

## MATERIAL CHANGE NOTICE SUBMISSION DETAILS

MCN Number	2025-05-05-1379
OHCA Review Start Date	12/22/2025
Anticipated date (unless tolled per regulation) by which OHCA could waive cost and market impact review	2/5/2026
Anticipated date (unless tolled per regulation) by which OHCA could determine cost and market impact review required	2/20/2026

### SUBMITTER

#### HEALTH CARE ENTITY CONTACT FOR PUBLIC INQUIRY

Title	Director of QRM
First Name	Mersedes
Last Name	Martinez
Email Address	mersedes.martinez@ecrmc.org
Street Address	1415 ROSS AVE.
City	EL CENTRO
State	CALIFORNIA
Postal Code	92243

#### GENERAL

Business Name	El Centro Regional Medical Center
Website	www.ecrmc.org
Ownership Type	Other Ownership
Other Ownership	Municipal city hospital
Tax Status	For-profit
Federal Tax ID	95-1915820
Description of Submitting Organization	161 bed city municipal hospital, it is a government agency of the city of El Centro, California, a municipal cooperation. The city appoints the form Board of Trustees. The Board of Trustees governs ECRMC.
Health Care Provider	Yes
For Providers: Desc. of Capacity or Patients served in California	161 licensed bed, city municipal hospital, government agency of the city of El Centro. Serving the population of Imperial county, California

#### LOCATIONS

Counties	Imperial
California licenses and numbers	CMS: 050045, NPI: 1861409823, 1144300476, 1598840258, TAX ID 951915820,
Other States Served	None
Other state(s) licenses and numbers	None

Primary Languages used when providing services	English; Spanish
Other language if not listed above	

## MATERIAL CHANGE

### ADDITIONAL ENTITIES

Business Name	Description of the Organization	Ownership Type	Additional MCN Submission
Imperial Care LLC		Limited Liability Company	Yes
Bayshire Senior Communities		Limited Liability Company	No
Waypoint Management Consulting		Limited Liability Company	No
CTR Partnership		Partnership	No
Northshore Healthcare Holding LLC		Limited Liability Company	No

### CRITERIA

A health care entity with annual revenue, as defined in <i>section 97435(d)</i> , of at least \$25 million or that owns or controls California assets of at least \$25 million, or;	Yes
A health care entity with annual revenue, as defined in <i>section 97435(d)</i> , of at least \$10 million or that owns or controls California assets of at least \$10 million and is a party to a transaction with any health care entity satisfying subsection (b)(1), or	Yes
A health care entity located in a designated primary care health professional shortage area in California, as defined in Part 5 of Subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations (commencing with section 5.1), available at <a href="http://data.hrsa.gov">data.hrsa.gov</a> .	Yes
To determine if you are located in a primary health care professional shortage area, please visit <a href="#">here</a>	

### CIRCUMSTANCES FOR FILING

The transaction is more likely than not to increase annual California-derived revenue of any health care entity that is a party to the transaction by either \$10 million or more or 20% or more of annual California-derived revenue at normal or stabilized levels of utilization or operation.	Yes
---	-----

### TRANSACTION DETAILS

Anticipated Date of Transaction Closure	8/1/2025
Description of the Transaction	see attached schedule 6, confirm applicable to ECRMC
Submitted to US Department of Justice or Federal Trade Commission?	No
Submitted to Other Agency?	Yes
Date of Submission	10/3/2024
To Whom Submitted	Yvonne Angel
Description of Submission (Include Agency name(s) and State(s))	Change of Bed
Subject to court proceeding	No
Description of current services provided and expected post-transaction impacts on health care services	<p>(A) Imperial County, no expected change post-transaction.</p> <p>(B) El Centro Regional Medical Center (ECRMC) is an acute care facility. Serving the healthcare needs of the Imperial Valley, 161-bed hospital, along with various outpatient centers, specialized departments, and two RHC centers. Hospital provides Emergency department, medical-surgical, Intensive care, same day surgery, ambulatory services. Radiological, and laboratory services. RHC offer preventative and primary care services, outpatient radiology and laboratory. No expected change post-transaction.</p> <p>(C) Submitter is a 161-bed hospital acute care hospital serving adult patients of any gender, race, ethnicity, language spoken or disability status. Submitter accepts Medicare, Medi-Cal, CHPIV, IEHP, Blue cross, Blue Shield, Cigna, Aetna, Molina Medicare, Imperial Health Plan of CA, UHC, HealthNet, Medicare Partners, and private pay. See "El Centro - Demographics Report" in Folder 7 for current census of resident demographics. There are no post-transaction changes thereto that are anticipated to occur, other than resident turnover in the ordinary course.</p> <p>(D) Submitter is a public hospital that participates in the San Diego/Imperial Valley Needs Assessment and maintains charity care policies. There are no post-transaction changes thereto that are anticipated to occur.</p> <p>(E) Medi-Cal and Medicare patients are currently accepted and represent 90% of Submitter's patient population. There are no scheduled post-transaction changes thereto.</p>
Prior mergers or acquisitions that: (A) involved the same or related health care	(A) Involved the same or related health care services.

<p>services;</p> <p>(B) involved at least one of the entities, or their parents, subsidiaries, predecessors, or successors, in the proposed transaction; and</p> <p>(C) were closed in the last ten years.</p>	<p>The beds will be licensed under the El Centro Regional Medical Center license and will be subject to its governing body. Operational structure will remain unchanged.</p> <p>(B) No Change</p> <p>(C) Not applicable.</p>
<p>Description of Potential Post Transaction Changes</p>	<p>(A) Municipal city hospital, no expected changes.</p> <p>(B) Submitter employs 970 individuals and will add approximately 125 additional employees through this transaction. Submitter has established employment policies and procedures and complies with all federal and state laws. In addition, 60% of its workforce is union represented. No expected changes</p> <p>(C) NONE</p> <p>(D) Pioneers Memorial Hospital in Brawley, CA owned by Imperial Valley Healthcare District operates the only other skilled nursing facility within 20 miles. No expected changes. ECRMC has no additional information or charts available for Imperial Care LLC. Bayshire. I do not have chart or additional information for Waypoint. I do not have a proposed chart for Waypoint information for prior or post transaction. I do not have organizational chart for CTR Partnership, L.P. and Northshore Holdings, current or post-transaction.</p> <p>There are no expected changes.</p>
<p>Description of the nature, scope, and dates of any pending or planned material changes occurring between the Submitter and any other entity, within the 12 months following the date of the notice</p>	<p>In accordance with the legislative mandate of AB 918 (Health &amp; Safety Code 32499.6(c)(4)(A)), Submitter El Centro Regional Medical Center has entered into negotiations with Imperial Valley Healthcare District to transfer all its assets and liabilities. The parties have agreed upon non-binding term sheet for such acquisition and continue to negotiate a definitive transaction agreement.</p>

**Schedule 6**  
**To**  
**Imperial Care, LLCs OHCA Notice**

This Schedule 6 is submitted to the Office of Health Care Affordability with respect to the Material Change Notice filed by El Centro Regional Medical Center (“**Submitter**” or “**ECRMC**”) in response to 22 C.C.R. § 97438(b)(5), requiring Submitter to provide the following: “Description of transaction, which shall include the following: (A) The goals of the transaction; (B) A summary of terms of the transaction; (C) A statement of why the transaction is necessary or desirable; (D) General public impact or benefits of the transaction, including quality and equity measures and impacts; (E) Narrative description of the expected competitive impacts of the transaction; and (F) Description of any actions or activities to mitigate any potential adverse impacts of the transaction on the public.”

---

---

**(A) The Goals of the transaction:**

The goal of this transaction is to transition the operations of Imperial Care LLC dba El Centro Post-Acute (“**El Centro SNF**”) to the Submitter and for the Submitter to operate the El Centro SNF as a distinct part of ECRMC’s hospital licensed facilities under 42 C.F.R. §483.5. Post-closing management by Bayshire, LLC (“**Bayshire**”), with management support from Waypoint Management Consulting, LLC (“**Waypoint**”).

**(B) A summary of the terms of the transaction:**

By way of background, ECRMC operates a general acute care hospital located at 1415 Ross Avenue, El Centro, CA 92243, and certain outpatient and rural health clinics. The El Centro SNF is located at a separate building less than 250 yards from ECRMC’s main hospital buildings. ECRMC, Bayshire and Waypoint have entered into a Facility Management Agreement dated August 21, 2024 (the “**Facility Management Agreement**”), a copy of which has been included in this OHCA Material Change Notice, and the Facility Management Agreements sets forth the terms of the transaction. Assuming the proposed transaction closes, ECRMC will take over as licensed operator of El Centro SNF (as a “distinct part” nursing facility under ECRMC’s hospital license) and take assignment of El Centro SNF’s Medicare and Medi-Cal provider agreements. Moreover, pursuant to the Facility Management Agreement, Bayshire, with the assistance of Waypoint, will manage the El Centro SNF on behalf of ECRMC, and Imperial will sublease El Centro SNF facility real property to ECRMC.

**(C) A statement of why the transaction is necessary or desirable:**

ECRMC is an experienced provider of healthcare services in El Centro, and the transaction will help ensure a continuum for better continuity of care for the community. The transaction will also allow the El Centro SNF and its residents to benefit from ECRMC's more localized operations and strong relationships with regulators, payers, and communities locally and in California.

**(D) General public impact or benefits of the transaction, including quality and equity measures and impacts:**

ECRMC is an established healthcare provider in the community. We believe this transaction will be beneficial to the public, and will allow the El Centro SNF and its residents to benefit from ECRMC's resources, expertise, and local relationships, and help better ensure continuity of care for the community residents. This will allow El Centro SNF to better compete with regional skilled nursing facility chains, without giving any party to the transaction dominant market power over skilled nursing facility services in the local market. Rather, as noted below, we think this transaction would help to increase competition in Imperial County and in El Centro.

**(E) Narrative description of the expected competitive impacts of the transaction:**

Neither ECRMC nor any of its affiliates presently operated a skilled nursing facility in California, and so rather than consolidation which could lessen competition, the transaction would further competition by bringing in a new provider of skilled nursing services to Imperial County and the city of El Centro. Of course, even if ECRMC or its affiliates did operate other skilled nursing facility, California heavily regulates the reputability and responsibility of skilled-nursing facility operators (as well as limits the number of affiliated skilled nursing facilities they may own) pursuant to the Skilled Nursing Facility Ownership and Management Reform Act of 2022 (the "Act"). CDPH automatically denies applications for a skilled nursing facility where the applicant owns, operates, or manages 10 percent or more of the licensed skilled nursing facilities in California, unless CDPH in its discretion concludes that the interests of resident health and safety requires that an exception is warranted. Health & Safety Code § 1253.3(g)(12)(D).

**(F) Description of any actions or activities to mitigate any potential adverse impacts of the transaction on the public:**

There are no anticipated adverse impacts on the public resulting from this transaction.

## FACILITY MANAGEMENT AGREEMENT

THIS FACILITY MANAGEMENT AGREEMENT (this “Agreement” or the “Management Agreement”), made as of the 21st day of August, 2024 (the “Effective Date”) by and among EL CENTRO REGIONAL MEDICAL CENTER, [an agency of the City of El Centro, California] (“ECRMC”), BAYSHIRE, LLC, a California limited liability company (“Manager”), and WAYPOINT MANAGEMENT CONSULTING, LLC, a California limited liability company (“Waypoint”). ECRMC, Bayshire and Waypoint may hereinafter be referred to as each, a “Party” and collectively, the “Parties.”

### RECITALS

A. ECRMC operates a general acute care hospital located at 1415 Ross Avenue El Centro, CA 92243 (the “Hospital”). An affiliate of Bayshire, Imperial Care LLC, a California limited liability company (the “SNF Licensee”) operates a skilled nursing facility located at 1700 S Imperial Ave., El Centro, CA 92243 (the “Facility”), and has experience in the management and operation of skilled nursing facilities. Waypoint is a consulting firm with experience in the management and operation of skilled nursing facilities.

B. Bayshire via the SNF Licensee operates the Facility and certain other healthcare facilities via other affiliated entities under the terms of a Master Lease dated September 18, 2019, as amended (the “Facility Lease”) with CTR Partnership L.P. a Delaware limited partnership and Northshore Healthcare Holdings LLC, a Nevada limited liability company (collectively “Landlord”).

C. The parties intend that the licensure of the Facility will be transferred to the ECRMC, which will operate the SNF as a “distinct part” of the Hospital’s licensed facilities under 42 CFR § 483.5.

D. ECRMC desires to engage Bayshire, with the assistance of Waypoint, to manage the Facility on behalf of ECRMC, and Manager and Waypoint desire to accept such engagement, upon the terms and subject to the conditions contained herein.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, ECRMC, Manager and Waypoint agree as follows:

1. The Transition. For purposes of this Agreement, the “Transition” shall mean the approval by the California Department of Public Health of the addition of the Facility to the Hospital’s general acute care hospital license as a distinct-part skilled nursing facility; and the “Transition Date” shall mean the date on which the Transition occurs.

2. Pre-Transition Matters. Prior to the Transition:

(a) ECRMC shall apply to the appropriate regulatory authorities for all permits necessary to operate the Facility as a distinct-part skilled nursing facility to be managed by Manager, including —

- (i) the addition of the Facility to the Hospital's license; and
- (ii) enrollment of the Facility in the Medicare and Medi-Cal programs as a distinct part of ECRMC.

and shall diligently pursue and prosecute such applications to completion.

(b) Waypoint shall provide the pre-Transition services described in Attachment A hereto;

(c) The Parties shall cooperate reasonably and in good faith to achieve the Transition,

3. Upon the Transition. Upon the Transition Date:

(a) ECRMC will enter into a sublease (the “Lease”) with Bayshire for the operation of the Facility, on terms reasonably satisfactory to ECRMC; provided that term of the Lease shall extend at least through the Expiration Date (as defined below).

(b) Manager will take all reasonable steps necessary to obtain consent from Landlord for the Lease.

(c) *[Other provisions].*

(d) The Facility will go by the name of El Centro Post Acute, which name may be changed upon the mutual agreement of the Parties.

(e) The provisions of Section 4 through Section 23 of this Agreement shall go into effect.

4. Appointment of Manager.

(a) Commencing on the Transition Date and ending on the Expiration Date, ECRMC hereby appoints Manager as its sole and exclusive manager of the Facility, subject to the services to be provided by Waypoint as provided in Section 8. ECRMC hereby retains Manager to supervise, manage, and operate the Facility as more fully described in this Agreement. Manager shall provide the management or other services under this Agreement in the name and for the account of ECRMC in accordance with the terms and conditions hereinafter set forth and the policies adopted or which may be adopted from time to time by ECRMC. The Parties acknowledge and agree that ECRMC remains responsible for the Facility's operations and delivery of patient services required under applicable state licensure laws. During the Term,  
7565552.4

Manager shall be allowed to use all of the Hospital's Licenses and Permits in connection with the operation of the Facility to the extent permitted under applicable laws and on the terms and conditions specified herein. By entering into this Agreement ECRMC does not delegate to Manager any such power, duties and ultimate responsibilities vested in ECRMC as the licensed operator of the Facility, and, during the term of this Agreement, ECRMC is and will remain the licensed operator of the Facility and, as such, shall be fully liable and legally accountable at all times to all patients and governmental agencies for patient care and funds, and for all other clinical aspects of the operation and maintenance of the Facility.

(b) Manager hereby accepts such appointment and agrees that it will faithfully perform its duties and responsibilities hereunder and use its diligent efforts to supervise, manage and operate the Facility in accordance with the terms of this Agreement and in compliance with all applicable laws. ECRMC agrees that it will in good faith, at any time, at the request of Manager, promptly execute and deliver to Manager all other further instruments necessary to vest in Manager authority required to perform the duties required under this Agreement.

(c) In the event that Hospital adds additional distinct part skilled nursing facility beds to its license, the Parties shall negotiate in good faith to attempt to have Manager serve as its sole and exclusive manager of the added beds.

## 5. Reserved Responsibilities and Shared Services.

(a) Licenses, Permits and Agreements. During the Term, ECRMC shall be the holder of all Licenses and Permits with respect to the Facility, and shall be the licensed and/or certified "provider" within the meaning of all third-party contracts for the Facility. Specifically, and without limitation, ECRMC shall hold in its name the Medicare and Med-Cal provider numbers and provider agreement with CMS and the California Department of Health Care Services ("DHCS"). ECRMC shall maintain in effect, in compliance with all applicable laws and regulations, all licenses, certifications, permits and provider agreements with governmental and commercial payers reasonably necessary for the operation of the Facility, and shall not, without prior consultation and coordination with Manager and Waypoint, terminate, relinquish or modify any such license, certification, permit or agreement, or suffer or permit the termination, modification or restriction of any such license, certification, permit or agreement.

(b) Shared Services and Personnel. During the Term, ECRMC shall provide the services for the Facility described on Attachment B (the "Shared Services"), and shall employ the personnel providing the Shared Services, including, but not limited to, a Medical Director for the Facility (the "Shared Services Personnel"). Subject to applicable background checks and qualification requirements as set forth in its employment policies, ECRMC shall offer employment, effective on the Transition Date, to any of the Shared Services Personnel who are then employed by Manager on substantially the same terms (including equivalent benefits) as the terms of their employment with Manager. At least sixty (60) days prior to the end of each year of operation of this Agreement, the Parties shall meet and negotiate in good faith concerning an annual adjustment of the costs set forth in Attachment B for Shared Services for the next year of

operation and modify such costs to reflect the actual cost of providing such services. If the Parties cannot in good faith come to agreement on such modification, any Party may provide sixty (60) day notice of termination of this Agreement.

(c) Lease. Except insofar as ECRMC's obligations under the Lease are expressly undertaken by Manager pursuant this Agreement, ECRMC shall maintain the Lease in effect throughout the term of this Agreement, and shall not engage in or suffer any act or omission that would constitute or result in a default under the Lease, or permit the termination or modification of the Lease.

(d) Control. ECRMC shall retain the powers, duties and responsibilities vested by law in ECRMC as the licensed operator of the Facility. In addition, the parties shall comply in all respects with the regulations at 42 CFR § 483.5, including the following:

(i) Subject to the Lease, such interests in the Facility shall be wholly owned by ECRMC;

(ii) The Facility shall be subject to the by-laws and operating decisions of the governing body of the Hospital.

(iii) ECRMC, as operator of the Hospital, shall have final responsibility for the Facility's administrative decisions and personnel policies, and final approval for the Facility's personnel actions.

(iv) The Facility shall function as an integral and subordinate part of the Hospital, with common resource usage of buildings, equipment, personnel, and services, as described in Attachment B.

(v) The administrator of the Facility shall report to and shall be directly accountable to the management of the Hospital.

(vi) The Facility shall have a designated medical director who is responsible for implementing care policies and coordinating medical care, and who is directly accountable to the management of the Hospital.

(vii) The Facility shall share income and expenses with the Hospital as provided in Attachment C, and shall report its costs on the Hospital's cost report.

(viii) In the event that CMS or any governmental agency finds that the terms of this Agreement do not comport with the regulatory definition of a distinct part, as defined by 42 CFR § 483.5, for the Facility, the Parties shall meet in good faith to amend this Agreement to comply with those requirements.

(e) Notice of Actions. Prior to taking any material action affecting the Facility pursuant to its right of control under this Agreement or under law or regulation, ECRMC shall

provide not less than thirty (30) days' advance notice of such decision to Manager and to Waypoint (unless, in the reasonable judgement of ECRMC, it is not feasible to provide such notice, in which case ECRMC shall provide as much notice as promptly when feasible), and shall consult reasonably and in good faith with Manager and Waypoint concerning such decision before it is implemented.

(f) ECRMC's Covenants. Following the Transition Date and thereafter throughout the Term of this Agreement, ECRMC shall, with the assistance and consultation of Manager and Waypoint as provided herein, take all measures reasonably necessary to maintain the Facility in operation as a distinct part of the Hospital, including:

- (i) maintaining all licenses and permits necessary for the proper operation of the Facility as a distinct part skilled nursing facility operating 123-beds in full force and effect, and timely filing all reports, statements, renewal applications and other filings, and timely paying all fees and charges in connection therewith that are required to keep such licenses and permits in full force and effect;
- (ii) curing any deficiencies and any violations which may be cited by the State of California or any other governmental authority having jurisdiction over the Facility and promptly providing Manager with written notice of any such deficiencies and violations;
- (iii) causing to be filed promptly, and in any case prior to the date such reports are due, all cost reports (including all cost reports filed pursuant to Title XVIII and XIX of the Social Security Act, as amended) and all amendments thereto required to be filed with any governmental or regulatory authority in respect of the Facility;
- (iv) complying with all provisions of the Lease.

(g) Marketing. ECRMC shall be solely responsible for marketing of the Facility and its services through the use of Shared Services Personnel.

(h) Contracting. ECRMC shall enter into and/or maintain all such third party payor contracts that Manager deems reasonable, appropriate or necessary for the Facility, including without limitation, the Medicare and Medi-Cal provider agreements, HMO, insurance payors, managed care contracts, etc. (collectively, "Provider Agreements"), as well as all other contracts as ECRMC and Manager, working together in good faith, may deem necessary or advisable for the furnishing of all ancillary services, concessions and other services as may be needed from time to time for the maintenance and operation of the Facility, including but not limited to, therapy services.

(i) Entry. ECRMC shall have the right to enter upon any part of the Facility during regular business hours and upon twenty-four (24) hours' notice (or such earlier time as may be necessary under exigent circumstances) to Manager for the purpose of examining or inspecting same or examining or making extracts of books and records of the Facility, but the same shall be

done at such times as may be reasonably designated by, and in a manner to cause as little disruption to the business of the Facility as possible.

(j) Cooperation. ECRMC will cooperate in all reasonable respects with Manager in operating and supervising the operations of the Facility.

6. Rights and Duties of Manager.

(a) Generally. Manager shall provide all management and administrative services reasonably necessary for the proper operation of the Facility, other than the Reserved Responsibilities and the Shared Services and Personnel (the “Management Services”). Unless expressly stated otherwise, the Management Services shall be performed at Manager’s sole cost and expense. Manager shall provide the Management Services (a) in good faith and in a manner consistent with generally accepted standards of practice and procedures followed by professional facility managers of facilities of similar type and quality, (b) in substantial compliance with applicable state and federal laws, and (c) in substantial compliance with standards and requirements set forth by The Joint Commission, the California Department of Public Health (“CDPH”), Centers for Medicare and Medicaid Services (“CMS”) and other applicable accrediting and licensing bodies (“Management Standards”).

(b) Provider Numbers. In connection with Manager’s assumption of operational and financial responsibility for the Facility, ECRMC shall provide to and allow Manager to access, ECRMC’s Medicare and Medi-Cal provider numbers, and any other numbers, codes or passwords necessary to allow Manager to bill for services rendered at the Facility to any and all third party payors, including without limitation Medicare and Medi-Cal (collectively, the “Provider Numbers”). Notwithstanding the foregoing, to the extent required by law or licensing regulations or standards, ECRMC shall retain ultimate professional and administrative responsibility for the organization, management, operation and control of the Facility and shall be responsible for compliance with licensing requirements for the organization, management, operation and control of the Facility; and Manager shall perform all functions provided for in this Agreement in accordance with applicable laws.

(c) Administrative Functions; Billing. Except as otherwise provided herein, Manager shall arrange (utilizing Facility personnel as appropriate), at its sole cost and expense, and to the extent applicable ECRMC shall cooperate with Manager, for the provision of the bookkeeping, accounting, and administrative functions, including, but not limited to, the following, as reasonably necessary for the efficient and proper operation of the Facility:

- (i) preparation and maintenance of business records and financial and other reports;
- (ii) establishment and administration of accounting procedures and controls;
- (iii) financial and business planning;

- (iv) processing and payment of accounts payable;
- (v) billing, processing and collection of accounts receivable, including the billing and completion of any reports and forms that may be required by insurance companies, governmental agencies, or other third-party payors; and
- (vi) providing and processing of all employee record keeping, payroll accounting (including social security and other payroll tax reporting), and benefits for all employees of the Facility.

(d) Utilities. ECRMC and Manager shall reasonably cooperate with each other to arrange for the utilities reasonably required for operation of the Facility, including, but not limited to, telephone, electricity, gas, water and refuse disposal, taking advantage of efficiencies of scale wherever possible by using Hospital resources. Manager shall bear the cost and expense of such utilities to the extent such expenses are fairly allocable to the Facility.

(e) Supplies and Inventory. Manager shall arrange for the provision and replenishment, as Manager deems necessary, of all supplies and inventory used in the Facility, at its sole expense. Manager may from time to time take advantage of GPO affiliation and supply discounts through ECRMC's GPO, which ECRMC shall facilitate by placing such orders on Manager's behalf for reimbursement by Manager.

(f) Personnel.

(i) Subject to the provisions of Section 5(d)(iii), and except for the Shared Services Personnel, Manager shall hire and be responsible for all aspects of administration of employees, including hiring, training, supervision, and termination. All of such employees (other than the Shared Services Personnel) shall be employees of Manager. Manager shall maintain worker's compensation insurance as required by law or under this Agreement and employer's liability insurance in accordance with the Manager's standard policy. Manager shall be responsible, also, for coordinating health insurance coverages (including COBRA matters) for the employees of the Facility. Termination decisions with respect to employees shall be made by Manager in a manner consistent with Manager's applicable policies, and shall be subject to the approval of ECRMC in accordance with Section 5(d)(iii). Manager shall arrange for maintenance of the payroll records of all Manager's employees, for the issuance of monthly paychecks, and for the payment and withholding from such paychecks of appropriate amounts for income tax, social security, unemployment insurance, and for all benefits, including vacation, holidays, and other benefits in accordance with its policies.

(ii) Manager shall provide to ECRMC, or shall cause each of Manager's employees to provide, satisfactory evidence, prior to his or her employment at the Facility, that he or she is free from contagious disease and does not otherwise present a health hazard to Facility patients, employees, volunteers or guests. Such testing shall include: (i)(A) evidence of the completion of a tuberculin skin test with the past year

(within the last 12 months) that is negative, or (B) if the skin test is positive (1) evidence that such employee is free of symptoms of pulmonary disease, and (2) a chest x-ray and (ii) a negative drug screening.

(iii) Manager shall provide training to its employees at the Facility on the Hospital's policies and procedures applicable to the Facility, including its code of conduct, and privacy, security and compliance policies (the "Hospital Policies"). Manager shall take appropriate disciplinary action against any employee of Manager at the Facility who violates any Hospital Policy.

(iv) Manager shall hire an Administrator and a Director of Nursing with all such requisite experience and certifications and who have experience in the management or direction of skilled nursing facilities. As provided in Section 5(d)(v), the Administrator shall directly report to the management of the Hospital. The Administrator and Director of Nursing shall meet required statutory and regulatory requirements and standards necessary for serving in such role at a California skilled nursing facility, including all required criminal background checks. Upon the written request of ECRMC, Manager shall identify, by position title and job description, all of the management personnel who are currently performing the services necessary for administration of the Facility, which shall include a resume for a candidate for each position, and, if required by law, proof of each person's qualifications (including any required licenses).

(v) In the event of a disagreement between Manager and ECRMC concerning the hiring, discipline or termination of employment of the administrator of the Facility, unless ECRMC determines, in its sole, but reasonable discretion, that his or her continued employment would create an imminent risk of harm to patients or to the reputation of ECRMC or the Facility, the Parties (including Waypoint) agree to meet and confer in an effort to resolve the disagreement, and Waypoint shall assist ECRMC and Manager to develop a reasonable 30-day performance improvement plan. If the employee does not meet the reasonable requirements of the plan, ECRMC may exercise its rights under Section 5(d)(iii).

(g) Compliance.

(i) Manager shall use its diligent efforts to institute all plans, practices and procedures necessary to assure substantial compliance with all applicable statutes, rules, regulations, directives, practices and procedures required by Federal, State, local authorities, The Joint Commission and other accrediting bodies, including, without limitation, by way of developing and implementing new policies and procedures in connection with any Plan of Correction or similar response made to a Statement of Deficiencies or similar report received by Manager as a result of an inspection or survey by State or Federal licensing or certification inspectors.

(ii) The parties further acknowledge that they are subject to certain federal and state laws governing the referral of patients which are in effect or will become effective  
7565552.4

during the term of this Agreement. These laws include prohibition on payments for referral or to induce the referral of patients (California Business and Professions Code §650; California Labor Code §3215; and the Medicare/Medicaid Fraud and Abuse Law, §1128B of the Social Security Act). Nothing in this Agreement is intended or shall be construed to require any party to violate any such laws, and this Agreement shall not be interpreted to:

- (1) Require Manager or Waypoint to make referrals to the Hospital or ECRMC for services, or to recommend or arrange for such services, or to be in a position to make or influence referrals to the Facility or ECRMC, or otherwise generate business for the Facility or ECRMC; or
- (2) Provide for payments in excess of the fair market value for services provided under this Agreement.

(h) Marketing. Manager will consult with ECRMC in connection with marketing the Facility, and shall assist ECRMC in the preparation of marketing materials. However, Manager shall not be responsible for marketing the Facility or its services, and shall not engage in marketing, recommending or promoting the Facility to prospective patients, payers or referral sources.

(i) Meetings; Information.

(i) Manager shall meet with Hospital leadership quarterly, and more frequently upon request, and shall provide the Hospital with such reports concerning the Facility and its operations as the Hospital may reasonably request.

(ii) Manager shall promptly notify the Hospital of any of the following of which it becomes aware:

- (1) An incident or occurrence that requires a resident to be transferred to the ECRMC Facility;
- (2) Epidemic Outbreaks;
- (3) Poisoning (other than minor incidents such as food poisoning);
- (4) Fire in the Facility;
- (5) Death of resident from an “unusual occurrence” as defined by CDPH;
- (6) Incidents in which the Administrator reasonably believes threaten the welfare, safety or health of residents, staff or visitors;

- (7) Allegations of abuse required to be reported pursuant to AB 40;
- (8) Scheduled or unannounced visit from any regulatory agencies (and, as soon as practicable, will notify ECRMC's risk manager and ECRMC's administrator on call); and
- (9) Any material adverse written notification to CDPH or other regulatory agencies.

7. Fees and Billing.

(a) Fees. Manager shall, in consultation with ECRMC, have the right to determine the fee schedules and contract rates for the services rendered by the Facility.

(b) Billing and Collection.

(i) Manager will supervise the issuance of bills or invoices for services and materials furnished by the Facility and supervise the collection of accounts receivable and monies owed to the Facility; maintain accounting, billing, patient and collection records; and prepare and file, or supervise the preparation and filing of, insurance, Medicare, Medi-Cal and any and all other necessary or desirable applications, reports and claims related to revenue production.

(ii) Manager shall act as the agent of ECRMC with respect to billing and collecting, and billing for services provided by the Facility which shall be in the name of ECRMC for the account of ECRMC. ECRMC hereby appoints Manager, for the purposes of this Agreement, as its true and lawful attorney-in-fact: (i) to bill payors on behalf of ECRMC for such Facility services; (ii) to collect accounts receivable on behalf of ECRMC for such Facility services; and (iii) to receive all payments in respect of accounts receivable on behalf of ECRMC for such Facility services from all payors or otherwise, and to take possession of, and endorse in the name of ECRMC any notes, checks or other payment in respect of such billings or otherwise (except as prohibited by applicable law and regulations), and to deposit or remit such payments in accounts maintained at banking institutions identified by ECRMC.

(iii) Any collection efforts by Manager on ECRMC's behalf for such Facility services will comply with all applicable federal and state laws and regulations governing debt collection. Manager shall not initiate any collection action without giving ECRMC at least five (5) days' prior written notice, which may be by electronic mail.

(iv) To facilitate Manager's rights and duties under this Agreement with respect to billing and collection of payments for services furnished at the Facility, ECRMC agrees that on such date (such date being referred to herein as the "Tie-In Date") on which the CMS issues a tie-in notice for the purpose of tying ECRMC's Medicare provider number to its NPI number and tax identification number, and (B) in the case of Medi-Cal, the date

on which a Medi-Cal provider agreement has been issued to ECMRC by the Medi-Cal Provider Certification office and a Medi-Cal billing number has been issued to ECRMC by the Medi-Cal Provider Enrollment office (collectively, the “Tie-In”), it shall execute such documentation as may be required by its depository banks to provide Manager with view access into such depository bank account of ECRMC in which is deposited payments by Medicare or Medi-Cal (hereinafter referred to as “Accounts Receivable Account”). ECRMC agrees it may only withdraw and transfer sums on deposit in the Accounts Receivable Account with the prior written approval of Manager. ECRMC shall, as soon as practicable, but in no event more than five (5) business days after receipt thereof, pay any and all Collections (as defined in Attachment C) to Manager.

(v) The provisions of this subsection 7(b) shall survive termination of this Agreement with respect to services provided during the term of this Agreement and Collections derived therefrom.

8. Waypoint’s Services. Waypoint agrees to provide the services set forth in Attachment A (the “Waypoint Consulting Services”). The Parties acknowledge and agree that the sole obligation of Waypoint shall be to provide the pre-Transition services and the consulting services described in Attachment A, and that Waypoint shall not be responsible for the obligations of the Manager under this Agreement.

9. Licenses and Permits.

(a) ECRMC and Manager shall each use commercially reasonable efforts to obtain and maintain in effect at all times during the Term hereof all licenses and permits necessary and appropriate to operate the Facility. ECRMC shall not, without the written approval of Manager, terminate, abandon, relinquish or amend any license or permit used in the operation of the Facility, or any enrollment in or provider agreement pertaining to any governmental or commercial third-party payment program. At the request of the Manager, ECRMC shall cooperate reasonably with Manager in connection with the negotiation, amendment or termination of any agreement relating to any such program and shall not unreasonably refuse to enter into any such agreement requested by Manager.

(b) After the Transition Date, unless due to the negligence or misconduct of ECRMC, Manager shall bear the reasonable cost of maintaining the following: (a) the licensure of the Facility as a skilled nursing facility by the state of California; (b) the certification of the Facility for Medicare and Medi-Cal reimbursement as a skilled nursing facility; and (c) any other certifications currently in effect or necessary with respect to the Facility.

(c) Each party shall promptly provide to the other party as and when received all material written notices, reports or correspondence from governmental agencies that assert material deficiencies or charges against the Facility or that otherwise threaten the suspension, revocation, or any other action adverse to any approval, authorization, certificate, determination, license or permit required or necessary to own or operate the Facility. ECRMC and Manager

shall reasonably cooperate with each other in any appeal of any action taken by any governmental agency against the Facility.

10. Subcontracting. Manager may, in its discretion (but subject to the rights of ECRMC under Section 5(d)(iii)), subcontract any of the services to be provided by it under this Agreement to one or more subcontractors as may be determined by Manager, including Waypoint. Manager shall give ECRMC advance written notice (which may be by electronic mail) of any such subcontract to be entered into with a service provider other than Waypoint.

11. Use of Facility; Access to Facility.

(a) Except as may be required by law or by any governmental authority having jurisdiction thereof, ECRMC shall cause the Facility to be, and Manager shall use and occupy the Facility as, a validly licensed and duly certified distinct part unit of a hospital with at least 123-licensed skilled nursing facility beds for the entire Term and Manager shall have the right to offer or to perform incidental and/or administrative services related to said uses.

(b) Manager shall not conduct or permit to be conducted or continued on the Facility any business or permit any act which is contrary to or in violation of any applicable law, ordinance or governmental code or regulation. Manager will keep the Facility in a clean, orderly condition and agrees to comply with all health and sanitary regulations of appropriate governmental agencies.

12. Term.

(a) Term. The Term of this Agreement (the “Initial Term”) shall commence on the Effective Date, and shall expire at midnight on the last day of the month that is five (5) years after the Transition Date (the “Expiration Date”).

(b) Extensions. Following the Initial Term and any Extension Term, the term of this Agreement shall be automatically extended for three successive five (5)-year renewal terms (each such renewal, an “Extension Term” and, together with the Initial Term, the “Term”), unless either party gives the other party written notice of its intention not to renew this Agreement at least one hundred eighty (180) days prior to the expiration of the then current Term.

(c) Failure of Transition. Any party to this Agreement may terminate it on thirty (30) days’ written notice to the others given before the Transition Date, if the Transition Date has not occurred within twelve (12) months of the Effective Date.

(d) Termination of Lease. This Agreement shall terminate upon termination of the Lease for any cause or reason.

(e) Termination for Cause. This Agreement may be terminated as provided in Section 25.

(f) Changed Circumstances. If (i) this Agreement, or any provision of this Agreement that a party reasonably determines is material to its interests, is declared by a court of competent jurisdiction to be invalid or enforceable, or (ii) any law, regulation, advisory opinion or guidance is enacted, adopted or issued by any governmental agency (including any negative change or material reduction in reimbursement rates for the Facility), or any of the parties receives any written notice from any governmental agency (any of the foregoing, a “Change in Circumstance”), as the result of which Change in Circumstance any party to this Agreement reasonably determines that (x) this Agreement, or any provision of it that such party reasonably determines is material to its interests, cannot lawfully be implemented in accordance with the original intent of the parties, or (y) that its continued performance under this Agreement would, solely as a result of such Change in Circumstance, be rendered infeasible or uneconomical, then at the written request of any party (a “Meeting Request”) the parties shall meet in good faith to amend this Agreement so as to give substantial effect to the original intent and economic interests of the parties hereunder. If the Parties fail to agree on such an amendment within thirty (30) days of delivery of the Meeting Request, any Party may terminate this Agreement on sixty (60) days’ further notice to the other parties.

(g) Transition upon Expiration Date. Upon termination or expiration of this Agreement:

(i) the Parties shall use commercially reasonable efforts to effectuate the complete transition of operations of the Facility to Manager and/or a different hospital partner (the “Replacement Hospital Partner”);

(ii) in accordance with applicable law, the Parties execute any and all documents required to effectuate such transition, including: (y) any documents required for Manager’s change of ownership application with CDPH; and/or (z) any documents required to transition the Facility’s Licenses and Permits to the Replacement Hospital Partner so that the Facility will remain a “distinct part” skilled nursing facility with the same number of beds/units as are operational on the Transition Date; and

(iii) ECRMC shall permit Manager to bill under ECRMC’s Provider Agreements and give Manager access to ECRMC’s Provider Numbers until such time as Manager and/or the Replacement Hospital Partner has been fully credentialed and approved under its own provider agreements and obtained its own provider numbers. Any amounts received by ECRMC in connection with any billings pursuant to this Section 12(g) shall be remitted by ECRMC to Manager no later than five (5) Business Days after ECRMC’s receipt thereof.

13. Management and Consulting Fees. Commencing on the Transition Date, as compensation in full for the Management Services and the Waypoint Consulting Services, ECRMC shall pay Manager and Waypoint the fees set forth in Attachment C.

14. Payment of Facility Costs. All costs of operating the Facility shall be paid from Collections for services provided by Facility (as defined in Attachment C), and neither Manager nor Waypoint shall have any obligation to pay or contribute to any cost of operating the Facility,  
7565552.4

other than the cost of its personnel providing services under the Agreement. At least sixty (60) days prior to the end of each year of operation of this Agreement, the Parties shall meet and negotiate in good faith concerning the costs and fees defined in Attachment C for Facility operation for the next year of operation and modify such costs if in the reasonable judgment of a Party such costs are detrimental to its reasonable expectation of profitability of the Facility. If the Parties cannot in good faith come to agreement on such modification, any such Party may provide sixty (60) day notice of termination of this Agreement.

15. Taxes. Manager shall cause taxes, assessments, and charges solely upon the Facility or the business conducted therein by any governmental authority, including interest and penalties thereon, specifically excluding any real property taxes, any income or franchise taxes payable by ECRMC, and any franchise, corporate, estate, inheritance, succession, capital levy or transfer tax imposed on ECRMC (collectively, "Taxes"), to be paid when due; provided that Taxes shall be paid solely from the revenues of the Facility, and Manager shall have no personal liability or obligation therefor. Manager shall not cause such Taxes to be paid if (a) such Taxes are in good faith being contested by ECRMC at its sole expense and without cost to Manager, (b) enforcement for non-payment of such Taxes is stayed, and (c) ECRMC shall have given Manager written notice of such contest and stay and authorized the non-payment thereof, not less than ten (10) days prior to the date on which such Taxes are due and payable. Notwithstanding the foregoing, the payment of any taxes owed by Manager or Waypoint, including income tax, due as a result of payment received under this Agreement shall remain the sole obligation of those entities and ECRMC shall be held harmless for such taxes.

16. Compliance with Law.

(a) Manager, Waypoint and ECRMC shall comply at all times with any required laws, orders, regulations, licenses, permits, certification requirements, and certificates of any departments, authorities or agencies having jurisdiction over the Facility or the use or occupation thereof. ECRMC and Manager shall take commercially reasonable action which is required by any authority having jurisdiction over the Facility or which may be necessary in order to maintain the Facility as validly licensed and duly certified distinct-part skilled nursing facility in accordance with the applicable rules and regulations of the State of California, federal governmental authorities and accrediting bodies, including, but not limited to, the United States Department of Health and Human Services ("DHHS"), the Centers for Medicare and Medicaid Services ("CMS"), and the relevant State agency.

(b) Manager shall promptly provide to ECRMC copies of any Statement of Deficiencies or similar report received by Manager as a result of an inspection or survey by State or Federal licensing or certification inspectors, as well as copies of any Plan of Correction or similar responses made to such reports. Manager shall also promptly provide to ECRMC copies of any written notice of a material violation of any law, rule, regulation, ordinance or other obligation imposed by any federal, state, local, or other governmental or quasi-governmental regulatory authority (including, without limitation, CMS) or other written communications from

federal or state officials which impose any sanction or penalty, including but not limited to, bans on admissions, denial of payment on new admissions, interim management, decertification or monetary penalties.

(c) Manager shall promptly notify ECRMC of all material pending legal actions of which Manager has knowledge. Manager shall have the right to institute any and all legal actions or proceedings to collect charges, rent, or other sums due the Facility or to lawfully oust or dispossess tenants or other persons in possession under, or lawfully cancel, modify, or terminate any Management Agreement, license, or concession agreement for the breach thereof or default thereunder by the tenant, licensee, or concessionaire. Additionally, Manager may take appropriate steps to protect and/or litigate to final judgment in any appropriate court any violation or order affecting the Facility.

17. Maintenance, Repairs and Services.

(a) Manager shall be responsible for maintaining and repairing the Facility insofar as the maintenance and repair thereof is the obligation of ECRMC under the Lease.

(b) Manager shall be responsible for the maintenance, repair, upkeep, replacement, cleaning, and renovating to the interior of the Facility as necessary to keep the Facility in compliance with the Lease and with all governmental or regulatory rules and regulations applicable to the Facility. ECRMC hereby acknowledges and agrees that title and ownership of all repaired and replaced furniture, fixtures, equipment made hereunder shall be a part of Manager's Personal Property, and shall belong to and is for the benefit of the Manager.

(c) Manager shall be responsible for maintaining, repairing and replacing the furniture, fixtures and equipment used or held for use in connection with the operation of the Facility, all of which shall be the exclusive property of Manager, and which Manager may remove from the Facility upon termination or expiration of this Agreement if the Lease is not assumed by or assigned to Manager in accordance with the provisions of Section 12(f).

(d) Notwithstanding the foregoing, ECRMC and Manager expressly acknowledge and agree that the provisions of Sections 17(b) and (c) shall be expressly subject to all such terms and conditions in the Lease, including if applicable, any terms or provisions regarding Landlord's reversionary interest in such repaired and replaced furniture, fixtures, equipment upon expiration or termination of the Lease, as may be set forth in the terms and conditions of the Lease.

18. Reports.

(a) Manager will furnish or arrange for the preparation of, and deliver to ECRMC, the following information with respect to the Facility within the time periods set forth below:

(i) within thirty (30) days following the end of each calendar month:

(1) unaudited monthly financial statements, consisting of a balance sheet and a statement of profit and loss as of and for the month then ended, prepared on an accrual basis and in accordance with GAAP; and

(2) monthly census and quality indicator information as of the end of such month in sufficient detail to show by payor mix (i.e., private pay, Medicare, Medicaid and other), the average monthly census, and occupancy rates.

(ii) within ninety (90) days after the close of each fiscal year during the term of this Agreement, a balance sheet and a statement of profit and loss for the Facility for the fiscal year then ended prepared in accordance with GAAP.

(b) All fees, expenses and charges incurred in compliance with subsection (a) are expenses of the Manager. However, if ECRMC requests Manager to develop any non-standard report that (i) is of a type that Manager is not then utilizing in connection with the Facility, and (ii) would require more than eight (8) hours of work by the appropriate personnel of Manager or its subcontractor to develop and implement, then Manager shall prepare and submit to ECRMC a written "statement of work" setting forth the estimated cost of development for such report, and Manager shall not be required to proceed with the development and implementation of such report unless and until ECRMC shall have approved such statement of work and agreed to pay the cost thereof as set forth in such statement.

19. Signage. All signage on the exterior of the Facility shall be subject to prior written approval of ECRMC and Manager, and shall comply with all applicable laws.

20. Indemnification.

(a) Manager shall indemnify, protect defend and hold harmless ECRMC, Waypoint and their respective officers, directors, members, managers from and against any and all claims, losses, costs, expenses (including, but not limited to, attorneys' fees and disbursements) (whether relating to any person or to property, both real or personal) ("Claims") by and on behalf of any person or entity first arising from and after the Transition Date from (1) Manager's breach of any provision of this Agreement; and (2) any negligent act or omission of Manager in the performance of its obligations under this agreement; provided that this indemnity shall not extend to injury, damages or loss insofar as it is caused by the breach of this Agreement by any other party hereto, or the negligence or willful misconduct of such party.

(b) Waypoint shall indemnify, protect defend and hold harmless ECRMC, Manager and their respective officers, directors, members, managers from and against any and all Claims by and on behalf of any person or entity first arising from and after the Transition Date from (1) Waypoint's breach of any provision of this Agreement; and (2) any negligent act or omission of Waypoint in the performance of its obligations under this agreement; provided that this indemnity shall not extend to injury, damages or loss insofar as it is caused by the breach of this Agreement by any other party hereto, or the negligence or willful misconduct of such party.

(c) ECRMC shall indemnify, protect defend and hold harmless Manager, Waypoint and their respective officers, directors, members, managers from and against any and all Claims by and on behalf of any person or entity first arising from and after the Transition Date from (1) ECRMC's breach of any provision of this Agreement; and (2) any negligent act or omission of ECRMC in the performance of its obligations under this Agreement; provided that this indemnity shall not extend to injury, damages or loss insofar as it is caused by the breach of this Agreement by any other party hereto, or the negligence or willful misconduct of such party.

(d) A Party seeking indemnification under this Section 20 shall give the other Parties prompt written notice of the claim for which it seeks indemnification. Failure of the Party seeking indemnification to give such prompt notice shall not relieve any indemnifying Party of its indemnification obligation, provided that such indemnification obligation shall be reduced by any damages suffered by the indemnifying Party resulting from a failure to give prompt notice hereunder. The indemnifying Party shall provide the defense of such claim, including, without limitation, retention and payment of attorneys. A Party providing indemnification under this section may defend such claim with counsel of their own choosing providing such counsel is reasonably satisfactory to the Party claiming indemnification.

21. Parking. Manager and Manager's employees, contractors and invitees shall be allowed to park in the Facility's parking lots, as determined by Manager.

22. Alterations and Additions. Manager may at any time and from time to time during the Term make or permit to be made any structural or non-structural alteration, addition, change or improvements of, in or to the Facility, provided such alterations or additions are permitted by the Lease and approved by ECRMC, whose approval shall not be unreasonably withheld, delayed or conditioned.

23. Insurance.

(a) Manager, at Manager's expense, shall procure and maintain during the Term, the following insurance coverages:

(i) Workers' Compensation Insurance as required by the State of California with statutory limits and Employers Liability Insurance with coverage limits of at least \$1,000,000 per occurrence or claim and \$1,000,000 aggregate.

(ii) Commercial General Liability Insurance on a "claims made" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits of at least \$5,000,000 per occurrence and \$5,000,000 aggregate. ECRMC and its affiliated entities shall be named as additional insureds.

(iii) Professional Liability Insurance with coverage limits of at least \$5,000,000 per occurrence or claim and \$5,000,000 general aggregate.

(iv) Cyber Risk Liability Insurance covering claims arising from the disclosure of any personally identifiable information, privacy violations, or other damage to ECRMC's electronic data with limits of no less than \$3,000,000 per occurrence and \$3,000,000 aggregate.

(v) Automobile Liability Insurance covering owned and non-owned autos with limits of at least \$1,000,000 per accident for bodily injury and property damage.

(vi) Fidelity/Crime Insurance with coverage limits of at least \$1,000,000 per loss including coverage for losses of third-parties and joint loss payee status for ECRMC and its affiliated entities.

(b) The foregoing insurance shall be with an insurance company authorized to do business in the State of California and with a claims paying ability rating of "A-" or better. Manager shall provide ECRMC with certificates of insurance with respect to such policies.

(c) Manager agrees to name ECRMC as an "additional insured" and/or loss payee, as applicable, on Manager's policies of insurance. The definition of additional insured shall include all partners, officers, directors, employees, agents and representatives of the named entity. Further, coverage for "additional insured" shall apply on a primary basis irrespective of any other insurance, whether collectible or not. With respect to any "claims made" insurance policies covering the operation of the Facility prior to the non-continuation date or termination of this Agreement, Manager shall procure an extended reporting or "tail" insurance policy effective as of the Expiration Date and naming ECRMC as an additional insured thereunder for a period of two (2) years.

(d) ECRMC shall maintain commercially reasonable and adequate property insurance and general and professional liability insurance or a program of self-insurance with respect to the Facility.

24. Assignment. Except as provided in this Section 24, no Party may assign this Agreement without the prior written consent of the other parties, which consent shall not be unreasonably withheld, conditioned or delayed. However, any Party may, on not less than thirty (30) days' prior written notice to the other Parties, assign or otherwise transfer (by operation of law or otherwise) this Agreement or its rights hereunder any person or entity which controls, is controlled by or is under common control with such party. Any such assignment shall be subject to such regulatory approvals as may be required by applicable law or regulation. Manager and Baypoint acknowledge that ECRMC is in negotiation with Imperial Valley Healthcare District ("IVHD") concerning a sale of all assets and operations from ECRMC to IVHD. All Parties agree that assignment and transfer of this Agreement, the Facility license and the Lease from ECRMC to IVHD is hereby approved and each Party shall mutually cooperate as necessary to effect such assignment and transfer.

25. Default.

(a) Termination by ECRMC. ECRMC may terminate this Agreement on written notice to Manager and Waypoint if: (i) Manager or Waypoint defaults in the performance of any provision of this Agreement and such default is not cured within 30 days following written notice from ECRMC specifying such default (the “Cure Period”; provided that, if the default is reasonably capable of being cured but not within such 30 day period, the Cure Period shall be extended for as long as Manager or Waypoint, as the case may be, is diligently prosecuting such cure to completion); (ii) a petition in bankruptcy is filed by or against Manager or Waypoint (provided Manager or Waypoint, as the case may be, shall have 90 calendar days to stay any involuntary proceeding); (iii) Manager or Waypoint makes an assignment for the benefit of its creditors, or a receiver is appointed for Manager or Waypoint or its respective assets and such receiver is not dismissed within 60 days of its appointment; (iv) Manager fails to cure or abate any Immediate Jeopardy within the time period permitted by such governmental authority for cure or abatement; (v) a governmental authority terminates or suspends any material license or permit relating to the Facility solely due to an action or inaction by Manager or Manager’s agents; or (vi) Manager or Waypoint is excluded from participating in any federal health care programs by the Office of the Inspector General of the U.S. Department of Health and Human Services.

(b) Termination by Manager. Manager may terminate this Agreement if: (i) ECRMC defaults in the performance of any provision of this Agreement and such default is not cured within 30 days following written notice from Manager specifying such default (the “Cure Period”; provided that, if the default is reasonably capable of being cured but not within such 30 day period, the Cure Period shall be extended for as long as ECRMC is diligently prosecuting such cure to completion); (ii) a petition in bankruptcy is filed by or against ECRMC (provided the ECRMC shall have 90 calendar days to stay any involuntary proceeding); (iii) ECRMC makes an assignment for the benefit of its creditors, or a receiver is appointed for ECRMC or its assets and such receiver is not dismissed within 60 days of its appointment; (iv) a governmental authority terminates or suspends any material license or permit relating to the Facility solely due to an action or inaction by ECRMC or ECRMC’s agents; (vi) ECRMC is excluded from participating in any federal health care programs by the Office of the Inspector General of the U.S. Department of Health and Human Services; (vii) the provisions of clause (i) above notwithstanding, ECRMC fails to make any payment of any fee or other payment due and payable to Manager under Attachment C within ten (10) days of written demand delivered to ECRMC (any of the foregoing, an “ECRMC Default”).

In the event of an ECRMC Default, Manager shall have the option, at Manager’s sole discretion, and without prejudice to its right to terminate this Agreement, of (1) terminating this Agreement, (2) abating or withholding any amounts due to ECRMC under this Agreement, or (3) remedying such ECRMC Default and, in connection therewith, incurring expenses for the account of ECRMC, and any and all such sums expended or obligations incurred by Manager in connection therewith shall be paid by ECRMC to Manager upon demand, and if ECRMC fails to immediately reimburse and pay same to Manager, Manager may, in addition to any other right or

remedy that Manager may have under this Agreement, deduct such amount (together with interest thereon at the maximum rate permitted by applicable law from the date of any such expenditure by Manager until the date of repayment thereof by ECRMC to Manager) from any amounts that from time to time become due and payable to ECRMC hereunder. In all events Manager shall have the right to remedy any ECRMC Default without prior notice in the event of an emergency (so long as Manager gives notice within a reasonable period of time thereafter) at the expense of ECRMC, and to recover the costs of such remediation in accordance with the preceding sentence.

(c) Termination by Waypoint. Waypoint may terminate this Agreement if any fee or other payment due and payable to Waypoint under Attachment C is not paid within ten (10) days of written demand delivered to ECRMC and Manager.

26. Representations and Warranties.

(a) Representations and Warranties of ECRMC. ECRMC represents and warrants to Manager and to Waypoint that:

(i) Organization. ECRMC is [an agency of the City of El Centro, California], validly existing and in good standing under the laws of the State of California, and is duly authorized to do business in the State of California, and to perform the terms and provisions of this Agreement.

(ii) Authority. This Agreement has been duly authorized, executed and delivered by ECRMC. This Agreement is the legal, valid and binding obligation of ECRMC, except as such enforceability may be limited by bankruptcy, insolvency and other laws with respect to creditor rights generally and/or general principles of equity. This Agreement does not violate any provisions of any agreement or judicial or administrative order to which ECRMC is a party.

(iii) No Conflict. The execution and delivery of this Agreement by ECRMC does not constitute or result in, or will not with the passage of time constitute or result in, a breach of or default under any contract, agreement, mortgage or other security instrument or understanding, whether written or oral, by which ECRMC is bound.

(iv) Actions. There is no action, suit, legal or arbitration proceeding, pending or threatened, regarding ECRMC or ECRMC's ability to enter into this Agreement and engage in the transactions contemplated under this Agreement.

(v) Brokers. Neither ECRMC nor its agents has engaged the services of any broker or finder in connection with the transactions provided for in this Agreement.

(b) Representations and Warranties of Manager. Manager represents and warrants to ECRMC and to Waypoint that:

(i) Organization. Manager is a limited liability company validly existing and in good standing under the laws of the State of California, and is duly authorized to do business in the State of California, and to perform the terms and provisions of this Agreement.

(ii) Authority. This Agreement has been duly authorized, executed and delivered by Manager. This Agreement is the legal, valid and binding obligation of Manager, except as such enforceability may be limited by bankruptcy, insolvency and other laws with respect to creditor rights generally and/or general principles of equity. This Agreement does not violate any provisions of any agreement or judicial or administrative order to which Manager is a party.

(iii) No Conflict. The execution and delivery of this Agreement by Manager does not constitute or result in, or will not with the passage of time constitute or result in, a breach of or default under any contract, agreement, mortgage or other security instrument or understanding, whether written or oral, by which Manager is bound.

(iv) Actions. There is no action, suit, legal or arbitration proceeding, pending or threatened, regarding Manager or Manager's ability to enter into this Agreement and engage in the transactions contemplated under this Agreement.

(v) Brokers. Neither Manager nor its agents has engaged the services of any broker or finder in connection with the transactions provided for in this Agreement (provided that Waypoint has assisted Manager in connection with this Agreement).

(c) Representations and Warranties of Waypoint. Waypoint represents and warrants to ECRMC and to Manager that:

(i) Organization. Waypoint is a limited liability company validly existing and in good standing under the laws of the State of California, and is duly authorized to do business in the State of California, and to perform the terms and provisions of this Agreement.

(ii) Authority. This Agreement has been duly authorized, executed and delivered by Waypoint. This Agreement is the legal, valid and binding obligation of Waypoint, except as such enforceability may be limited by bankruptcy, insolvency and other laws with respect to creditor rights generally and/or general principles of equity. This Agreement does not violate any provisions of any agreement or judicial or administrative order to which Waypoint is a party.

(iii) No Conflict. The execution and delivery of this Agreement by Waypoint does not constitute or result in, or will not with the passage of time constitute or result in, a breach of or default under any contract, agreement, mortgage or other security instrument or understanding, whether written or oral, by which Waypoint is bound.

(iv) Actions. There is no action, suit, legal or arbitration proceeding, pending or threatened, regarding Waypoint or Waypoint's ability to enter into this Agreement and engage in the transactions contemplated under this Agreement.

(v) Brokers. Neither Waypoint nor its agents has engaged the services of any broker or finder in connection with the transactions provided for in this Agreement.

(d) Notices. All notices, demands and requests which may or are required to be given hereunder, shall be in writing and shall be either served personally, or sent by overnight courier, or registered or certified mail, return receipt requested with postage prepaid, and addressed to the party to be notified at the address set forth below, or to such other place as the party to be notified may from time to time designate by at least fifteen (15) days' notice to the notifying party. Any such notice, request, demand, instruction or other communication shall be deemed sufficiently served or given for all purposes hereunder either (i) if personally served, upon such service, (ii) if sent by overnight courier, the following business day, or (iii) if mailed, two (2) business days after the time of mailing or on the date or receipt shown on the return receipt, whichever is first.

ECRMC:

El Centro Regional Medical Center

1415 Ross Avenue

El Centro, CA 92243

Attention: Pablo Velez, CEO

Manager:

Bayshire LLC

1817 Avenida Del Diablo

Escondido, CA 92029

Attention: Scott Kirby

Waypoint:

Waypoint Management Consulting, LLC  
1320 Flynn Rd

Camarillo, CA 93012

Attention: Tim Cooley

27. Estoppel Certificate. Each party agrees at any time, and from time to time, upon written request from any other party, to execute and deliver to the party requesting it an estoppel certificate containing the following information:

(a) The Agreement is unmodified and in full force and effect, if such is the case (or if there have been modifications, that the same is in full force and effect as modified, and stating the modifications);

(b) The Commencement Date and the Transition Date of the Agreement, and the Expiration Date of the applicable Term; provided that not such date shall be determined or affected by the delivery or non-delivery of such certificate; and

(c) That no defaults exist or are continuing beyond any applicable notice and cure period (or describing any default that then exists under this Agreement).

28. Protected Health Information.

(a) The Parties acknowledge that Manager and Waypoint will need to access and use the “protected health information” of patients of the Facility, as defined in 42 U.S.C. § 1320d and 45 CFR § 164.501 (“Protected Health Information”), in order to perform their respective duties under this Agreement. The Parties agree to comply with the applicable provisions of the Administrative Simplification section of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and the requirements of any regulations promulgated thereunder, including, without limitation, the federal privacy regulations contained in 45 CFR Parts 160 and 164 (the “HIPAA Privacy Regulations”), the federal security regulations contained in 45 CFR Parts 160, 162 and 164 (the “HIPAA Security Regulations”), the Health Information Technology for Economic and Clinical Health Act, enacted as part of the American Reinvestment and Recovery Act of 2009, and any regulations promulgated thereunder (“HITECH”), as well as the specific agreements and assurances set forth below.

(b) Manager and Waypoint agree to comply with the terms of the Business Associate Addendum attached hereto as Attachment D.

29. Confidential Information.

(a) Each party acknowledges that the business of the other parties involves the development and use of Confidential Information (defined below) and that each party will make its Confidential Information to the other Parties in connection with its duties under this Agreement. Except as required in connection with the exercise of its rights or the performance of its duties hereunder or as required by law, the Parties and their respective officers, directors, employees or agents shall not, at any time during or after the term of this Agreement, divulge, furnish or make accessible Confidential Information of any other Party to any person or entity for any purpose whatsoever. “Confidential Information” means any confidential or proprietary information, including, without limitation, manuals, forms, policies and procedures, computer programs, system documentation and related software, patient records and patient information,

7565552.4

and any other information of any kind with respect to the finances, business plans or business operations of the parties.

(b) Effective upon a termination of this Agreement for any reason whatsoever, each Party shall return to each of the others, or at its request destroy, Confidential Information of such Party, and shall not use or further disclose any such Confidential Information.

(c) The parties agree that an aggrieved party who is the beneficiary of any restriction contained herein may not be adequately compensated for damages for a breach of the covenants contained in this Section 29, and such aggrieved party shall be entitled to injunctive relief and specific performance in addition to all other remedies.

30. Waivers; Entire Agreement.

(a) The failure of a party to exercise any of its rights or to give any notice with respect to any default by any other party or otherwise to insist upon the strict performance of the other party's obligations hereunder shall not prevent that party from doing so at any time subsequently either with respect to the same default or with respect to any other (similar or non-similar) default.

(b) No provision of this Agreement shall be deemed to have been waived by either party unless such waiver is expressly set forth in a writing signed by the waiving party.

(c) This Agreement contains the entire agreement between the parties, superseding any prior agreements.

31. Amendment. This Agreement shall not be amended, nor shall any of its provisions be waived, except as set forth in a written amendment or waiver executed by all parties hereto.

32. Severability. Subject to the provisions of Section 12(f), if any section, subsection, term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid and unenforceable, the remainder of this Agreement or the application of such section, subsection, term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each section, subsection, term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

33. Binding Effect. Except as herein otherwise provided, this Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective executors, administrators, and permitted successors and assigns.

34. Headings; Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the intent of any provision thereof.

35. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California, applicable to agreements made and to be performed solely therein, without giving effect to principles of conflicts of law. The Parties irrevocably submit and consent to the jurisdiction of any California state court sitting in Imperial County, California or federal court sitting in San Diego, California, over any action or proceeding arising out of or relating to this Agreement, and the parties hereby irrevocably agree that all claims in respect of any such action or proceeding may be heard and determined in such California state or federal court.

36. Execution and Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if the parties hereto had signed the same document. All counterparts will be construed together and shall constitute one Agreement. Signatures transmitted by facsimile or .pdf shall have the same effect as original signatures.

37. Broker's Commissions.

(a) ECRMC agrees to save, indemnify and hold Manager and Waypoint harmless from and against any and all claims, liabilities or obligations for brokerage or finder's fees or commissions in connection with this Agreement or the transactions contemplated hereby, asserted by any person on the basis of any statement or act alleged to have been made or taken by ECRMC.

(b) Manager agrees to save, indemnify and hold ECRMC and Waypoint harmless from and against any and all claims, liabilities or obligations for brokerage or finder's fees or commissions in connection with this Agreement or the transactions contemplated hereby, asserted by any person on the basis of any statement or act alleged to have been made or taken by Manager.

(c) Waypoint agrees to save, indemnify and hold ECRMC and Manager harmless from and against any and all claims, liabilities or obligations for brokerage or finder's fees or commissions in connection with this Agreement or the transactions contemplated hereby, asserted by any person on the basis of any statement or act alleged to have been made or taken by Waypoint.

38. Independent Contractor. Manager and Waypoint are at all times acting and performing under this Agreement as independent contractors of ECRMC and each other, and that no act, commission or omission by ECRMC, Manager or Waypoint shall be construed to make or constitute any other Party its partner, principal, agent, joint venturer or associate, except to the extent expressly set forth in this Agreement.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date:

ECRMC:

El Centro Regional Medical Center

By: Pablo Velez  
Its: CFO ECRMC  
Date: 8/21/24

Manager:

Bayshire LLC

By: Scott Kirby  
Its: Manager  
Date: 8/21/2024

Waypoint:

Waypoint Management Consulting, LLC

By: Tim Cooley  
Its: Manager  
Date: 8/22/2024

Attachment A

Services to be Provided by Waypoint

1. Pre-Transition Services. Prior to the Transition Date, Waypoint shall:

(a) Assist ECRMC and Bayshire with the submission of the necessary Change of Bed (CHOB) application to the California Department of Public Health (CDPH) to get the Facility's beds placed on Hospital's license, and the management the CHOB process with CDPH;

(b) Coordinate communication with the Centers for Medicare and Medicaid Services (CMS) for DP NF-B Designation for the Facility;

(c) Manage initial rate setting pro-forma and communication with DHCS Rate Setting; and

(d) Assist in the implementation of the terms of the Management Agreement in contemplation of the Transition.

2. Post-Transition Services. Following the Transition, Waypoint will provide the following additional Services at the request of Manager:

(a) Preparing monthly/quarterly reports for ECRMC, including semi-annual mock survey;

(b) Managing ongoing cost reporting process for rate accuracy and optimization.

(c) Assisting ECRMC in fulfilling its obligation of oversight in accordance with legal and regulatory requirement

(d) Costs. From its fee pursuant to Attachment C, Waypoint will be responsible for paying the fees of the firm retained by Bayshire for preparing cost reports for the Facility, and the fees of the law firm retained by Bayshire in connection with the CHOB; provided that Manager and ECRMC shall consult with Waypoint on the selection of the firms, and provided, further, that the fees of the firms shall be subject to Waypoint's reasonable approval.

Attachment B

Shared Services and Shared Services Personnel

1. Shared Services. Shared Services shall include the following to be provided by Hospital to Facility at the following costs:

- (a) housekeeping labor to be provided at \$7.00 per patient day;
- (b) housekeeping supplies to be provided at \$.85 per patient day;
- (c) laundry labor to be provided at \$2.90 per patient day;
- (b) laundry supplies to be provided at \$.65 per patient day;
- (c) linen replacement to be provided at \$.11 per patient day;
- (d) maintenance labor to be provided at \$2.90 per patient day;
- (e) marketing labor to be provided at \$4.20 per patient day;
- (f) marketing expenses to be provided at \$.57 per patient day;
- (g) distinct part Medical Director to be provided at \$.48 per patient day; and

---

- (f) any other services that ECRMC and the Manager mutually decide should be provided by ECRMC.

[To follow]

Management and Consulting Fees

1. Definitions. For purposes of this Attachment:

(a) “Collections” means any and all collections on account of services provided at the Facility during the Term of this Agreement, from every source, net of any reduction, contractual allowance or withhold received on account of billing by Manager, including any collections on account of ECRMC cost reports. Notwithstanding the foregoing, Collections does not include any payments received from the District Hospital Directed Payment Program, the Quality Incentive Pool Program, or the Quality Assurance Fee Program.

(b) The “Current Rate” for any month is the daily rate at which the Facility is reimbursed by the Medi-Cal program for skilled nursing services provided during the month.

(c) The “Gross Monthly Medi-Cal Revenue Delta” for any month is the amount determined by subtracting the Base Rate from the Current Rate and then multiplying the difference by the total billable Medi-Cal patient days during the given month.

(d) “Base Rate” has the meaning set forth in Section 2(a)(iv) below.

2. Allocation of Collections. Manager shall allocate and pay the Collections received during such month as follows:

(a) ECRMC’s Retained Cost Reimbursement. ECRMC shall retain (and Manager shall forward to ECRMC, within \_\_\_\_\_ ( ) days of the end of the month), an amount equal to the following incurred during the month (ECRMC’s “Retained Cost Reimbursement”):

- (i) ECRMC’s costs with respect to the Lease, including any property insurance costs that the Lease imposes upon ECRMC;
- (ii) ECRMC’s additional costs, if any, for general and professional liability insurance or a program of self-insurance with respect to the Facility.
- (iii) ECRMC’s costs for the Shared Services, as provided in Attachment B; and
- (iv) An amount equal to seven and one-half percent (7.5%) of the Gross Monthly Medi-Cal Revenue Delta. For purposes of this subsection 2(a), the Base Rate shall be \$280 per day throughout the Term.

(b) Manager’s Management Fee. In consideration of the services to be provided by Manager under this Agreement, it shall be entitled to a fee (Manager’s “Management Fee”) equal to all Collections, less ECRMC’s Retained Cost Reimbursement.

(c) Waypoint's Consulting Fee. Manager shall pay the fees due to Waypoint pursuant to that certain Affiliation Agreement, dated August 18, 2023, by and between Waypoint and Manager (the “Affiliation Agreement”).

Survival. The provisions of this Attachment C shall survive the expiration or termination of the Agreement for any cause or reason for a period of twelve (12) months (the “Survival Period”). During the Survival Period each Party shall account to the others for any Collections received by it that relate to services provided at the Facility on or after the Transition Date and before the Expiration Date, and all such Collections shall be promptly paid to Manager, who shall allocate and distribute them as set forth in this Attachment C.

Attachment D

Business Associate Addendum

[To follow]

---