**SKILLED NURSING FACILITY PATIENT PLACEMENT AGREEMENT**

**THIS PATIENT PLACEMENT AGREEMENT** (this “Agreement”) is effective as of this 24 day of January, 2019, by and between UVM Medical Centers (“Hospital”) and Berlin Health & Rehab(“Center”), which is attached hereto and made a part hereof, and both hereinafter collectively referred to as “parties” and/or “institutions” and each individually as a “party” and/or an “institution.”

**WHEREAS**, Hospital is a licensed acute care hospital which provides access to patient care to residents of its service area and who require complex medical care;

**WHEREAS**, Center operates a skilled nursing facility within Hospital’s service area;

**WHEREAS**, Hospital seeks to expand its discharge options for certain patients who no longer need acute inpatient care services but who do require skilled nursing care services on a short term basis (“Patients”); and

**WHEREAS**, Hospital seeks to transfer such Patients to Center and Center desires to care for such

Patients.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties herby agree as follows:

**1 Term.** This Agreement shall commence on the day and year first above written and shall continue indefinitely thereafter, unless sooner terminated or amended as herein provided.

**2. Termination.** This Agreement may be terminated by either party on thirty (30) days written notice to the other party. However, either party may cancel this Agreement immediately upon the occurrence of any of the following:

a. The loss, revocation, or suspension of the other party’s license to operate a health care facility in Vermont by the Department of Health and Human Services or the exclusion or suspension of the other party from participation in the Medicaid program;

b. The loss of the other party’s professional liability insurance;

c. The filing by or against the other party of any petition under any law for the relief of debtors or in the event either party enters into an assignment or other agreement for the benefit of creditors, or

suffers an attachment against or a seizure of a substantial part of its assets;

d. Any sanction or exclusion of the other party from participation in a federally funded healthcare program as set forth in 42 U.S.C. 1320a-7(a);

e. A default in the other party’s performance of any obligation or covenant hereunder and

such default is not cured within fifteen (15) days following written notice thereof;

f. A party’s ceasing of business;

g. The conviction of any criminal offense by a party or any of the principals or officers of said party; or

h. A party’s creation or cause of a public health or public safety hazard.

Upon termination of this Agreement, the parties shall nonetheless provide continuity of care to Patients whom Center has already admitted pursuant to the terms of this Agreement, whom Center has agreed in writing to admit prior to the termination date, or prior to the date of termination of this Agreement who have otherwise become eligible for transfer to Center pursuant to the terms of this Agreement, and as to those Patients, the commitments of each party to this Agreement shall continue.

The following provisions shall survive the expiration or other termination of this Agreement, regardless of the cause of such termination: 7 through 23, inclusive, 26-30, 34, and 37.

**3. Independent Contractor Status.** In performing their duties under this Agreement, the parties shall be acting as independent contractors. All persons employed by each party shall be employees of that party only and shall look only to their own employer for employment benefits and payment of wages. No relationship of employer/employee between Hospital and Center staff is created by this Agreement. Each party is solely responsible for paying all employment taxes relative to its own staff, and each party shall indemnify and hold the other harmless with respect thereto.

Neither party shall have the authority to bind the other in any respect without the prior written consent of the other party. Both institutions shall have exclusive control of the management, assets, and affairs of their respective institutions. Neither party by virtue of this Agreement assumes any liability for any debts or obligations of either a financial or a legal nature incurred by the other party to this Agreement.

**4. Case Manager.** Each of the parties shall appoint a Case Manager to act as the primary contact under this Agreement. The Case Managers shall have responsibility and authority, to the extent permitted by law and applicable regulations, to manage the day-to-day operations contemplated hereunder, including, without limitation, communication of confidential Patient information; approval of Patient transfers; transportation arrangements; plan of care coordination; approval for any diagnostic testing, imaging, laboratory work (other than CBC and SMA7), physical therapy, occupational therapy, speech therapy, prescription medications, non-prescription medications, pharmaceuticals, pharmaceutical supplies, pharmaceutical services, medical devices, medical supplies and modifications to approved lengths of stay and corresponding reimbursement amounts.

**5. Medical Director.** Each of the parties hereto shall also appoint a Medical Director to oversee the activities contemplated hereunder, and who will negotiate and resolve any Patient care issues that cannot be resolved by the Case Managers. Hospital’s Medical Director shall have the sole authority for approving extraordinary lengths of stay in excess of thirty (30) days, as described below.

**6. Acceptance of Transfer Patients.** Pursuant to the terms and conditions herein, Center shall accept

Patients referred to it by Hospital and which meet its criteria established herein for admission.

**7. Payment.** Subject to the limitations defined herein, for each Patient transferred to Center pursuant to this Agreement, Hospital shall reimburse Center according to the terms and conditions of the schedule attached hereto as **Exhibit A** and which is incorporated herein by reference.

**8. Patient Transfer.** At the election of Hospital, Hospital will identify Patients appropriate for discharge from its acute care hospital and who have continuing need for skilled nursing care services that are within the scope of services which Center provides. The need for transfer of a Patient to Center shall be determined by the Hospital’s Case Manager. When that determination has been made, Hospital shall notify Center of its desire to transfer the Patient to Center, and request Center to designate a Center to which the Patient can be admitted.

Contemporaneous with any request made by Hospital to Center to transfer a Patient to a Center, Hospital shall provide Center with the following information relative to the Patient sought to be transferred:

a. Current medical findings;

b. History and medical status;

c. Diagnosis;

d. Rehabilitation potential;

e. Brief summary of the course of treatment followed;

f. Administrative and pertinent social information and demographic information;

g. Pertinent insurance information;

h. Advance directive and/or power of attorney and/or certificate of appointment of guardian, if any; and

i. Physician orders and care plan.

Center shall review the above referenced medical information and shall accept Hospital’s request to admit the Patient to Center within one day of the request, except where, in Center’ reasonable judgment, the level of care needed by such Patient exceeds the capabilities of Center to provide for such, or where Center does not have a vacancy in which to place Patient. If, after review of the above-mentioned medical information provided by Hospital, Center rejects Hospital’s request to admit the Patient to Center, Center shall fax to Hospital written notification of such rejection, and the reasons for such, within two (2) hours of making said rejection determination.

Upon acceptance of a Patient, Center shall notify Hospital of the location of the Center to which such Patient will be admitted, with due regard for the Patient's medical needs and personal preferences, and Center shall also promptly notify such Center of the pending admission of the Patient.

**9. Personal Effects.** Upon transfer of a Patient to Center, Hospital shall provide Center with all of Patient’s personal effects, including money, other valuables, dentures and/or eyeglasses, and a note will be entered into the Patient’s chart listing the valuables and the date sent. All such personal effects of the Patient shall be transferred with the Patient, and shall be the responsibility of Center once the Patient is transferred. Personal effects will be transferred together with a document listing all transferred personal effects. Center shall provide Hospital with a signed acknowledgment of receipt of the Patient’s personal effects and valuables, to be retained by Hospital.

**10. Transfer Consent and Access to Information.** It is agreed that each institution shall have custody of and control over the medical records and other pertinent information concerning its patients, but that members of both medical staffs shall have access to this information for the purposes of effectuating this Agreement. Upon request by Hospital, Center shall provide Hospital with access to Patient’s medical records for the purpose of documenting the services provided by Center to such Patients and supporting the charges incurred by Hospital for same.

**11. Transportation of Patients.** Hospital shall be responsible for the cost of transportation of the Patient to Center.

1. **Admission Process.** Pursuant to the terms and conditions defined herein, Center may accept for admission patients referred by Hospital meeting the criteria established herein. Hospital will identify patients appropriate for discharge from acute care with short term skilled nursing care needs that are within the licensed scope of services provided by Center. (Prior to the admission of such patients to Center, such patients are herein referred to as “Proposed Transfer Patients”; following admission, such patients are herein referred to as “Transfer Patients”). For Proposed Transfer Patients who are uninsured, Hospital shall initiate an application for Medicaid whenever feasible. Hospital shall contact Center and provide Center with access to such of Hospital’s records and information about each Proposed Transfer Patient to enable Center to evaluate the patient for skilled nursing care at the Center, including toxicology screens, history and medical status and physician orders and care plan. Within two (2) hours of Center’s receipt of complete information from Hospital with respect to any Proposed Transfer Patient, Center shall advise Hospital of its acceptance or denial of admission to such Proposed Transfer Patient, or of its request for additional time to evaluate the proposed patient transfer. If Center determines that any of the below listed conditions are met, Center reserves the right to deny admission to the Proposed Transfer Patient.

a) Proposed Transfer Patient has exhibited threatening or abusive behavior to self or others;

b) Proposed Transfer Patient has abused drugs during acute care stay at Hospital;

c) Proposed Transfer Patient has active tuberculosis;

d) Proposed Transfer Patient requiring isolation;

e) Proposed Transfer Patient requiring secured units;

f) Proposed Transfer Patient whose psychiatric symptoms and behaviors are not manageable in the skilled nursing facility setting despite pharmacologic and non-pharmacologic interventions;

g) Proposed Transfer Patient who are actively abusing drugs and who are in need of drug rehabilitation in order to facilitate plan of care;

h) Proposed Transfer Patient who are unable to make decision and have no responsible party;

i) Proposed Transfer Patient who are expected to remain long-term or require long-term care in a skilled facility; or

j) Proposed Transfer Patient’s care needs are outside the licensed scope of Center.

Hospital and Center agree to meet and confer regarding admissions, and the continuation of a bed availability for Patients based on gender mismatch and/or who have infectious disease considerations (e.g. MRSA, VRE).

Center shall not knowingly or unknowingly discriminate against any patient on the basis of source of payment, health plan coverage, medical condition, or in any manner in regards to access to, and the provision of, skilled nursing services.

With respect to patient care, Center shall exercise its independent medical judgment with the degree of care and skill which is commensurate with the generally recognized level of care and skill for skilled nursing providers in the community.

Center shall use its best efforts to promptly become a member of applicable health care alliances or similar groups for the purpose of ensuring Hospital has necessary access to electronic medical records relating to patients transferred between Center and Hospital.

Center shall submit Hospital clinical updates weekly, to determine continued skilled care need for patient.

**13. Plan of Care; Length of Stay.** Hospital will provide a plan of care for each Patient transferred to Center, and to provide Center with a physician’s order stating the nature and length of therapy such Patient is to receive while a Patient at Center. Any changes to a Patient’s plan of care shall be made upon the mutual agreement of the Case Managers, and the Hospital Case Manager will authorize such treatment by signature. Hospital will not reimburse Center for any therapies, prescription drugs, pharmaceuticals, diagnostic testing, imaging, or treatments that are not described in the plan of care and physician’s order or otherwise agreed to in writing by the Hospital Case Manager or otherwise set forth in the attached **Exhibit A** attached hereto. The prescribed length of therapy contained in the physician's order shall serve as the maximum length of stay for which Hospital will reimburse Center, unless the length of therapy is modified in writing by the mutual agreement of the Case Managers. In no event shall Hospital reimburse Center for lengths of stay in excess of thirty (30) days without the prior written consent of the Hospital Medical Director. In such cases, subsequent review by both parties and approval for continuing stays shall be required from the Hospital Medical Director every thirty (30) days.

The parties acknowledge that it is the sole responsibility of Center to timely order and provide all medically necessary services to Patient. Nothing in this Agreement or in any plan of care shall be construed so as to place any limitation whatsoever on Center’s responsibility and/or ability to order and provide Patient with any and all medically necessary services. The parties acknowledge that the plan of care approval process is intended to determine the reimbursement of Center for services Center provides to Patients only. In no event shall Center delay or withhold ordering or providing any medically necessary services to any Patient for any reason, including but not limited to, the Center’s inability to obtain prior approval from Hospital for reimbursement for such services.

**14.** **Financial Responsibility and Scope of Care.** Center may admit Proposed Transfer Patients who have the inability to pay (“Indigent Patients”), and for this reason, do not meet Center’s admission criteria. Hospital agrees to remain financially responsible for medically necessary long term care/skilled nursing care for each Indigent Patient until discharged or transferred to another health care facility by Center. Hospital will be responsible for payment for up to 15 days of care in Center. With respect to any Indigent Patient, Hospital may deliver notice of a date after which it will no longer pay Center for care delivered to any Indigent Patient. In such case, Center may 1) continue to provide care to such person as an indigent patient, at Center’s own cost and expense, 2) transfer the Patient to Hospital, or 3) discharge the patient if Center determines that the patient no longer requires subacute level care. For all patients for whom Hospital is financially responsible and transfer to Center has been completed, Hospital will not deny a payment request made consistent with this Agreement. . In the event of an emergency situation, Center shall use its professional judgment in determining the transferring location where emergency services are provided. Any transfer costs and expenses shall be paid by the party or facility transferring the patient.

Center will provide Indigent Patients with skilled nursing care services, including but not limited to the following:

a) General Nursing Care, 24/7

b) Meals, snacks & supplemental feedings

c) Initial nutritional evaluation & follow-up as needed by a registered dietician

d) Social Work Services

e) Therapeutic recreation services

f) Pain management consultations

g) Dressings, personal care items and incontinence supplies

h) Internal case management

i) Physician services

j) Routine lab work (chemistry, CBC)

It is the understanding of the parties, that patients transferred pursuant to this Section do not have public or private insurance to cover their stay at Center. Center shall continually investigate third party coverage. In the event an Indigent Patient qualifies for Medicaid, Hospital’s financial obligation for such patient ceases as of the date of Medicaid eligibility. On a quarterly basis, Center will issue a credit to Hospital for any payments made for the care of such patient(s) after the date of Medicaid eligibility. Center shall afford any Indigent Patient who is determined eligible for Medicaid the opportunity to transfer to another skilled nursing facility that he or she may choose.

**15. Authorization Pending.** Center may admit Proposed Transfer Patients who have not yet been approved for managed Medicare, managed Medicaid and managed care (“Authorization Pending Patients”). Hospital agrees to remain financially responsible for Authorization Pending Patients during their stay at Center until such authorization is received and effective, provided they continue to meet the level of care criteria for long term care services or skilled nursing services. Center will provide Authorization Pending Patients with skilled nursing care services consistent with Medicaid requirements, including but not limited to the following:

a) General Nursing Care, 24/7

b) Meals, snacks & supplemental feedings

c) Initial nutritional evaluation & follow-up as needed by a registered dietician

d) Social Work Services

e) Therapeutic recreation services

f) Pain management consultations

g) Dressings, personal care items and incontinence supplies

h) Internal case management

i) Physician services

j) Routine lab work (chemistry, CBC)

**16. Discharge from Center.** Center shall be responsible for the discharge planning of Patients, including, without limitation, discharge to home, to the care of family members, or to a transitional facility. In the event Center is required to issue an involuntary discharge notice, as permitted by law, Hospital will offer reasonable assistance to Center in developing a safe discharge plan. In the event Center determines that a Patient requires acute care, Center shall contact the Hospital Case Manager to explain the circumstances, and Hospital shall accept such proposed Patient readmission based upon its ability to provide the necessary care for such Patient and bed availability.

**17. Reimbursement.** Center shall submit to Hospital a detailed monthly invoice for each Patient, specifying the Patient’s Level of Care, a description of the Services rendered, the Per Diem rate, the number of days of services, and the total charge. Hospital shall pay all such undisputed invoices within thirty (30) days of receipt. The Per Diem rates for the care provided by Center to the Patient are set forth in the attached **Exhibit A**, and shall include the following Services, which shall be reviewed annually and revised only upon the prior written approval of Hospital:

a. Level 1 Skilled Nursing Facility (“SNF”) Services – the services which Center shall provide each Patient at the “Per Diem” rate are as set forth in **Exhibit A**;

b. Level II Sub-acute Services – the services which Center shall provide each Patient at the “Per Diem” rate are as set forth in **Exhibit A**; and

c. Excluded Level 1 SNF and Level II Sub-acute Services – the services which Center is not required to provide and for which it will not be reimbursed by Hospital without the prior approval of Hospital’s Case Manager as set forth in **Exhibit A**.

**18. Medicaid.** It is the understanding of the parties that Patients transferred pursuant to this Agreement do not have public or private insurance to cover their stay at a Center or other skilled nursing facility. Notwithstanding the foregoing, Hospital may initiate an application for Medicaid whenever feasible on behalf of any Patient transferred. In the event a Patient qualifies for Medicaid, Hospital’s reimbursement for such Patient hereunder shall cease as of the date of Medicaid eligibility. Within sixty (60) days of notification of the Patient’s Medicaid eligibility, Center shall issue a credit to Hospital for any payments made for the care of such Patient after the date of Medicaid eligibility. Further, if a Patient is determined to be Medicaid eligible, Center shall provide the Patient the opportunity to transfer to another skilled nursing facility that the Patient may choose.

**19. Disputes.** In the event of a disputed invoice, the invoice will be reviewed first by the Case Managers, and then if necessary, by the Medical Directors. All efforts will be made to resolve disputes in good faith, and guided by the limitations established by the records of the Patient, the plan of care, Hospital physician orders, and changes to the plan of care which has been approved by Hospital in accordance with this Agreement.

**20. Representations and Warranties.** Center represents and warrants to Hospital, upon execution and throughout the term of this Agreement, as follows:

a. Center is not bound by any agreement or arrangement which would preclude it from entering into, or from fully performing the services required under this Agreement;

b. Center shall adhere to all applicable laws, regulations, court orders, and/or accreditation/agency standards, including but not limited to, those imposed by the Joint Commission on Accreditation of Healthcare Organizations, and Joint Commission on Accreditation of Hospitals, State, and Federal Governments (which shall include without limitation interpretations of the same by government agencies, such as the Centers for Medicare and Medicaid Services, the Internal Revenue Service and the Office of Inspector General);

c. Center represents that it does not discriminate and is in compliance with state and federal laws prohibiting discrimination based on race, creed, color, national origin, sex, gender, age, disability, handicap, sponsor, marital or veteran status. All patients of the Hospital shall be treated on said non-discriminatory basis;

d. To the extent any services are to be performed on Hospital’s premises, Center shall perform all work in such a way as to avoid unreasonable interference with the operations of Hospital and shall ensure that its employees and independent contractors abide by all rules and regulations of Hospital while working on Hospital premises, including rules and regulations concerning security, identification badges, patient confidentiality and privacy;

e. Program Representations. Each party hereby represents, warrants and covenants to the other that as of the date of this Agreement, and for the entire term and any renewal hereof, with respect to any federal health care program as defined in section 1128B of the Social Security Act (42 U.S.C. 1320a-7b(f)) or any State health care program as defined in section 1128B of the Social Security Act (42 U.S.C. 1320a-7b(h)) (collectively, the “Programs”): neither (a) the representing party; (b) any individual with a direct or indirect ownership or control interest of five percent (5%) or more of the representing party; nor (c) any director, officer, agent or employee of the representing party; has ever been debarred, suspended or excluded from any Program. Each party covenants to immediately notify the other in writing if this representation is no longer true;

f. Center has, and shall maintain throughout the term of this agreement, all appropriate federal and state licenses and certifications which are required in order for Center to perform the services required hereunder;

g. All information provided by Center to Hospital regarding services rendered to Patients shall be true and accurate;

h. The parties hereto shall hold in strictest confidence all medical record information, and the parties shall comply with all federal and state laws and regulations regarding the confidentiality of such information. Center acknowledges that in receiving or otherwise dealing with any records or information from Hospital about Patients receiving treatment for alcohol or drug abuse, Center is fully bound by the provisions of the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records (42 C.F.R. Part 2, as amended from time to time). In addition, if necessary, Center agrees to resist in judicial proceedings any effort to obtain access to such records or information except such access as is expressly permitted by the aforementioned federal regulations. i. The parties expressly acknowledge that any amounts to be paid by the Hospital to Center hereunder have been determined by the parties through good-faith and arms-length bargaining to be the fair market value of the services rendered to the Hospital hereunder. No amount to be paid hereunder is intended to be, nor shall it be construed to be, an inducement or payment for referral of patients by Center or any affiliate of Center to the Hospital. The parties shall comply in all respects with all applicable requirements of the Medicare and Medicaid Fraud and Abuse “safe-harbor” regulations (the “Safe-Harbor Regulations”) as they may exist from time to time and any amendments thereto, and shall comply with all applicable directives, orders or other lawful pronouncements of any lawful authority related to those Safe-Harbor Regulations. Each party agrees to cooperate fully in any investigation regarding such matters and, to the extent reasonably feasible, to attempt to settle such investigation, and any formal charges associated therewith for monetary relief without resort to trial on the merits.

j. The parties expressly acknowledge that this Agreement has been negotiated and entered into with the full intent of complying with the pertinent provisions of the Internal Revenue Code of 1986 (the "Code") and the Regulations promulgated thereunder, the Medicare and Medicaid anti-kickback statute, 42 U.S.C. § 1320a-7b(b) (the "Fraud and Abuse Law") and the Stark Law. In the event that any law is adopted or amended (including, without limitation, the Code, the Fraud and Abuse Law or the Stark Law) or any rule or regulation is promulgated or modified, or any administrative ruling or judicial interpretation is issued or modified relating to the provision of goods or services to beneficiaries of the Medicare and Medicaid programs and other payers, the Code or otherwise that prohibit structural and/or operational arrangements similar to those contemplated by this Agreement or that approve of structural and/or operational arrangements with which the parties reasonably determine they should comply, or that, in the reasonable opinion of counsel to Hospital, jeopardize the exempt status under Section 501(c)(3) of the Code of Hospital or any of its affiliates, the parties shall do one or more of the following: (1) renegotiate and restructure this Agreement in a manner intended to comply with any such law, rule, ruling, regulation or interpretation; or (ii) upon the mutual agreement of the parties hereto, terminate this Agreement, which such termination shall be without penalty to either party.

k. To the extent applicable, the parties agree that they will fully and accurately account for, and report in any applicable cost reports, any discount received under this Agreement in a way that complies with all applicable laws, including the federal Social Security Act and implementing regulations relating to Medicare, Medicaid and other federal healthcare programs.

l. In the event that Section 952 of P.L. 96-499 [42 U.S.C. § 1395x(v)(1)(I)] (the Omnibus Reconciliation Act of 1980, provisions relating to Medicare) is applicable to this Agreement, Center agrees as follows: until the expiration of four (4) years after the furnishing of any services pursuant to this Agreement, Center shall make available, upon written request by the Secretary of the federal Department of Health and Human Services or upon request by the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement, and all books, documents and records of Center that are necessary to certify the nature and extent of the cost of services pursuant to this Agreement.

m. For the purpose of implementing Section 1861 (v) (1) (1) of the Social Security Act, as amended, and the written regulations and statutory requirements governing the maintenance of documentation to verify the cost of services rendered under this Agreement:

(i) For a period of four (4) years after the furnishing of the services to be rendered hereunder, the parties shall make available upon written request of the Secretary of Health and Human Services or the Comptroller General of the U.S., or any duly authorized representatives, this Agreement, books, documents, and records of the parties that are necessary to certify the nature and extent of such costs; and

(ii) If either party carries out any of the duties of the Agreement through a subcontract, with a value or cost of $10,000 or more over a 12-month period with a "related organization" (as such term is defined in 42 C.F.R. § 405.427 (b)), such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request of the Secretary or the Comptroller General, or any of their duly authorized representatives, the subcontract, books, documents, and records of such organization that are necessary to verify the nature and extent of such costs

**21. Liability.** EACH OF THE PARTIES SHALL BE SOLELY AND EXCLUSIVELY IN CONTROL OF ALL ASPECTS OF THE PRACTICE OF MEDICINE AND THE DELIVERY OF MEDICAL SERVICES AT THEIR RESPECTIVE INSTITUTIONS. EACH OF THE PARTIES HERETO SHALL BE RESPONSIBLE ONLY FOR ITS OWN ACTS AND OMISSIONS WITH RESPECT TO PATIENTS AND PATIENT CARE.

**22. Mutual Indemnification.** Each party shall indemnify, defend and hold the other party, its subsidiaries and affiliated companies, and their respective trustees, directors, officers and employees, harmless from any third party liability (including reasonable attorneys' fees and court costs) resulting from the negligent acts or omissions or willful misconduct of the party, its employees or agents. The indemnified party shall: (1) give prompt notice to the indemnifying party of any claims threatened or made, or suits instituted against it which could result in a claim or right to indemnification as provided herein; (2) cooperate in the defense of any such claim or action; and (3) not settle such action or claim without the prior consent of the indemnified party, which consent shall not be unreasonably withheld.

**23. Insurance.** Each party shall secure and maintain, or cause to be secured and maintained, each with respect to itself, during the term of this Agreement, comprehensive general, worker’s compensation, and professional liability insurance and property damage insurance providing minimum amounts of liability as follows:

a. Comprehensive general liability - $1,000,000; single limit per occurrence and $3,000,000 in the aggregate

b. Professional liability - $1,000,000; and $3,000,000 in the aggregate

c. Property damage insurance - $1,000,000

d. Workers’ Compensation – covering all employees and subcontractors

(i) Statutory limits

(ii) Employers Liability: $1,000,000.

Each party shall cause its insurance carrier to issue a certificate of insurance evidencing such coverages, whether under an insured policy or through a program of self-insurance, and shall produce such certificate on request of the other party. Each party shall immediately notify the other of any notice from its insurance carrier of intent to modify or cancel such insurance coverage. It is expressly understood by and between the parties hereto that the above insurance shall be deemed primary insurance and shall not be deemed excess to any insurance now in effect or in the future covering the either party, its agents, servants, employees and appointees.

**24. Governing Law.** This Agreement shall be deemed to have been made under and shall be construed and interpreted in accordance with the laws of the State of Vermont, without regard to the conflict of law principles.

**25. Assignment.** This Agreement shall not be assignable by either party without the other party’s prior written consent, and shall be binding upon and inure to the parties and their respective successors and (to the extent assignment is not prohibited) assigns. Notwithstanding anything to the contrary in the Agreement, either party’s merger or consolidation with another health care system or entity shall not be considered an assignment requiring the consent of the other party provided the surviving entity assumes all of the non-surviving entity’s obligations hereunder.

**26. Amendment.** This Agreement may be modified or amended from time to time on mutual written agreement of the parties and such modifications or amendments shall be attached to and become a part of this Agreement.

**27. Nondisclosure.** Neither institution shall disclose information relating to the operations and functions of the other, without the prior written consent of the other institution.

**28. Notice.** All notices, demands, consents and other communication hereunder to any party shall be in writing and sent to that party by (i) certified mail, return receipt requested, (ii) recognized courier service, or (iii) hand delivery, email or facsimile transmittal, and shall be deemed to have been given upon delivery at the below address of the addressee. Notice must be delivered:

As to Hospital:

UVM Medical Centers

Attn:

Email:

Facsimile:

With a copy to:

Attn:

As to Center:

Berlin Health & Rehab

98 Hospitality Dr

Barre, VT 05641

Attn: Amy Walker, CED

With a copy to:

Genesis Administrative Services LLC

101 East State Street

Kennett Square, Pennsylvania 19348

Attn: Law Department

Facsimile: 484-813-6665

Email: [lawdepartment@Centerhcc.com](mailto:lawdepartment@genesishcc.com)

**29. Entire Agreement.** This Agreement constitutes the entire Agreement between the parties and contains all of the agreements between them with respect to the subject matter hereof and supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof.

**30. Binding Agreement.** This Agreement shall be binding on the successors in interest of the parties hereto.

**31. Authorization.** The execution and performance of this Agreement by each party has been duly authorized and the signatories hereto are fully empowered to bind their respective institutions to this Agreement.

**32. Headings.** The headings in this Agreement have been inserted for convenience only and do not modify, define, limit or expand the express provisions of this Agreement.

**33. Nondiscrimination.** In that the ultimate purpose of this Agreement is to provide access to Patient care and promote the optimum use of facilities, the parties further agree that: neither Party may refuse to receive a Patient by reason of Patient’s race, religion, gender, and country of national origin or medical diagnosis.

**34. HIPAA.** The parties hereto and their subcontractors, if any, will comply with all applicable state and federal laws and regulations, including without limitation, requirements of the Health Insurance Portability and Accountability Act (“HIPAA”).

**35. Use of Name.** Neither party shall use the name of the other in any promotional or advertising material unless review and approval of the intended use shall first be obtained from the party whose name is to be used.

**36. Demonstration Projects.** The exclusive purpose of this Agreement is to provide for the transfer of Patients from Hospital to Center for purposes of Patient medical care. Nothing in this Agreement shall be construed as evidencing either party’s participation in or agreement or consent to any activity, project or enterprise of the other party, including but not limited to Demonstration Projects, research projects, clinical trials or other experimental projects, or to any procedures or requirements relating to data collection or reporting or any other matter related to such activity enterprise or project.

**37. Non-Exclusive.** This Agreement is not exclusive and Hospital shall have the right and ability to enter into similar agreements with third parties and/or competitors of Center without notice to and/or consent of Center.

**38.** **Applicable Law.** The parties recognize that this Agreement at all times is to be subject to applicable local, state and federal laws, rules and regulations. The parties further recognize that this Agreement shall be subject to amendments in such laws and regulations and to new legislation. Any provisions of the foregoing laws, regulations or rules that invalidate, or otherwise cause one or both of the parties to be in violation of same, shall be deemed to have superseded the terms of this Agreement and this Agreement shall be deemed to be amended accordingly.

**39. Acknowledgement of Compliance Program.** Hospital acknowledges that Center has established a Compliance Program which includes, but is not limited to, a Code of Conduct, which includes materials regarding Center’ program for preventing Medicare and Medicaid fraud and abuse, and that Center has made available to Hospital its Code of Conduct at its web site, located at: <http://www.Genesishcc.com/about-us/compliance>. Center will update the Compliance Program on the web site from time to time to reflect regulatory requirements.

**IN WITNESS WHEREOF**, the parties have hereunto caused this Agreement to be executed as by law provided, the day and year above written.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **CENTER:** | |  | **HOSPITAL:** | |
|  |  |  |  |  |
| By: |  |  | By: |  |
|  |  |  |  |  |
| Printed Name: |  |  | Printed Name: |  |
|  |  |  |  |  |
| Printed Title: |  |  | Printed Title: |  |

**EXHIBIT A**

**Reimbursement Per Diem Rates for**

**Level I SNF Services and Level II Sub-acute Care Included Services**

|  |  |  |
| --- | --- | --- |
| LEVEL OF CARE | DESCRIPTION | PER DIEM |
| Level I SNF | See Section 1 below. | $260.00/day |
| Level II Sub-acute | See Section 1 below. | $260.00/day |

**1. The Per Diem Rate shall, for both Level I SNF Services and Level II Sub-acute Services, include payment for the following Included Services:**

- Room and Board (semi-private room) Routine Nursing Care

- Nutrition Services including oral nutrition, oral nutritional supplements, enteral tube feedings (including nutritional supplements and supplies)

- Routine Medications, including IV fluids and antibiotics

- Medical Supplies (including dressings, urologicals and tracheotomy supplies)

- Routine DME

- Therapeutic Recreation

- Medical Social Services

- Teaching

- Meals (special dietary)

- Case Management and Discharge Planning

- Lab

- Radiology

- Physical Therapy, Occupational Therapy and Speech Language Pathology Service

**2. In addition:**

**A. Patients approved for Level I SNF Services, the Per Diem shall also include payment for the following services:**

1-3 hours of direct care/day includes SN, PT, OT, ST or RT as evidenced by at least one of the following criteria.

- Up to 1.0 hours of direct PT, OT and/or ST per day available at least 5 days a week.

- Administration of routine IM, IV, SQ medications that require skilled care to assess, monitor and teach.

- Wound Care of decubitus care that requires skilled care to assess, monitor and teach. Stage I and II.

- Colostomy or Ileostomy care that requires skilled care to assess, monitor and teach.

- Urethral or suprapubic catheter care that requires skilled care to assess, monitor and teach.

- Tube feeding, NG, JT, GT that require skilled care to assess, monitor and teach.

- Suctioning twice a day or less.

- Simple IV hydration that requires skilled care to assess, monitor and teach.

- Insulin-dependent diabetic care.

- Respiratory therapy program that has been stabilized bu t requires skilled care to assess, monitor and teach.

**B. Patients approved for Level II Sub-acute Services, the Per Diem shall also include payment for the following services:**

2-4 hours of direct care/day includes SN, PT, OT, ST or RT as evidenced by at least one of the following criteria:

- Up to 2 hours of direct PT, OT and/or ST per day available at least 6 days a week.

- All IV antibiotic or Multiple IV antibiotic at least 3 times a day that requires skilled care to assess, monitor and teach.

- New Colostomy or Ileostomy care that requires skilled care to assess, monitor and teach.

- Respiratory therapy that includes TID/new trach care or wean off oxygen.

- Suctioning greater than twice a day.

- Stage III and IV Pressure Ulcer with Treatment.

- TPN

- Palliative care/pain management with unstable treatment plan requiring IV/IM/SQ medications at least 3 times a day.

- Isolation (HIV/ARC).

**C. Notwithstanding the foregoing, the Agreement does not require Center to provide certain excluded services/products including but not limited to:**

- All HIV/Chemo Medications. Injectables including Neupogen, Epogen, Procrit and Aranesp, and such other high-cost IV drugs as the parties may agree, or on a case-by-case basis.

- Custom DME including Clinitron Beds (Specialty Mattresses), Big Boy Beds, Wound Vacs.

- MRI’s, CT’s or any non-routine Radiology.

- Doppler Studies or non-routine Labs.

- Transportation

- Neuropsychology/psychology services.

- Blood and blood products or supplies.

- Dialysis equipment and supplies.

- Orthotics and Prosthetics.

For Patients in need of excluded services, Hospital and Center agree to make separate arrangements specifying the services to be provided and the charges for same. Hospital agrees that it will provide needed excluded drugs.

**D.** Hospital will be responsible for a Patient’s long-term stay at Center under a custodial rate of one hundred percent (100%) of the Center’s then-current Medicaid allowable rate (the “Custodial Rate”). In addition, Hospital shall be responsible for the cost of Patient medications. Center shall assign long-term stay Patients to a physician.

**E. Private Pay Rate.** **The Private Pay Per Diem Rate shall be as follows for both Level I SNF Services and Level II Sub-acute Services, and includes payment for the Services listed in Section 1**:

|  |  |  |
| --- | --- | --- |
| LEVEL OF CARE | DESCRIPTION | PRIVATE PAY PER DIEM |
| Level I SNF | See Section 1 above. | $385.00/day |
| Level II Sub-acute | See Section 1 above. | $315.00/day |

**F. For all other outpatient services that are within the scope of a Center’s license and Certification, Hospital shall pay Center ninety percent (90%) of Regional Medicare Fee Schedule.**