees, but specifically excluding state and federal income tax returns of Arden. The taxes payable with respect to the operation of the Agency shall be Agency Expenses and shall be paid out of the Operating Account, unless Arden directs otherwise in writing; provided, that any such direction does not violate any other term of this Agreement.

(a) Manager shall prepare and provide to Arden (via a dropbox or similar internet account accessible by Arden) the following financial reports for the Agency:

(i) On a monthly basis (unless otherwise noted), within twenty (20) days following the end of the previous month:

- a. Balance sheet;
- b. Income Statement, which will include a calculation of Gross Revenues and Agency Expenses for the prior Accounting Period and the amount of any Manager Compensation and Reimbursable Expenses payable to Manager for the prior Accounting Period;
- c. Updated census reports (including patient type), and a statement of change in cash position; and
- d. Such other statements and reports as may be reasonably requested by Arden from time to time.

(ii) On an annual basis, within sixty (60) days following the end of the Fiscal Year of the Agency, year-end accounts including a balance sheet, income and expenditure

statement, and cash flow statement for the prior Fiscal Year, which will include a calculation of Gross Revenues and Agency Expenses for the prior Fiscal Year and the amount of any compensation payable to Manager for the prior Fiscal Year; and

(iii) No less than fourteen (14) days prior to the due date thereof, any financial statements or other financial information required by any Governmental Authority.

(b) Throughout the Term of this Agreement, Manager shall:

(i) Assist Arden with projections of the long-term cash position of the Agency through the preparation and review of a multi-year cash flow outlook; and

(ii) Assist Arden in coordinating any cost reports that may be required to be made under the Medicare or Medicaid Programs (or any successor program) of the federal Department of Health and Human Services or by the Department, including the use of outside accountants or consultants as may be approved by Arden (and the cost of such items shall be an Agency Expense).

(c) In addition to the specific reports noted in subparts (a) and (b) of this Section, Manager shall prepare and provide to Arden any reasonable operational information, financial statements and reports, records, survey and inspection reports, complaint reports or plans of corrections as may from time to time be requested by written notice from Arden, all of which shall be delivered at least ten (10) days before the due date established in such written notice. Manager shall also report to Arden, in writing, any significant activities during the month.

(d) With respect to each Fiscal Year ending during the Term, Arden at its sole discretion may cause Manager to perform a financial audit to be prepared by an independent Certified Public Accountant ("CPA") or another person designated by Arden. The audit shall be prepared in accordance with GAAP. Compensation for the CPA's services shall be paid directly to the CPA or other designated person as an Agency Expense. Arden shall prepare all tax and corporate records which Arden is required to file by any Governmental Authority with the full cooperation and support of Manager.

(e) Manager will establish and maintain controls over accounting and financial transactions reasonably designed to protect Arden assets from theft, negligence or fraudulent activity.

2.18 Operating Accounts.

(a) Each Agency shall establish an operating account with a financial institution suggested by Manager and approved by Arden, and in the name of the Agency (an "Operating Account") and collectively, the "Operating Accounts") and shall provide Manager with all relevant account information for such Operating Account, together with all instruments reasonably necessary to facilitate Manager being able to withdraw and deposit amounts from and into the Operating Account in accordance with the terms of this Agreement and the Approved Budget. Manager shall promptly deposit all money received during the Term in the course of the operation of the Agency into the Operating Account. During the Term, Manager shall have the authority to make all authorized or required payments on behalf of the Agency relating to the operation of the Agency, subject to any limitations on such expenditures under the Annual Budget or this Agreement.

(b) All Agency Expenses incurred by Manager in the operation of the Agency in accordance with the terms of this Agreement and within the applicable limits of the Annual Budget (both as to line items and total Agency Expenses) that qualify as Reimbursable Expenses shall be reimbursed to Manager through electronic transfers or checks or wire transfers as reasonably requested by Manager.

(c) Manager shall maintain each Operating Account and all appropriate business records related to the Operating Account throughout the Term, which shall be made available to Arden. Arden shall have at least two (2) persons designated as check signers for each Operating Account and Manager shall have the designees as required under Section 5.3. Manager must provide identities of the authorized signatories to Arden and provide monthly financial reports detailing the deposits to and withdrawals from the Operating Accounts. No Operating Account shall be used to pay any obligations that are not incurred by Manager for or on behalf of the Agency as provided in this Agreement.

(d) Arden shall cooperate with Manager to open such other accounts as are reasonably necessary to operate the Agency.

2.19 Regulatory Compliance. During the Term and within the applicable regulatory notification period, Manager shall prepare and submit to the Department all materials and information necessary to retain all regulatory licenses required for (i) Manager to manage the Agency and (ii) Arden to be the licensed operator of the Agency. Manager shall maintain all licenses, authorizations, permits, qualifications, consents and approvals from any applicable Governmental Authority for Arden, for Manager for its duties and obligations under this Agreement, and for operation of the Agency as a home health or hospice agency and shall manage the operations of the Agency in full compliance with Agency Standards and all applicable laws, rules, regulations and ordinances. Arden shall provide Manager with any and all information reasonably requested by Manager concerning all licenses for the Agency. Manager shall not change the use, classification or status of any license or certification of the Agency as a home health or hospice agency without the prior written consent of Arden. Manager shall develop and implement operational policies and procedures to ensure the efficient and effective operation of the Agency in material compliance with Agency Standards and all regulatory licenses required to operate the Agency and shall submit the same to Arden for review and approval upon request by Arden. Manager shall not take any action, or fail to take any action, that Manager's knows (or should know) may cause any Governmental Authority to institute any proceeding for (i) the restriction, suspension, rescission, revocation or withdrawal of any necessary license, permit, consent or approval or (ii) a ban on admissions or payments for admissions. Manager shall furnish copies of any written notice from any Governmental Authority that threatens (i) the restriction, suspension, rescission, revocation or withdrawal of the licenses for the Agency or (ii) a ban on admissions or payments for admissions (each, a "Regulatory Warning") to Arden within one (1) business day after receipt by Manager. Manager shall be responsible for correcting all deficiencies and implementing all directives resulting from any surveys, reports, audits, periodic site reviews or Regulatory Warning by any applicable Governmental Authority, and all such costs and expenses associated with such corrections (collectively, "Non-Compliance Costs") are Agency Expenses except if such deficiencies are the result of an Event of Default by Manager. Unless emergent circumstances reasonably require otherwise, Manager will consult with and reasonably cooperate with Arden to address any objections from Arden prior to correcting material deficiencies. Notwithstanding anything to the contrary herein, after the receipt of a Regulatory Warning, Arden shall have the right to communicate directly with the issuing Governmental Authority to come to a resolution that is acceptable to Arden and the issuing Governmental Authority, which Manager shall implement to the extent it is reasonably able to do so given the limitations of any Annual Budget and the terms of this Agreement.

2.20 Supplies. Manager shall purchase supplies and equipment needed to operate the Agency, subject to the limits of the Annual Budget. If possible, Manager shall consider, in consultation with Arden, taking advantage of any national or group purchasing agreements to which Manager may be a party in connection with the purchase of supplies and equipment or services for the Agency, and Manager shall seek all applicable discounts for the benefit of the Agency; provided, that Manager shall not be in breach of its obligations under this Agreement if it is unable to take advantage of such discounts as a result of a failure by Arden to fund Agency Expenses.

2.21 Additional Services. Manager shall make available to Arden, as part of the Services without additional cost, the following additional services:

(a) To the extent applicable, access to national contracts for certain services and supplies for the Agency;

(b) Compliance monitoring, auditing and support with respect to changes to statutes, regulations and other licensing requirements relating to the operation of the Agency, and recommendations of changes in procedure or contract forms to achieve compliance with such requirements; and

(c) Access to Manager's quality assurance policy and procedure manuals for the Agency.

2.22 Procurement of Insurance.

(a) During the Term, Arden and Manager shall obtain and maintain adequate insurance coverage for the provision of services. If at any time any Governmental Authority requires insurance not specifically maintained or with limits that are not maintained by the Parties, Manager, or Arden, as applicable, shall promptly obtain such additional coverages and both Parties shall coordinate with such authority in order to secure its approval of same. The carrier, the amount of coverage of each policy of insurance and the designation of loss payees, named insureds, additional named insureds and additional insureds shall be satisfactory to Arden and Manager. The procurer of each policy of insurance shall deliver to the other Party all certificates of insurance evidencing the existence and amount of each insurance policy to be maintained by Party. In the event either Party fails to deliver a certificate of insurance within twenty (20) days after written request therefor, the other Party shall have the right to procure and maintain, as an Agency Expense (except for Manager's insurance that is to be maintained at Manager's expense), such insurance until such certificates of insurance are provided. Except as otherwise provided in this Agreement, all brokers' fees, premiums, deductibles, self-insured retentions, letters of credit and/or deposits, legal settlements and any other costs related to claims under Agency insurance coverage shall be an Agency Expense and shall be paid, subject to the availability of sufficient funds, by Manager. Each Party's insurers shall provide at least thirty (30) days' written notice prior to any cancellation, non-renewal or adverse material modification of the coverages required to be procured and maintained by Manager or Arden under this Agreement. Arden may elect, in its sole discretion, to procure and maintain as an Agency Expense all the Agency insurance policies upon thirty (30) days' written notice to Manager. If Arden so elects to procure and maintain the Agency insurance policies in accordance with the preceding sentence, then Arden or its insurers shall provide at least thirty (30) days' written notice prior to any cancellation, non-renewal or adverse material modification of the coverages that Arden elects to procure and maintain.

(b) Manager and Arden release each other from all rights of recovery under or through subrogation or otherwise for any loss or damage insured under the policies required under this

Agreement and agree that no insurer shall have a right to recover any amounts paid in respect of a claim from the other Party.

(c) All certificates of insurance provided under this Section 2.22 shall state that the insurance shall not be canceled or non-renewed without at least thirty (30) days' prior written notice to the certificate holder and named insureds and additional insureds.

(d) All costs of insurance will be set forth in each Annual Budget.

2.23 Maintenance and Repair. Manager shall cause the Agency to be maintained and repaired in compliance with the Agency Standards as an Agency Expense and in accordance with the Annual Budget or as otherwise provided for in this Agreement. Within approved Annual Budget limitations, Manager shall arrange for the making or installing, as an Agency Expense and in the name of Arden, of such alterations, repairs, decorations or replacements of equipment, at the Agency as Manager deems reasonable or necessary, subject to Arden's approval which shall not be unreasonably withheld.

2.24 Legal Actions; Contests. Manager will, with Arden's prior approval, institute with counsel approved by Arden, such approval not to be unreasonably withheld (Arden acknowledges that legal counsel is customarily chosen by the insurance carrier), in its own name or in the name of Arden, any and all legal actions or proceedings necessary or desirable for the Agency, including without limitation, any action required to defend any claims asserted by any third party against the Agency, Manager, Arden or the members, managers, officers, directors or employees of the Manager or Arden, subject to the terms of this Agreement, including to contest the validity or application of any agreement, law, ordinance, rule, ruling, regulation, order or requirement of any Governmental Authority having jurisdiction over the operation of the Agency or appeal any action taken by any Governmental Authority against the Agency, including, without limitation, enforcement actions initiated against Arden or the Agency for alleged violations of applicable laws; provided that no such contest or appeal will result in the suspension of the operation of the Agency; and provided, further, that Arden shall have no obligation to secure and protect Manager from any loss, cost, damage or expense that is ultimately determined to have arisen out of an Event of Default by Manager. Manager will, with Arden's prior approval with counsel selected by Arden, take appropriate steps to protect, settle and/or litigate to final judgment in any appropriate court any such dispute, proceeding, violation, order or contest affecting the Agency. Manager will process all third-party payment claims and appeals for the services provided by the business. Any counsel to be engaged by Manager for any reason in fulfillment of its duties under this Agreement will be selected by and approved by Arden. Manager will diligently conduct all legal actions, proceedings and contests in good faith subject to the terms of this Agreement. Except as otherwise provided in this Agreement, all direct, out-of-pocket fees, expenses and charges incurred in connection with this Section 2.24 are Agency Expenses.

2.25 Contracts. Manager shall provide to Arden, for execution in Arden's or Manager's name (as determined by Arden), all contracts for the furnishing to the Agency of all electricity, gas, water, telephone, cleaning services, vermin extermination services, elevator and boiler maintenance, heating and air conditioning maintenance, cable and/or master television antennas, and other utilities or services for the Agency. All such contracts or agreements shall be in writing. Manager shall supervise, review and analyze the performance of all such vendors and service providers under existing contracts.

2.26 Cap Liability. Manager shall monitor and assess the Medicare Aggregate Payment Limitation ("CAP") liability and prepare a strategy for minimizing such liability.

ARTICLE III COMPENSATION AND REIMBURSEMENT

3.1 Manager Compensation. Arden shall pay to Manager each of the fees and payments described on Exhibit C to this Agreement, as may be amended from time to time (collectively, the “Manager Compensation”).

3.2 Late Fee. Manager shall provide written notice to Arden no more than five (5) business days after any Manager Compensation is past due.

3.3 Reimbursement. In the performance of its services for Arden under this Agreement, Manager may from time to time directly incur on behalf of Arden certain Reimbursable Expenses, which shall be reimbursed by Arden as provided in this Section. Any undisputed expenses incurred by Manager that are Reimbursable Expenses shall be reimbursed by Arden from the Operating Account.

3.4 Integration Costs. Notwithstanding anything to the contrary contained in this Agreement, all costs and expenses (including overhead expenses) incurred by Manager to integrate the management and operation of the Agency, including the books and records thereof, in order to commence provision of the services contemplated under this Agreement, shall be at Manager’s sole cost and expense, and shall not be an Agency Expense.

ARTICLE IV TERM AND TERMINATION

4.1 Term. This Agreement shall commence on the Effective Date and shall continue until December 31, 2023 (the “Initial Term”), unless earlier terminated pursuant to this Article IV. After the Initial Term, this Agreement shall be automatically extended for consecutive one (1) year renewal terms (each a “Renewal Term” and collectively, the “Renewal Terms”), unless (a) earlier terminated pursuant to this Article IV or (b) a written notice of non-renewal is delivered by Arden or Manager to the other Party at least ninety (90) days before the expiration of the Initial Term or any applicable Renewal Term. If a timely written notice of non-renewal is delivered during the Initial Term or a Renewal Term as contemplated under subsection (b) above, then this Agreement shall expire as of the last day of the Initial Term or such Renewal Term, as applicable. The periods of the Initial Term and any Renewal Term during which this Agreement continues in effect are collectively referred to as the “Term.”

4.2 Termination by Arden “For Cause”. Arden may terminate this Agreement for any of the reasons provided below (each of which shall constitute an “Event of Default by Manager”), and any such termination shall be a termination “For Cause” by Arden for purposes of this Agreement:

(a) Unless specifically addressed in Sections 4.2(b) through 4.2(h) below (in which event the specific default provisions, including, without limitation, any applicable notice and cure periods, set forth in such subsections shall control), if Manager shall fail to keep, observe or perform any covenant, agreement, term or provision of this Agreement to be kept, observed or performed by Manager, to the extent such default continues (i) in the case of a monetary default, for a period of ten (10) days after Manager receives written notice from Arden specifying the default or (ii) in the case of a non-monetary default, for a period of thirty (30) days after Manager receives written notice from Arden specifying the nature of the default; provided, however, if such default cannot be cured within such thirty (30) day period, then Manager shall be entitled to such additional time as is reasonable under the circumstances to cure such default; provided that Manager is capable of curing the same, has proceeded to commence cure of such default within said period, and thereafter

diligently prosecutes the cure to completion (but in any event within sixty (60) days following Manager's receipt of written notice from Arden of such default).

(b) If Manager is in material violation of any applicable federal, State or local law or any regulation, order, or policy issued under any such law, or if the operations at the Agency are being conducted by Manager in a manner that is in violation of or could cause the suspension of any license granted to Arden, Manager or the Agency in connection with the operation of the Agency (an "**Regulatory Violation**") and such Regulatory Violation shall continue for a period of ten (10) days after Manager receives written notice from Arden specifying the default. Without limiting the general nature of this provision, if Manager or the Agency fails to achieve full compliance with the requirements of any applicable Governmental Authority upon examination or reexamination, if applicable, and thereafter Manager fails to obtain such Governmental Authority's timely approval of an accepted plan of correction, or fails to fully comply with any plan that is approved within the time imposed by such Governmental Authority, then there shall be deemed to have been an Regulatory Violation that was not timely cured, allowing for immediate termination of this Agreement For Cause. Moreover, it shall be a Regulatory Violation if any of the following occur: (i) the restriction, suspension, rescission, revocation or withdrawal of any required license or certification for the Agency; or (ii) the Agency being unable to accept (or to receive payments for) new residents by force of any Governmental Authority. Notwithstanding the foregoing sentence, in the event Manager can cure and does cure an Regulatory Violation within fifteen (15) days, Arden may not immediately terminate this Agreement pursuant to this Section 4.2(b); provided, however, if the Agency receives two (2) Regulatory Violations during any calendar year in the Term, regardless of whether such Regulatory Violations are cured, Arden reserves the right to terminate this Agreement upon fifteen (15) days prior written notice to Manager.

(c) Immediately, if Manager breaches, in any material respect, any representation or warranty made by it under this Agreement.

(d) Immediately, if Manager fails to obtain and maintain the insurance in accordance with the provisions of Section 2.23 and Schedule C.

(e) Immediately, if a Bad Act by Manager occurs.

(f) Immediately, if a Bankruptcy Event by Manager occurs.

(g) Immediately, if Manager ceases doing business.

4.3 Terminations by Arden other than "For Cause". Notwithstanding any other provision hereof, this Agreement may be terminated by Arden at any time under any of the following circumstances: (a) upon the closing of a bona fide sale of all or substantially all of the Agency assets to an unrelated third party prior to the end of the Term; provided that Manager is given at least 30 days' notice prior to any such sale to the extent reasonably possible; (b) the Premises are damaged or destroyed by fire, casualty or other cause or all or substantially all of the Premises shall be taken in any eminent domain, condemnation, or similar proceeding; (c) upon ninety (90) days prior written notice to Manager for any reason whatsoever; (d) if a Change of Control occurs with respect to Manager; or (d) by the mutual written agreement of Arden and Manager, as reflected in a written notice or agreement executed by each of them.

4.4 Termination by Manager "For Cause". Manager may terminate this Agreement for any of the reasons provided below (each of which shall constitute an "**Event of Default by Arden**"), and any such termination shall be a termination "**For Cause**" by Manager for purposes of this Agreement:

(a) Unless specifically addressed in Sections 4.4(b) through 4.4(d) below (in which event the specific default provisions, including, without limitation, any applicable notice and cure periods, set forth in such subsections shall control), if Arden shall fail to keep, observe or perform any covenant, agreement, term or provision of this Agreement to be kept, observed or performed by Arden, to the extent such default continues (i) in the case of a monetary default, for a period of ten (10) days after Arden receives written notice from Manager specifying the default or (ii) in the case of a non-monetary default, for a period of thirty (30) days after Arden receives written notice from Manager specifying the nature of the default; provided, however, if such default cannot be cured within such thirty (30) day period, then Arden shall be entitled to such additional time as is reasonable under the circumstances to cure such default; provided that Arden is capable of curing the same, has proceeded to commence cure of such default within said period, and thereafter diligently prosecutes the cure to completion (but in any event within sixty (60) days following Arden's receipt of written notice from Manager of such default).

(b) Immediately, if Arden breaches, in any material respect, any representation or warranty made by it under this Agreement.

(c) Immediately, if a Bad Act by Arden occurs.

(d) Immediately, if a Bankruptcy Event by Arden occurs.

4.5 Terminations by Manager other than "For Cause". Notwithstanding any other provision hereof, this Agreement may be terminated by Manager at any time under any of the following circumstances: (a) upon the closing of a bona fide sale of all or substantially all of the Agency assets to an unrelated third party prior to the end of the Term; (b) the Premises are damaged or destroyed by fire, casualty or other cause or all or substantially all of the Premises shall be taken in any eminent domain, condemnation, or similar proceeding; (c) upon ninety (90) days prior written notice to Arden for any reason whatsoever; (d) if a Change of Control occurs with respect to Arden; or (e) by the mutual written agreement of Arden and Manager, as reflected in a written notice or agreement executed by each of them.

4.6 Remedies for Termination "For Cause".

(a) If this Agreement is terminated "For Cause" by either party, the party who has not committed the default shall be entitled to exercise all rights and remedies available to it, at law or in equity, or under this Agreement, including without limitation the right to terminate this Agreement or compel specific performance of the defaulting party's obligations under this Agreement.

(b) If this Agreement is terminated by Arden "For Cause" as contemplated under Section 4.2, then Manager shall only be compensated for previously earned but unpaid Management Compensation through the date of termination and any other amounts payable by Arden to Manager under this Agreement through the date of termination after deducting therefrom damages incurred by Arden as a result of Manager's default and any other amounts owed by Manager to Arden pursuant to the terms of this Agreement.

(c) If this Agreement is terminated by Manager "For Cause" as contemplated under Section 4.4, then Manager shall be entitled to receive all previously earned but unpaid Management Compensation through the date of termination and any other amounts payable by Arden to Manager under this Agreement through the date of termination.

4.7 Payments for Termination other than "For Cause". If this Agreement is terminated by Arden or Manager other than "For Cause" as contemplated under Section 4.3 or Section 4.5, then Manager shall be entitled to receive all previously earned but unpaid Management Compensation through the date of termination and any other amounts payable by Arden to Manager under this Agreement through the date of termination.

4.8 Transition by Manager After Termination of this Agreement. Upon the expiration or earlier termination of this Agreement for any reason, Manager shall ensure a smooth transition to a replacement manager as follows:

(a) Cooperate with Arden to ensure that operational responsibility for the Agency is transferred as soon as practicable (such transition period anticipated to be approximately ninety (90) days) to Arden or to such other entity as may be designated by Arden;

(b) Deliver to Arden or its designee possession and control of all monies of Arden on hand or in any bank account as soon as reasonably practicable (but not later than five (5) business days after the effective date of such termination or expiration);

(c) Deliver to Arden or its designee any monies due Arden under this Agreement but received after such termination or expiration;

(d) Deliver to Arden or its designee all materials and supplies, policy manuals, handbooks, compliance programs, books and records, leases, patient records (financial and patient services/care), pass codes and instructions to all billing and software programs and security systems used at the Agency (and all other access to data files, including electronic medical records), marketing collaterals and brochures, licenses and permits pertaining to the Agency, surveys, plans of correction and other regulatory correspondence and information, receipts for deposits and unpaid bills relating to the Agency, and accounts, funds, receivables and other monies in the possession of Manager belonging to the Arden, the Agency or received by Manager on behalf of Arden pursuant to the terms of this Agreement;

(e) Deliver to Arden a list and copies of all contracts, and assign, transfer, or convey to Arden or its designee all service contracts assignable by their terms or with the consent of the servicers;

(f) Deliver to Arden all personal property (including keys and equipment) relating to or used in the operation and maintenance of the Agency, except any personal property which was paid for and is owned by Manager;

(g) Provide to Arden a vendor list, including contact information of all past and current Agency vendors and subcontractors and such other information necessary to continue contractual arrangements and obligations;

(h) Leave the Agency with all books and records organized and posted up to date, and all payables currently due paid or provided for;

(i) Deliver to Arden current loss runs for the insurance lines required to be maintained under this Agreement, together with a summary of all open/active claims;

(j) Within thirty (30) days following the transition to a replacement manager, deliver to Arden or its designee a final accounting for the Term of this Agreement;

(k) For a reasonable period following the transition to a replacement manager, make itself reasonably available to answer questions regarding the prior operation and maintenance of the Agency and the transfer of accounts and accounting systems. ; and

(l) The terms of this Section 4.8 shall survive the termination or expiration of this Agreement.

ARTICLE V RESERVED RIGHTS OF ARDEN

5.1 Reserved Rights of Arden. Arden retains the right to review and evaluate the performance of Manager in carrying out Arden's directives and in attaining the Annual Budgets and any written performance goals established by Arden. Arden does not delegate to Manager any powers, duties or responsibilities which it is prohibited by law from delegating. Notwithstanding anything herein to the contrary, Arden expressly reserves the right to approve all of the following under this Agreement, which such approval shall not be withheld unreasonably:

(a) All agreements (1) with a term of greater than twelve (12) months if they cannot be terminated without cause by Manager upon sixty (60) days' notice or less or (2) with a total cost or expense in excess of \$10,000.00;

(b) Annual Budgets;

(c) All agreements with Affiliates of Manager;

(d) Settlement of any litigation or substantial claim (if Arden or Agency is a named Party);

(e) Any engagement of any third-party to provide consulting or management services to the Agency; and

(f) All insurance coverage for the Agency.

5.2 Coordination. In order to assure proper coordination and communication to patients, staff and the various publics, Arden shall endeavor to communicate actions and decisions concerning the operation of the Agency through Manager and subsequently to the Agency staff any actions and decisions concerning the operation of the Agency. Information, data and policies affecting the operations and management of the Agency in the possession of Arden will be made available to Manager to enable it to perform its services satisfactorily.

5.3 Banking. Arden shall maintain the Operating Accounts in the Agencies' names at a federally insured bank and shall designate the persons requested by Manager to be its signatories for such accounts, subject to the approval of Arden and to such reasonable terms, limitations and conditions as may be imposed by Arden.

ARTICLE VI INDEMNIFICATION

6.1 Insurance Subrogation. No indemnity shall be paid to the other Party under this Agreement where the claim, damage, liability, loss or expense incurred would have been covered by insurance proceeds if the incident was or was required to be insured against by such other Party for whose benefit such

indemnity would run and such Party failed to maintain such insurance. Arden and Manager shall cause any insurance policies obtained by the Parties pursuant to this Agreement to have the effect of waiving any right of subrogation by the insurer of one Party against the other Party or its insurer. Each Party hereby releases the other from any claims to the extent covered by collected insurance proceeds obtained by the Parties pursuant to this Agreement. Manager shall notify Arden and Arden's insurance carrier promptly upon receiving notice of any casualty, loss, injury, claim or threatened claim, condition or other event that Manager believes may result in a claim under any insurance policy maintained by Arden.

6.2 Indemnification of Arden by Manager. Manager agrees to indemnify and hold harmless Arden and its Indemnitees from, against, for and in respect of any and all damages, settlements, judgments, penalties, fines, interest, monetary sanctions, losses, obligations, liabilities, claims, deficiencies, charges, costs and expenses, including, without limitation, reasonable attorneys' fees and other costs and expenses incident to any investigation, suit, claim, action or proceeding (hereinafter referred to collectively as "Arden's Losses") suffered, sustained, incurred or required to be paid by any of them as a result of: (a) any Event of Default by Manager (including, without limitation, any Bad Act by Manager), (b) Manager's management and operation of the Agency at any time during the Term hereof or with respect to the Services provided under this Agreement and (c) any action taken by Manager outside the scope of this Agreement; provided, that the foregoing indemnification shall not apply if it is determined by a court of competent jurisdiction that Arden's Losses were caused by an Event of Default by Arden.

6.3 Indemnification of Manager by Arden. Arden agrees to indemnify and hold harmless Manager, and its Indemnitees from, against, for and in respect of any and all damages, settlements, judgments, penalties, fines, interest, monetary sanctions, losses, obligations, liabilities, claims, deficiencies, charges, costs and expenses, including, without limitation, reasonable attorneys' fees and other costs and expenses incident to any investigation, suit, claim, action or proceeding (hereinafter referred to collectively as "Manager's Losses") suffered, sustained, incurred or required to be paid by any of them as a result of any Event of Default by Arden (including, without limitation, any Bad Act by Arden); provided, that the foregoing indemnification shall not apply if it is determined by a court of competent jurisdiction that Manager's Losses were attributable to matters for which Manager is responsible as provided in Section 6.2(a), Section 6.2(b) or Section 6.2(c).

6.4 Notice of Loss. Except to the extent set forth in the next sentence, a Party to this Agreement will not have any liability under the indemnity provisions of this Agreement with respect to a particular matter unless a notice (the "Indemnification Notice") setting forth in reasonable detail the breach which is asserted has been given to the Indemnifying Party (as defined below). Notwithstanding the preceding sentence, failure of the Indemnified Party to give notice hereunder will not release the Indemnifying Party from its obligations under this Article VI, except to the extent the Indemnifying Party is actually prejudiced by such failure to give notice. With respect to Arden's Losses, Manager is the "Indemnifying Party" and Arden and its Indemnitees shall be the "Indemnified Party." With respect to Manager's Losses, Arden is the "Indemnifying Party" and Manager and its Indemnitees shall be the "Indemnified Party."

6.5 Right to Defend. Upon receipt of actual notice of any investigation, claim or proceeding for which indemnification might be claimed by an Indemnified Party, the Indemnifying Party is entitled to defend (with counsel selected by Indemnifying Party and approved by the Indemnified Party), contest or otherwise protect against such investigation, claim or proceeding at its own cost and expense, and the Indemnified Party must reasonably cooperate in any such defense or other action, including the assertion of any counterclaim or cross claim. The Indemnified Party shall have the right, but not the obligation, to participate in a defense thereof by counsel of its own choosing, the cost of such defense shall be a cost of the Indemnified Party unless an actual or potential conflict of interest exists in which event the Indemnifying Party shall be responsible for such costs. The Indemnifying Party is entitled to control the defense unless the Indemnified Party has relieved the Indemnifying Party from liability with respect to the particular matter

or the Indemnifying Party fails to assume defense of the matter. If the Indemnifying Party fails to defend, contest or otherwise protect in a timely manner against any such investigation, claim or proceeding, the Indemnified Party shall have the right, but not the obligation, to defend, contest or otherwise protect against the same and make any compromise or settlement thereof and recover the entire cost thereof from the Indemnifying Party including reasonable attorneys' fees, disbursements and all amounts paid as a result of such investigation, claim or proceeding or the compromise or settlement thereof; provided, however, that the Indemnified Party must send a written notice to the Indemnifying Party of any such proposed settlement or compromise, which settlement or compromise the Indemnifying Party may reject, in its reasonable judgment, within thirty (30) days of its receipt of such written notice. A failure by the Indemnifying Party to reject such settlement or compromise within such thirty (30) day period will be deemed an acceptance of such settlement or compromise. If the Indemnifying Party undertakes the defense of such matters, the Indemnified Party will not, so long as the Indemnifying Party does not abandon the defense thereof, be entitled to recover from the Indemnifying Party any legal or other expenses subsequently incurred by the Indemnified Party in connection with the defense thereof other than the reasonable costs of investigation undertaken by the Indemnified Party with the prior written consent of the Indemnifying Party and other than such amounts incurred where a conflict of interest is reasonably determined to exist by the Indemnified Party such that more than one legal counsel is reasonably needed. Notwithstanding anything to the contrary in this Agreement Arden or Arden's insurer shall have the right, at its option (chargeable as an Agency Expense, except to the extent solely related to the ownership of the Agency), to conduct the defense of any claim, demand or suit arising out of the ownership, operation, development or management of the Agency.

6.6 Recovery under Indemnity. Recovery upon an indemnity contained in this Agreement shall be reduced dollar-for-dollar by any applicable insurance actually collected by the Indemnified Party with respect to claims covered by such indemnity.

6.7 No Recovery of Consequential or Punitive Damages. Notwithstanding anything to the contrary contained in this Agreement or otherwise, except for Arden's Losses resulting from a Bad Act of Manager, or Manager's Losses resulting from a Bad Act of Arden, no party will have any right or remedy to recover consequential, incidental, indirect, special, exemplary, lost profits or punitive damages from any other party or any of its Affiliates under this Agreement, under any theory whatsoever (including contract, tort, strict liability or a statutory cause of action, or otherwise), even if the party has been advised of the possibility of such damages, and each party on behalf of itself and its Affiliates irrevocably waives any right it may have to claim or recover any such punitive damages from any other party or any of its Affiliates under this Agreement; *provided, however*, that the foregoing limitations on recovery of punitive damages shall not be deemed or construed to relieve Manager from its obligations pursuant to Section 6.2 or Arden from its obligations pursuant to Section 6.3 to indemnify, defend and hold harmless the applicable Indemnified Parties from and against any consequential, incidental, indirect, special, exemplary, lost profits or punitive damages claimed by, or otherwise recovered by, any third party from such Indemnified Parties.

ARTICLE VII MISCELLANEOUS

7.1 Additional Action. Arden and Manager will perform such further acts, including the execution of other agreements, documents or instruments necessary or useful to carry out the intent and spirit of this Agreement.

7.2 Approvals. Whenever in this Agreement the consent, approval, or agreement of Arden or Manager is required, it is agreed that it will not be unreasonably withheld unless such consent is identified as being in Arden's sole discretion.

7.3 Confidentiality. The terms and provisions of this Agreement are confidential and shall be maintained in strictest confidence and shall not be disclosed by Arden or Manager to any person, firm, or corporation, other than each Party's employees, partners, directors, officers, attorneys, insurance advisors, investors and accountants or potential acquisition parties (who shall in all cases be subject to and comply with the foregoing confidentiality agreement); provided, however, that either Party may disclose any provision hereof without the consent of the other Party if required by subpoena, court order or applicable law but only after giving the other Party prior written notice of the intended disclosure and a period of ten (10) days (provided a shorter time period is not legally required) to determine whether such disclosure should be contested. Notwithstanding the foregoing, both Parties agree that they may represent to the public that the Agency is being managed by Manager, and Arden agrees that Manager will be identified, in an appropriate way, in the Agency relations and occupancy development program materials as Manager of the Agency. Nothing herein shall restrict either Party from disclosing information that is requested by, or deemed necessary to be disclosed to, regulators at a governmental entity (including the U.S. Securities and Exchange Commission).

7.4 Assignment. Neither party has the right to assign this Agreement without the prior written consent of the other party. This Agreement is intended solely for the benefit of the parties hereto and is not intended to, and shall not, create any enforceable third-party beneficiary rights.

7.5 Entire Agreement. This Agreement, including all Exhibits hereto, which are hereby incorporated by reference herein, sets forth the entire agreement between Manager and Arden with respect to the subject matter hereof and thereof. Any change or modification of this Agreement is not legally binding unless it is in writing and signed by each of the Parties.

7.6 Full and Complete Understanding of the Terms and Conditions. The Parties are sophisticated businesses in this particular business arena. The Parties have dealt with each other at arm's-length in good faith negotiation of the terms and conditions of this Agreement. The Parties have had the full opportunity to negotiate the terms and conditions of this Agreement. In so doing, the Parties have either conferred with legal counsel, or have had the opportunity to confer with legal counsel for purposes of understanding the content and consequences of each of the terms and conditions of this Agreement.

7.7 No Construction of the Language Against Either Party. Both Parties have had the full opportunity to negotiate the terms and participate in the drafting of this Agreement. In the event of a dispute over any of the terms or conditions of this Agreement, the Parties hereby agree that they will not advance or allow a claim that the language should be construed against one Party or another as the "drafter" of this Agreement.

7.8 Notices. All notices, requests, offers, reports and other communications required or permitted to be made under this Agreement shall be in writing, and shall be given by first class, registered or certified mail, return receipt requested, by hand delivery, or by electronic mail. All notices shall be addressed as follows:

If to Manager:

Mayfair Management, LLC
135 Mayfair Road
Hattiesburg, MS 39402
Email: patpatterson@payneco.com

If to Arden:

Arden Home Health and Hospice, LLC
135 Mayfair Road
Hattiesburg, MS 39402

Email: apayne@payneco.com

or at such other addresses as either party may designate from time to time in writing by like notice to the other party. Notices shall be deemed duly given at the time delivery is received at the addresses provided for above.

7.9 Severability. In case any one or more of the provisions hereof is determined to be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions will in no way be affected, prejudiced, or disturbed thereby. In the event that any article, paragraph, or provision of this Agreement is deemed to be unenforceable for any reason, then such article, paragraph, or provision shall be rewritten and enforced to give it the effect most closely comporting with the language and intent of the original article, paragraph, or provision that is permitted.

7.10 Governing Law; Venue. This Agreement and its interpretation, validity and performance shall be governed by the laws of the State. Any suits, claims, or cause of action of arising directly or indirectly from this Agreement may be brought in a court of appropriate jurisdiction in Hattiesburg, Mississippi and objections to venue and personal jurisdiction in such forum are hereby expressly waived.

7.11 Captions. The captions contained in this Agreement are solely for the purpose of easy location of subject matters and shall not be construed to affect or limit the terms of this Agreement.

7.12 Legal Sanctions Imposed by Federal and State Health Care Programs. Arden, on the one hand, and Manager, on the other hand, each represent that neither of them, nor any of their officers, directors, employees or agents, have ever been subjected to legal sanctions imposed by any Governmental Authority. Arden, on the one hand, and Manager, on the other hand, also each represent that neither of them, nor any of their officers, directors, employees, or agents have been the subject of health care related criminal fines or restitution orders and that there are no health care related civil or criminal judgments pending against them, nor are there any judgments pending against them under the False Claims Act. If any of these instances should occur, the affected Party will notify the other Party immediately. The Parties hereto agree that none of the terms of this Agreement are based in whole or in part upon the procurement of referrals to or from any other Party or Affiliated party.

7.13 Relationship of Parties; Independent Contractors. Arden and Manager shall not by virtue of this Agreement be deemed partners or joint ventures in the operation of the Agency. It is expressly understood that Manager is retained by Arden to manage the Agency on behalf of Arden and Manager is the agent and representative of Arden only for the purpose of carrying out its obligations under this Agreement. Nothing in this Agreement shall be construed to create a partnership, joint venture, or employer-employee relationship between Arden and Manager. Manager and Arden are at all times independent contractors under this Agreement. Manager shall not be jointly liable with Arden for Arden's debts or obligations with respect to the Agency or any financing arrangements entered into by Arden with respect to the Agency.

7.14 No Third-Party Beneficiaries. This Agreement is entered into for the benefit of Manager and Arden. No other parties are intended to be third-party beneficiaries of this Agreement.

7.15 No Waiver. The failure of either Party to insist upon strict performance of any term of this Agreement or to exercise any option, right or remedy herein shall not be deemed a waiver of such term, provision, option, right, or remedy. No waiver by either Party of any term hereof shall be valid unless contained in a writing signed by the waiving Party.

7.16 Attorneys' Fees. If either Party is required to take legal action, whether or not litigation is commenced, to enforce or interpret the terms of this Agreement, the prevailing Party in the litigation shall be entitled to recover reasonable attorneys' fees and costs from the other Party (including expert witness fees and expenses), in addition to any other relief granted to the prevailing Party.

7.17 OFAC. Manager is not: (a) currently listed on the Specially Designated Nationals List ("SDN List") or any similar list maintained by the Office of Foreign Assets Control ("OFAC") at the United States Department of the Treasury; (b) owned or controlled, directly or indirectly, by a Person who is listed on the SDN List or any similar list maintained by OFAC; (c) a Person with whom a citizen of the United States is prohibited from engaging in transactions by any trade embargo, economic sanction, or other prohibition of U.S. law, regulation, or executive order; or (d) incorporated in any country subject to U.S. country-based economic sanctions whereby conducting transactions with that Person would be in violation of any applicable law, rule, or regulation. Manager has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times.

7.18 Anti-Corruption. Manager shall comply, and (to the extent of its authority hereunder, Manager shall cause the Arden to comply), with all requirements of law relating to money laundering, anti-terrorism, bribery, corrupt practices, trade embargos and economic sanctions, now or hereafter in effect (including the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act of 2010) and shall immediately notify Arden in writing if it becomes aware that any of the foregoing representations, warranties, or covenants are no longer true or have been breached or if Manager has a reasonable basis to believe that they may no longer be true or have been breached.

7.19 Non-Discrimination. Manager shall comply with all federal, state and local laws prohibiting illegal discrimination in housing on the basis of race, color, sex, creed, disability or national origin, including, without limitation, Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat.241); regulations issued pursuant to that Title (24 CFR, Subtitle A, Part 1); regulations issued pursuant to Executive Order 11063; Title VIII of the 1968 Civil Rights Act; the Americans with Disabilities Act of 1990 (42 USC Section 12181 et. seq.); the Fair Housing Amendments Act of 1988 (42 USC Section 3604(f) et. seq.); Section 504 of the Rehabilitation Act of 1973 (29 USC Section 794).

7.20 Time of Essence. Time is of the essence in each and all of the agreements, covenants, and conditions hereof.

7.21 Counterparts. Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Arden or Manager may execute this Agreement by an executed signature page transmitted by electronic mail, and such signature shall be fully binding as if an original.

ARTICLE VIII

CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION

8.1 Business Associate Addendum. Manager, as a Business Associate of Arden, shall comply with the terms and conditions of the Business Associate Addendum attached hereto as Exhibit D and made a part hereof.

8.2 Comprehensive Information Privacy and Security Program. Manager shall oversee the implementation of a comprehensive Information Privacy and Security Program that Arden shall adopt for compliance purposes with the HIPAA and other applicable federal and state laws governing the protection of personally identifiable information, including Protected Health Information as that term is defined by

HIPAA (sometimes referred to as “*PHI*”). As required by HIPAA, Arden shall appoint a Chief Privacy Officer and a Chief Security Officer who will have responsibility for implementing Arden’s HIPAA privacy and security policies and procedures. Specifically, through the Chief Privacy Officer and the Chief Security Officer, Manager, on behalf of Arden, shall ensure that all requirements of HIPAA and other applicable federal and state laws governing the confidentiality, integrity, and availability of information regarding the individuals served by Arden are fulfilled. For example, and without limitation, (a) the Chief Privacy Officer shall ensure that (i) all members of the workforce are trained on the responsibilities delegated to Manager hereunder and (ii) any state law requirements are understood and enforced, and (b) the Chief Security Officer shall (i) maintain documentation of the required HIPAA Security Risk Analysis, (ii) ensure that all members of the work force are trained regarding information security requirements, and (iii) ensure that the information security systems shall be in compliance with the HIPAA Security Rule and related state law requirements and permit appropriate monitoring and auditing.

8.3 Breach Incident Documentation and Notification. Manager shall maintain a breach incident response policy and procedure. If a breach of personal information or PHI occurs or Manager reasonably believes a breach may have occurred that impacts personal information or PHI, Manager shall immediately report such breach in conformance with Exhibit D. Manager shall further ensure that any and all data incidents are investigated, tracked, and reported as required by federal and state law, including, without limitation, maintaining a log of all actual and potential data breach incidents as required under HIPAA.

8.4 Performance of Delegated Services. Manager shall be responsible for performing services to continue to ensure compliance with HIPAA and other applicable federal and state laws. Without limitation, Manager shall (a) ensure that all business associates of Arden receive and execute a Business Associate Agreement that complies with the latest HIPAA requirements and, whenever practicable, by utilizing a Arden provided standard form agreement, (b) ensure that all subcontractor business associates of Manager receive and execute a Subcontractor Business Associate Agreement that complies with the latest HIPAA requirements and, whenever practicable, by utilizing a Arden provided standard form agreement; (c) maintain a log of all Business Associate Agreements entered into by Manager as Arden’s agent and all Subcontractor Business Associate Agreements entered into by Manager, (d) ensure that all individuals served and their authorized personal representatives receive a Notice of Privacy Practices, and (e) ensure that all asserted HIPAA individual rights are administratively handled through completion of the required response. Manager shall inform Arden of responses to all subpoena or court record requests and public health or other regulatory inquiries.

8.5 Prohibited Activities. Manager is prohibited from undertaking any marketing or fundraising activities that include use or disclosure of personal information or PHI of individuals who receive services from Arden unless expressly authorized in writing by Arden.

[signatures appear on following pages]

MANAGER:

By: Pat Patterson
Pat Patterson, COO

By: The Payne Companies, LLC
By: Wilford A. Payne III

Wilford A. Payne, III, President

EXHIBIT A

ADDITIONAL SERVICES

- Compliance and Legal: State and Federal Regulations
 - Audit, Investigations and Appeals
 - Revenue Integrity
 - Patient Rights
 - Survey and Accreditation
 - Code of Conduct
 - HIPAA, Privacy and Security
 - Demands, Claims, Summons, Subpoenas, Government Notices and Inquiries
- Fiscal Services
 - Accounts Receivable
 - Accounts Payable
 - Billing
 - Claims submission
 - Claims outstanding- Aging AR
 - Invoices
 - Physician
 - Room and Board
 - Vendor
 - Cost Reporting
 - CAP Risk and Strategy
- Personnel and Human Resources
 - Payroll
 - Orientation and Annual Requirements
 - Benefits
- Clinical Services Oversight
 - Patient Care- Community and Inpatient
 - Pharmacy
 - Durable Medical Equipment
 - Medical Supplies
 - All disciplines, contracted employees and those under arrangements
 - Clinical Contracts and Vendors
- Operations
 - Provision of Services
 - Parent and Branch oversight
 - EMR and integrated systems
 - Business Continuity and Emergency Preparedness
 - Infection Prevention
 - Quality Assessment Performance Improvement
 - Patient Safety
 - Quality Scores/National Benchmarks
 - De Novo
 - Merger and Acquisition Diligence
 - Business Development and Growth Strategy

- Fleet management
 - Annual Agency Review, Budget and Key Performance Indicators
 - Forms, Policy and Procedures. Standard Operating Procedures
 - Annual Performance Improvement Plan
 - Information Security
- Volunteer and Bereavement Services Oversight

EXHIBIT B

AGENCIES

Arden of Central Mississippi, LLC

Arden of South Mississippi, LLC

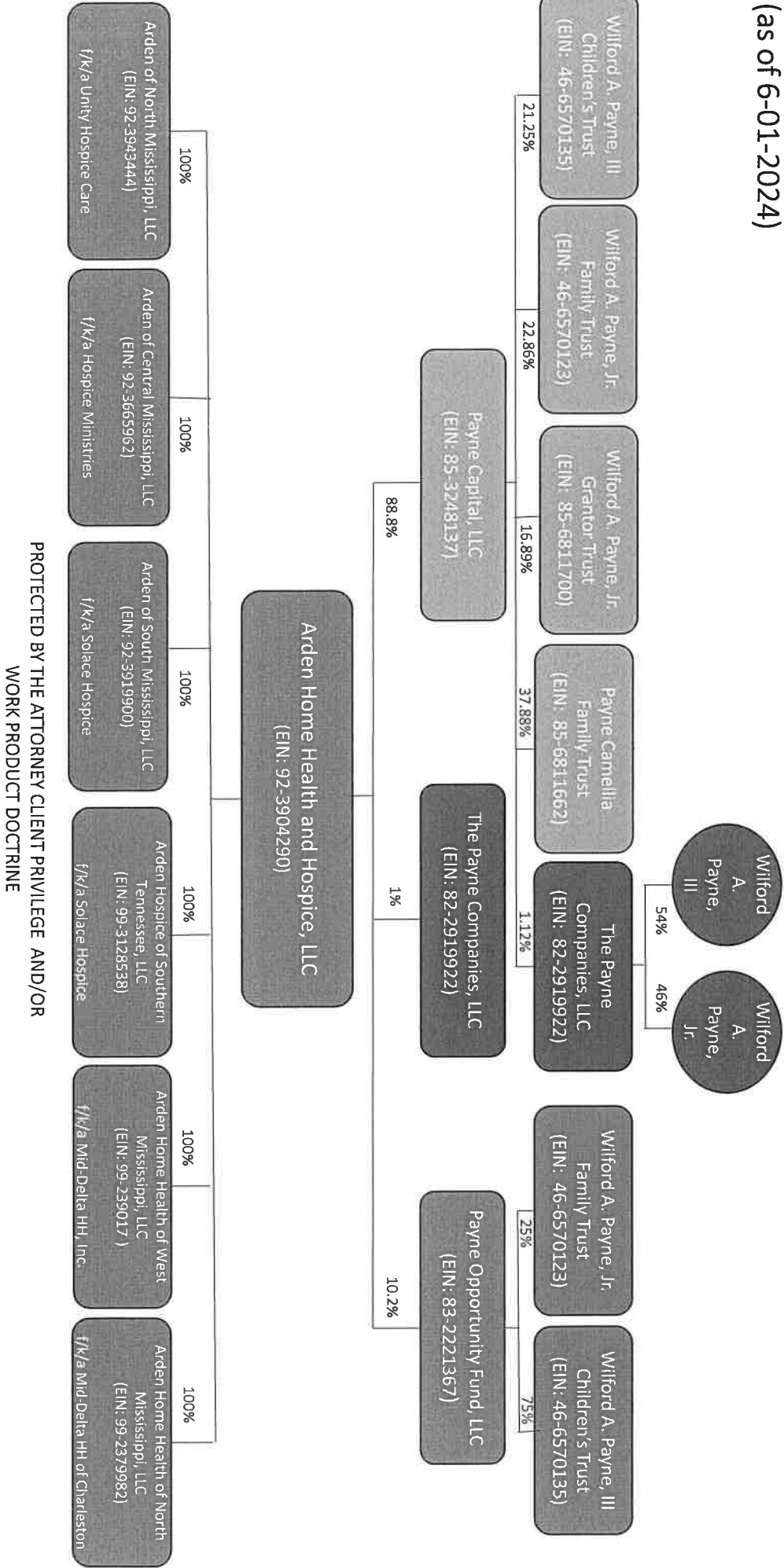
Arden of North Mississippi, LLC

Arden Home Health of West Mississippi, LLC

Arden Home Health of North Mississippi, LLC

Arden Home Health and Hospice, LLC

(as of 6-01-2024)



F0100
Fee: \$ 50



Michael Watson
SECRETARY OF STATE

2024335050

Business ID: 1443149
Filed: 05/21/2024 10:02 AM
Michael Watson
Secretary of State

P.O. BOX 136
JACKSON, MS 39205-0136
TELEPHONE: (601) 359-1633

Mississippi Limited Liability Company Certificate of Formation

Business Information

Business Type: Limited Liability Company
Business Name: Arden Hospice of Southern Tennessee, LLC
Business Email: apayne@payneco.com

NAICS Code/Nature of Business

621610 - Home Health Care Services

Registered Agent

Name: Wilford A Payne III
Address: 135 Mayfair Road
Hattiesburg, MS 39402

Signature

The undersigned certifies that:

- 1) he/she has notified the above-named registered agent of this appointment;
- 2) he/she has provided the agent an address for the company, and;
- 3) the agent has agreed to serve as registered agent for this company

By entering my name in the space provided, I certify that I am authorized to file this document on behalf of this entity, have examined the document and, to the best of my knowledge and belief, it is true, correct and complete as of this day **05/21/2024**.

Name:
James A Norris III
Organizer

Address:
100 Vision Drive, Suite 400
JACKSON, MS 39211

State of Mississippi

Certificate of Formation

Acting under the authority vested in me as Secretary of State by the Constitution and Laws of this State,
I do hereby certify the following has satisfied all conditions precedent for formation in this State.

Arden Hospice of Southern Tennessee, LLC



Given this the 21st day of May, Two Thousand and
Twenty-Four, in the Capital City of Jackson, Mississippi
under my Hand and Seal,

Michael Watson

EXHIBIT C

MANAGER COMPENSATION

In consideration of the Services to be provided by Manager under this Agreement, Arden shall pay to Manager the following fees and payments (collectively, the "**Manager Compensation**"), in accordance with this Exhibit and all applicable provisions of this Agreement.

Management Fee:

The Manager shall allocate the costs of its Services rendered under the Management Agreement proportionately among the Agencies. Each Agency shall pay a monthly management fee equal to the cost allocated to such Agency by the Manager (the "**Management Fee**"). The Management Fee shall be payable, in arrears, for each Accounting Period.

EXHIBIT D

BUSINESS ASSOCIATE ADDENDUM

THIS HIPAA BUSINESS ASSOCIATE ADDENDUM (the “*Addendum*”) is made effective as of the Effective Date of the Agreement to which it is attached as an exhibit by and between (i) Arden and the Agencies (collectively referred to as the “*Covered Entity*” for purposes of this Addendum), and (ii) Mayfair Management, LLC (for purposes of this Addendum, the “*Business Associate*” and, collectively with Covered Entity, the “*Parties*” or generically each of Business Associate and Covered Entity may be referred to as a “*Party*”).

RECITALS

- A. The purpose of this Addendum is to comply with the applicable business associate requirements of the Health Insurance Portability and Accountability Act of 1996 (“*HIPAA*”) and the associated regulations (45 C.F.R. Parts 160, 162 and 164, as currently drafted and subsequently updated or amended, including but not limited to the “Standard Transactions Rule”, “Privacy Rule”, “Security Rule”, and “Breach Notification Rule”) and the amendments in Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “*HITECH Act*”), as Title XIII of Division A and Title IV of Division B of the American Reinvestment and Recovery Act of 2009 and subsequent regulations (collectively the “*Rules*” or “*HIPAA Rules*”). This Addendum is further intended to ensure compliance with any state laws regarding the protection of personal information and the notification to individuals if their personal information is compromised.
- B. Business Associate is providing certain management services to Covered Entity (“*Services*”) under the terms and conditions of the Management Agreement to which this is attached as an Exhibit.
- C. Covered Entity has engaged Business Associate to perform Services on behalf of Covered Entity, which Services require Business Associate to create, receive, maintain and transmit Protected Health Information (“*PHI*”) about the individuals served by Covered Entity to and for Covered Entity.
- D. Ensuring the confidentiality, availability, and integrity of PHI is important to Covered Entity, and Business Associate desires to comply with the Rules.
- E. This Agreement supersedes all prior Business Associate Agreements between the parties.

Based on the foregoing, the Parties hereby agree as follows:

ARTICLE I

GENERAL OBLIGATIONS AND DEFINITIONS.

1.1 **HIPAA Rules.** Business Associate shall comply with all obligations imposed on “business associates” under the Rules regarding the uses and disclosures of PHI that are necessary to allow Business Associate to perform its Services. Further, as required 45 C.F.R. §164.504(e)(2)(ii)(H), Business Associate acknowledges and agrees that when Business Associate is carrying out the Covered Entity’s obligations under the HIPAA Privacy Rule that Business Associate shall fully comply with the requirements of the HIPAA Privacy Rule that apply to Covered Entity in the performance of such obligation.

1.2 **HITECH Compliance.** Notwithstanding additional provisions specifically required by this Addendum, as of the Effective Date and in the manner required of business associates by law, Business

Associate agrees to comply with all the privacy and security requirements of the HITECH Act, codified at 42 U.S.C. §§ 17921-17954, that apply to business associates, and Business Associate also agrees to comply with all regulations issued to implement such statutory requirements.

1.3 **Standard Transaction Compliance.** Business Associate will conduct any and all transactions in compliance with the Standard Transaction Rule. Business Associate will not enter into, or permit its Subcontractors to enter into, any agreement in connection with the conduct of Standard Transactions for, on behalf of, or with Covered Entity that: (1) changes the definition, Data Condition, or use of a Data Element or Segment in a Standard Transaction; (2) adds any Data Element or Segment to the Maximum Defined Data Set; (3) uses any code or Data Element that either is not in the Standard Transaction's implementation specifications or is marked "not used" by the Standard Transaction's implementation specifications; or (4) changes the meaning or intent of the Standard Transaction's implementation specifications.

1.4 **Definitions.** Capitalized terms not otherwise defined in this Addendum shall have the same meaning as those terms are defined in the Rules.

ARTICLE II SCOPE OF PERMITTED USES AND DISCLOSURES.

2.1 **General Uses and Disclosures.** Except as otherwise provided in this Addendum, Business Associate may use or disclose PHI as reasonably necessary to provide the Services, or as otherwise permitted or required of Business Associate by this Addendum or as Required by Law. Business Associate and Covered Entity may disclose PHI to, and permit the use of PHI by, its employees, subcontractors, agents, or other representatives, if necessary, for, and only to the extent directly related to, the performance of the Services. The disclosure of PHI to and the use of PHI by, Subcontractors, and other representatives are also subject to Article 5 below.

2.2 **Data Aggregation.** Business Associate may perform Data Aggregation services on behalf of Covered Entity only to the extent that Data Aggregation is necessary to perform the Services. However, under no circumstances shall Business Associate disclose PHI obtained from Covered Entity to another provider absent the explicit written permission of Covered Entity.

2.3 **De-Identification of Data.** Business Associate may de-identify any and all PHI obtained by Business Associate only to the extent de-identification of PHI is necessary to perform the Services. Any and all De-identification by Business Associate shall conform to the requirements set forth in the HIPAA Privacy Rule and associated guidance governing De-identification of PHI.

2.4 **Minimum Necessary Standards.** Business Associate shall implement policies and procedures to abide by the Minimum Necessary standard in performance of the Services.

ARTICLE III NO SALE OF PHI; MARKETING.

3.1 **No Sale of PHI.** Business Associate shall not receive remuneration, directly or indirectly, in exchange for PHI; provided however, that this prohibition shall not affect payment to Business Associate by Covered Entity pursuant to the Services.

3.2 **Marketing.** Business Associate may not use or disclose PHI for any Marketing purpose unless (a) specifically authorized, in writing, to engage in such activity on behalf of Covered Entity, and (b) only after such time as a proper authorization can be obtained.

ARTICLE IV
REPORTING AND MITIGATING THE EFFECT OF UNAUTHORIZED USES AND DISCLOSURES.

4.1 **Reporting.** Business Associate shall report in writing as soon as practicable, and under no circumstances later than forty-eight (48) hours after obtaining knowledge thereof, of any use or disclosure of PHI that violates this Addendum. Such report shall be delivered in accordance with the notice requirements in Section 14.4.

4.2 **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its Subcontractors in violation of the requirements of this Addendum.

ARTICLE V
USES BY AND DISCLOSURE TO SUBCONTRACTORS AND REPRESENTATIVES.

5.1 Prior to disclosing any PHI to any Subcontractor or other representative that is authorized to receive, use, or have access to PHI regarding the Services, Business Associate shall require such person to agree, in writing, to adhere to the same restrictions and conditions on the use and disclosure of PHI that apply to Business Associate under this Addendum. Nothing in this Article 5 shall be used to create an agency relationship between the parties, as such agency relationship shall be determined in accordance with the federal common law of agency.

ARTICLE VI
INDIVIDUAL RIGHTS.

Business Associate agrees that as a part of the Services, Business Associate is responsible for directly handling any and all individual rights requests and will maintain all records on behalf of Covered Entity as required by HIPAA.

6.1 **Access to PHI by Individuals.**

(a) Upon request, Business Associate agrees to furnish individuals or their personal representatives with PHI maintained in a Designated Record Set in the time and manner designated by the HIPAA Rules.

(b) Business Associate shall maintain records of all such access requests and shall inform Covered Entity of all such requests within five (5) business days.

(c) To the extent Business Associate maintains PHI subject to a request for access is maintained in one of more Designated Record Sets electronically, and the individual's requests an electronic copy of such information, the Business Associate shall provide the individual with access to the PHI in electronic form and format in conformance with 45 C.F.R. § 164.522(c)(2)(ii).

6.2 **Amendment of PHI.**

(a) Business Associate shall incorporate any amendments to PHI in a Designated Record Set that is maintained by, or otherwise within the possession of, Business Associate in accordance with procedures established by 45 C.F.R. §164.526. Any request to amend such information shall be evaluated and completed by Business Associate within the time requirements

designated by the HIPAA Rules. Business Associate shall amend the Designated Record Set of an individual in compliance with best practice and its documented policies and procedures.

(b) Business Associate shall maintain records of all such access requests and shall inform Covered Entity of all such requests within five (5) business days.

6.3 Accounting of Disclosures.

(a) Business Associate shall maintain all applicable information necessary to comply with the requirements of 45 C.F.R. § 164.528 regarding an individual's right to an accounting of disclosures of PHI. Business Associate hereby agrees to implement an appropriate recordkeeping system to enable it to comply with the requirements of this Section.

(b) Business Associate shall respond to any requests for an accounting of disclosures in accordance with procedures established by 45 C.F.R. §164.528. Any request to account for disclosures shall be evaluated and completed by Business Associate within the time requirements designated by the HIPAA Rules. Business Associate shall provide such an accounting to an individual or their personal representative in compliance with best practice and its documented policies and procedures.

(c) In the event an individual or personal representative delivers a request directly to Business Associate, Business Associate shall within five (5) days inform Covered Entity of such request.

6.4 Timing of Response. Within the time prescribed by HIPAA Business Associate shall review and respond to any requests for restrictions provided in 45 C.F.R. § 164.522. Further, within five (5) business days of receiving a written request from an individual or a personal representative, Business Associate shall inform Covered Entity of such request and response.

**ARTICLE VII
AUDIT, INSPECTION AND ENFORCEMENT.**

7.1 Covered Entity Inspection. Upon reasonable notice, Covered Entity may inspect the internal practices, facilities, systems, books, records, and policies and procedures of Business Associate as they relate only to the Services to monitor compliance with this Addendum. Business Associate shall promptly remedy any material violation of this Addendum found by Covered Entity.

7.2 Regulatory Authority Inspection. Business Associate further agrees to make its internal practices, books, records, and policies and procedures relating to use and disclosure of PHI in performing the Services hereunder available to the United States Department of Health and Human Services ("**HHS**"), Office of Civil Rights ("**OCR**"), or its agents for the purposes of enforcing the provisions of this Addendum and the Rules.

**ARTICLE VIII
SECURITY OF ELECTRONIC PROTECTED HEALTH INFORMATION.**

8.1 Security Rule Requirements. Business Associate will establish and maintain appropriate administrative, physical, and technical safeguards to reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information ("**EPHI**"). EPHI shall have the same meaning as in 45 C.F.R. § 160.103. Business Associate will follow generally accepted system security principles and the requirements of the Security Rule.

8.2 **Subcontractor Security Requirements.** Business Associate will ensure that any Subcontractors to whom it provides EPHI agrees to implement reasonable and appropriate safeguards to protect that information in compliance with the Rules and this Addendum.

8.3 **Security Incident Reporting.** Business Associate will report in writing to Covered Entity any Security Incident of which it becomes aware involving the rendering of Services within forty-eight (48) hours. For purposes of this Addendum, a "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of EPHI or interference with systems operations. This does not include trivial attempts that occur on a daily basis, such as scans, "pings" or unsuccessful attempts to penetrate computer networks or servers maintained by Business Associate.

ARTICLE IX TERM AND TERMINATION.

9.1 **Term.** The term of this Addendum shall become effective as of the Effective Date of the Agreement to which it is attached and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions of this **Section 9.** The provisions of this Addendum shall survive termination of the Agreement to which it is attached as an Addendum to the extent necessary for compliance with the Rules.

9.2 **Termination by the Covered Entity.** Covered Entity may immediately terminate this Addendum and any other related agreements if Covered Entity, in its sole discretion, makes the determination that Business Associate has breached a material term of this Addendum. Covered Entity may, in its sole discretion, permit Business Associate to cure such breach. If Covered Entity elects to provide Business Associate with an opportunity to cure, Covered Entity shall provide specific written notice of the alleged breach and a timeline in which Business Associate must cure the breach.

9.3 **Effect of Termination.**

(a) Except as provided in paragraph (b) of this **Section 9.3.** upon termination of the Addendum for any reason, Business Associate shall return or destroy all PHI received from Covered Entity (or created or received by Business Associate on behalf of Covered Entity) that Business Associate still maintains in any form, and shall retain no copies of such PHI. This provision shall also apply to PHI that is in the possession of Subcontractors or agents of Business Associate.

(b) If Business Associate reasonably determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible, and shall extend the protections of this Addendum to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Furthermore, Business Associate will be required to perform any tasks required under this Addendum, including, but not limited to provision of individual rights as outlined herein. The obligations of Business Associate under this **Section 9.3** shall survive the termination of this Addendum.

9.4 **Recovery of PHI.** Upon termination of the Addendum, Business Associate shall recover any PHI in the possession of its Subcontractors or representatives. Business Associate shall return or destroy all such PHI and shall retain copies only as required by law and as needed to document the Services rendered. Business Associate shall ensure that all protections, limitations, and restrictions contained in this

Addendum will be extended to any PHI retained after the termination of the Addendum and that any further uses and disclosures shall be limited to those allowed under law and this Addendum.

ARTICLE X INDEMNIFICATION.

10.1 In addition to the indemnification as provided in the Management Agreement, and for the avoidance of doubt, Business Associate hereby agrees to indemnify, defend, and hold harmless Covered Entity, its officers, employees, and agents from and against any and all claims, losses, damages, costs, expenses, liabilities, assessments, judgments, or deficiencies of any nature whatsoever, including, without limitation, reasonable attorneys' fees and other costs and expenses, suit, action, or proceeding, which may arise out of, result from, or constitute any Breach of any Unsecured PHI as defined by the HIPAA Rules, breach of personal information under a state data breach law, a breach of a material term of this Addendum, or breach of representation, warranty, or covenant contained in this Addendum. Business Associate further agrees to indemnify and hold harmless Covered Entity from any liability for claims for damages or injury against Covered Entity that are caused by or result from negligent acts or omissions by Business Associate in the performance of its HIPAA duties and obligations, together with all costs and expenses, including reasonable attorneys' fees.

ARTICLE XI BREACH NOTIFICATION.

11.1 **Data Breach Report.** Business Associate shall report to Covered Entity in writing of any Breach of Unsecured PHI by Business Associate, its employees, Subcontractors, or representatives within forty-eight (48) hours from the time such Breach is discovered. As used in this **Section 11**: "Breach" and "Unsecured PHI" are defined as such terms are defined in 45 C.F.R. Section 164.402. The term "Breach" shall further include any breach of personal information as defined by any state data breach law. Such report shall include, to the extent possible information as required by 45 C.F.R. 164.404(c) and the relevant state data breach law.

11.2 **Breach Notification.** Business Associate acknowledges and agrees that it is responsible for the notification in certain instances of a Breach of Unsecured PHI or other personal information as defined by any state data breach law.

(a) **Obligation to Exercise Reasonable Diligence.** Business Associate shall exercise reasonable diligence to detect any Breach of Unsecured PHI, and provide training and procedures through which its employees, agents and representatives are encouraged to detect and report to Business Associate any Breach of Unsecured PHI. Furthermore, as required by **Section 5** of this Addendum, Business Associate shall ensure that its Subcontractors shall exercise reasonable due diligence to monitor and detect any Breach of Unsecured PHI. Nothing in this **Section 11** shall be used to create an agency relationship between the parties, as such agency relationship shall be determined in accordance with the federal common law of agency.

(b) **Content of Notification.** Business Associate shall provide Covered Entity the identification of each individual whose Unsecured PHI has been or is reasonably believed to have been accessed, acquired, used, or disclosed, and any other available information Covered Entity requires or reasonably requests in connection with the Breach.

(c) **Additional Notification Requirements.** To the extent that Covered Entity determines that the Breach of Unsecured PHI or personal information is one which triggers the notification requirements established at 45 C.F.R. sections 164.404, 164.406 and 164.408, and/or

any requirements as determined by any state data breach law, Business Associate shall fully cooperate with Covered Entity and bear all costs associated with providing any required notification to affected individuals, the Secretary of the Department of Health and Human Services, and the media.

ARTICLE XII

PHI TO BE RENDERED UNUSABLE, UNREADABLE OR INDECIPHERABLE TO UNAUTHORIZED INDIVIDUALS.

12.1 **Encryption and Destruction.** Except as otherwise provided herein, Business Associate shall render PHI unusable, unreadable, or indecipherable to unauthorized individuals, such that PHI will not be considered "unsecured" pursuant to guidance issued by the Secretary of the Department of Health and Human Services, in the following manner:

(a) Electronic PHI shall be encrypted by the use of an algorithmic process to transform data into a form in which there is a low probability of assigning meaning without use of a confidential process or key and such algorithmic process meets the following requirements:

i. Valid encryption processes for data at rest are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-111, *Guide to Storage Encryption Technologies for End User Devices*.

ii. Valid encryption processes for data in motion are those that comply with the requirements of Federal Information Processing Standards (FIPS) 140-2, *Security Requirements for Cryptographic Modules*. These include, as appropriate, standards described in NIST Special Publication 800-52, *Guidelines for the Selection and Use of Transport Layer Security (TLS) Implementations*; 800-77, *Guide to IPsec VPNs*; or 800-113, *Guide to SSL VPNs*, and may include others which are FIPS 140-2 validated.

(b) The media on which the PHI is stored or recorded shall be destroyed in one of the following ways:

i. Paper, film, or other hard copy media shall be shredded or destroyed such that the PHI cannot be read or otherwise cannot be reconstructed.

ii. Electronic media shall be cleared, purged or destroyed consistent with NIST Special Publication 800-88, *Guidelines for Media Sanitization*, such that the PHI cannot be retrieved.

(c) If any of the above referenced guidance is modified by NIST or the Department of Health and Human Services, Business Associate agrees to abide by and follow such methodologies.

ARTICLE XIII

INSURANCE.

13.1 Business Associate agrees to carry cyber-liability insurance to cover expenses (including but not limited to Breach notification expenses, fraud alert expenses, mitigation of damages expenses, consultant fees, investigation/litigation costs, legal costs, etc.) associated with a Breach.

ARTICLE XIV MISCELLANEOUS.

14.1 **Survival.** In addition to the survival specifications required by Section 9.3, the respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 7, 10, 13, and 14 shall survive termination of the Agreement to which this is attached as an Addendum indefinitely.

14.2 **Amendments: Waiver.** This Addendum may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties. The Parties agree to modify this Addendum from time to time as necessary for Covered Entity to comply with the Rules. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

14.3 **No Third Party Beneficiaries.** Nothing express or implied herein is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors and permitted assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

14.4 **Notices.** Any notice to be given under this Addendum to a Party shall be made via U.S. Mail, commercial courier, or hand delivery to such Party as designated by the Management Agreement.

14.5 **Confidentiality.** Business Associate acknowledges - by virtue of performing the Services on behalf of Covered Entity - that Business Associate may acquire, access, or otherwise obtain confidential or proprietary information of Covered Entity, including PHI ("***Confidential Information***"). Business Associate agrees that the Confidential Information is to be considered confidential and proprietary to Covered Entity and Business Associate shall hold the same in confidence and shall not use or disclose the Confidential Information other than for the purpose of performing Services on behalf of Covered Entity. For purposes of this Addendum, Confidential Information shall include any information that is treated as confidential by Covered Entity, including, without limitation, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to Covered Entity's pricing and marketing. Confidential Information also includes de-identified or aggregated information generated from Covered Entity's PHI during the performance of Services by Business Associate.

14.6 **Inconsistencies.** If any terms of this Addendum conflict with or are inconsistent with the terms of any current or prior agreement, the terms of this Addendum shall prevail. In the event of inconsistency between the provisions of this Addendum and provisions of the HIPAA Rules, as amended, the HIPAA Rules shall control. Where provisions of this Addendum are different than those mandated in the HIPAA Rules, but are nonetheless permitted by the HIPAA Rules, the provisions of this Addendum shall control.



State of Tennessee

Health Facilities Commission

665 Mainstream Drive, 2nd Floor, Nashville, TN 37243

www.tn.gov/hfc

Phone: 615-741-7221

August 15, 2024

Sent Via Email

Christy Woods (patpatterson@ardencares.com)

Arden Hospice of Southern Tennessee, LLC

133 Mayfair Road

Hattiesburg, Mississippi 39402

Facility Type: Hospice

License Number: 617

Dear Administrator:

It is my pleasure to inform you that your application for change of ownership of Arden Hospice of Southern Tennessee, LLC located at 202 East School Street Linden Tennessee 37096 has been initially approved. The license number shall be 617. For this initial approval to become final and permanent, your application must be ratified by the Commission pursuant to T.C.A. §68-11-206. The Commission will consider your application at its next meeting, scheduled for August 28, 2024. **You are hereby authorized to commence operation pending the final decision of the Commission.** No further action is necessary on your part at this time.

If the Commission **does** ratify the approval of your application, the license number listed above will become your permanent license number and a letter will be forwarded to you within three (3) business days; notifying you of the Board's final decision.

If the Commission **does not** ratify the initial approval of your application, a letter will be forwarded to you providing an explanation and specific instructions as to any action(s) you may take to have the decision reviewed, at which time this authorization shall cease to be effective.

Please contact me if I can be of further assistance.

Sincerely,

Angela Tyler
Health Care Facilities
Licensure Unit
CHNGOWNAPR

cc: West Tennessee Regional Administrator