

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 12

LV CHC HOLDINGS I, LLC d/b/a CONSULATE HEALTH CARE;
1026 ALBEE FARM ROAD OPERATIONS LLC d/b/a BAY
BREEZE HEALTH AND REHABILITATION CENTER; 216
SANTA BARBARA BOULEVARD OPERATIONS LLC d/b/a
CORAL TRACE HEALTH CARE; MIAMI FACILITY
OPERATIONS LLC d/b/a FRANCO NURSING &
REHABILITATION CENTER; 3001 PALM COAST PARKWAY
OPERATIONS LLC d/b/a GRAND OAKS HEALTH AND
REHABILITATION CENTER; 2826 CLEVELAND AVENUE
OPERATIONS LLC d/b/a HERITAGE PARK REHABILITATION
AND HEALTHCARE; 4200 WASHINGTON STREET
OPERATIONS LLC d/b/a HILLCREST HEALTH CARE AND
REHABILITATION CENTER; KISSIMMEE FACILITY
OPERATIONS LLC d/b/a CONSULATE HEALTH CARE OF
KISSIMMEE; 710 NORTH SUN DRIVE OPERATIONS LLC d/b/a
LAKE MARY HEALTH AND REHABILITATION CENTER;
NORTH FORT MYERS FACILITY OPERATIONS LLC d/b/a
CONSULATE HEALTH CARE OF NORTH FORT MYERS; 650
REED CANAL ROAD OPERATIONS LLC d/b/a OAKTREE
HEALTHCARE; 5405 BABCOCK STREET OPERATIONS LLC
d/b/a THE PALMS REHABILITATION AND HEALTHCARE
CENTER; 9311 SOUTH ORANGE BLOSSOM TRAIL
OPERATIONS LLC d/b/a PARKS HEALTHCARE AND
REHABILITATION CENTER; 4641 OLD CANOE CREEK ROAD
OPERATIONS LLC d/b/a PLANTATION BAY REHABILITATION
CENTER; 5065 WALLIS ROAD OPERATIONS LLC d/b/a
RENAISSANCE HEALTH AND REHABILITATION; 7950 LAKE
UNDERHILL ROAD OPERATIONS LLC d/b/a RIO PINAR
HEALTH CARE; 3920 ROSEWOOD WAY OPERATIONS LLC
d/b/a ROSEWOOD HEALTH AND REHABILITATION CENTER;
12170 CORTEZ BOULEVARD OPERATIONS LLC d/b/a SPRING
HILL HEALTH AND REHABILITATION CENTER; 1550 JESS
PARRISH COURT OPERATIONS LLC d/b/a VISTA MANOR;
WEST ALTAMONTE FACILITY OPERATIONS LLC d/b/a
CONSULATE HEALTH CARE AT WEST ALTAMONTE; WEST
PALM BEACH FACILITY OPERATIONS LLC d/b/a CONSULATE
HEALTH CARE OF WEST PALM BEACH

and

Case: 12-CA-249715

1199SEIU, UNITED HEALTH CARE WORKERS EAST, FLORIDA REGION

LV CHC HOLDINGS I, LLC d/b/a CONSULATE HEALTH CARE; 6305 CORTEZ ROAD WEST OPERATIONS LLC d/b/a BRADENTON HEALTH CARE; 2939 SOUTH HAVERHILL ROAD OPERATIONS LLC d/b/a CORAL BAY HEALTHCARE AND REHABILITATION; 1851 ELKCAM BOULEVARD OPERATIONS LLC d/b/a DELTONA HEALTH CARE; 1820 SHORE DRIVE OPERATIONS LLC d/b/a THE HEALTH AND REHABILITATION CENTRE AT DOLPHIN'S VIEW; 3735 EVANS AVENUE OPERATIONS LLC d/b/a EVANS HEALTH CARE; 611 SOUTH 13th STREET OPERATIONS LLC D/B/A FORT PIERCE HEALTH CARE; 2916 HABANA WAY OPERATIONS LLC d/b/a HABANA HEALTH CARE CENTER; 11565 HARTS ROAD OPERATIONS LLC d/b/a HARTS HARBOR HEALTH CARE CENTER; 125 ALMA BOULEVARD OPERATIONS LLC d/b/a ISLAND HEALTH AND REHABILITATION CENTER; 1120 WEST DONEGAN AVENUE OPERATIONS LLC d/b/a KEYSTONE REHABILITATION AND HEALTH CENTER/KEYSTONE VILLAS ASSISTED LIVING CENTER; 207 MARSHALL DRIVE OPERATIONS LLC d/b/a MARSHALL HEALTH AND REHABILITATION CENTER; 3110 OAKBRIDGE BOULEVARD OPERATIONS LLC d/b/a OAKBRIDGE HEALTHCARE CENTER; 1010 CARPENTERS WAY OPERATIONS LLC d/b/a WEDGEWOOD HEALTHCARE CENTER; WINTER HAVEN FACILITY OPERATIONS, LLC d/b/a CONSULATE HEALTH CARE OF WINTER HAVEN; 6414 13th ROAD SOUTH OPERATIONS LLC d/b/a WOOD LAKE HEALTH AND REHABILITATION CENTER

Case: 12-CA-250209

and

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 1625

**RESPONDENTS' MOTION TO DISMISS
THE CONSOLIDATED COMPLAINT AND FOR DEFERRAL**

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. BACKGROUND.....	3
A. Respondents and their Collective Bargaining Relationships with SEIU Local 1199 and UFCW Local 1625	3
B. The SEIU Contracts	4
1. Management Rights	5
2. Grievance and Arbitration Procedures.....	6
3. Health Insurance	6
C. The UFCW Contracts	7
1. Management Rights	7
2. Grievance and Arbitration Procedures.....	9
3. Health Insurance	10
D. The Parties’ History Regarding Health Insurance	10
1. Respondents Agree to Transition into the UFCW Plan.....	10
2. Respondents Decide to End Their Participation in the UFCW Plan Due to its Lack of Funding and Reductions in Benefits	11
E. Filing of Charges and Issuance of Complaint.....	13
III. ARGUMENT AND ANALYSIS	14
A. The Board’s <i>Collyer</i> Prearbitral Deferral Standard	14
B. The Unfair Labor Practice Allegations Should be Deferred to Arbitration Under the Parties’ Agreements	15
C. Application of the Collyer Factors to the Present Dispute Should Begin and End the Analysis	21
IV. CONCLUSION.....	22

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Caritas Good Samaritan Medical Center</i> , 340 NLRB 61 (2003)	22
<i>Collyer Insulated Wire</i> , 192 NLRB 837 (1971)	<i>passim</i>
<i>NCR Corp.</i> , 271 NLRB 1212 (1984)	21
<i>In re Radioear Corp.</i> , 199 NLRB 1161 (1972)	20
<i>San Juan Bautista Medical Center</i> , 356 NLRB 736 (2011)	15
<i>United Hoisting & Scaffolding, Inc.</i> , 360 NLRB 1258 (2014)	15, 21
<i>United Technologies Corp.</i> , 268 NLRB 557 (1984)	14, 15
<i>UPS</i> , 369 NLRB No. 1, slip op. (2019).....	14
<i>Detroit Medical Center</i> 369 NLRB No. 41, slip op. (2020.).....	<i>passim</i>
<i>Wonder Bread</i> , 343 NLRB 55 (2004)	14, 15, 20, 22
Other Authorities	
NLRB Rules & Regulations § 102.9.....	2
NLRB Rules & Regulations § 102.24.....	2
NLRB Rules & Regulations § 102.50.....	2

I. INTRODUCTION

Through the instant motion, the above-captioned Respondents request that the National Labor Relations Board (“NLRB” or the “Board”) dismiss the Consolidated Complaint, thereby allowing the underlying contract interpretation disputes to proceed where they belong, i.e., through the collectively-bargained grievance and arbitration procedures set forth in various collective bargaining agreements between the various Respondents and the Charging Party labor organizations. Doing so will (1) uphold the Board’s policy in favor of deferral under *Collyer*, (2) effectuate the parties’ mutually agreed upon and clearly expressed intent to arbitrate dispute arising under their labor agreements, and (3) avoid a gross waste of the Board’s and the Respondents’ resources to litigate a complex set of facts and legal issues in the incorrect forum - with the accompanying risk that any outcome derived from such litigation could be swept aside simply because deferral is and was appropriate throughout the process.

On or about May 11, 2020, the General Counsel issued the instant Consolidated Complaint against Respondents based on Charging Parties SEIU Local 1199’s (“Local 1199”) and UFCW Local 1625’s (“Local 1625”) (collectively, the “Unions”) allegations that Respondents violated Sections 8(a)(1) and (5) of the National Labor Relations Act (the “Act”) by refusing to bargain with the Unions over Respondents’ decision to provide Company sponsored medical benefits to its employees and discontinue participation in the UFCW Local 1625 Health and Welfare Plan (“UFCW Plan”) effective December 31, 2019. Respondents categorically deny that they violated the Act and maintain that they had the right to unilaterally discontinue participation in the UFCW Plan and offer represented employees alternative, equivalent benefits because the Unions expressly and impliedly waived their rights to bargain over Respondents’ continued participation in the UFCW Plan after 2017 as evidenced by the lack of any contractual provisions addressing Respondents’ obligations with respect to the UFCW Plan after 2017, the bargaining history, and

the robust management rights language contained in all the parties' collective bargaining agreements. Respondents now move for dismissal of the Consolidated Complaint in favor of arbitration, pursuant to NLRB Rules & Regulations Sections 102.9, 102.24, and 102.50.

These disputes, which turn entirely on the interpretation of the parties' collective bargaining agreements, are subject to arbitration under the parties' bargained-for and agreed-upon grievance procedures and should be deferred to that process. The disputes' coverage under the parties' agreements, their suitability for arbitration, and all other factors favoring prearbitral deferral under the Board's well-established *Collyer* doctrine are satisfied. Moreover, the Region, while refusing thus far to defer the underlying charges to arbitration, has not considered the question based on the appropriate analytical framework for *Collyer* deferral. Instead, the Region has focused its analysis on its view of the underlying merits of the charge allegations, thereby sidestepping the critical threshold analysis of the appropriate forum that should first consider those merits.

Ultimately, and as the Board has recently confirmed, these types of contract disputes should be addressed in the first instance through the grievance and arbitration process. Respondents therefore respectfully move for dismissal of the Consolidated Complaint in favor of resolution under the agreed-upon procedures set forth in their various collective bargaining agreements with Charging Parties.

II. BACKGROUND

A. Respondents and their Collective Bargaining Relationships with SEIU Local 1199 and UFCW Local 1625

Respondents¹ are fully owned subsidiaries of LV CHC Holdings I, LLC. (Exhibit A, Decl. of Robert Walker, hereinafter, “Walker Decl.,” at ¶ 3.) Each Respondent operates a long-term care facility in Florida. (*Id.*) For at least the past four years, Respondents Bay Breeze, Coral Trace, Franco, Grand Oaks, Heritage Park, Hillcrest, Kissimmee, Lake Mary, North Fort Myers, Oaktree Healthcare, The Palms, Parks, Plantation Bay, Renaissance Health, Rio Pinar, Rosewood, Spring Hill, Vista Manor, West Altamonte, and West Palm Beach (collectively referred to as “Respondents A”) have had collective bargaining relationships with SEIU Local 1199 (“Local 1199”); some Respondents A have had collective bargaining relationships with Local 1199 for more than fifteen years. (*Id.* at ¶ 4.) All Respondents A are currently parties to various collective bargaining agreements with Local 1199 which contain materially identical provisions, and are effective through June 30, 2021 (the “SEIU Contracts”). (*Id.* at ¶ 5; *see also, id.* at Exhibit 1.)²

Respondents Bradenton, Coral Bay, Deltona, Dolphins View, Evans Health, Fort Pierce, Habana, Harts Harbor, Island Health, Keystone, Marshall, Oakbridge, Wedgewood, Winter Haven, and Wood Lake (collectively referred to as “Respondents B”) have all had collective bargaining relationships with UFCW Local 1625 (“Local 1625”) for at least seven years and, some Respondents B have had collective bargaining relationships with Local 1625 for more than eight years. (*Id.* at ¶ 6.) All Respondents B are, or have been, parties to various collective bargaining

¹ As used hereinafter, the term “Respondents” refers to all named Respondents, excluding Respondent LV CHC Holdings I, LLC.

² As noted above, Respondents A are parties to materially identical collective bargaining agreements with Local 1199. (Walker Decl. at ¶ 5.) Respondent Coral Trace’s agreement with Local 1199, attached as Exhibit 1 to the Declaration of Robert Walker, is provided as an exemplar for all SEIU Contracts.

agreements with Local 1625 which contain materially identical provisions, but have differing effective dates. (*Id.* at ¶ 7.) In 2016, Respondents Bradenton, Dolphins View, Harts Harbor, and Island Health entered into three-year agreements with Local 1625 which expired on June 30, 2019 (the “Expired UFCW Contracts”). (Walker Decl. at ¶ 8; *see also, id.* at Exhibit 2.)³ The parties to the Expired UFCW Contracts subsequently entered into several contract extensions, which ultimately terminated on November 30, 2019.⁴ (*Id.* at ¶ 9.)

Respondents Coral Bay, Deltona, Evans, Fort Pierce, Keystone Rehab, Keystone Villas, Marshall, Wedgewood, Winter Haven and Wood Lake likewise entered into agreements with Local 1625 in 2016; however, these parties entered into four-year agreements with the union, with effective dates of July 1, 2016, through June 30, 2020 (the “Four-Year UFCW Contracts”). (*Id.* at ¶ 11; *see also, id.* at Exhibit 3.)⁵

In early 2020, Local 1625 and all Respondents B (excluding Respondent Habana) successfully completed negotiations for successor contracts to replace those that expired in both 2019 and 2020. (*Id.* at ¶ 14.) The successor agreements between Respondents B and Local 1625 were ratified and became effective on March 14, 2020. (*Id.*)

B. The SEIU Contracts

As indicated above, the SEIU Contracts contain substantively identical provisions that, among other things, reserve broad categories of rights for management, set forth grievance and arbitration procedures for resolving disputes, and define the limited obligations of Respondents A

³ Respondent Bradenton’s agreement with UFCW, attached as Exhibit 2 to the Declaration of Robert Walker, is provided as an exemplar of for all Expired UFCW Contracts.

⁴ Respondent Habana also had a bargaining agreement with Local 1625 that expired on June 30, 2019. (Walker Decl. at ¶ 10.) Upon receipt of a valid petition from a majority of bargaining unit employees asking to remove UFCW 1625 as their bargaining representative, Respondent Habana lawfully withdrew recognition of Local 1625 on January 9, 2020. (*Id.*)

⁵ Respondent Coral Bay’s agreement with UFCW, attached as Exhibit 3 to the Declaration of Robert Walker, is provided as an exemplar for all UFCW Contracts.

to make payments into the UFCW Local 1625 Health and Welfare Plan. (*See* Walker Decl. at ¶ 5 and Exhibit 1.)

1. Management Rights

The Management Rights provisions in the SEIU Contracts generally vest in Respondents A the rights to manage their respective operations and employees “except as *expressly and specifically* abridged, delegated, granted, or modified” by their respective agreements. (*See id.* at Exhibit 1, Art. 3.1. (emphasis added).) By way of example, Article 3, Section 3.1 of the agreement between Respondent Coral Trace and Local 1199 provides:

All rights which ordinarily vest in and are exercised by Employers, and all of the rights, powers, and authority possessed by the Care Center prior to entering into this Collective Bargaining Agreement, except as expressly and specifically abridged, delegated, granted, or modified by this Agreement, shall continue to vest in the Care Center. This shall include — this enumeration being merely by way of illustration and not by limitation — the right to:

1. Hire, promote, demote, layoff, assign, transfer, suspend, discharge/terminate, or discipline employees for just cause.
2. Select and determine the number of its employees, including the number assigned to any particular work,
3. Direct and schedule the workforce,
4. Determine the location and type of operation,
5. Determine and schedule when overtime shall be worked,
6. Install or remove equipment.
7. Determine or change the location or type of operations, equipment, materials, and procedures to be utilized, including the ability to discontinue their performance by employees of the Employer and contract or subcontract any or all of the unit work.
8. Establish, increase, or decrease the number of work shifts, their duration, and their starting and/or ending times with notice to the Union.
9. Determine the job or work classification and required classification of employees, and change, combine, or abolish job classifications and determine change, or combine and abolish qualifications of those classifications.

10. Establish, adopt, change, delete, and enforce work rules and regulations governing discipline, conduct, obligations and acts of employees, including an employee handbook, safety guidelines, and work rules.
11. Select supervisory employees
12. Train employees.
13. Discontinue any department.
14. Introduce new and improved methods of operations.
15. Transfer or relocate any or all of the operations of the Care Center to any location or to discontinue such operations, or lease or sub-lease the Care Center or transfer or consolidate operations, or shutdown the Care Center and discontinue all operations.
16. Set standards of performance for employees, evaluate employees, and enforce those standards with discipline, including discharge/termination.

(*Id.* (emphasis added).) This same Management Rights language appears in all of the SEIU Contracts. (*Id.* at ¶ 5.)

2. Grievance and Arbitration Procedures

The SEIU Contracts also contain articles setting forth the parties' bargained for, and agreed upon, grievance and arbitration procedures. (*See id.* at Exhibit 1, Art. 28 and Art. 29.) The SEIU Contracts provide that "[a]ny and all disputes, grievances, or complaints" arising "under, out of, or in relation to th[e] Agreement, or in the interpretation, application, performance, discharge/termination, or any alleged breach thereof, shall be processed" through the parties' three-step grievance procedures. (Walker Decl. at Exhibit 1, Art. 28.1). The SEIU Contracts further provide that disputes unresolved after Step 3 of the grievance procedures are subject to arbitration. (*Id.* at Exhibit 1, Art. 28.4.)

3. Health Insurance

Finally, the SEIU Contracts contain numerous provisions related to the medical and retirement benefits available to employees and the obligations of Respondents A with respect to

those benefits. (*See id.* at Exhibit 1, Art. 24.) Of relevance to this case, the SEIU Contracts state as follows with respect to employee Health Insurance:

Section 24.1 Health Insurance: The UFCW Local 1625 Health and Welfare Plan is designed to provide benefits for single employee coverage. Effective January 1, 2016, the Employer will make a payment of four hundred three dollars and eighty cents (\$403.80) per month on behalf of each full-time employee working thirty (30) hours or more per week that chooses coverage. To participate in the UFCW Local 1625 Health and Welfare plan, the employee must contribute one hundred fifty dollars (\$150.00) every month for single coverage. The Employer agrees to deduct, upon receipt of a voluntary signed authorization, this contribution from each such employee. Employees may opt up at their own expense to add dependent coverage.

Section 24.2: The rates effective January 1, 2017 will be set by the Trustees of the UFCW Local 1625 Health and Welfare Plan in compliance with the ACA regulations.

(*Id.* at Exhibit 1, Art. 24.1 - 24.2.) The SEIU Contracts do not contain any language stating that the UFCW Local 1625 Health and Welfare Plan (“UFCW Plan”) will be the only insurance plan offered, much less the sole plan for the duration of the agreements. (*Id.* at Exhibit 1, Art. 24, generally.) The SEIU Contracts, likewise, do not contain any language requiring Respondents A to stay in the UFCW Plan, or make any contributions to the UFCW Plan, after Plan Year 2017. (*Id.*)

C. The UFCW Contracts

Like the SEIU Contracts, the four Expired and ten Four-Year UFCW Contracts (collectively, the “UFCW Contracts”) contain substantively identical articles regarding management’s rights, the parties’ grievance and arbitration procedures, and the respective Respondents’ limited obligations to make payments to the UFCW Local 1625 Health and Welfare Plan. (*See Walker Decl.* at ¶¶ 8, 11; *see also id.* at Exhibit 2 and Exhibit 3.)

1. Management Rights

The Management Rights provisions in the UFCW Contracts generally vest Respondents B, with the right to manage their respective operations and employees, “except as *expressly and*

specifically abridged, delegated, granted, or modified” by their respective agreements. (*Id.* at Exhibit 2, Article 3.1 and Exhibit 3, Article 3.1 (emphasis added).) The UFCW Contracts provide in relevant part:

All rights which ordinarily vest in and are exercised by Employers, and all of the rights, powers, and authority possessed by the Care Center prior to entering into this Collective Bargaining Agreement, except as expressly and specifically abridged, delegated, granted, or modified by this Agreement, shall continue to vest in the Care Center. This shall include — this enumeration being merely by way of illustration and not by limitation — the right to:

1. Hire, promote, demote, layoff, assign, transfer, suspend, discharge/terminate, or discipline employees for just cause.
2. Select and determine the number of its employees, including the number assigned to any particular work, if any, including the shift and schedule of employees.
3. Direct and schedule the workforce, including determining and changing the number and duration of shifts and the starting and ending times of all shifts.
4. Determine the location and type of operation.
5. Determine and schedule when overtime shall be worked, if any, and how that overtime work shall be distributed.
6. Install or remove equipment.
7. Determine or change the location or type of operations, equipment, materials, and procedures to be utilized, including the ability to discontinue their performance by employees of the Employer and contract or subcontract any or all of the unit work.
8. Establish, increase, or decrease the number of work shifts, duration of shifts, and their starting and/or ending times.
9. Determine the job or work classification and required classification of employees, and change, combine, or abolish job classifications and determine change, or combine and abolish qualifications of those classifications.
10. Establish, adopt, change, delete, and enforce work rules and regulations governing discipline, conduct, obligations and acts of employees, including an employee handbook, safety guidelines, and work rules.
11. Select supervisory employees and determine the work they shall perform, including bargaining unit work.
12. Train employees.

13. Discontinue any department.
14. Introduce new and improved methods of operations.
15. Transfer or relocate any or all of the operations of the Care Center to any location or to discontinue such operations, or lease or sub-lease the Care Center or transfer or consolidate operations, or shutdown the Care Center and discontinue all operations.
16. Set standards of performance for employees, evaluate employees, and enforce those standards with discipline, including discharge/termination.

(*Id.* at Exhibit 2, Art. 3.1 and Exhibit 3, Art. 3.1 (emphasis added).) The intent of the parties' to reserve all rights not explicitly limited by the express terms of the UFCW Contracts is further underscored in subsequent sections of the Management Rights articles which provide:

Section 3.3: The listing of Management Rights and Prerogatives in Section 3.1 above, is not intended to restrict Management's authority and prerogatives, ***except as specifically stated***. If the Employer should fail to exercise any right hereby reserved to it, such failure should not be interpreted as a waiver of such right. All rights reserved for Management are retained.

Section 3.4: It is expressly intended and agreed upon by the parties that in any arbitration or other adjudication of this Agreement, that ***anyone interpreting this Agreement shall do so with particular regard to the parties' intention to reserve in the sole discretion of Management all rights except those which are explicitly limited by an express provision of this Agreement***.

(*Id.* at Exhibit 2, Art. 3.3-3.4 and Exhibit 3, Art. 3.3-3.4 (emphasis added).) Identical provisions exist in each UFCW Contract. (*Id.* at ¶¶ 8, 11.)

2. Grievance and Arbitration Procedures

Each of the UFCW Contracts contain articles setting forth the parties' bargained for, and agreed upon, grievance and arbitration procedures. (*See* Walker Decl. at Exhibit 2, Arts. 32 - 34 and Exhibit 3, Arts. 32 - 34.) The UFCW Contracts provide that "[a]ny and all disputes, grievances, or complaints" arising "under, out, of, or in relation to the Agreement, or in the interpretation, application, performance, discharge/termination, or any alleged breach thereof, shall be processed" through the parties' three-step grievance procedures. (*Id.* at Exhibit 2, Art. 32.1 and Exhibit 3, Art. 32.1). The UFCW Contracts further provide that disputes unresolved after

Step 3 of the grievance procedures are subject to arbitration. (*See id.* at Exhibit 2, Art. 32.4 and Exhibit 3, Art. 32.4.)

3. Health Insurance

The Expired Contracts also contain articles defining the obligations of Respondents B with respect to represented employees' health insurance benefits. (*See id.* at Exhibit 2, Art. 23 and Exhibit 3, Art. 23.) The UFCW Contracts state, in relevant part:

Section 23.1: The UFCW Local 1625 Health and Welfare Plan is designed to provide benefits for single employee coverage. Effective January 1, 2016, the Employer will make a payment of four hundred three dollars and eighty cents (\$403.80) per month on behalf of each full-time employee working thirty (30) hours or more per week that chooses coverage. To participate in the UFCW Local 1625 Health and Welfare plan, the employee must contribute one hundred fifty dollars (\$150.00) every month for single coverage. The Employer agrees to deduct, upon receipt of a voluntary signed authorization, this contribution from each such employee. Employees may opt up at their own expense to add dependent coverage.

Section 23.2: The rates effective January 1, 2017 will be set by the Trustees of the UFCW Local 1625 Health and Welfare Plan in compliance with the ACA regulations.

(*Id.* at Exhibit 2, Art. 23.1 - 23.2 and Exhibit 3, Art. 23.1 - 23.2.) The UFCW Contracts do not contain any language stating that the UFCW Plan will be the only insurance plan offered, much less the sole plan for the duration of the agreements. (*See id.* at Exhibit 2, Art. 23, generally and Exhibit 3, Art. 23, generally.) The UFCW Contracts, also contain no express language requiring the respective Respondents to stay in the UFCW Plan, or make any contributions to the UFCW Plan after Plan Year 2017. (*Id.*)

D. The Parties' History Regarding Health Insurance

1. Respondents Agree to Transition into the UFCW Plan

Prior to entering into the above-described contracts with Local 1199 and UFCW in 2016, under the terms of the Parties' predecessor agreements Respondents provided health insurance benefits to their employees through self-insured plans. (Walker Decl. at ¶ 15.) In late 2015, Local

1625 approached Respondents B about allowing represented employees from their self-insured health insurance plans provided by Respondents to participate in the UFCW Plan. (*Id.* at ¶ 16.) Respondents B and Local 1625 ultimately reached an agreement to begin participation in the UFCW Plan on or around January 6, 2016. (*Id.*) The parties' agreements regarding health insurance were memorialized in various Letters of Understanding signed under the parties' then-in-force contracts. (*Id.*) As reflected in the UFCW Contracts, the parties also agreed that Respondents B would continue to pay premiums into the UFCW Plan for Plan Years 2016 and 2017 for employees who elected coverage under the UFCW Plan. (*See id.* at Exhibit 2, Art. 23.1 - 23.2 and Exhibit 3, Art. 23.1 - 23.2.) The language pertaining to health insurance in the UFCW Contracts was drafted by Local 1625. (*Id.* at ¶ 12.)

Respondents A and Local 1199 also agreed to allow represented employees from the Respondents' self-insured plans to participate in the UFCW Plan in early 2016. (Walker Decl. at ¶ 17.) Like Respondents B and Local 1625, Respondents A and Local 1199 memorialized their agreements regarding participation in the UFCW Plan in various Letters of Understanding signed under their collective bargaining agreements in effect through June 2016. (*Id.*) The parties' obligations regarding health insurance after June 2016 are set forth in the current SEIU Contracts, which as noted above, specifically provide that Respondents A would continue making premium payments during Plan Years 2016 and 2017 on behalf of employees who elected coverage under the UFCW Plan. (*See id.* at Exhibit 1, Art. 24.1 - 24.2.)

2. Respondents Decide to End Their Participation in the UFCW Plan Due to its Lack of Funding and Reductions in Benefits

From the outset of Respondents' participation in the UFCW Plan, the Plan's funding dropped precipitously, declining by more than 50% year over year. (*Id.* at ¶ 18.) By June 30, 2019, the Fund's assets had dropped to a net deficit of \$79,513. (*Id.*) These dramatic declines in

funding were also accompanied by benefit reductions and premium increases. (*Id.*) In response to the increasingly dire state of the UFCW Fund, all Respondents decided that the UFCW Plan was no longer a viable option to provide health care benefits for their employees. (*Id.* at ¶ 19.)

Respondents A, through their bargaining agent, provided notice to Local 1199 on September 27, 2019, that they intended to discontinue participation in the UFCW Plan effective December 31, 2019. (Walker Decl. at ¶ 20.) Respondents B similarly notified Local 1625 verbally on multiple occasions in August and in writing on September 6, 2019, that they would no longer be participating in the Fund effective December 31, 2019. (*Id.* at ¶ 21.) On multiple occasions in August, in response to Respondents' notice regarding their intent to leave the UFCW Plan, UFCW Local 1625 President Ed Chambers responded, "If you want to leave [the Plan], then leave" or words to that effect.⁶ (*Id.* at ¶ 22.)

Consequently, on or around January 1, 2020, all represented employees of Respondents once again became covered by their respective employers' self-insured health insurance plans. (*Id.* at ¶ 24.) The benefits provided under each Respondent's self-insured plan are equivalent to or

⁶ Three days after Respondents B provided Local 1625 with written notice of their intent to withdraw from the UFCW Plan, on September 9, 2019, Mr. Chambers called a "Special Call Meeting" of the Board of Trustees of the United Food and Commercial Workers Local 1625 and Employers Health and Welfare Fund. (*See* Walker Decl. at ¶ 23 and Exhibit 5.) The meeting minutes reflect that Chambers reported Respondents' intent to leave the UFCW Plan. (*Id.* at Exhibit 5, p. 2.) In doing so, Chambers did not claim that Respondents were prohibited from withdrawing from the Plan. (*Id.*) Subsequently, Kathleen Phillips, counsel for the Board of Trustees, noted that the Expired and then-current UFCW Contracts required Respondents B to make contributions to the UFCW Plan at rates set by the Board of Trustees. (*Id.*) Trustee Richard "Chip" McWilliams countered that the Respondents had not agreed to any rates or payments after Plan Year 2017. (*Id.* at Exhibit 5, pp. 2-3.) Subsequently, the Board of Trustees voted to amend the Health and Welfare Fund's trust agreement to impose a withdrawal penalty on any employer that terminated participation in the UFCW Plan equal to that Employer's "pro-rata share of incurred but unreported claims and/or outstanding claims of the Trust Fund as of the date of the Employer's termination." (*Id.* at Exhibit 5, pp. 4-5.)

exceed the benefits available under the UFCW Plan. (*Id.*) The premium amounts paid by employees remained the same. (*Id.*)

E. Filing of Charges and Issuance of Complaint

On or about October 10, 2019, Local 1199 filed a an unfair labor practice charge against Respondents A alleging violations of 8(a)(1) and (5) of the National Labor Relations Act (the “Act”) based on the Respondents alleged failure to bargain over unilateral changes to employees’ terms and conditions of employment concerning health insurance plans and carriers. On or around December 23, 2019, Local 1199 filed an amended Charge alleging that by the same conduct, Respondents A also violated Section 8(d) of the Act.

On or about October 18, 2019, UFCW Local 1625 filed a charge against Respondents B, making the same core allegations raised in Local 1199’s original charge: namely, that Respondents B violated Sections 8(a)(1) and (5) of the Act by refusing to bargain with Local 1625 over unilateral changes to employees’ terms and conditions of employment concerning health insurance plans and carriers. On or around December 23, 2019, Local 1625 filed an amended charge alleging that by this same conduct, Respondents B violated Section 8(d) of the Act.⁷

Respondents requested that the Region defer both charges to the parties’ respective grievance and arbitration procedures at the outset of each case, and at various other points during the Region’s investigation and consideration of the allegations raised in each Charge. The Region initially declined, citing the Board’s policy disfavoring deferral of matters involving an alleged

⁷ Local 1199’s and Local 1625’s original and amended charges also contained allegations that Respondents violated the Section 8(a)(5) of the Act by failing to furnish the unions with information requested by each union on October 2, 2019, regarding health insurance plan documents and premium costs. The Region dismissed Local 1625’s allegation in this regard, and Respondents A, through their bargaining agent, furnished Local 1199 with the employer contribution rates sought through their October 2, 2019, requests on May 11, 2020. (*See Walker Decl. at ¶ 25 and Exhibit 6.*) This was the information that the Region had determined the Respondents were required to provide. (*Id.* at ¶ 25.)

refusal to provide relevant, requested information. The Region later cited a non-specific policy that it would not defer charges alleging violations of Section 8(d). Most recently, the Region stated that it would not defer the cases because Respondents did not present a “sound arguable basis” to interpret their collective bargaining agreements in any way other than that Respondents are required to participate in the UFCW Plan for the duration of the respective agreements.

On or about May 11, 2020, the General Counsel issued the instant Consolidated Complaint based on Local 1199’s and Local 1625’s amended charges. Thereafter, the Region requested the Respondents to provide assurances of their willingness to meet all requirements for deferral under *Collyer*, which Respondents provided on May 15, 2020. After the Region refused to defer based on the assertion that Respondents have not provided a “sound arguable basis” for their actions, Respondents timely filed their Answer (including *Collyer* deferral as an affirmative defense) on June 23, 2020.

III. ARGUMENT AND ANALYSIS

A. The Board’s *Collyer* Prearbitral Deferral Standard

As the Board recently reaffirmed, the “use of grievance and arbitration procedures to resolve disputes is favored as a matter of national labor policy.” *Detroit Medical Center* 369 NLRB No. 41, slip op. at 1 (2020.) To effectuate that policy, the Board has broad discretion to defer claims to parties’ bargained for and agreed upon grievance procedures when doing so serves the fundamental aims of the Act. *See id*; *UPS*, 369 NLRB No. 1, slip op. at 2–3 (2019); *Wonder Bread*, 343 NLRB 55, 55 (2004); *Collyer Insulated Wire*, 192 NLRB 837 (1971); *United Technologies Corp.*, 268 NLRB 557 (1984).

Under well-established and frequently applied precedent, prearbitral deferral is appropriate when the following factors are present: (1) “the dispute arose within the confines of a long and productive collective-bargaining relationship;” (2) “there is no claim of employer animosity to the

employees' exercise of protected statutory rights;" (3) "the parties' agreement provides for arbitration of a very broad range of disputes;" (4) "the arbitration clause clearly encompasses the dispute at issue;" (5) "the employer has asserted its willingness to utilize arbitration to resolve the dispute;" and (6) "the dispute is eminently well suited to such resolution." *Wonder Bread*, 343 NLRB at 55; *United Technologies Corp.*, 268 NLRB at 558; *see also, San Juan Bautista Medical Center*, 356 NLRB 736, 737 (2011) (applying the six-factor deferral analysis to allegations that an employer violated Section 8(a)(5) of the Act by making mid-term contract modifications to terms governing mandatory subjects of bargaining within the meaning of Section 8(d)).

The Board favors deferral to arbitration in such circumstances because "[w]here an employer and a union have voluntarily elected to create dispute resolution machinery culminating in final and binding arbitration, it is contrary to the basic principles of the Act for the Board to jump into the fray prior to an honest attempt by the parties to resolve their disputes through that machinery." *United Technologies Corp.*, 268 NLRB at 559. In this respect, deferral to arbitration simply "hold[s] the parties to their bargain by directing them to avoid substituting the Board's processes for their own mutually agreed-upon method for dispute resolution." *Id.*

Furthermore, the Board has made clear that "deferral is a threshold issue which must be decided prior to addressing the merits of the allegations at issue." *Detroit Medical Center* 369 NLRB No. 41, slip op. at 1 (citing *United Hoisting & Scaffolding, Inc.*, 360 NLRB 1258, 1260 (2014)).

B. The Unfair Labor Practice Allegations Should be Deferred to Arbitration Under the Parties' Agreements

Deferral of Local 1199's and Local 1625's unfair labor practice allegations is warranted and appropriate because each factor favoring prearbitral deferral is present in this case:

1. **Respondents have long and productive bargaining relationships with both Unions.**
All Respondents A have at least a four-year bargaining relationship with Local 1199 and some Respondents A have had a bargaining relationship with Local 1199 for more than fifteen years. The parties have successfully negotiated first contracts and successor agreements and are currently parties to ongoing collective bargaining agreements. Respondents B and Local 1625 likewise have established a bargaining relationship over a seven-year or longer period . The parties have successfully negotiated first and successor agreements, and despite the current dispute over the contractual language in the UFCW Contracts, in March 2020, entered into thirteen multi-year successor agreements covering all represented employees of Respondents B.
2. **There is no claim of anti-union animus or hostility towards employees’ exercise of their protected statutory rights on the part of any Respondent.** Neither Local 1199 nor Local 1625 alleged any conduct by Respondents in violation of Section 8(a)(3). Rather, the parties’ current disputes solely involve whether Respondents were privileged under their respective contracts to discontinue participation in the UFCW Plan and provide insurance to employees through employer-sponsored plans. The fact that Respondents obtained insurance benefits for their employees that mirrored those available to employees under the UFCW plan further underscores Respondents’ absence of animus and desire to ensure that their employees were unaffected by the change in insurance providers.
3. **The parties’ agreements provide for arbitration of a broad range of disputes.** The grievance and arbitration articles in all of the relevant contracts provide for the arbitration of “any and all disputes” related to the “interpretation” of the respective agreements, or to “any alleged breach” of those agreements.

4. **The agreements' arbitration clauses clearly encompass the dispute at issue.** The current matter involves disputes over whether the parties' agreements require Respondents to participate in the UFCW Plan through the term of each agreement, and if not, whether the health insurance provisions and management rights language in the various agreements permitted Respondents to revert to its own self-funded insurance after 2017. The resolution of these questions is a matter of contract interpretation clearly covered by the parties' grievance processes and subject to binding arbitration.
5. **Respondents are willing to arbitrate these disputes.** Respondents have indicated their willingness to waive any timeliness or other objections to resolving these disputes through the parties' grievance process and remain willing to arbitrate these disputes with both Unions.⁸
6. **This dispute is eminently well suited to resolution by arbitration.** Put simply, Local 1199's and Local 1625's claims that Respondents violated their respective agreements by discontinuing participation in the UFCW Fund are well-suited for arbitration because the meaning of the parties' contract provisions are at the heart of the dispute.

The Board's recent decision in *Detroit Medical Center*, 369 NLRB No. 41 is instructive in evaluating the appropriateness of deferral in this case. In *Detroit Medical Center*, the union alleged the employer violated Sections 8(a)(5) and (1) of the act by making unilateral changes to its overtime pay policy without giving the union notice or an opportunity to bargain. *Id.* at 1. The employer argued that Article VII of the parties' contract, which gave the employer the discretion to change employees' work schedules, also encompassed a right to change its method of

⁸ As noted, Respondents submitted *Collyer* assurances to the Region on May 15, 2020.

determining overtime pay, therefore, it was entitled to act unilaterally. *Id.* at 2. The General Counsel countered that the parties' contract was silent as to the employer's method of overtime pay. *Id.*

The Board concluded that the dispute was amenable to arbitration because the parties' conflicting interpretations of Article VII were at the "heart of the dispute." *Id.* The Board further found that where the agreement was silent on the issue of overtime payment, the agreement was not unambiguous and that the employer's construction of the agreement as permitting it to make changes to its overtime payments methods was plausible. *Id.* Noting that the parties' dispute was clearly encompassed within the parties' grievance and arbitration procedures, which provided for the arbitration of a broad range of disputes, including "matters of interpretation," and finding the remaining deferral factors satisfied, the Board found deferral appropriate and dismissed the case. *Id.* at 1-2.

The same outcome is warranted in this case. As in *Detroit Medical Center*, where the parties' differing interpretations of their contract's overtime and scheduling provisions were at the "heart of the dispute," Respondents' and the Unions' conflicting interpretations of their agreements' health insurance provisions are at the heart of this case. Here, Local 1199 and Local 1625 contend that the parties' respective agreements require Respondents to continue making contributions to the UFCW Fund at rates set by the Trustees of the UFCW Local 1625 Health and Welfare Plan for the entire term of the parties' agreements. In advancing this interpretation, they cite to contractual language in each relevant agreement stating that: "The rates effective January 1, 2017 will be set by the Trustees of the UFCW Local 1625 Health and Welfare Plan in compliance with the ACA regulations." (Walker Decl. at Exhibit 1, Art. 24.2; Exhibit 2, Art. 23.2; and Exhibit 3, Art. 23.2.) The parties' contemporaneous dealings contradict that interpretation.

Local 1199 expressly proposed language permitting the Trustees to set contribution rates through the term of the contract and Respondents, through their bargaining agent, unequivocally stated that this was “not something we would entertain.” (*See id.* at ¶ 13 and Exhibit 4.) Thus, the agreements only require Respondents’ continued contributions through 2017, after which their continued participation in the UFCW Plan was at their discretion and only under mutually agreeable rates determined by the parties. As such, the interpretation of the agreements’ health insurance provisions: namely, whether they require Respondents to continue participating in the UFCW Plan after 2017, is central to resolving this case.

Clearly, it cannot be said that the parties’ various contracts are unambiguous on the issue of Respondents’ obligations to contribute to the UFCW Plan after 2017. Like the agreement in *Detroit Medical Center*, which was silent as to the employer’s obligations with respect to calculating overtime pay, the Respondents’ contracts with Local 1199 and Local 1625 are silent as to Respondents’ obligations to contribute to the UFCW Plan in 2018 and beyond. Moreover, the bargaining history only serves to highlight the inherent ambiguity in the language. Accordingly, the pertinent provisions of the parties’ agreements are not unambiguous.

Finally, the Respondents in this case, like the employer in *Detroit Medical Center*, have advanced a plausible construction of their respective agreements supporting their collective position that they were permitted under their contracts to unilaterally cease participation in the UFCW Plan and provide those same health benefits through a self-funded plan. Here, the parties’ contracts do not contain any language specifically and expressly requiring Respondents to participate in, or contribute to the UFCW Plan after 2017. Further, each contract contains a broad management rights provision providing that “[a]ll rights which ordinarily vest in and are exercised by Employers, and all of the rights, powers, and authority possessed by [the Employer] prior to

entering into [the] Collective Bargaining Agreement, except as *expressly and specifically* abridged, delegated, granted, or modified by [the] Agreement, shall continue to vest in the [Employer].” (See Walker Decl. at Exhibit 1, Art. 3.1; Exhibit 2, Art. 3.1; and Exhibit 3, Art. 3.1 (emphasis added).)

Given the broad language of the contracts’ management rights provisions, and the absence of any express language addressing Respondents’ participation in the UFCW Plan after 2017, Respondents’ position that they were entitled to unilaterally end their participation in the UFCW Plan after 2017 relies on a plausible construction the parties’ agreements. Indeed, the Board has repeatedly found deferral appropriate in similar cases where employers have defended their unilateral actions by pointing to contractual provisions, like the management rights provisions at issue in this case, that generally vest employers with the right to manage their business, except as specifically and expressly limited by the terms of the parties’ agreement, even where those provisions do not identify the specific conduct at issue as a management prerogative. *See e.g., Wonder Bread*, 343 NLRB at 55; *see also, In re Radioear Corp.*, 199 NLRB 1161, 1161 (1972) (deferring case alleging employer unilaterally terminated a holiday bonus program where the parties’ agreement was silent as to holiday bonuses, but contained a zipper clause providing that the company had no obligation to bargain with respect to matters not referred to or covered by the agreement).

For each of the above-described reasons, it is abundantly clear that the contractual disputes at the center of this case are well-suited for arbitration. The parties’ disputes are likewise clearly encompassed within the parties’ respective grievance and arbitration procedures, which provide that all disputes arising out of the parties’ agreements, or involving the interpretation of the same, must be processed through the parties’ grievance and arbitration procedures. *See Detroit Medical*

Center, 369 NLRB at 1. As these and the other factors favoring deferral are manifestly present in this case, deferral of the Unions’ unfair labor practice allegations under *Collyer* is appropriate.

C. Application of the Collyer Factors to the Present Dispute Should Begin and End the Analysis

As noted above, the deferral of prearbitral disputes under *Collyer* is a threshold issue that must be addressed before any consideration of the charging parties’ allegations on their merits. *Detroit Medical Center*, 369 NLRB at 1 (citing *United Hoisting & Scaffolding, Inc.*, 360 NLRB at 260). Despite this clear guidance, the Region thus far has not analyzed the allegations under the proper analytical framework. Rather than confining its consideration of Respondents’ request for deferral to the six factors enumerated above, the Region bypassed this threshold analysis and declined to defer the case based on an assessment of its merits.

As explained above, the Region advised Respondents on June 10, 2020, that it would not administratively defer the Union’s charges to the Respondents’ grievance and arbitration procedures under *Collyer* because, in the Region’s view, Respondents did not present a “sound arguable basis” for interpreting their collective bargaining agreements in way that permitted their unilateral actions. This, however, is not a factor for deferral under *Collyer*. Rather, whether Respondents had a sound arguable basis for their actions is a defense to claims that Respondents violated Section 8(d) via a midterm contract modification. *See NCR Corp.*, 271 NLRB 1212, 1213 (1984). In concluding that Respondents lacked a sound reasonable basis for their actions, the Region incorrectly substituted its evaluation of the merits for an evaluation of the *Collyer* deferral factors; it likewise improperly concluded that the Respondents’ interpretations of their Agreements was incorrect. Neither of these determinations are relevant to — or preclude — deferral of this case under *Collyer*.

This point is further underscored by the Board’s own policies regarding deferral and the propriety of leaving questions of interpretation to the arbitrator. *See e.g., Wonder Bread*, 343 NLRB at 55 (“The question of the reasonable interpretation of the collective-bargaining agreement is one, at this point, for the arbitrator.”); *Caritas Good Samaritan Medical Center*, 340 NLRB 61, 63 (2003) (holding that deferral was required in dispute involving a unilateral change in medical insurance plans, stating that while the charging party’s position — adopted by the Region and the dissent in that case — “*may* be correct, [] that is classically a matter of contract interpretation, i.e., grist for an arbitrator’s mill”). While the Region may disagree with Respondents’ interpretation of their collective bargaining agreements, or struggle to grasp the Unions’ waiver of their bargaining rights regarding health insurance, neither provides a basis for denying deferral or departing from the *Collyer* analysis.

IV. CONCLUSION

For all of the these reasons, Respondents respectfully request that the Consolidated Complaint be dismissed and the allegations contained in the Unions’ unfair labor practice charges be deferred to the grievance and arbitration procedures in the parties’ collective bargaining agreements.

SEYFARTH SHAW LLP

By: /s/ John L. Telford

John L. Telford

SEYFARTH SHAW LLP

John L. Telford

jtelford@seyfarth.com

John (Jack) A. Lambremont

jlambremont@seyfarth.com

Rachael Reed

rareed@seyfarth.com

1075 Peachtree Street NE, Suite

2500

Atlanta, GA 30309

Telephone: (404) 885-1500

Attorneys for Respondents

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 12

LV CHC HOLDINGS I, LLC d/b/a CONSULATE HEALTH CARE; 1026 ALBEE FARM ROAD OPERATIONS LLC d/b/a BAY BREEZE HEALTH AND REHABILITATION CENTER; 216 SANTA BARBARA BOULEVARD OPERATIONS LLC d/b/a CORAL TRACE HEALTH CARE; MIAMI FACILITY OPERATIONS LLC d/b/a FRANCO NURSING & REHABILITATION CENTER; 3001 PALM COAST PARKWAY OPERATIONS LLC d/b/a GRAND OAKS HEALTH AND REHABILITATION CENTER; 2826 CLEVELAND AVENUE OPERATIONS LLC d/b/a HERITAGE PARK REHABILITATION AND HEALTHCARE; 4200 WASHINGTON STREET OPERATIONS LLC d/b/a HILLCREST HEALTH CARE AND REHABILITATION CENTER; KISSIMMEE FACILITY OPERATIONS LLC d/b/a CONSULATE HEALTH CARE OF KISSIMMEE; 710 NORTH SUN DRIVE OPERATIONS LLC d/b/a LAKE MARY HEALTH AND REHABILITATION CENTER; NORTH FORT MYERS FACILITY OPERATIONS LLC d/b/a CONSULATE HEALTH CARE OF NORTH FORT MYERS; 650 REED CANAL ROAD OPERATIONS LLC d/b/a OAKTREE HEALTHCARE; 5405 BABCOCK STREET OPERATIONS LLC d/b/a THE PALMS REHABILITATION AND HEALTHCARE CENTER; 9311 SOUTH ORANGE BLOSSOM TRAIL OPERATIONS LLC d/b/a PARKS HEALTHCARE AND REHABILITATION CENTER; 4641 OLD CANOE CREEK ROAD OPERATIONS LLC d/b/a PLANTATION BAY REHABILITATION CENTER; 5065 WALLIS ROAD OPERATIONS LLC d/b/a RENAISSANCE HEALTH AND REHABILITATION; 7950 LAKE UNDERHILL ROAD OPERATIONS LLC d/b/a RIO PINAR HEALTH CARE; 3920 ROSEWOOD WAY OPERATIONS LLC d/b/a ROSEWOOD HEALTH AND REHABILITATION CENTER; 2170 CORTEZ BOULEVARD OPERATIONS LLC d/b/a SPRING HILL HEALTH AND REHABILITATION CENTER; 1550 JESS PARRISH COURT OPERATIONS LLC d/b/a VISTA MANOR; WEST ALTAMONTE FACILITY OPERATIONS LLC d/b/a CONSULATE HEALTH CARE AT WEST ALTAMONTE; WEST PALM BEACH FACILITY OPERATIONS LLC d/b/a CONSULATE HEALTH CARE OF WEST PALM BEACH

and

1199SEIU, UNITED HEALTH CARE WORKERS EAST, FLORIDA REGION

Case: 12-CA-249715

LV CHC HOLDINGS I, LLC d/b/a CONSULATE HEALTH CARE; 6305 CORTEZ ROAD WEST OPERATIONS LLC d/b/a BRADENTON HEALTH CARE; 2939 SOUTH HAVERHILL ROAD OPERATIONS LLC d/b/a CORAL BAY HEALTHCARE AND REHABILITATION; 1851 ELKCAM BOULEVARD OPERATIONS LLC d/b/a DELTONA HEALTH CARE; 1820 SHORE DRIVE OPERATIONS LLC d/b/a THE HEALTH AND REHABILITATION CENTRE AT DOLPHIN'S VIEW; 3735 EVANS AVENUE OPERATIONS LLC d/b/a EVANS HEALTH CARE; 611 SOUTH 13th STREET OPERATIONS LLC D/B/A FORT PIERCE HEALTH CARE; 2916 HABANA WAY OPERATIONS LLC d/b/a HABANA HEALTH CARE CENTER; 11565 HARTS ROAD OPERATIONS LLC d/b/a HARTS HARBOR HEALTH CARE CENTER; 125 ALMA BOULEVARD OPERATIONS LLC d/b/a ISLAND HEALTH AND REHABILITATION CENTER; 1120 WEST DONEGAN AVENUE OPERATIONS LLC d/b/a KEYSTONE REHABILITATION AND HEALTH CENTER/KEYSTONE VILLAS ASSISTED LIVING CENTER; 207 MARSHALL DRIVE OPERATIONS LLC d/b/a MARSHALL HEALTH AND REHABILITATION CENTER; 3110 OAKBRIDGE BOULEVARD OPERATIONS LLC d/b/a OAKBRIDGE HEALTHCARE CENTER; 1010 CARPENTERS WAY OPERATIONS LLC d/b/a WEDGEWOOD HEALTHCARE CENTER; WINTER HAVEN FACILITY OPERATIONS, LLC d/b/a CONSULATE HEALTH CARE OF WINTER HAVEN; 6414 13th ROAD SOUTH OPERATIONS LLC d/b/a WOOD LAKE HEALTH AND REHABILITATION CENTER

and

UNITED FOOD AND COMMERCIAL WORKERS
UNION, LOCAL 1625

Case: 12-CA-250209

CERTIFICATE OF SERVICE

The undersigned hereby certifies and he caused the foregoing Respondents' Motion to Dismiss Consolidated Complaint and for Deferral be electronically filed with the National Labor Relations Board this 6th day of July, 2020, and also caused a true and correct copy to be served by electronic mail upon the following parties:

David Cohen, Regional Director
National Labor Relations Board, Region 12
201 East Kennedy Boulevard, Suite 530
Tampa, Florida 33602-5824
david.cohen@nrlrb.gov

Rafael Aybar, Senior Field Attorney
National Labor Relations Board, Region 12

201 East Kennedy Boulevard, Suite 530
Tampa, Florida 33602-5824
rafael.aybar@nlrb.gov

Kathleen M. Phillips, Esq.
Phillips, Richard & Rind, P.A.
9360 SW 72nd St, Ste 283
Miami, FL 33173-3283
kphillips@phillipsrichard.com

Dale Ewart, Vice President
1199SEIU UHWE
2881 Corporate Way
Miramar, FL 33025-3973
dale.ewart@1199.org

Edward K Chambers JR., President
United Food and Commercial Workers
Union, Local 1625
5600 US Highway 98 North
Lakeland, FL 33809
ufcwedc1625@aol.com

/s/ John L. Telford

John L. Telford

EXHIBIT A

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 12

LV CHC HOLDINGS I, LLC d/b/a CONSULATE HEALTH CARE;
1026 ALBEE FARM ROAD OPERATIONS LLC d/b/a BAY
BREEZE HEALTH AND REHABILITATION CENTER; 216
SANTA BARBARA BOULEVARD OPERATIONS LLC d/b/a
CORAL TRACE HEALTH CARE; MIAMI FACILITY
OPERATIONS LLC d/b/a FRANCO NURSING &
REHABILITATION CENTER; 3001 PALM COAST PARKWAY
OPERATIONS LLC d/b/a GRAND OAKS HEALTH AND
REHABILITATION CENTER; 2826 CLEVELAND AVENUE
OPERATIONS LLC d/b/a HERITAGE PARK REHABILITATION
AND HEALTHCARE; 4200 WASHINGTON STREET
OPERATIONS LLC d/b/a HILLCREST HEALTH CARE AND
REHABILITATION CENTER; KISSIMMEE FACILITY
OPERATIONS LLC d/b/a CONSULATE HEALTH CARE OF
KISSIMMEE; 710 NORTH SUN DRIVE OPERATIONS LLC d/b/a
LAKE MARY HEALTH AND REHABILITATION CENTER;
NORTH FORT MYERS FACILITY OPERATIONS LLC d/b/a
CONSULATE HEALTH CARE OF NORTH FORT MYERS; 650
REED CANAL ROAD OPERATIONS LLC d/b/a OAKTREE
HEALTHCARE; 5405 BABCOCK STREET OPERATIONS LLC
d/b/a THE PALMS REHABILITATION AND HEALTHCARE
CENTER; 9311 SOUTH ORANGE BLOSSOM TRAIL
OPERATIONS LLC d/b/a PARKS HEALTHCARE AND
REHABILITATION CENTER; 4641 OLD CANOE CREEK ROAD
OPERATIONS LLC d/b/a PLANTATION BAY REHABILITATION
CENTER; 5065 WALLIS ROAD OPERATIONS LLC d/b/a
RENAISSANCE HEALTH AND REHABILITATION; 7950 LAKE
UNDERHILL ROAD OPERATIONS LLC d/b/a RIO PINAR
HEALTH CARE; 3920 ROSEWOOD WAY OPERATIONS LLC
d/b/a ROSEWOOD HEALTH AND REHABILITATION CENTER;
12170 CORTEZ BOULEVARD OPERATIONS LLC d/b/a SPRING
HILL HEALTH AND REHABILITATION CENTER; 1550 JESS
PARRISH COURT OPERATIONS LLC d/b/a VISTA MANOR;
WEST ALTAMONTE FACILITY OPERATIONS LLC d/b/a
CONSULATE HEALTH CARE AT WEST ALTAMONTE; WEST
PALM BEACH FACILITY OPERATIONS LLC d/b/a CONSULATE
HEALTH CARE OF WEST PALM BEACH

and

Case: 12-CA-249715

1199SEIU, UNITED HEALTH CARE WORKERS EAST, FLORIDA REGION

LV CHC HOLDINGS I, LLC d/b/a CONSULATE HEALTH CARE; 6305 CORTEZ ROAD WEST OPERATIONS LLC d/b/a BRADENTON HEALTH CARE; 2939 SOUTH HAVERHILL ROAD OPERATIONS LLC d/b/a CORAL BAY HEALTHCARE AND REHABILITATION; 1851 ELKCAM BOULEVARD OPERATIONS LLC d/b/a DELTONA HEALTH CARE; 1820 SHORE DRIVE OPERATIONS LLC d/b/a THE HEALTH AND REHABILITATION CENTRE AT DOLPHIN'S VIEW; 3735 EVANS AVENUE OPERATIONS LLC d/b/a EVANS HEALTH CARE; 611 SOUTH 13th STREET OPERATIONS LLC D/B/A FORT PIERCE HEALTH CARE; 2916 HABANA WAY OPERATIONS LLC d/b/a HABANA HEALTH CARE CENTER; 11565 HARTS ROAD OPERATIONS LLC d/b/a HARTS HARBOR HEALTH CARE CENTER; 125 ALMA BOULEVARD OPERATIONS LLC d/b/a ISLAND HEALTH AND REHABILITATION CENTER; 1120 WEST DONEGAN AVENUE OPERATIONS LLC d/b/a KEYSTONE REHABILITATION AND HEALTH CENTER/KEYSTONE VILLAS ASSISTED LIVING CENTER; 207 MARSHALL DRIVE OPERATIONS LLC d/b/a MARSHALL HEALTH AND REHABILITATION CENTER; 3110 OAKBRIDGE BOULEVARD OPERATIONS LLC d/b/a OAKBRIDGE HEALTHCARE CENTER; 1010 CARPENTERS WAY OPERATIONS LLC d/b/a WEDGEWOOD HEALTHCARE CENTER; WINTER HAVEN FACILITY OPERATIONS, LLC d/b/a CONSULATE HEALTH CARE OF WINTER HAVEN; 6414 13th ROAD SOUTH OPERATIONS LLC d/b/a WOOD LAKE HEALTH AND REHABILITATION CENTER

Case: 12-CA-250209

and

UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 1625

DECLARATION OF ROBERT WALKER

I, Robert Walker, pursuant to 28 U.S.C. § 1746, state as follows:

1. I know the facts set forth in this declaration to be true based on my personal knowledge and/or based on my review of business records maintained in the ordinary course of

business of the Care Centers (defined in Paragraph 2, below). If called as a witness, I could testify to the accuracy of the facts set forth in this declaration.

2. I am the Vice President of Labor Relations for CMC II, LLC. I have held this position since 2016. In my capacity as Vice President of Labor Relations for CMC II, LLC, I act as an agent of the following entities:

- 1026 Albee Farm Road Operations LLC d/b/a Bay Breeze Health and Rehabilitation Center
- 216 Santa Barbara Boulevard Operations LLC d/b/a Coral Trace Health Care
- Miami Facility Operations LLC d/b/a Franco Nursing & Rehabilitation Center
- 3001 Palm Coast Parkway Operations LLC d/b/a Grand Oaks Health and Rehabilitation Center
- 2826 Cleveland Avenue Operations LLC d/b/a Heritage Park Rehabilitation and Healthcare
- 4200 Washington Street Operations LLC d/b/a Hillcrest Health Care and Rehabilitation Center
- Kissimmee Facility Operations LLC d/b/a Consulate Health Care of Kissimmee
- 710 North Sun Drive Operations LLC d/b/a Lake Mary Health and Rehabilitation Center
- North Fort Myers Facility Operations LLC d/b/a Consulate Health Care of North Fort Myers
- 650 Reed Canal Road Operations LLC d/b/a Oaktree Healthcare
- 5405 Babcock Street Operations LLC d/b/a The Palms Rehabilitation and Healthcare Center
- 9311 South Orange Blossom Trail Operations LLC d/b/a Parks Healthcare and Rehabilitation Center
- 4641 Old Canoe Creek Road Operations LLC d/b/a Plantation Bay Rehabilitation Center
- 5065 Wallis Road Operations LLC d/b/a Renaissance Health and Rehabilitation

- 7950 Lake Underhill Road Operations LLC d/b/a Rio Pinar Health Care
- 3920 Rosewood Way Operations LLC d/b/a Rosewood Health and Rehabilitation Center
- 12170 Cortez Boulevard Operations LLC d/b/a Spring Hill Health and Rehabilitation Center
- 1550 less Parrish Court Operations LLC d/b/a Vista Manor
- West Altamonte Facility Operations LLC d/b/a Consulate Health Care at .West Altamonte
- West Palm Beach Facility Operations LLC d/b/a Consulate Health Care of West Palm Beach
- 6305 Cortez Road West Operations LLC d/b/a Bradenton Health Care
- 2939 South Haverhill Road Operations LLC d/b/a Coral Bay Healthcare and Rehabilitation
- 1851 Elkcam Boulevard Operations LLC d/b/a Deltona Health Care
- 1820 Shore Drive Operations LLC d/b/a The Health and Rehabilitation Centre at Dolphins View
- 3735 Evans Avenue Operations LLC d/b/a Evans Health Care
- 611 South 13th Street Operations LLC d/b/a Fort Pierce Health Care
- 2916 Habana Way Operations LLC d/b/a Habana Health Care Center
- 11565 Harts Road Operations LLC d/b/a Harts Harbor Health Care Center
- 125 Alma Boulevard Operations LLC d/b/a Island Health and Rehabilitation Center
- Donegan Square Health Care Associates, LLC, d/b/a Keystone Villas Assisted Living Center
- 207 Marshall Drive Operations LLC d/b/a Marshall Health and Rehabilitation Center
- 3110 Oakbridge Boulevard Operations LLC d/b/a Oakbridge Healthcare Center
- 1010 Carpenters Way Operations LLC d/b/a Wedgewood Healthcare Center

- Winter Haven Facility Operations, LLC d/b/a Consulate Health Care of Winter Haven
- 6414 13th Road South Operations LLC d/b/a Wood Lake Health and Rehabilitation Center

3. The entities listed in Paragraph 2, above (collectively referred to herein as “Care Centers”) are fully owned subsidiaries of LV CHC Holdings I, LLC. Each Care Center operates a long-term care facility in Florida.

4. For at least the past four years, the Bay Breeze, Coral Trace, Franco, Grand Oaks, Heritage Park, Hillcrest, Kissimmee, Lake Mary, North Fort Myers, Oaktree Healthcare, The Palms, Parks, Plantation Bay, Renaissance Health, Rio Pinar, Rosewood, Spring Hill, Vista Manor, West Altamonte, and West Palm Beach Care Centers (collectively referred to as “Care Centers A”) have all had collective bargaining relationships with SEIU Local 1199 (“Local 1199”). The Heritage Park Care Center, which is the most recently organized of Care Centers A, entered into a collective bargaining relationship with Local 1199 in 2016. Some Care Centers A have had collective bargaining relationships with Local 1199 for more than fifteen years.

5. All Care Centers A are currently parties to various collective bargaining agreements with Local 1199. The current contracts between care Centers A and Local 1199 (the “SEIU Contracts”) contain materially identical provisions, and are effective May 28, 2016, through June 30, 2021. A true and correct copy of the contract between Local 1199 and the Coral Trace Care Center is attached as **Exhibit 1**. The material terms of this contract, including its Articles governing Management Rights, Grievance Procedures, Arbitration, and Medical and Retirement Benefits are identical to the terms in the contracts between the other Care Centers A and Local 1199.

6. For at least the past seven years, the Bradenton, Coral Bay, Deltona, Dolphins View, Evans Health, Fort Pierce, Habana, Harts Harbor, Island Health, Keystone, Marshall,

Oakbridge, Wedgewood, Winter Haven, and Wood Lake Care Centers (collectively referred to as “Care Centers B”) have had collective bargaining relationships with UFCW Local 1625 (“Local 1625”). Some Care Centers B have had collective bargaining relationships with Local 1625 for more than eight years.

7. All Care Centers B are, or have been, parties to various collective bargaining agreements with Local 1625. The contracts between Care Centers B and Local 1625 contain materially identical provisions, but have differing effective dates.

8. In 2016, the Bradenton, Dolphins View, Harts Harbor, and Island Health Care Centers entered into three-year agreements with Local 1625 which expired on June 30, 2019 (the “Expired UFCW Contracts”). A true and correct copy of the expired contract between Local 1625 and the Bradenton Care Center is attached as **Exhibit 2**. The material terms of this contract, including its Articles governing Management Rights, Grievance Procedures, Arbitration, and Health Insurance are identical to the terms in the contracts between Local 1625 and the Dolphins View, Harts Harbor, and Island Health Care Centers.

9. After the expiration of the Expired UFCW Contracts, Local 1625 and the Bradenton, Dolphins View, Harts Harbor, and Island Health Care Centers subsequently entered into several contract extensions. The final extensions terminated on November 30, 2019.

10. The Habana Care Center also had a bargaining agreement with Local 1625 that expired on June 30, 2019. After receiving a valid petition from a majority of bargaining unit employees asking to remove UFCW 1625 as their bargaining representative, the Habana Care Center lawfully withdrew recognition of Local 1625. The Habana Care Center withdrew recognition of Local 1625 on January 9, 2020.

11. In 2016, the Coral Bay, Deltona, Evans, Fort Pierce, Keystone Rehab, Keystone Villas, Marshall, Wedgewood, Winter Haven and Wood Lake Care Centers entered into four-year agreements with Local 1625 (the “Four-Year UFCW Contracts”). The Four-Year UFCW Contracts have effective dates of July 1, 2016 through June 30, 2020. A true and correct copy of the contract between Local 1625 and the Coral Bay Care Center is attached as **Exhibit 3**. The material terms of this contract, including its Articles governing Management Rights, Grievance Procedures, Arbitration, and Health Insurance are identical to the terms in the other Four-Year UFCW Contracts between Care Centers B and Local 1625.

12. The language pertaining to health insurance in the Expired and Four-Year UFCW Contracts was drafted by Local 1625.

13. When finalizing the SEIU Contracts, on August 11, 2016, SEIU Vice-President and chief negotiator Dale Ewart proposed by email that the following language to be included in the contracts’ Insurance Articles: “In the event of a premium change, the Employer and employee will pay amounts as determine by the Trustees of the Plan.” In my capacity as bargaining agent for Care Centers A, I responded to Mr. Ewart’s email that same day and rejected this proposal. A true and correct copy of my email exchange with Dale Ewart on August 11, 2016, is attached as **Exhibit 4**.

14. In early 2020, Local 1625 and all Care Centers B, except for the Habana Care Center completed negotiations for successor contracts to replace the agreements that expired in November 2019, and June 2020. The successor agreements between Care Centers B and Local 1625 were ratified and became effective on March 14, 2020.

15. Prior to entering into the SEIU Contracts, Expired UFCW Contracts, and Four-Year UFCW Contracts in 2016, the Care Centers health insurance benefits to their represented employees through self-insured plans.

16. In late 2015, Care Centers B entered into discussions with Local 1625 about allowing represented employees in their self-insured health insurance plans to participate in the UFCW Local 1625 Health and Welfare Plan (the “UFCW Plan”). Care Centers B and Local 1625 ultimately reached an agreement to begin participation in the UFCW Plan on or around January 6, 2016. Care Centers B and UFCW memorialized their agreements regarding health insurance in various Letters of Understanding signed under each of the parties’ then-in-force collective bargaining agreements.

17. On or around January 6, 2016, Care Centers A and Local 1199 also agreed to allow represented employees from the care centers’ self-insured plans to participate in the UFCW Plan. Care Centers A and Local 1199 memorialized their agreements regarding participation in the UFCW Plan in various Letters of Understanding signed under the parties’ then-in-force collective bargaining agreements.

18. From the outset of Respondents’ participation in the UFCW Plan, the Plan’s funding dropped dramatically. Approximately nine months after the Care Centers joined the Fund, the Fund had net assets of \$2,727,276. A little over a year later, on September 30, 2017, the Fund had only \$910,779. Less than a year after that, on August 1, 2018, the Fund had only \$398,111. On June 30, 2019, the Funds assets had decreased to a net deficit of \$79,513. These steep declines in funding were also accompanied by benefit reductions and premium increases.

19. Due to the increasingly dire financial state of the UFCW Fund, all Care Centers decided that the UFCW Plan was no longer a viable option for providing health care benefits for their employees.

20. Care Centers A, through their bargaining agent, provided notice to Local 1199 on September 27, 2019, that they intended to leave the UFCW Plan effective December 31, 2019.

21. Care Centers B, through their bargaining agent, notified Local 1625 verbally on multiple occasions in August and in writing on September 6, 2019, that the Company intended to leave the Fund effective December 31, 2019.

22. On multiple occasions in August, in response to the verbal notices provided by Care Centers B regarding their intent to leave the UFCW Plan, UFCW Local 1625 President Ed Chambers responded, 'if you want to leave [the Plan], then leave,' or words to that effect.

23. On September 9, 2019, Mr. Chambers called a "Special Call Meeting" of the Board of Trustees of the United Food and Commercial Workers Local 1625 and Employers Health and Welfare Fund. The meeting minutes reflect that Chambers reported Respondents' intent to leave the UFCW Plan. A true and correct copy of the September 9, 2019 meeting minutes is attached as **Exhibit 5**.

24. On or around January 1, 2020, all represented employees of the Care Centers became covered by their respective employers' self-insured health insurance plans. The benefits provided under each Care Center's self-insured plan are equivalent to or exceed the benefits available under the UFCW Plan. The premium amounts paid by employees also remained the same.

25. On May 11, 2020, in an effort to resolve a pending unfair labor practice allegation, Care Centers A, through their bargaining agent, furnished Local 1199 with information regarding employer contribution rates under their self-insured plans, which Local 1625 sought in an October 2, 2019, information request. This was the information that the Region had determined the Respondents were required to provide. A true and correct copy the May 11, 2020, correspondence to Local 1199 is attached as **Exhibit 6**.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of July 2020.



Robert Walker

Exhibit 1

1199SEIU

United Healthcare Workers East

And

Coral Trace Health Care

May 28, 2016 through June 30, 2021

Table of Contents

	Page
AGREEMENT	1
ARTICLE 1 – INTRODUCTION	1
ARTICLE 2 – RECOGNITION OF THE UNION	1
ARTICLE 3 – MANAGEMENT RIGHTS	1
ARTICLE 4 – RESIDENT/PATIENT CARE CONCERN AND STAFFING	3
ARTICLE 5 – SAFETY AND HEALTH.....	3
ARTICLE 6 – NON DISCRIMINATION	5
ARTICLE 7 – UNION ACTIVITY.....	5
ARTICLE 8 - VOLUNTARY DUES DEDUCTION	7
ARTICLE 9 – INTRODUCTORY/PROBATIONARY PERIOD	8
ARTICLE 10 – CATEGORIES OF EMPLOYEES.....	9
ARTICLE 11 – ORIENTATION AND IN-SERVICE TRAINING.....	10
ARTICLE 12 – VACANCIES	10
ARTICLE 13 – SENIORITY.....	11
ARTICLE 14 – WORK SCHEDULES.....	13
ARTICLE 15 – ON CALL LIST AND DISTRIBUTION OF OVERTIME.....	15
ARTICLE 16 – REST PERIODS AND LUNCH PERIODS	15
ARTICLE 17 – IN SERVICE EDUCATION/TUITION REIMBURSEMENT	15
ARTICLE 18 – JOB DESCRIPTIONS	16

ARTICLE 19 – TEMPORARY WORK ASSIGNMENTS.....16

ARTICLE 20 – JURY DUTY16

ARTICLE 21 – BEREAVEMENT.....16

ARTICLE 22 – WAGES17

ARTICLE 23 – PAID TIME OFF.....18

ARTICLE 24 – MEDICAL AND RETIRMENT BENEFITS.....18

ARTICLE 25 – NO STRIKE/NO LOCKOUT19

ARTICLE 26 – UNPAID LEAVE.....20

ARTICLE 27 – DISCIPLINE.....21

ARTICLE 28 –GRIEVANCE PROCEDURE22

ARTICLE 29 – ARBITRATION23

ARTICLE 30 – LABOR MANAGEMENT CONFERENCES25

ARTICLE 31 – SUCCESSORSHIP AND JOB SECURITY.....25

ARTICLE 32 – EFFECT OF LEGISLATION -- SEPARABILITY26

ARTICLE 33 – ENTIRE AGREEMENT.....26

ARTICLE 34 – DURATION28

ATTACHMENT 1..... 29

AGREEMENT

This AGREEMENT made and entered into this 28th day of May, 2016, by and between Coral Trace Health Care (hereinafter referred to as the “Employer”) and 1199SEIU, United Healthcare Workers East (hereinafter referred to as the “Union”).

ARTICLE 1 **INTRODUCTION**

The parties to this Agreement declare and establish these terms and conditions of employment set forth herein to be mutual expressions of understanding bearing the good faith intentions of each and jointly acknowledge their commitment to harmonious relations, bearing in mind that the interests of quality care for Care Center residents/patients is promoted through the assurance of dignity and respect to employees.

ARTICLE 2 **RECOGNITION OF THE UNION**

Section 2.1

The Employer recognizes the Union as the exclusive bargaining agent for the purposes of collective bargaining with respect to wages, hours, and conditions of employment for all full time and regular part time Certified Nurses’ Aides (CNAs) and Restorative Aides employed by the Employer at its Care Center located at 216 Santa Barbara Boulevard, Cape Coral, Florida; but excluding all other employees including RNs, LPNs, office clericals, professional employees, guards and supervisors as defined in the Act.

Section 2.2

The Employer shall have the right to assign any job to a non-bargaining unit employee on a temporary basis for training purposes or in special situations or emergencies, such as, but not limited to state and federal surveys, natural disasters, fire, severe weather, unforeseen tragedy or power outage, or when the Employer cannot reasonably obtain bargaining unit personnel to perform the required work on a timely basis, provided that such assignment shall not have the effect of reducing the scope of the bargaining unit or reducing the previously scheduled work hours of a bargaining unit employee.

ARTICLE 3 **MANAGEMENT RIGHTS**

Section 3.1

All rights which ordinarily vest in and are exercised by Employers, and all of the rights, powers, and authority possessed by the Care Center prior to entering into this Collective Bargaining Agreement, except as expressly and specifically abridged, delegated, granted, or modified by this Agreement, shall continue to vest in the Care Center. This shall include – this enumeration being merely by way of illustration and not by limitation – the right to:

1. Hire, promote, demote, layoff, assign, transfer, suspend, discharge/terminate, or discipline employees for just cause.
2. Select and determine the number of its employees, including the number assigned to any particular work,
3. Direct and schedule the workforce,
4. Determine the location and type of operation.
5. Determine and schedule when overtime shall be worked,
6. Install or remove equipment.
7. Determine or change the location or type of operations, equipment, materials, and procedures to be utilized, including the ability to discontinue their performance by employees of the Employer and contract or subcontract any or all of the unit work.
8. Establish, increase, or decrease the number of work shifts, their duration, and their starting and/or ending times with notice to the Union.
9. Determine the job or work classification and required classification of employees, and change, combine, or abolish job classifications and determine change, or combine and abolish qualifications of those classifications.
10. Establish, adopt, change, delete, and enforce work rules and regulations governing discipline, conduct, obligations and acts of employees, including an employee handbook, safety guidelines, and work rules.
11. Select supervisory employees
12. Train employees.
13. Discontinue any department.
14. Introduce new and improved methods of operations.
15. Transfer or relocate any or all of the operations of the Care Center to any location or to discontinue such operations, or lease or sub-lease the Care Center or transfer or consolidate operations, or shutdown the Care Center and discontinue all operations.
16. Set standards of performance for employees, evaluate employees, and enforce those standards with discipline, including discharge/termination.

Section 3.2

The parties expressly acknowledge and agree that LPNs and/or RNs may perform bargaining unit work on a temporary basis during emergency situations or when staffing levels cannot be met using bargaining unit employees.

Section 3.3

From time to time, the Employer shall revise the Employee Guidebook and distribute the revised Employee Guidebook to employees. In this event, the Employer shall notify the Union sixty (60) days in advance of such Employee Guidebook distribution. In the event that any language in the Employee Guidebook conflicts with language in the Collective Bargaining Agreement, the language in this Agreement shall prevail.

ARTICLE 4
RESIDENT/PATIENT CARE CONCERN AND STAFFING

Section 4.1

Along with the Employer, the Union recognizes the obligations of its members and unit employees to render good resident/patient care with warmth and compassion so as to transmit to the residents/patients a sense of security and dignity. The Union offers its full cooperation in fostering these resident/patient care values.

Section 4.2

The Employer agrees to abide by the requirements for Resident/Patient Rights set forth in Federal and State laws and regulations.

ARTICLE 5
SAFETY AND HEALTH

Section 5.1 General Duty

The Employer agrees to provide a safe and healthful work environment for employees and to maintain high standards of workplace safety. The Employer will establish safety rules and safe working practices as it may deem appropriate for the protection and safety of employees and residents/patients. Changes in safety rules and policies that promote safe working practices shall be determined solely and exclusively by Management, with notification to the union.

No employee shall be required to work under hazardous conditions in violation of applicable state or federal regulation or which are likely to result in death or serious physical harm, and any employee who believes that such conditions may exist shall immediately report her/his concerns to the supervisor or Executive Director/Administrator.

No employee shall be discriminated against for exercising her/his right to bring a safety concern to the Employer or to the appropriate state and/or federal agencies, or for cooperating with their investigation as provided in this Article.

Section 5.2 Infection Control

The Employer agrees to comply with all OSHA regulations related to the safety, health, and protection of employees from all infectious and blood borne diseases and to provide employees with a safe working environment free from recognized hazards which are likely to result in death or serious physical harm.

The Employer agrees to continue its Universal Precautions and Infection Control protocols to ensure ongoing compliance with all OSHA regulations related to the safety, health, and protection of employees from all infectious and blood borne diseases. The Employer will continue its process of evaluating and updating such programs on an ongoing basis. The Employer will continue to provide employees with required Personal Protective Equipment (PPE) that is consistent with accepted long term healthcare practices to address recognized workplace hazards.

Section 5.3 Occupational Injuries and Illness

The Employer agrees to comply with all OSHA regulations related to on-the-job injuries and illnesses. The Employer will maintain and post a log and summary of all occupational injuries and illnesses as required by law.

Section 5.4 Modified Duty Program

Employees who are receiving workers' compensation benefits and have been released to return to work on a restricted basis such that they cannot perform all of the duties of their pre-injury job, shall be eligible to be assigned Modified Duty consistent with physician's restrictions during the employee's recovery period:

1. Care Center Management will make a determination if a Modified Duty assignment can be made available to allow the employee to perform productive work for the Care Center within the limitations placed upon the employee by the treating physician.
2. Modified Duty assignments will be updated periodically as physician's work restrictions are changed to reflect the employee's progress in the process of recovery and are made on a temporary basis generally not to exceed ninety (90) days in length.
3. Employees who are temporarily reassigned to work in another regular position where they can perform all of the duties of the position will be paid at the employee's regular hourly rate, or wage rate applicable to the position, whichever rate is higher.
4. Once the employee's condition allows, they will be returned to their regular job at the regular rate of pay. Failure to return to work upon release from their physician constitutes abandonment of the position.

Section 5.5

The Employer will determine the number of employees on modified duty.

ARTICLE 6
NON-DISCRIMINATION

Section 6.1

The Employer and the Union agree that there will not be any form of discrimination against any employee on the basis of her/his status with regard to Union Membership or for activities on behalf of the Union that are consistent with the terms of this Agreement.

Section 6.2

The Employer shall not discriminate against employees or applicants for employment on the basis of race, religion, age, color, sex, national origin, disability, sexual orientation, ancestry, pregnancy, marital status, familial status, or other reasons protected by law.

Section 6.3

The Union and the Employer agree to respect the rights of employees to speak the language of their choice in non-work areas when they are not in the presence of residents/patients or family members. Nothing in this Agreement shall prevent an employee from directly addressing a resident/patient in the resident's/patient's native language, provided the resident/patient requests to be addressed in a language other than English and that the request is documented in the resident's/patient's record, and that such conversation is within the bounds of permissible staff to resident/patient communication. Absent such request documented in the resident's/patient's record, it is a violation of Resident/Patient Rights to speak to a resident/patient in a language other than English.

ARTICLE 7
UNION ACTIVITY

Section 7.1 Delegates

The Employer recognizes the right and the authority of the Union to appoint and/or designate individuals as Delegates. The Union agrees to furnish the Employer with a written list of Delegates so designated and with any changes in the list of Delegates which may be made from time to time. Any change in the Union-designated Delegates will be communicated to the Care Center Executive Director/Administrator in writing within one (1) week of the change. It is also understood that the Union may assign to Delegates any duties it wishes and these Delegates will not be discriminated against for discharging such duties, provided such duties are not performed during paid working time without supervisory authorization to do so and do not interfere with the regular performance of their work for the Employer in any way.

The Employer recognizes that the performance of Delegates' duties may from time to time be most efficiently handled during scheduled work hours. With advance notice, Union Delegates may request reasonable paid time off to conduct contract matters arising from grievance activity. Such requests shall not be unreasonably denied provided that such duties are not performed during paid working time without supervisory authorization to do so and do not interfere with the regular performance of their work for the Employer in any way.

Delegates shall be entitled to a leave of two (2) days each calendar year for Delegate Training and Education. The Union must notify the Employer at least two (2) weeks in advance thereof.

The Delegate must, upon returning from the leave, present the Executive Director/Administrator with written evidence from the Union that the Delegate has used the leave for the purpose for which the leave was intended. Such leave time will not be compensated by the Employer.

Section 7.2 Union Access

A duly authorized representative of the Union may visit the Employer's Care Center at reasonable times for the purpose of discharging the Union's obligations under the Collective Bargaining Agreement provided that prior permission is secured from the Executive Director/Administrator or her/his designee. For routine visits, the Union Representative will endeavor to contact the Care Center Executive Director/Administrator or her/his designee the day prior to the visit. If such contact is not possible, the Union Representative will contact and seek permission from the Executive Director/Administrator or her/his designee at least thirty (30) minutes prior to the visit.

The Union acknowledges that from time-to-time, such visitation may be postponed by the Employer due to AHCA survey or an emergency situation. Said Union Representative may only meet with bargaining unit employees in non-work areas during non-work time. The Employer recognizes that from time-to-time, an additional Union Representative may request access to the Care Center. Such requests will not be unreasonably denied.

Section 7.3 Union Bulletin Board

The Union shall provide one (1) enclosed, locking bulletin board (2 feet by 3 feet) for the exclusive use of the Union which shall be placed near the employees' time clock or in a place mutually agreed upon by the Union and the Employer. The Employer will install this bulletin board, as necessary. The Union Representative will retain one (1) key and the Executive Director/Administrator will retain one (1) key. Official Union notices containing no inflammatory comment(s) shall be posted as soon as the Union Representative has notified the Care Center Executive Director/Administrator of intent to post such notice. Notices or literature other than that for the normal conduct of the Union's business must first have the Executive Director/Administrator's approval by initializing the notice or literature.

Section 7.4 Union Orientation

In the interest of promoting cooperative relations, all new bargaining unit employees shall receive, during the new employee orientation, a ten (10) minute orientation provided by the Union Representative or Delegate. At this meeting, the Delegate shall give the new employee a copy of the contract and union membership application and shall explain their operation. The Delegate may answer any questions the new employees ask, and may request the new employees join the Union and make arrangements for the new employees to become members. Such orientation shall be on paid time.

Section 7.5 Union Leave

The Delegates shall be the last employees transferred or laid off. If there are only two (2) Delegates on a shift, the youngest in seniority shall be laid off first.

A number of employees, not to exceed five (5), selected to act as representatives or Delegates of the Union, shall be granted leave. Such unpaid leave must be requested in writing at least two (2) weeks in advance for short term leaves of less than two (2) weeks. Long term leaves of two

(2) weeks or more shall require at least three (3) weeks advance notice and shall be limited to three (3) per year and no more than one (1) employee from a department and shift on long term leave at a time, and cannot significantly affect staffing or resident care. In the event that the Employer believes the Union's request will significantly affect staffing or resident care, the parties shall meet to discuss the request and attempt to resolve the issue. It is understood that no employee will be engaged in or involved with any union organizing activities at any Consulate Health Care affiliated entity during such Union leave.

Such leaves shall be granted without loss of seniority and the employees shall be reinstated to their respective jobs upon return to work.

ARTICLE 8 **VOLUNTARY DUES DEDUCTIONS**

Section 8.1

The Employer agrees to deduct union dues, initiations fees, and political contributions from the wages of employees in the bargaining unit who voluntarily provide the Employer with a written authorization for such deduction. Such deduction shall be made by the Employer from the wages of employees so authorizing during each calendar month and shall be transmitted to the Union. In the event that no wages are due the employee or that they are insufficient to cover the desired deduction, the deduction for such month shall nevertheless be made from the first wages of adequate amount next due the employee and shall thereupon be transmitted to the Union. Together with the transmittal of deductions referred to above, the Employer shall furnish the Union with a list of employees for whom deductions were made.

Section 8.2

All deductions shall be remitted to the Union by the fifteenth (15th) of the month following the month for which deductions were made or as soon as possible thereafter.

Section 8.3

The Employer assumes no obligation, financial or otherwise, arising out of any provisions of this Article, and the Union hereby agrees it will indemnify and hold the Employer harmless from any claims, actions or proceedings by any employee arising from deductions made by the Employer hereunder, including the cost of defending against such. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

Section 8.4

Upon request, but no more than quarterly, the Employer shall furnish the Union with the names, home addresses, classifications, and dates of hire of new employees, and the name and termination date of employees discharged/terminated the preceding month, and any address changes which may apply to existing employees.

Section 8.5

The Care Center shall promptly remit to the Union the sums which are deducted under this Article, together with a list on hard copy and a disk or electronically (on Excel format) showing the following information for Union members: employee ID number, name, amount of funds

being remitted, payroll period, type of funds being remitted, and Care Center name for the member. (Refer to table below for format.)

<u>Employee ID Number</u>	<u>Name</u>	<u>Amount</u>	<u>Payroll Period</u>	<u>Dues/Cope</u>	<u>Care Center</u>
000-00-0000	Jane Doe	15.32	10012006-10152006	Dues	Sunshine Hospital

Along with the remittance of funds, the Care Center shall provide exception reports reflecting name, employee ID number, new staff to bargaining unit and date employed, on leave (specify type of leave such as Workers' Comp, Maternity, etc), or if they retired or were terminated (no longer employed). (Refer to below table for format.)

<u>Name</u>	<u>Employee ID Number</u>	<u>Addition</u>	<u>Deletion</u>	<u>Deletion Date</u>
Jane Doe	000-00-0000	12/15/06		
John Doe	000-00-0000		Retired	12/17/2006
Jane Ann Doe	000-00-0000		Maternity Leave	12/20/2006
John Joe Doe	000-00-0000		Workmen's Comp	12/27/2006
John Jay Doe	000-00-0000		Terminated	12/28/2006

Section 8.6

The Employer shall deduct and transmit to the treasurer of 1199SEIU Political Action Committee (PAC) the amount specified for each week worked from the wages of those employees who voluntarily authorize such contributions on the forms provided for that purpose by the 1199SEIU Political Action Committee. These transmittals will occur no later than the fifteenth (15th) day of each month, and will be accompanied by a list of the names of those employees for whom such deductions have been made and the amount deducted for each such employee.

ARTICLE 9
INTRODUCTORY/PROBATIONARY PERIOD

Section 9.1

Newly hired employees, including former employees, shall be considered probationary employees for the first ninety (90) days of employment. During an employee's introductory/probationary period, she/he shall be covered by the terms of this Agreement, except that she/he may be discharged/terminated by the Employer with or without cause. Such

discharge/termination will not be considered a breach of this Agreement or provide grounds for a grievance.

Section 9.2

Seniority shall not accrue to employees during their introductory/probationary period. However, upon successful completion of the said introductory/probationary period, all employees shall be deemed to be regular employees covered by the terms of this Agreement and their seniority shall revert back to the date of hire.

Section 9.3

During the introductory/probationary period, the employees shall work under the terms and conditions of this Agreement, except as otherwise expressly provided herein.

Section 9.4

The Employer may, in its discretion, but without abuse, extend the introductory/probationary period of any probationary employee for an additional thirty (30) days provided that the Employer informs the employee and the Union Delegate of its intent to do so before the expiration of the introductory/probationary period.

ARTICLE 10 **CATEGORIES OF EMPLOYEES**

Section 10.1

A full-time employee is one who is regularly scheduled to work and actually does work a minimum of thirty (35) or more hours per week over a three (3) month period.

Section 10.2

A part-time employee is one who is regularly scheduled to work and actually does work less than thirty (35) hours per week, but a minimum of sixteen (16) hours per week and does not classify as a casual employee over a three (3) month period.

Section 10.3

A casual/PRN employee is one who has no regular schedule of hours of work, but works intermittently as required. A casual/PRN employee who is regularly scheduled to work sixteen (16) hours or more per week over a two (2) month period shall be reclassified as a full-time or part-time employee, as appropriate, and shall be subject to an introductory/probationary period of thirty (30) days from the date of reclassification.

Section 10.4

A temporary employee is one who works for a predetermined period of time. Employees hired as temporary summer replacements during the period of June 1st through September 30th shall be treated as probationary employees.

Section 10.5

Any part-time employee working over thirty (35) hours per week over a two (2) month period, shall be reclassified as full-time.

ARTICLE 11
ORIENTATION AND IN-SERVICE TRAINING

Section 11.1

The Employer agrees to provide new employee orientation, all mandatory staff education, and other in-service training it deems necessary to facilitate employee's ability to perform their jobs effectively.

Time spent attending orientation and other job-related in-service training, including mandatory training, shall be considered time worked for wage payment purposes.

Section 11.2 **No Retaliation**

The Union and the Employer agree that our mutual commitment to quality resident/patient care requires that any suspected violation of regulations or resident/patient rights must be reported immediately to the appropriate supervisor on duty. In the event that the supervisor does not take prompt and appropriate corrective action, the employee shall carry out her/his responsibility under the Corporate Compliance Plan by calling the Regional Director of Human Resources assigned to the Care Center.

Section 11.3

No employee will be disciplined, discharged/terminated, or otherwise singled out for carrying out her/his obligation under the Employer's Corporate Compliance Plan and/or any state and federal regulations when reporting suspected or observed violations and cooperating fully and honestly with the respective investigations.

ARTICLE 12
VACANCIES

Section 12.1

For the purposes of this Article, a vacancy is defined to mean any permanent job opening in which the Employer intends to fill.

Section 12.2 **Job Vacancies**

Notice of all open positions and newly created positions within the bargaining unit shall be conspicuously posted for seven (7) calendar days. Such notice shall contain the job classification, full-time/part-time status, shift, number of hours, and effective date. Any employee desiring to apply for a posted open position shall apply in accordance with the notice posted within the time stated above.

Section 12.3

If qualified applicants apply, the Employer shall fill the position from among such applicants. If two (2) or more employees are qualified to do the work, preference shall be given to the most senior employee. New employees may be hired for a posted vacancy only if there are no bidders meeting the requirements.

Section 12.4

If the Employer determines within thirty (30) calendar days after the date the vacancy is filled that the employee is not performing satisfactorily, and has not been terminated, the employee will be returned to his former position with no loss of seniority.

ARTICLE 13 SENIORITY

Section 13.1

Bargaining unit seniority shall be defined as the employee's length of continuous service with the Employer in the bargaining unit commencing with the date and hour on which the employee began to work after last being hired. A list of all full-time employees in seniority order and a separate list of all part-time employees in seniority order shall be furnished to the Union quarterly in the calendar year.

Section 13.2

Job classification seniority shall be defined as the employee's length of continuous service with the Employer within her/his present job classification commencing with the date and hour on which the employee last began to work in such classification.

Section 13.3 Accrual

An employee's seniority shall commence after the completion of her/his probationary period and shall be retroactive to the date of her/his last hire.

Bargaining unit seniority shall accrue during a continuous authorized leave of absence with or without pay, and during a period of continuous layoff not to exceed six (6) months, if the employee is recalled into employment.

Job classification seniority shall accrue during the periods specified in Section 13.2 above and during the time an employee works in a specific job classification.

Section 13.4

An employee shall lose seniority and seniority shall be broken for any of the following reasons:

1. Terminates voluntarily.
2. Is discharged/terminated.
3. No-call/no-show for three (3) scheduled working days in a twelve (12) month period.
4. Fails to return to work following expiration of an approved leave of absence.
5. Is laid off for a period of six (6) months.
6. Fails to return to work following recall from layoff within ten (10) calendar days after the Employer has sent notice to return by certified letter to the last address furnished to the Employer by the employee.

7. Is promoted into a supervisory or other non-bargaining unit position with the Employer.

Section 13.5 Application

Bargaining unit seniority shall apply in the computation and determination of eligibility for all benefits where length of service is a factor pursuant to this Agreement.

Classification seniority shall apply in layoffs and recalls and for scheduling of Paid Time Off as herein provided.

Section 13.6

In the event the Employer finds it necessary and desires to reduce its staff by laying off employees or reducing the regularly scheduled hours of employees, it shall notify the Union one (1) full pay period in advance of the effective date of the layoff and/or reduction of hours and shall inform the Union of the names and classification of the employees who are to be laid off, as well as the effective date of the layoff.

Section 13.7

Whenever lay off becomes necessary in a job classification and shift, such layoff shall be affected in the following order:

1. Introductory/Probationary employees on the shift shall be laid off first, without regard to their individual periods of employment.
2. Non-probationary part-time employees on the shift shall be laid off next in the order of their classification seniority, the least senior laid off first.
3. Non-probationary full-time employees on the shift shall be laid off next in order of their classification seniority, the least senior laid off first.

Section 13.8

If, after considering the above order of layoff, a senior employee elects not to work a schedule or in a category occupied by a less senior or introductory employee, the less senior or introductory/probationary employee will remain while the more senior employee is laid off.

A laid off non-probationary employee may displace the least senior employee in her job classification regardless of shift, provided she is willing to work the hours and assignment of the least senior employee.

Section 13.9 Recall

Whenever a vacancy occurs in a classification from which an employee has been laid off less than six (6) months, the Employer shall contact the most senior employee on layoff in that classification, by sending one (1) registered letter to the employee's last known address. If the employee fails to contact the Employer within ten (10) calendar days after the letter is sent, the employee loses her/his right to recall.

Section 13.10

It shall be the responsibility of the employee to keep the Employer informed of her/his current address and to notify the Employer at once, in writing, of any change of address.

Section 13.11

In the event an employee is offered another job by the Employer outside the bargaining unit and the employee accepts such job and leaves the bargaining unit, such employee shall lose all her/his seniority rights under this Agreement.

Section 13.12

An employee whose seniority is lost for any of the reasons outlined in Section 13.4 above shall be considered as a new employee if he or she is again employed by the Employer.

ARTICLE 14
WORK SCHEDULES

Section 14.1 Schedule

The Employer will post the work schedule two (2) weeks in advance. Once the schedule is posted, it may not be changed except with the mutual agreement of the parties. However, employees may exchange days off with other employees in the same classification provided that employees request and receive supervisory permission for the exchange in writing. Employees wishing other special scheduling considerations shall make such requests, in writing, at least two (2) weeks prior to the schedule posting. All hours worked on a given shift shall be consecutive except for contractual breaks.

Section 14.2

Schedules shall provide employees with eight (8) hours rest between shifts.

Section 14.3

The regular payroll period is two (2) weeks, commencing at 7:00 a.m. on Thursday and ending two (2) weeks later at 7:00 a.m. on Thursday. The Employer will notify the Union in advance of any change in payroll period.

Section 14.4

It is the responsibility of the employee to notify the employee's department head or Supervisor of the employee's inability to work an assigned shift and the reason therefor. Such notice shall be given as soon as possible, but at least two (2) hours prior to shift starting time for all other employees.

Section 14.5

Employees shall receive one and one-half (1/2) time their regular hourly rate of pay for all worked in excess of forty (40) hours in a work week. All available overtime shall be offered to employees in the appropriate job classification using a rotating system so as to equalize such overtime opportunities. Before requiring overtime, the supervisor shall endeavor to meet resident needs through other appropriate means. The overtime shall be given to the most senior employee who requests the overtime work.

Section 14.6 Weekends

The Employer shall continue its current practice of scheduling employees so that they have at least every other weekend off, whenever reasonably possible. This provision shall not apply when employee agrees to work more than every other weekend.

Section 14.7 In-Service Training/Mandatory Meetings

Any employee required by the Employer to spend time in participation in/or attending training or education programs which are held at times other than during the employee's regularly scheduled work period shall be compensated for such time. All mandatory meetings called by the Employer shall be considered as time worked and paid at the appropriate rate. The Employer shall make a good faith effort to schedule mandatory meetings as near as practical to the employee's regular shift to work. In the event an employee is called in to attend a mandatory meeting, the employee shall be paid for all hours in attendance at the applicable rate of pay.

Section 14.8

The parties agree that the principles of seniority and the protection of full-time employee's work shall be given first consideration in both the scheduling of employees and the manner in which reductions due to census fluctuations occur. To that end, the parties agree that:

1. In scheduling, the Employer shall endeavor to accommodate full-time employee requests for five (5) day schedules and such scheduling requests shall be honored by seniority.
2. In reductions, every effort will be made to utilize the layoff and recall procedure for all reductions which can be anticipated in advance, and which, regardless of their nature, are of a duration of more than one pay period. In any case, the employer shall not reduce either the number of scheduled days or the length of the shift on an across-the-board basis to avoid the layoff procedure.
3. Where temporary, day-to-day adjustments to the schedule are required, no bargaining unit employee shall be cancelled or flexed while any non-bargaining unit employee is performing bargaining unit work. Cancellation and flexing among bargaining unit employees shall be done in the following order:
 - a. Volunteers; then
 - b. Casual /Per Diem employees shall be cancelled or flexed prior to any part time or full-time employee; then
 - c. Part time employees shall be cancelled/flexed in rotation, beginning with least seniority; then
 - d. Full-time employees shall be cancelled/flexed in rotation, beginning with least seniority.
 - e. Cancellations will be done within job classification and shift.
4. Employees who are cancelled shall, at their option, be allowed to use accumulated paid time off (vacation) as payment for hours scheduled but not worked.
5. Employees who report to work at the direction of the employer shall receive minimum call-in pay of two (2) hours.

ARTICLE 15
ON CALL LIST AND DISTRIBUTION OF OVERTIME

Employees will be assigned mandatory overtime on the basis of reverse seniority. All available overtime shall be offered to employees in the appropriate job classification using a rotating system so as to equalize such overtime opportunities. No overtime is to be worked unless it is authorized by an employee's Supervisor.

ARTICLE 16
REST PERIODS AND LUNCH PERIODS

Section 16.1 Meal Periods

Each shift of five (5) or more hours in duration will include an unpaid, uninterrupted thirty (30) minute meal period. Meal periods must be taken in approved non-working areas at times scheduled by the supervisor. Employees must communicate with their supervisor before leaving their assigned work area to take the meal period and must verbally check back in with their supervisor upon returning to the work area after the meal period. In addition, employees who leave the facility for the meal break must punch out before leaving and punch in upon return. In the event that resident care needs require the cancellation or interruption of a meal break, the employee shall be paid for the meal period.

Section 16.2 Rest Breaks

Two paid rest breaks of fifteen (15) minutes in duration are normally provided during a full shift of 7.5 or 8.0 hours unless unusual circumstances require that employees remain on duty to meet resident needs. Rest breaks are to be taken at times scheduled by the supervisor. Employees must communicate with their supervisor before leaving their assigned work area and must verbally check back in with their supervisor upon returning to the work area after the rest break. Rest breaks and meal periods cannot be combined.

ARTICLE 17
IN SERVICE EDUCATION/TUITION REIMBURSEMENT

Section 17.1

When mandatory in service education programs are provided for employees covered under this Agreement, employees attending, when scheduled, shall be compensated for all time in attendance.

Section 17.2 Tuition Assistance

Tuition assistance is available to all regular full time employees who have completed six months of continuous active employment. This is offered to encourage employees to complete educational courses that will improve their skills and enhance their opportunity to perform successfully. The course or program must be offered by an accredited educational institution at the vocational/technical or college level. Employees must submit a Tuition Assistance Application to their supervisor for approval prior to course enrollment. The Company will reimburse 75% of the tuition costs for successfully completed, approved courses up to \$1,000.00 per employee per calendar year. To receive reimbursement, the employee must submit:

- A copy of the grade (C or better, Pass when course is taken as Pass/Fail)
- Proof of Payment
- A Check Request Form
- Be an active employee at the time the course is completed

Assistance will be limited to two (2) employees per calendar year on a first come, first served basis.

ARTICLE 18 **JOB DESCRIPTIONS**

The Employer will maintain job descriptions for all classifications covered by this Agreement. Job descriptions will be made available to a Union Representative or interested employees.

ARTICLE 19 **TEMPORARY WORK ASSIGNMENTS**

Section 19.1

If an employee is temporarily placed in a lower classification than that in which the employee is regularly assigned, no reduction in pay will be effected.

Section 19.2

If an employee is placed in a classification with a higher rate of pay, the employee will receive the higher rate for all hours worked in that classification.

ARTICLE 20 **JURY DUTY**

All part-time and full-time employees will be granted time off to fulfill their Jury Duty obligation. If an employee is called for Jury Duty, the employee must report to work on any day that Jury Duty hours reasonably permit. The employee will receive his/her regular pay for the number of hours he/she missed work in order to fulfill Jury Duty for up to two (2) weeks or ten (10) work days. To receive pay under this benefit, the employee must submit the Jury Duty summons and proof of service to his/her supervisor within five (5) working days of beginning Jury Duty.

ARTICLE 21 **BEREAVEMENT**

All full-time employees will be granted up to three (3) consecutive work days and regular part-time employees one (1) regularly scheduled work day off with pay at the time of a death of an immediate family member. To be eligible for bereavement leave, an employee must have completed the initial introductory period of employment. Proof of death may be required. For the purposes of this policy, immediate family is defined as the employee's spouse, children, step children, parents, step parents, brother, step brother, sister, step sister, parents-in-law, daughter-in-law, son-in-law, brothers-in-law, sisters-in-law, grandparents, grandchildren, and step grandchildren.

ARTICLE 22
WAGES

Section 22.1 Shift and Weekend Differentials

The Employer agrees to pay certified nursing assistants a shift differential of \$1.00 per hour for shifts worked between 3 pm and 11 pm. The Employer shall pay a differential of \$1.00 for shifts worked between 11 pm and 7 am. The Employer shall pay a differential of \$2.00 for weekend shifts commencing at 11 pm on Friday and ending at 7 am on Monday.

Section 22.2 Methods of Payment

All methods of computing ages, bonus or incentive payments shall be reasonable and intelligible to the employee. The Arbitrator shall be empowered to hear and determine any complaints with reference to the application of this clause. All employees shall punch time in and out on a time clock furnished by the Employer. All pay envelopes or pay checks of such employees must contain an itemized statement of all hours worked and rates of pay. Paycheck stubs will be provided to bargaining unit employees on the scheduled pay date.

Section 22.3

Consulate Health Care employees will receive the following wage increases:

The beginning of the first pay period following July 1, 2016	Employees with a base rate less than \$10.40 per hour will be increased to \$10.40 per hour
The beginning of the first pay period following July 1, 2017	Across-the-board increase of 2% per hour
The beginning of the first pay period following July 1, 2018	Across-the-board increase of 2% per hour
The beginning of the first pay period following July 1, 2019	Across-the-board increase of 2% per hour
The beginning of the first pay period following July 1, 2020	Across-the-board increase of 2% per hour

The parties agree to reopen this Agreement for economics in the event that the State of Florida adopts a Medicaid Prospective Payment System.

Section 22.4 Minimum Hiring Wage Rate

The minimum hiring wage for Consulate Health Care employees covered by this Collective Bargaining Agreement is \$10.40 per hour.

Section 22.5 Increases in Minimum Rates

The Employer reserves the right to increase the contractual minimum starting rates for any bargaining unit job classification provided that the Union is notified in advance of such change and that any current employee in an affected job classification who is earning less than the new minimum rate shall have his/her wage increased so that no employee would be paid less than the new minimum rate.

Section 22.6 Hiring Rates for Education and Experience

New employees may be hired at wage rates above the minimum starting wage rate currently in effect where justified by experience and/or education, provided that the maximum starting wage rate for any new hire cannot be greater than an amount that is at least twenty cents (\$.20) less than the wage rate paid to any current employee who has comparable experience and education. In order to comply with this provision, the Employer may increase the wage rates of current employees.

ARTICLE 23
PAID TIME OFF

All bargaining unit employees will be granted Paid Time Off (PTO) in accordance with the Employer's Paid Time Off Policy. A copy of the "current" policy on PTO/EIB is included as "Attachment 1".

ARTICLE 24
MEDICAL AND RETIREMENT BENEFITS

Section 24.1 Health Insurance

The UFCW Local 1625 Health and Welfare Plan is designed to provide benefits for single employee coverage. Effective January 1, 2016, the Employer will make a payment of four hundred three dollars and eighty cents (\$403.80) per month on behalf of each full-time employee working thirty (30) hours or more per week that chooses coverage. To participate in the UFCW Local 1625 Health and Welfare plan, the employee must contribute one hundred fifty dollars (\$150.00) every month for single coverage. The Employer agrees to deduct, upon receipt of a voluntary signed authorization, this contribution from each such employee. Employees may opt up at their own expense to add dependent coverage.

Section 24.2

The rates effective January 1, 2017 will be set by the Trustees of the UFCW Local 1625 Health and Welfare Plan in compliance with the ACA regulations.

Section 24.3

To be eligible to participate in the UFCW Local 1625 Health and Welfare Plan, an employee must regularly work thirty (30) hours or more per week and have completed sixty (60) days of employment. Employer contributions for eligible employees will begin on the first of the month following completion of the initial sixty (60) day period. Should a part-time employee qualify for insurance under the ACA, the Employer will contribute the same amount after qualification is confirmed.

Section 24.4

Payments shall be made to the United Food and Commercial Workers Retail Employees and Employers Health and Welfare Fund, and are due and payable by the 15th day of each month.

Section 24.5

A plan participant is defined as an employee who meets the eligibility requirements and must be contributing the amounts specified in Section 23.1 through payroll deduction in each and every payday.

Section 24.6

The Plan will remain compliant with the ACA.

Section 24.7

A description of the benefits provided by the plan will be given to each participating employee in the plan and is appended to this Agreement.

Section 24.8 Life Insurance

The Employer shall provide employees regularly working thirty-five (35) hours or more per week with a \$10,000 term life insurance policy at no cost to the employee. Additional life insurance may be purchased by the employee at his/her option.

Section 24.9 401(k)

The Company shall offer eligible bargaining unit employees participation in the Company's 401(k) Plan, consistent with the Summary Plan Description and Plan Document.

Section 24.10 Supplemental Insurances

Full time and part time bargaining unit employees shall continue to purchase supplemental Medical, Dental, Life, Accidental Death and Dismemberment, Short Term Disability (STD) and Long Term Disability (LTD) coverages during the life of this Agreement or any extensions.

ARTICLE 25
NO STRIKE/NO LOCKOUT

Section 25.1

The Employer and the Union recognize that because of the community services rendered by the Care Center and because of humanitarian reasons that one of the purposes of the agreement is to guarantee that there will be no strikes, slowdowns, lockouts or work stoppages during the life of this Agreement.

Section 25.2

In the event that an unauthorized strike or other interference with work occurs, the Union shall:

1. Notify the Employer that such strike or other interference with work is unauthorized.
2. Order its members to return to normal work.
3. Advise the employees, in writing, that the strike or other interference with work is unauthorized and that the employees are directed to cease such action and return to normal work.

Section 25.3

The Company and the Union agree that there will be no sympathy strikes during the term of this Agreement. Furthermore, in the event of any strike, in house sympathy strike, work stoppage, or slowdown, the Union will use all means at its disposal to return the employees to work.

ARTICLE 26
UNPAID LEAVE

Section 26.1

Employees shall be eligible for unpaid leave in accordance with the types of leave of absence (LOA).

Section 26.2 Personal Leave

Employees who have been employed for at least six (6) months may request a leave of absence, in writing, not to exceed thirty (30) days for personal reasons. Such leave is granted solely at the discretion of the Employer.

Section 26.3 Medical Leave

Employees shall be eligible for a medical leave of absence if they have twelve (12) months of continuous service. Medical leaves of absence may be granted to employees who are unable to continue working as a result of illness or injury. As soon as an employee becomes aware that she/he is or will become, disabled from working for any medical reason, the employee must promptly advise the Employer in writing of the reason and the anticipated commencement date and duration of the disability.

Medical leaves of absence shall not exceed thirty (30) days, but may be extended beyond that period of time for successive periods of thirty (30) days each, up to a maximum unpaid leave of twelve (12) months, provided that a physician's certificate states the necessity for such extensions. The Employer may require periodic verification of the employee's ability to work, including examination by a physician designated by the Employer.

Employees who return from medical leave must furnish from their attending physician a release verifying their ability to work and fulfill the job duties assigned.

Section 26.4 Military Leave

Leaves of absence for the performance of duty with U.S. Armed Forces or with Reserve component thereof shall be granted in accordance with applicable law.

Section 26.5 Family and Medical Leave/Military Leave Entitlements

Eligible employees shall be entitled to The Family and Medical Leave Act (FMLA), pursuant to all federal and state laws on the subject as FMLA leave interpretations are constantly changing. Upon expiration of the FMLA leave entitlement, an employee who continues to be unable to work due to an FMLA-qualified event shall be entitled to unpaid leave as provided for in Section 26.3. Additional leave beyond the FMLA leave entitlement shall be granted pursuant to the FMLA leave documentation requirements. No benefits shall accrue during the additional leave. During any approved FMLA leave, including any additional leave, employees shall not engage in any employment, which is in violation of their stated job restrictions nor shall they undertake

any new employment they did not already have at the onset of their FMLA leave. The Employer shall have the right to require proof of job restrictions and to have the employee examined by a Company-selected physician in accordance with this Agreement.

For purposes of Sections 26.2 and 26.3, an employee returning from a leave of absence (LOA) will be placed in the first vacancy in the same job classification in which they were employed at the commencement of the LOA. If the employee is not placed in her/his original shift, that employee shall be offered the first open position in the same job classification on that original shift. This paragraph does not guarantee that an employee will be reassigned to the same shift. If no open position exists within thirty (30) days of the employee returning from the LOA, or if the employee declines any open position offered, the employee will be discharged/terminated from employment and allowed to re-apply when a position becomes available.

Employees returning from their Military Leave entitlement or FMLA entitlement (under Section 26.4 or Section 26.5) shall be returned to work pursuant to federal and state laws governing FMLA.

The Employer agrees to maintain employee health care insurance coverage, if any, and pay the Employer's portion of the premium during the twelve (12) week FMLA leave, provided the employee continues to pay her/his portion of the monthly premium to the Payroll Department no later than the first (1st) of the month for the month of insurance coverage.

Section 26.6

For all other leaves in this Article, and for FMLA leaves in excess of twelve (12) weeks, the employee may continue their health care insurance, if any, during a leave provided the employee pays the entire monthly premium to the Payroll Department no later than the first (1st) of the month for the month of insurance coverage.

ARTICLE 27 **DISCIPLINE**

Section 27.1

The Employer may discipline, suspend, or discharge/terminate any employee for just cause. Employees shall receive copies of all written disciplinary actions at the time such warnings are issued.

Section 27.2

All disciplinary actions in employee's file shall not be considered for further disciplinary action after twelve (12) consecutive months from the date of the current infraction. Such disciplinary action can be utilized in arbitrations to establish prior disciplinary problems and knowledge of company work rules.

Section 27.3

Any employee who is required to attend a disciplinary interview or investigatory interview that might lead to discipline, shall be notified as to the time and nature of the meeting in order to have the opportunity to exercise her/his right to have a Union Delegate accompany her/him. In the unlikely event that a Union Delegate is not available and an employee must be suspended

pending investigation of resident/patient neglect, abuse, or a severe violation of Company policy, it is Management's sole right to suspend the employee pending investigation and to notify the Union Representative or Delegate of the suspension.

Section 27.4

It is agreed that employees are prohibited from posting negative comments about individual residents and family members on social media sites.

ARTICLE 28 **GRIEVANCE PROCEDURE**

Section 28.1

Any and all disputes, grievances, or complaints arising between the parties hereto, under, out of, or in relation to this Agreement, or in the interpretation, application, performance, discharge/termination, or any alleged breach thereof, shall be processed in the following manner.

Step 1:

The grievance must be presented in writing to the employee's department head no later than fourteen (14) calendar days after the occurrence of the event which led to the dispute or the date on which the employee should have known of the event. The written grievance must state the Article and Section of the Agreement alleged to have been violated, the nature of the violation, the remedy or correction desired, and be signed and dated by the employee or the Union Representative/Delegate involved. The department head will answer all written grievances in writing within ten (10) calendar days. The settlement of any grievance at this step shall not constitute a precedent for any other present or future grievance.

Step 2:

If the grievance is not settled in Step 1, the written grievance must be submitted to the Executive Director/Administrator within ten (10) calendar days following receipt of the answer from the department head. The Executive Director/Administrator shall reply in writing to the employee and the Union Representative within ten (10) calendar days after receipt of the grievance.

At the Union's request, the Executive Director/Administrator shall meet to discuss the grievance prior to replying to the grievance, which shall be held expeditiously.

Step 3:

If the grievance is not settled at Step 2, it may be submitted to the Regional Director of Human Resources or her/his designee within ten (10) calendar days after receipt of the answer in Step 2. The Regional Director of Human Resources or her/his designee shall answer in writing to the employee and the Union representative within ten (10) calendar days after receiving such grievance.

Section 28.2

Any grievance based upon the disciplinary suspension or discharge/termination of an employee shall be referred directly to Step 2 of this procedure within fourteen (14) calendar days following the suspension or discharge/termination.

Section 28.3

The time limits specified in this Article may be waived or modified by mutual written agreement of the Employer and the Union. Absent such an agreement, the time limits contained herein shall be strictly construed. If the employee or the Union fails to process the grievance at any step within the time limits, the grievance shall be deemed to have been withdrawn. If the Employer's designated representative fails to answer a grievance at any step within the specified time limits, the Union shall have the right to immediately appeal the grievance to the next step of the grievance procedure.

Section 28.4

If the Union or the Employer is not satisfied with the Step 3 response, the matter may be submitted to arbitration under the arbitration procedure.

Section 28.5

The Employer shall recognize the Union Delegates as representatives of the employees if such representation is requested by an employee.

Section 28.6

All notices between the Union and the Employer shall be in writing. This requirement shall be strictly construed.

ARTICLE 29 ARBITRATION

Section 29.1

If the Union is not satisfied with the reply in Step 3, the Union shall have thirty (30) calendar days following receipt of the Step 3 answer to file a request for arbitration. The Union will file said request with the Executive Director/Administrator within the specified thirty (30) calendar days. The parties shall request a list of seven (7) arbitrators from the FMCS. Within fifteen (15) calendar days of the receipt of this list, the parties shall strike from said list, alternately, three (3) names, after determining the first strike by lot or by mutual agreement of the Union and the Employer, and the remaining name shall be the arbitrator. The Union and the Employer will each have ten (10) calendar days from the previous party's strike to strike a name.

Section 29.2

The decision of the arbitrator shall be final and binding upon the parties and all Union members affected. Only one (1) grievance shall be submitted to an arbitrator at a time unless mutually agreed by both parties.

Section 29.3

The arbitrator shall have jurisdiction and authority to interpret and apply provisions of this Agreement insofar as it is necessary to a determination of the grievance properly submitted hereunder, but such arbitrator shall have no power to add to, subtract from, or modify any terms of this Agreement. The award of the arbitrator shall be confined to the issue raised in the written grievance, and the arbitrator shall have no power to decide any other issue. Any case referred to an arbitrator on which she/he has no power to rule shall be referred back to the parties without a decision.

Section 29.4

The expenses of the arbitrator shall be paid equally by the parties, with each paying one-half (½) of the total.

Section 29.5

In cases not involving resident/patient neglect or abuse, just cause will have the meaning of “just cause” under traditional labor law principles. In cases of discipline related to resident/patient neglect or abuse as determined by AHCA and/or the appropriate county/city agency, the Employer satisfies its “just cause” obligations under this Agreement if it has a reasonable belief that the employee engaged in the acts or omissions that led to the discipline related to resident/patient care. If an arbitrator determines that the Employer has met the just cause obligation through acting upon its reasonable belief, the arbitrator may not change the discipline imposed by the Employer.

Section 29.6

In reviewing whether the Employer’s belief was reasonable, the Arbitrator’s review shall include:

1. The appropriateness of the Employer’s investigation.
2. The strength of the evidence supporting the allegation.
3. The employee’s work history.
4. The resident’s/patient’s complaint history.
5. The resident’s/patient’s cognitive ability.
6. Physical evidence, if any; and
7. Other such factors traditionally reviewed in disciplinary cases, including past practice in similar cases of resident neglect or abuse.

Section 29.7

The arbitrator may, in her/his discretion, make an economic award not to exceed four (4) weeks pay, plus payout of accrued PTO, where the Employer has a reasonable belief to discharge/terminate under Sections 29.5 and 29.6 above, but the arbitrator believes some economic award is appropriate.

Section 29.8

Employees have an affirmative duty to honestly cooperate in Employer investigations related to employee conduct and resident/patient care issues.

Section 29.9

For purposes of resident/patient neglect or abuse investigation, the Union and the Employer agree that residents/patients should not be subjected to involvement in the Grievance and Arbitration process. The Union Delegate may present to the Director of Clinical Services/DON relevant questions to be asked of the resident/patient and the Union Delegate may be present during any interviews with such parties. The arbitrator maintains discretion in whether to admit statements from such persons and any weight to be accorded to the statements. The parties also agree that there shall be no adverse inference from the failure of any resident/patient to testify at arbitration. The parties agree that such persons may, however, testify telephonically in cases where such parties are ready, willing, and able to do so.

ARTICLE 30
LABOR MANAGEMENT CONFERENCES

The Company and the Union, as evidence of attitude and intent, agree that during the life of this Agreement individuals from both parties (not to exceed three (3) from each) may be designated, in writing, by each party to the other for the purpose of meeting at the call of either party at mutually agreeable times and places so as to appraise the other of problems, concerns, suggestions, ideas, etc., related to the Care Center, the workforce, and resident/patient services, all to promote better understanding with the other. The meetings may be on work time. Such meetings shall not be for the purpose of initiating or continuing collective bargaining nor in any way to modify, add to, or detract from the provisions of this Agreement and such meeting shall be exclusive of the grievance and arbitration proceedings in this Agreement, as grievances shall not be considered proper subject at such meeting.

ARTICLE 31
SUCCESSORSHIP AND JOB SECURITY

Section 33.1

The employer agrees that it will make the recognition and acceptance of the Collective Bargaining Agreement a term and condition of any sale of its operations in whole or in part to any other business equity.

Section 33.2

Upon the sale, lease, transfer, or assignment of the Care Center, in whole or in part, the Employer agrees to be responsible for paying to any affected employees any accumulated unused Paid Time Off pursuant to the conditions set forth in Article 23, except where the successor Employer agrees, in writing, prior to the sale, lease, transfer, or assignment to be responsible for such payment.

Section 31.3

In the event that the Employer moves its establishment to another location, this Agreement shall continue in full force and effect with reference to such Employer for all its establishments covered by this Agreement.

Section 31.4

The Employer shall not contract or subcontract bargaining unit work without first notifying the Union. Further, the Employer shall require the contractor or subcontractor to retain the employees and the terms and conditions of employment substantially equivalent to those in this Agreement. If the contract or subcontract ends and the Employer reverts to providing the services previously subcontracted, the Employer shall retain in employment all of the bargaining unit employees of the subcontractor who wish to remain in employment with the Employer at the facility without loss of accumulated seniority and progressive disciplinary actions shall remain in effect.

ARTICLE 32
EFFECT OF LEGISLATION – SEPARABILITY

Section 32.1

The Employer agrees to comply with all federal, state, and municipal laws, ordinances, rules and regulations covering the workers in the industry, and to grant the employees all benefits provided for by said laws, ordinances, rules, and regulations.

Section 32.2

It is understood and agreed that all agreements herein are subject to all applicable laws now or hereafter in effect, and to the lawful regulations, rulings, or orders or regulatory commissions or agencies having jurisdiction. If any provision of this Agreement is in contravention of the laws or regulations of the United States or the State of Florida, such provisions shall be superseded by the appropriate provision of such law or regulation, as long as same is in force and effect; but all other provisions of this Agreement shall continue in full force and effect.

ARTICLE 33
ENTIRE AGREEMENT

Section 33.1

The parties acknowledge that during the negotiations that resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to all proper subjects of collective bargaining and that all subjects have been discussed and negotiated and the agreements contained in this Agreement were arrived at after the free exercise of such rights and responsibilities. The parties have had full opportunity to discuss all terms and conditions of employment. Therefore, this Agreement supersedes all prior agreements, understandings, and past practices that are not specifically set forth herein.

Section 33.2

This Agreement expresses the complete understanding of the parties on the subjects of wages, working conditions, hours of labor, benefits, and conditions of employment.

Section 33.3

This Agreement can be changed only by written amendment executed by the parties hereto. The waiver or any breach thereof shall not constitute a waiver of such terms or conditions or any breach thereof in any other instance.

Section 33.4

The parties agree that if any practice which develops subsequent to the effective date of this Agreement conflicts with the express language contained in this Agreement, then the language of this Agreement shall be controlling.

ARTICLE 34
DURATION

This Agreement shall become effective upon ratification and shall continue in full force and effect through June 30, 2021. Either may give written notice of a desire to modify, amend or terminate it at least ninety (90) days but not more than one hundred and twenty (120) days immediately preceding the termination of this Agreement.

1199 SEIU United Healthcare Workers East

Coral Trace Health Care

By: *[Signature]* *DACE TOWAST* By: _____

Dated: SEPTEMBER 26, 2016 Dated: _____

HR-501

POLICIES

Human Resources

Policies and Procedures

Effective Date: 03-01-2011

Revision Date: 10-01-2013

Paid Time Off

Policy

The Company believes that employees should have the opportunity to enjoy time away from work to help balance their lives. We recognize that employees have diverse needs for time off from work. We have established this Paid Time Off (PTO) Policy to meet those needs. The policy contains provisions for vacation, holiday and sick leave. The benefits of PTO are that it promotes a flexible approach to time off. Employees are accountable and responsible for managing their own PTO hours to allow for adequate reserves if there is a need to cover vacation, holiday, illness or disability, appointments, emergencies or other needs that require time off from work.

Procedure**Eligibility:**

All full-time, benefit-eligible employees are eligible to earn PTO. Full-time status requires a minimum of seventy (70) regularly paid hours worked per two (2) week pay period. PTO accruals begin at day ninety-one (91) following date of full-time status.

Change in Status:

- PTO begins accruing at day ninety-one (91) following a change to full-time status.
- Full-time employees with two (2) or more years of continuous service and less than eleven (11) years service who change to PRN/part-time, if approved and with proper working notice, will receive sixty percent (60%) pay out of PTO accruals.
- Full time employees with eleven (11) or more years of service that change to PRN/part-time, if approved and with proper working notice, will receive eighty percent (80%) pay out of PTO accruals.

Availability:

PTO accruals are available for use after completing ninety (90) days of full time service.

Accrual Schedule:

Accruals are calculated on hours paid (excluding overtime) to a maximum of 80 hours per biweekly pay period. Length of service determines the rate at which the employee will accrue PTO.

Years of Service	Maximum Annual PTO Accrual* 8 + Hours Per Day	Maximum Annual PTO Accrual** 7.5 Hours Per Day
91 Days to 1 Year of Completed Service	9 Days- 72 Hours	9 Days- 67.5 Hours
Beginning the 2 nd Year of Employment to the 5 th Year of Completed Service	22 Days- 176 Hours	22 Days- 165 Hours
Beginning the 6 th Year of Employment to the 10 th year of Completed Service	26 Days- 208 Hours	26 Days- 195 Hours
Beginning the 11 th Year of Employment +	31 Days- 248 Hours	31 Days- 232.5 Hours

***Note- Annual PTO Accruals for eight (8) or more hours per day are based on an employee having 2080 paid hours per year (forty (40) hours per week).**

****Note- Annual PTO Accruals for seven and one-half (7.5) hours per day are based on an employee having 1950 paid hours per year (thirty-seven and one-half (37.5) hours per week).**

Maximum Accruals:

- Total PTO accumulation for eight (8) or more hours per day: **Fifty (50) Days – Four Hundred (400) Hours.**
- Total PTO accumulation for seven and one-half (7.5) hours per day: **Fifty (50) Days – Three Hundred Seventy-five (375) Hours.**

Use and Scheduling of PTO:

Whenever possible, PTO must be scheduled in advance for time off. PTO use is subject to supervisory approval, department staffing needs and established departmental procedures. The Company has established specific guidelines regarding PTO. The specifics are:

- **Minimum PTO** use is limited to one (1) hour increments for hourly employees.
 - **PTO** is defined as time requested with a minimum two (2) hour advance approved request. Except as specified below for FMLA approved absences, requests for PTO with less than a two (2) hour advance notice will not be approved.
 - The requested PTO hours are paid one-to-one.
 - For example, employee requests five days of PTO on December 1 for a vacation scheduled January 1. The employee receives 40 hours or 37.5 hours PTO pay depending on their work schedule. The PTO bank reduces by 40 hours or 37.5 hours depending on their work schedule.
 - For scheduling purposes, employees should request PTO at least two (2) weeks in advance of the time off needed.

- **FMLA Exclusion:** Employees who do not provide a two (2) hour advance notice of absence but are subsequently approved for FMLA, will be permitted to use PTO.
- PTO may not be used for missed time because an employee reports late to work.
- PTO is paid at the employee's straight time rate.
- PTO is not part of any overtime calculation.
- Employees may not borrow against their PTO bank, therefore, no advance leave will be granted.
- The attendance and punctuality policy remains in effect.
- When PTO is used, an employee is required to request payment of PTO hours according to his/her regularly scheduled workday. For example,
 - if an employee works a twelve (12) hour day, he/she would request twelve (12) hours of PTO when taking that day off;
 - if an employee works an eight (8) hour day, he/she would request eight (8) hours of PTO;
 - if an employee works a seven and one-half (7.5) hour day, he/she would request seven and one-half (7.5) hours of PTO.
- Utilize the Request for Time Off Form.
- Employees who miss more than three (3) consecutive unscheduled days may be required to present a doctor's release that permits them to return to work.
- PTO hours used intermittently or for three (3) days or more due to a serious health condition shall run concurrently with the Family and Medical Leave, if employee qualifies for FMLA.
- If an employee has a disability policy, then their total pay can not exceed their normal weekly salary.
- For an employee who has a serious medical condition and is eligible for Family and Medical Leave and has submitted medical certification, time off with pay (PTO and/or EIB), if available, may be used for all of the absence. The Extended Illness Bank (EIB), if available, will be used on the sixth (6th) consecutive work day of an illness or injury. If there are no EIB hours available, the employee who has been approved for FMLA may use their PTO hours to supplement their time off. If an employee has a disability policy, then their total pay can not exceed their normal weekly salary.
- For an employee who has an eligible family member with a serious medical condition as defined by Family and Medical Leave, PTO will be used for the length of the leave.

PTO Buy Back:

At the discretion of the Company each year, a decision will be made to announce a buy back of PTO hours for all eligible hourly/non-exempt employees. The Company will make the announcement by September 30th each year for a potential buy back of hours in December of each calendar year.

If approved, the hourly/non-exempt employee would be paid at sixty percent (60%) of the designated approved buy back hours established by the Company. To be eligible, hourly/non-exempt employees must have more than ten (10) days in their PTO bank. Following the buy back, the employee must retain at least ten (10) hours in their PTO bank.

Payment Upon Termination:

Employees, who resign with two (2) or more years of continuous full time service and less than eleven (11) years full time service and provide proper working notice, will be paid sixty percent (60%) of their PTO hours.

Employees who resign with eleven (11) or more years of full time service and provide proper working notice will be paid at eighty percent (80%) of their PTO hours.

Employees with less than two (2) years of full time service will not receive any payment of PTO hours.

HR-502

POLICIES

Human Resources

Policies and Procedures

Effective Date: 01-01-2012

Revision Date: 09-01-2012

Extended Illness Bank

Policy

It is the policy of the Company to provide paid sick leave to eligible employees through an Extended Illness Bank (EIB). The EIB is designed to replace earnings in case of an employee's own illness or injury. The EIB can be used at the employee's discretion to cover additional days after an employee has covered the first five days of their own illness or injury with their PTO bank (if there are not enough PTO hours available to cover these five days, then whatever time is not covered shall be unpaid).

Procedure

1. Eligibility: All full-time employees, who work thirty (35) or more hours a week, are eligible to earn time in their EIB. The EIB accruals begin on day ninety-one (91) following the full-time status date. Eligible employees may accrue up to three (3) days per year in their EIB. Employees may accrue to an unlimited number of days in their EIB.
2. Approval of Changes in the EIB Policy: No Care Center may make any change in the applicable EIB policy.
3. Exclusion from Calculation in Over-Time Pay: EIB hours shall not be included as "hours worked" for purposes of calculating overtime pay.
4. EIB Hours Are Not Accrued During Unpaid Time: Unless otherwise required by law, EIB hours shall not accrue during unpaid time, to include unpaid leave of absence.
5. EIB Hours Are Not Paid Out at Termination of Employment or Upon the Employee Changing to an Ineligible Status: Unless otherwise required by law, unused EIB hours shall not be paid out to an employee upon termination of employment, regardless of the reason for termination. In addition, unless otherwise required by law, unused EIB hours shall not be paid out to an employee upon changing to an ineligible status.
6. Use and Scheduling of EIB: Utilize the Request for Time Off Form.

Exhibit 2

COLLECTIVE BARGAINING AGREEMENT

**UNITED FOOD & COMMERCIAL WORKERS UNION,
LOCAL 1625**

and

BRADENTON HEALTH CARE

July 1, 2016 through June 30, 2019

TABLE OF CONTENTS

<u>Article</u>	<u>Subject</u>	<u>Page</u>
	Agreement.....	1
1	Introduction.....	1
2	Recognition of the Union.....	1
3	Management Rights.....	2
4	Resident/Patient Care Concern and Staffing.....	4
5	Resident/Patient Confidentiality.....	5
6	Safety and Health.....	5
7	Peace and Stability.....	6
8	Non-Discrimination.....	7
9	Union Activity.....	8
10	Voluntary Dues Deductions.....	9
11	Introductory/Probationary Period.....	10
12	Category of Employees.....	11
13	Orientation and In-Service Training.....	11
14	Seniority.....	12
15	Job Descriptions.....	15
16	License/Certification Renewal.....	15
17	Hours of Work and Overtime.....	15
18	On Call List and Distribution of Overtime.....	17
19	Temporary Work Assignments.....	18
20	Vacancies.....	18
21	Starting Wages.....	19
22	Wages.....	19
23	Insurance.....	20
24	Retirement.....	21
25	Paid Time Off.....	22
26	Holidays.....	22
27	Paid Leave.....	22
28	Unpaid Leave.....	23
29	Meal Policy.....	24
30	Education Fund.....	25
31	Discipline, Suspension and Discharge.....	25
32	Grievance Procedure.....	26
33	Employer Grievances.....	27
34	Arbitration.....	28
35	Labor Management Conferences.....	30
36	Successorship and Job Security.....	30
37	Effect of Legislation – Separability.....	31
38	Entire Agreement.....	31
39	Duration of Agreement.....	32
	Attachment 1 – PTO/EIB Policies.....	33

AGREEMENT

This AGREEMENT made and entered into this 1st day of July, 2016, by and between Bradenton Health Care (hereinafter referred to as the “Employer”) and United Food & Commercial Workers Union, Local 1625 (hereinafter referred to as the “Union”).

ARTICLE 1 INTRODUCTION

The parties to this Agreement declare and establish these terms and conditions of employment set forth herein to be mutual expressions of understanding bearing the good faith intentions of each and jointly acknowledge their commitment to harmonious relations, bearing in mind that the interests of quality care for Care Center residents/patients is promoted through the assurance of dignity and respect to employees.

ARTICLE 2 RECOGNITION OF THE UNION

Section 2.1

The Employer recognizes the Union as the exclusive bargaining agent for the purposes of collective bargaining with respect to wages, hours, and conditions of employment for all full-time and regular part-time cooks, dietary aides, nursing assistants, janitors, laundry aides, and housekeeping aides employed by the Employer at its Care Center located at 6305 Cortez Road, West, Bradenton, FL 34210, but excluding administrator, director of nursing, assistant director of nursing, nursing supervisor, charge nurses, all registered nurses, all licensed practical nurses, activities director, social service director, maintenance supervisor, staff development coordinator, bookkeepers, administrative secretary/personnel specialist, all office clerical employees, medical records secretary, licensed physical therapy assistants, professional employees, and technical supervisors as defined in the National Labor Relations Act.

Section 2.2

The parties agree that all Registered Nurses and Licensed Practical Nurses are supervisors as defined by the National Labor Relations Act. As such, Registered Nurses and Licensed Practical Nurses are expressly excluded from current or future union membership.

Section 2.3

The Employer shall have the right to assign any job to a non-bargaining unit employee on a temporary basis for training purposes or in special situations or emergencies, such as, but not limited to state and federal surveys, natural disasters, fire, severe weather, unforeseen tragedy or power outage, or when the Employer cannot reasonably obtain

bargaining unit personnel to perform the required work on a timely basis, provided that such assignment shall not have the effect of reducing the scope of the bargaining unit or reducing the previously scheduled work hours of a bargaining unit employee.

Section 2.4

In the event that a full-time employee wishes to be a regular part-time employee, the employee should inform her/his Care Center Human Resources Coordinator in writing. If a regular part-time employee wishes to adjust her/his status to full-time, the employee should inform her/his Care Center Human Resources Coordinator in writing in writing. Changes in full-time or part-time status shall only occur when a position is available.

Section 2.5

Part-time employees are those employees who regularly work less than thirty-five (35) hours per week. Full-time employees are employees who work thirty-five (35) hours or more per week.

ARTICLE 3 MANAGEMENT RIGHTS

Section 3.1

All rights which ordinarily vest in and are exercised by Employers, and all of the rights, powers, and authority possessed by the Care Center prior to entering into this Collective Bargaining Agreement, except as expressly and specifically abridged, delegated, granted, or modified by this Agreement, shall continue to vest in the Care Center. This shall include – this enumeration being merely by way of illustration and not by limitation – the right to:

1. Hire, promote, demote, layoff, assign, transfer, suspend, discharge/terminate, or discipline employees for just cause.
2. Select and determine the number of its employees, including the number assigned to any particular work, if any, including the shift and schedule of employees.
3. Direct and schedule the workforce, including determining and changing the number and duration of shifts and the starting and ending times of all shifts.
4. Determine the location and type of operation.
5. Determine and schedule when overtime shall be worked, if any, and how that overtime work shall be distributed.
6. Install or remove equipment.

7. Determine or change the location or type of operations, equipment, materials, and procedures to be utilized, including the ability to discontinue their performance by employees of the Employer and contract or subcontract any or all of the unit work.
8. Establish, increase, or decrease the number of work shifts, duration of shifts, and their starting and/or ending times.
9. Determine the job or work classification and required classification of employees, and change, combine, or abolish job classifications and determine change, or combine and abolish qualifications of those classifications.
10. Establish, adopt, change, delete, and enforce work rules and regulations governing discipline, conduct, obligations and acts of employees, including an employee handbook, safety guidelines, and work rules.
11. Select supervisory employees and determine the work they shall perform, including bargaining unit work.
12. Train employees.
13. Discontinue any department.
14. Introduce new and improved methods of operations.
15. Transfer or relocate any or all of the operations of the Care Center to any location or to discontinue such operations, or lease or sub-lease the Care Center or transfer or consolidate operations, or shutdown the Care Center and discontinue all operations.
16. Set standards of performance for employees, evaluate employees, and enforce those standards with discipline, including discharge/termination.

Section 3.2

The parties expressly acknowledge and agree that LPNs and/or RNs may perform bargaining unit work on a temporary basis during emergency situations or when staffing levels cannot be met using bargaining unit employees.

Section 3.3

The listing of Management Rights and Prerogatives in Section 3.1 above, is not intended to restrict Management's authority and prerogatives, except as specifically stated. If the Employer should fail to exercise any right hereby reserved to it, such failure should not be interpreted as a waiver of such right. All rights reserved for Management are retained.

Section 3.4

It is expressly intended and agreed upon by the parties that in any arbitration or other adjudication of this Agreement, that anyone interpreting this Agreement shall do so with particular regard to the parties' intention to reserve in the sole discretion of Management all rights except those which are explicitly limited by an express provision of this Agreement.

Section 3.5

Without limiting the foregoing, by way of clarification, the parties agree that nothing contained in this Agreement confers upon bargaining unit employees, any right to a particular type or amount of work. Further, it shall not be a violation of this Agreement for the Employer to cease any and all operations or services performed by any employees subject to this Agreement. The parties recognize the express right of Management to take any of the above actions during the term of this Agreement.

Section 3.6

From time to time, the Employer shall revise the Employee Guidebook and distribute the revised Employee Guidebook to employees. In this event, the Employer shall notify the Union thirty (30) days in advance of such Employee Guidebook distribution. In the event that any language in the Employee Guidebook conflicts with language in the Collective Bargaining Agreement, the language in this Agreement shall prevail.

ARTICLE 4 RESIDENT/PATIENT CARE CONCERN AND STAFFING

Section 4.1

Along with the Employer, the Union recognizes the obligations of its members and unit employees to render good resident/patient care with warmth and compassion so as to transmit to the residents/patients a sense of security and dignity. The Union offers its full cooperation in fostering these resident/patient care values. Understanding the necessity that its members and unit employees provide good resident/patient care, the Union commits to fully support the Employer's efforts to correct substandard performance and if necessary, the appropriate corrective action for employees who fail to provide good resident/patient care, with just cause.

Section 4.2

The Employer shall establish and maintain staffing levels and staffing patterns it deems appropriate and consistent with operational efficiency and high standards of resident/patient care. Staffing shall be determined solely and exclusively by Management.

**ARTICLE 5
RESIDENT/PATIENT CONFIDENTIALITY**

The Employer agrees to provide training to all employees relative to the employee's obligation under HIPAA statutes. The Union agrees to support this initiative by not revealing, communicating, sharing, transmitting, or otherwise conveying any resident/patient information which an employee may present to the Union. The Union further agrees to fully support the Employer's investigation of possible HIPAA violations and if necessary, the appropriate corrective action for employees who violate HIPAA statutes.

**ARTICLE 6
SAFETY AND HEALTH**

Section 6.1 General Duty

The Employer agrees to provide a safe and healthful work environment for employees and to maintain high standards of workplace safety. The Employer will establish safety rules and safe working practices as it may deem appropriate for the protection and safety of employees and residents/patients. Changes in safety rules and policies that promote safe working practices shall be determined solely and exclusively by Management.

No employee shall be required to work under hazardous conditions in violation of applicable state or federal regulation or which are likely to result in death or serious physical harm, and any employee who believes that such conditions may exist shall immediately report her/his concerns to the supervisor or Executive Director/Administrator.

No employee shall be discriminated against for exercising her/his right to bring a safety concern to the Employer or to the appropriate state and/or federal agencies, or for cooperating with their investigation as provided in this Article.

Section 6.2 Infection Control

The Employer agrees to comply with all OSHA regulations related to the safety, health, and protection of employees from all infectious and blood borne diseases and to provide employees with a safe working environment free from recognized hazards which are likely to result in death or serious physical harm.

The Employer agrees to continue its Universal Precautions and Infection Control protocols to ensure ongoing compliance with all OSHA regulations related to the safety, health, and protection of employees from all infectious and blood borne diseases. The Employer will continue its process of evaluating and updating such programs on an ongoing basis. The Employer will continue to provide employees with required Personal Protective Equipment (PPE) that is consistent with accepted long term healthcare practices to address recognized workplace hazards.

Section 6.3 Occupational Injuries and Illness

The Employer agrees to comply with all OSHA regulations related to on-the-job injuries and illnesses. The Employer will maintain a log and summary of all occupational injuries and illnesses as required by law.

Section 6.4 Modified Duty Program

Employees who are receiving workers' compensation benefits and have been released to return to work on a restricted basis such that they cannot perform all of the duties of their pre-injury job, shall be eligible to be assigned Modified Duty consistent with physician's restrictions during the employee's recovery period:

1. Care Center Management will make a determination if a Modified Duty assignment can be made available to allow the employee to perform productive work for the Care Center within the limitations placed upon the employee by the treating physician.
2. Modified Duty assignments will be updated periodically as physician's work restrictions are changed to reflect the employee's progress in the process of recovery and are made on a temporary basis generally not to exceed ninety (90) days in length.
3. Employees who are temporarily reassigned to work in another regular position where they can perform all of the duties of the position will be paid in accordance with Florida workers' compensation statutes.
4. Once the employee's condition allows, she/he will be returned to her/his regular job at the regular rate of pay. Failure to return to work as scheduled upon release from the treating physician constitutes abandonment of the position.

Section 6.5

The Employer agrees to follow Company practice relative to workers' compensation and will maintain up to three (3) modified duty positions. The number of employees on modified duty shall be increased as determined exclusively by Management.

**ARTICLE 7
PEACE AND STABILITY**

Section 7.1

It is understood that the Grievance and Arbitration processes are the sole and exclusive means of resolving disputes or controversies between the parties during the term of this Agreement. There shall be no strike, work stoppage, slowdown, picketing, attempt to influence public opinion against the Employer through the use of social media, use of public media, involvement of residents/patients and/or family

members, members of the community, outside agencies, or others in disputes or controversies or any other unauthorized job action against the Employer during the life of this Agreement, nor shall any officer, representative or official of the Union authorize, assist or encourage any prohibited activity during the life of this Agreement.

Section 7.2

Should any such prohibited activity occur, not authorized by the Union, the Union shall within twenty-four (24) hours:

1. Publicly disavow such actions by the employees.
2. Advise the Employer in writing that such employee's action has not been authorized or sanctioned by the Union.
3. Post notices on all bulletin boards advising employees that it disapproves of such action and instruct them to return to work immediately.

Section 7.3

The Employer reserves the right to discipline any employee or employees who violate provisions of the Article. The suspension or discharge/termination of any employee found in violation of this Article shall not be subject to the grievance and arbitration provisions of this Agreement.

Section 7.4

The Employer agrees not to lockout employees provided, however, that a layoff of one (1) or more employees shall not constitute a lockout.

**ARTICLE 8
NON-DISCRIMINATION**

Section 8.1

The Employer and the Union agree that there will not be any form of discrimination against any employee on the basis of her/his status with regard to Union Membership or for activities on behalf of the Union that are consistent with the terms of this Agreement.

Section 8.2

The Employer shall not discriminate against employees or applicants for employment on the basis of race, religion, age, color, sex, national origin, disability, sexual orientation, ancestry, pregnancy, marital status, familial status, or other reasons protected by law.

Section 8.3

The Union and the Employer agree to respect the rights of employees to speak the language of their choice in non-work areas when they are not in the presence of residents/patients or family members. Nothing in this Agreement shall prevent an employee from directly addressing a resident/patient in the resident's/patient's native language, provided the resident/patient requests to be addressed in a language other than English and that the request is documented in the resident's/patient's record, and that such conversation is within the bounds of permissible staff to resident/patient communication. Absent such request documented in the resident's/patient's record, it is a violation of Resident/Patient Rights to speak to a resident/patient in a language other than English. The suspension or discharge/termination of any employee found in violation of this Article shall not be subject to the grievance and arbitration provisions of this Agreement.

ARTICLE 9 UNION ACTIVITY

Section 9.1 Stewards

The Employer recognizes the right and the authority of the Union to appoint and/or designate individuals as Stewards. The number of Union Stewards will be mutually agreed on by the Union and the Employer, and will be sufficient to meet the needs of employees, without affecting resident/patient care. The Union agrees to furnish the Employer with a written list of Stewards so designated and with any changes in the list of Stewards which may be made from time to time. Any change in the Union-designated Stewards will be communicated to the Care Center Executive Director/Administrator in writing within one (1) week of the change. It is also understood that the Union may assign to Stewards any duties it wishes and these Stewards will not be discriminated against for discharging such duties, provided such duties are not performed during paid working time without supervisory authorization to do so and do not interfere with the regular performance of their work for the Employer in any way.

Stewards shall be entitled to a leave of one (1) day each calendar year for Steward Training and Education. The Union must notify the Employer at least two (2) weeks in advance thereof. The Steward must, upon returning from the leave, present the Executive Director/Administrator with written evidence from the Union that the Steward has used the leave for the purpose for which the leave was intended. Such leave time will not be compensated by the Employer.

Section 9.2 Visitation

A duly authorized representative of the Union may visit the Employer's Care Center at reasonable times for the purpose of discharging the Union's obligations under the Collective Bargaining Agreement provided that prior permission is secured from the Executive Director/Administrator or her/his designee. For routine visits, the Union Representative will endeavor to contact the Care Center Executive Director/Administrator or her/his designee the day prior to the visit. If such contact is

not possible, the Union Representative will contact the Executive Director/Administrator or her/his designee at least thirty (30) minutes prior to the visit, and such permission shall not be unreasonably denied by the Employer. The Union acknowledges that from time to time, such visitation may be postponed by the Employer due to legitimate business concerns such as AHCA survey, OSHA visit/investigation, DOL audit, and the like. Said Union Representative may only meet with employees in non-work areas during non-work time.

Section 9.3 Union Bulletin Board

The Union shall provide one (1) enclosed, locking bulletin board (2 feet by 3 feet) for the exclusive use of the Union which shall be placed near the employees' time clock or in a place mutually agreed upon by the Union and the Employer. The Employer will install this bulletin board, as necessary. The Union Representative will retain one (1) key and the Executive Director/Administrator will retain one (1) key. Official Union notices containing no inflammatory comment(s) shall be posted as soon as the Union Representative has notified the Care Center Executive Director/Administrator of intent to post such notice. Notices or literature other than that for the normal conduct of the Union's business must first have the Executive Director/Administrator's approval by initializing the notice or literature. The Employer, in its sole discretion, will determine if a notice contains inflammatory comment(s).

ARTICLE 10
VOLUNTARY DUES DEDUCTIONS

Section 10.1

The Employer agrees to deduct union dues, initiations fees, and political contributions from the wages of employees in the bargaining unit who voluntarily provide the Employer with a written authorization for such deduction. Such deduction shall be made by the Employer from the wages of employees so authorizing during each calendar month and shall be transmitted to the Union. In the event that no wages are due the employee or that they are insufficient to cover the desired deduction, the deduction for such month shall nevertheless be made from the first wages of adequate amount next due the employee and shall thereupon be transmitted to the Union. Together with the transmittal of deductions referred to above, the Employer shall furnish the Union with a list of employees for whom deductions were made.

Section 10.2

All deductions shall be remitted to the Union by the fifteenth (15th) of the month following the month for which deductions were made or as soon as possible thereafter.

Section 10.3

The Employer assumes no obligation, financial or otherwise, arising out of any provisions of this Article, and the Union hereby agrees it will indemnify and hold the Employer harmless from any claims, actions or proceedings by any employee arising from deductions made by the Employer hereunder, including the cost of defending against such. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

Section 10.4

Each month the Employer shall furnish the Union with the names, home addresses, classifications, and dates of hire of new employees, and the name and termination date of employees discharged/terminated the preceding month, and any address changes which may apply to existing employees.

ARTICLE 11 INTRODUCTORY/PROBATIONARY PERIOD

Section 11.1

Newly hired employees, including former employees, shall be considered probationary employees for the first ninety (90) days of employment. During an employee's introductory/probationary period, she/he shall be covered by the terms of this Agreement, except that she/he may be discharged/terminated by the Employer with or without cause. Such discharge/termination will not be considered a breach of this Agreement or provide grounds for a grievance.

Section 11.2

Seniority shall not accrue to employees during their introductory/probationary period. However, upon successful completion of the said introductory/probationary period, all employees shall be deemed to be regular employees covered by the terms of this Agreement and their seniority shall revert back to the date of hire.

Section 11.3

During the introductory/probationary period, the employees shall work under the terms and conditions of this Agreement, except as otherwise expressly provided herein.

Section 11.4

The Employer may, in its discretion, extend the introductory/probationary period of any probationary employee for an additional thirty (30) days provided that the Employer informs the employee and the Union Steward of its intent to do so before the expiration of the introductory/probationary period.

ARTICLE 12 CATEGORY OF EMPLOYEES

Section 12.1

A full-time employee is one who is regularly scheduled to work thirty-five (35) or more hours per week.

Section 12.2

A part-time employee is one who is regularly scheduled to work less than thirty-five (35) hours per week.

Section 12.3

A casual/PRN employee is one who has no regular schedule of hours of work, but works intermittently as required. A casual/PRN employee who is regularly scheduled to work sixteen (16) hours or more per week over a two (2) month period shall be reclassified as a full-time or part-time employee, as appropriate, and shall be subject to an introductory/probationary period of thirty (30) days from the date of reclassification.

Section 12.4

A temporary employee is one who works for a predetermined period of time. Employees hired as temporary summer replacements during the period June 1 to September 30 shall be treated as introductory/probationary employees.

ARTICLE 13 ORIENTATION AND IN-SERVICE TRAINING

Section 13.1

The Employer agrees to provide new employee orientation, all mandatory staff education, and other in-service training it deems necessary to facilitate employee's ability to perform their jobs effectively. Employees not on an approved leave of absence or an approved Paid Time Off (PTO) absence who fail to participate in mandatory in-services are subject to disciplinary action, up to and including discharge/termination. Time spent attending orientation and other job-related in-service training, including mandatory training, shall be considered time worked for wage payment purposes.

Section 13.2

The Employer will allow the Union Representative/Steward to meet with new bargaining unit employees for up twenty (20) minutes during their initial orientation at a time mutually agreed to by both parties. If the Union is not notified of the orientation in advance or the date of the orientation changes without notice to the Union, the Union Representative or the Chief Steward will be provided a twenty (20) minute period of time to discuss employee rights under the Collective Bargaining Agreement.

Section 13.3 No Retaliation

The Union and the Employer agree that our mutual commitment to quality resident/patient care requires that any suspected violation of regulations or resident/patient rights must be reported immediately to the appropriate supervisor on duty. In the event that the supervisor does not take prompt and appropriate corrective action, the employee shall carry out her/his responsibility under the Corporate Compliance Plan.

Section 13.4

No employee will be disciplined, discharged/terminated, or otherwise singled out for carrying out her/his obligation under the Employer's Corporate Compliance Plan and/or any state and federal regulations when reporting suspected or observed violations and cooperating fully and honestly with the respective investigations.

ARTICLE 14
SENIORITY

Section 14.1

Bargaining unit seniority shall be defined as the employee's length of continuous service with the Employer in the bargaining unit commencing with the date and hour on which the employee began to work after last being hired. A list of all full-time employees in seniority order and a separate list of all part-time employees in seniority order shall be furnished to the Union quarterly in the calendar year.

Section 14.2

Job classification seniority shall be defined as the employee's length of continuous service with the Employer within her/his present job classification commencing with the date and hour on which the employee last began to work in such classification.

Section 14.3 Accrual

An employee's seniority shall commence after the completion of her/his probationary period and shall be retroactive to the date of her/his last hire.

Bargaining unit seniority shall accrue during a continuous authorized leave of absence with or without pay, and during a period of continuous layoff not to exceed three (3) months, if the employee is recalled into employment.

Job classification seniority shall accrue during the periods specified in Section 14.2 above and during the time an employee works in a specific job classification.

Section 14.4

An employee shall lose seniority and seniority shall be broken for any of the following reasons:

1. Terminates voluntarily.
2. Is discharged/terminated.
3. Abandons her/his job or fails to report to work (ie, No Call/No Show).
4. Fails to return to work following expiration of an approved leave of absence.
5. Is laid off for a period of three (3) months.
6. Fails to return to work following recall from layoff within five (5) calendar days after the Employer has sent notice to return by certified letter to the last address furnished to the Employer by the employee.
7. Is promoted into a supervisory or other non-bargaining unit position with the Employer.
8. Fails to secure license/certification renewal prior to the license/certification expiration date and is permanently replaced.

Section 14.5 Application

Bargaining unit seniority shall apply in the computation and determination of eligibility for all benefits where length of service is a factor pursuant to this Agreement.

Classification seniority shall apply in layoffs and recalls and for scheduling of Paid Time Off as herein provided.

Section 14.6

In the event the Employer finds it necessary and desires to reduce its staff by laying off employees or reducing the regularly scheduled hours of employees, it shall notify the Union one (1) full pay period in advance of the effective date of the layoff and/or reduction of hours and shall inform the Union of the names and classification of the employees who are to be laid off, as well as the effective date of the layoff and/ or reduction of hours. The Employer retains the exclusive right to determine when to layoff employees or when to reduce hours of work for employees in order to avert layoffs.

Section 14.7

Whenever lay off becomes necessary in a job classification and shift, such layoff shall be affected in the following order:

1. Introductory employees on the shift shall be laid off first, without regard to their individual periods of employment.
2. Non-introductory part-time employees on the shift shall be laid off next in the order of their classification seniority, the least senior laid off first.
3. Non-introductory full-time employees on the shift shall be laid off next in order of their classification seniority, the least senior laid off first.

Section 14.8

If, after considering the above order of layoff, a senior employee elects not to work a schedule or in a category occupied by a less senior or introductory employee, the less senior or introductory/probationary employee will remain while the more senior employee is laid off.

Section 14.9 Recall

Whenever a vacancy occurs in a classification from which an employee has been laid off less than three (3) months, the Employer shall contact the most senior employee on layoff in that classification, by sending one (1) registered letter to the employee's last known address. If the employee fails to contact the Employer within ten (10) calendar days after the letter is sent, the employee loses her/his right to recall.

Section 14.10

It shall be the responsibility of the employee to keep the Employer informed of her/his current address and to notify the Employer at once, in writing, of any change of address.

Section 14.11

In the event an employee is offered another job by the Employer outside the bargaining unit and the employee accepts such job and leaves the bargaining unit, such employee shall lose all her/his seniority rights under this Agreement.

Section 14.12

An employee shall not accrue seniority while he is on layoff. An employee shall accrue seniority while he is on approved leave of absence but shall not accrue benefits.

Section 14.13

An employee whose seniority is lost for any of the reasons outlined in Section 14.4 above shall be considered as a new employee if he or she is again employed by the Employer.

Section 14.14 Low Census

In the event resident/patient census is not sufficient to warrant maintaining scheduled employees, the Employer has the right to reduce the number of employees accordingly. The Employer will first request volunteers to be sent home. If an insufficient number of employees volunteer, the Employer will send home PRN employees first, probationary employees next, and then part-time and full-time employees last in reverse order of seniority on a rotating basis. This process will be implemented by unit and by shift.

**ARTICLE 15
JOB DESCRIPTIONS**

The Employer will maintain job descriptions for all classifications covered by this Agreement. Job descriptions will be made available to a Union Representative or interested employees.

**ARTICLE 16
LICENSE/CERTIFICATION RENEWAL**

Employees have an obligation to maintain their license/certification in good standing. As such, any employee who fails to provide proof of license/certification renewal to the Director of Clinical Services/DON or her/his designee at least twenty-one (21) days prior to the expiration of the license/certification will be removed from the work schedule and a permanent replacement will be sought. Under this condition, the employee removed from the schedule will be permitted to work when proof of renewal is provided to the Director of Clinical Services/DON or her/his designee, provided a permanent replacement has not been hired. If not returned to the schedule, the employee will be offered the first available position for which she/he is qualified.

**ARTICLE 17
HOURS OF WORK AND OVERTIME**

Section 17.1 Schedule

The Employer will post the work schedule two (2) weeks in advance. Such work schedules are subject to change by the Employer as the needs of the Care Center require and this section shall not be construed as limiting or preventing the Employer from establishing other work shifts or hours as the need arises. Employees may exchange days off with other employees in the same classification provided that employees request and receive supervisory permission for the exchange in writing. Employees wishing other special scheduling considerations shall make such requests, in writing, at least four (4) weeks prior to the schedule posting. All hours worked on a given shift shall be consecutive except for contractual breaks.

Section 17.2 Report Pay

Employees reporting for work at their regularly scheduled starting time who have not previously been notified not to report to work shall receive a minimum of two (2) hours of work for that day, or two (2) hours of straight time in lieu thereof.

Section 17.3 Meal Period

Each shift of five (5) or more hours in duration will include an unpaid uninterrupted thirty (30) minute meal period. Meal periods must be taken in approved non-working areas at times scheduled by the supervisor. Employees must communicate with their supervisor before leaving their assigned work area to take the meal period and must verbally check back in with their supervisor upon returning to the work area after the meal period. In addition, employees who leave the Care Center for the meal break must punch out before leaving and punch in upon return. Failure to provide such notification to the supervisor or failure to punch out/ punch in by the employee will be grounds for disciplinary action.

In the event that resident/patient care needs require the cancellation or interruption of a meal break, the employee shall be paid for the meal period.

Section 17.4 Rest Breaks

Two (2) paid rest breaks of fifteen (15) minutes in duration are normally provided during a full shift of seven and one-half (7½) or eight (8) hours, unless unusual circumstances require that employees remain on duty to meet resident/patient needs. Rest breaks are to be taken at times scheduled by the supervisor. Employees must communicate with their supervisor before leaving their assigned work area and must verbally check back in with their supervisor upon returning to the work area after the rest break. Failure to provide such notification to the supervisor by the employee will be grounds for disciplinary action.

Rest breaks and meal periods cannot be combined.

Section 17.5 Overtime

Employees shall receive one and one-half (1½) times their regular hourly rate of pay for all hours worked in excess of forty (40) hours in a work-week. When possible, all available overtime shall be offered to employees in the appropriate job classification using a rotating system so as to equalize such overtime opportunities. Before requiring overtime, the supervisor shall endeavor to meet resident/patient needs through other appropriate means. The overtime shall be given to the most senior employee who requests the overtime work.

For purposes of this section, one (1) telephone call with a message to the employee's telephone number of record at the Care Center shall be considered prior notice. If the telephone number of record is not current, a documented attempt to reach the employee at the telephone number of record will satisfy the notice requirement.

Section 17.6 Weekend Schedule

Weekend is defined as two (2) consecutive days between Friday and Monday. Where practical, when scheduling weekend work, the Employer will endeavor to use these guidelines:

1. Employees with less than ten (10) years of service will be given every third (3rd) weekend off.
2. Employees with ten (10) or more years service will receive every other Saturday and Sunday off.

This provision shall not apply when an employee agrees to work on her/his unscheduled weekend. If the minimum staffing requirements are not met and if volunteers are not available, the Employer will maintain the right to schedule employees to work vacant shifts with probationary employees first, and then part-time and full-time employees last in reverse order of seniority on a rotating basis. If an employee calls off for her/his scheduled weekend shift(s), the Employer may schedule that employee for another equivalent weekend shift(s) on a weekend within four (4) weeks of the call off without violating this provision of the Agreement.

Starting in September 2016, centers without every other weekend schedules will begin a labor-management analysis of CNA schedules for every other weekend off availability. These meetings will include the center management team and respective stewards. Where parties are able to reach an agreement on a weekend schedule, it shall be implemented as soon as possible. Should the parties not agree on a pilot program after sixty (60) days, the parties agree to meet with the Consulate Vice President of Human Resource Operations or his designee and the Union President or his designee to assist in creating a pilot that provides for every other weekend off availability. Where any such implemented schedules fail to meet resident care needs or staffing prevents it, the schedule will be reverted back to the prior schedule.

ARTICLE 18
ON CALL LIST AND DISTRIBUTION OF OVERTIME

Section 18.1

The Employer will make every effort to maintain staffing levels in accordance with applicable local, state and federal laws.

Section 18.2

Two (2) "on call" lists will be maintained by the Employer for use in replacing scheduled employees who fail to report. These listings will be available for employees to sign:

1. Regular part-time employees available for extra work.
2. Regular full-time employees desiring overtime.

If an employee who has volunteered for the list refuses to report after being contacted on two (2) consecutive occasions, the employee's name shall be dropped from the list for six (6) months, except if the refusal is due to an illness substantiated by a doctor's certificate.

Section 18.3

Employees on the regular part-time list shall have the first opportunity for additional non-overtime hours according to shift. If no employee on the regular part-time list is available for additional non-overtime hours, the regular full-time on-call list shall be utilized. If the absence is still not filled, the Employer may offer the overtime to any employee in its discretion or employees may be required to work on a rotating basis, least senior employee within a department first.

ARTICLE 19 TEMPORARY WORK ASSIGNMENTS

Section 19.1

If an employee is temporarily placed in a lower classification than that in which the employee is regularly assigned, no reduction in pay will be effected.

Section 19.2

If an employee is temporarily assigned to a higher paid job classification, the employee shall be paid the higher rate for all hours worked after one (1) week of continuous service in the higher paid job classification.

ARTICLE 20 VACANCIES

Section 20.1

For the purposes of this Article, a vacancy is defined to mean any permanent job opening in which the Employer intends to fill.

Section 20.2 Job Vacancies

Notice of all open positions and newly created positions within the bargaining unit shall be conspicuously posted for five (5) calendar days. Such notice shall contain the job classification, full-time/part-time status, shift, number of hours, and effective date. Any employee desiring to apply for a posted open position shall apply in accordance with the notice posted within the time stated above.

Section 20.3

All bargaining unit vacancies shall be filled by the most qualified candidate/employee. Management will make the determination regarding the qualifications of applicants.

Section 20.4

Bargaining unit employees shall have preference over less qualified outside candidates. If bargaining unit employees and outside candidates apply and have reasonably equal qualifications, Management shall determine the most qualified applicant for the open position.

Section 20.5

The terms of this article are subject to the grievance procedure.

**ARTICLE 21
STARTING WAGES**

Section 21.1 Hiring Rates for Education and Experience

New employees may be hired at wage rates above the Care Center's current minimum starting wage rate where justified by experience and/or education, provided that the maximum starting wage rate for any new hire cannot be greater than the wage rate paid to any current employee who has comparable experience and education.

Section 21.2

In order to comply with this provision, the Employer may increase the wage rates of current employees.

**ARTICLE 22
WAGES**

Section 22.1

The following provisions apply to employees' current wage rates:

1. All bargaining unit members will receive a wage rate increase of two percent (2%) effective the beginning of the first pay period following July 1, 2016, 2017, and 2018.

2. Should the State of Florida modify its reimbursement for 2017 or any subsequent year of the Agreement, the Employer and the Union agree to meet and discuss any proposed wage increase for that current year, solely for the purpose of negotiating rates of pay and for no other purpose, without exception. All other provisions of this Agreement shall remain in full force and effect in the event of such negotiations.

Section 22.2

The Employer and the Union recognize that from time to time the requirements of staffing and operating a nursing home may, due to circumstances beyond anyone's control, become burdensome to employees. To this end, the Employer may from time to time in situations where it is necessary to maintain the efficient operation of the Care Center, offer extra shift bonus programs, premium pay, overtime, or other programs designed to create incentives toward attracting staff to work additional shifts, recruit new staff, or retain existing staff. The Employer reserves the unilateral right to initiate and discontinue incentives, award programs to encourage and/or reward employees.

Section 22.3

If the Care Center offers a Pay in Lieu of Benefits (PIB) program to non-bargaining unit employees, certain bargaining unit employees will be eligible for this program in accordance with the policy covering PIB. The Employer may initiate or terminate such program as it deems necessary to ensure efficient operations.

Section 22.4

All shift differentials in effect at the execution of this Agreement shall remain in effect during the life of this Agreement, unless the Employer and the Union mutually agree to a decrease or an elimination of the shift differential. The Employer may unilaterally increase a shift differential, temporarily or permanently, as it deems necessary.

ARTICLE 23 INSURANCE

Section 23.1

The UFCW Local 1625 Health and Welfare Plan is designed to provide benefits for single employee coverage. Effective January 1, 2016, the Employer will make a payment of four hundred three dollars and eighty cents (\$403.80) per month on behalf of each full-time employee working thirty (30) hours or more per week that chooses coverage. To participate in the UFCW Local 1625 Health and Welfare plan, the employee must contribute one hundred fifty dollars (\$150.00) every month for single coverage. The Employer agrees to deduct, upon receipt of a voluntary signed authorization, this contribution from each such employee. Employees may opt up at their own expense to add dependent coverage.

Section 23.2

The rates effective January 1, 2017 will be set by the Trustees of the UFCW Local 1625 Health and Welfare Plan in compliance with the ACA regulations.

Section 23.3

To be eligible to participate in the UFCW Local 1625 Health and Welfare Plan, an employee must regularly work thirty (30) hours or more per week and have completed sixty (60) days of employment. Employer contributions for eligible employees will begin on the first of the month following completion of the initial sixty (60) day period. Should a part-time employee qualify for insurance under the ACA, the Employer will contribute the same amount after qualification is confirmed.

Section 23.4

Payments shall be made to the United Food and Commercial Workers Retail Employees and Employers Health and Welfare Fund, and are due and payable by the 15th day of each month.

Section 23.5

A plan participant is defined as an employee who meets the eligibility requirements and must be contributing the amounts specified in Section 23.1 through payroll deduction in each and every payday.

Section 23.6

The Union agrees to provide any reasonable information required for the Employer to monitor the Health and Welfare Plan. The Plan will remain compliant with the ACA.

Section 23.7

A description of the benefits provided by the plan will be given to the Employer and to each participating employee in the plan and is appended to this Agreement.

Section 23.8

The Union agrees to indemnify and hold the Employer harmless against all suits, claims, demands or liabilities that may arise from or by reason of the Employer's compliance with or administration of the foregoing provisions of this Article.

**ARTICLE 24
RETIREMENT**

The Employer shall offer eligible bargaining unit employees participation in the Company's 401(k) Plan, consistent with the Summary Plan Description and Plan Document.

ARTICLE 25 PAID TIME OFF

Section 25.1

All bargaining unit employees will be granted Paid Time Off (PTO) in accordance with the Employer's Paid Time Off Policy. A copy of the "current" policy on PTO/EIB is included as "Attachment 1".

Section 25.2

An employee who works a full shift on December 25th (which includes any shift the day prior or the day following December 25th in which some portion of the shift falls on December 25th) will be granted eight (8) hours of PTO which will be added to the employee's PTO Bank. These additional PTO hours will be used in accordance with the PTO Policy attached to this Agreement ("Attachment 1").

ARTICLE 26 HOLIDAYS

Recognizing that the Care Center operates every day of the year and that it is not possible for all employees to off on the same day, the Care Center agrees to distribute traditional holiday days off on an equitable basis. These traditional holidays include Thanksgiving Day, Christmas Day, and New Years Day. When a conflict arises between the preferences of employees, the employee(s) with the greatest classification seniority shall prevail.

ARTICLE 27 PAID LEAVE

Section 27.1 Bereavement

Time off will be granted to non-probationary full-time employees up to three (3) consecutive workdays and regular part-time employees one (1) regularly scheduled workday off with pay at the time of a death of an immediate family member. At Management's sole discretion, proof of death may be required. For the purposes of this policy, immediate family is defined as the employee's spouse, children, step children, parents, step parents, brother, step brother, sister, step sister, parents-in-law, daughter-in-law, son-in-law, brothers-in-law, sisters-in-law, grandparents, grandchildren and step grandchildren.

Section 27.2 Jury Duty

Time off shall be granted to any regular full-time or regular part-time employee who is called for jury duty service. The Employer will pay the difference between amounts given the employee for serving jury duty and the amounts the employee would have earned by working the scheduled days for up to five (5) scheduled workdays. Hours spent on jury duty shall not count as hours worked for purposes of computing overtime.

ARTICLE 28 UNPAID LEAVE

Section 28.1

Employees shall be eligible for unpaid leave in accordance with the types of leave of absence (LOA).

Section 28.2 Personal Leave

Employees who have been employed for at least ninety (90) days may request a leave of absence, in writing, not to exceed thirty (30) days for personal reasons. Such leave is granted solely at the discretion of the Employer.

Section 28.3 Medical Leave

Employees shall be eligible for a medical leave of absence if they have ninety (90) days of continuous service. Medical leaves of absence may be granted to employees who are unable to continue working as a result of illness or injury. As soon as an employee becomes aware that she/he is or will become, disabled from working for any medical reason, the employee must promptly advise the Employer in writing of the reason and the anticipated commencement date and duration of the disability.

Medical leaves of absence shall not exceed thirty (30) days, but may be extended beyond that period of time for successive periods of thirty (30) days each, up to a maximum leave of six (6) months, provided that a physician's certificate states the necessity for such extensions. The Employer may require periodic verification of the employee's ability to work, including examination by a physician designated by the Employer.

Employees who return from medical leave must furnish from their attending physician a release verifying their ability to work and fulfill the job duties assigned.

Section 28.4 Military Leave

Leaves of absence for the performance of duty with U.S. Armed Forces or with Reserve component thereof shall be granted in accordance with applicable law.

Section 28.5 Family and Medical Leave/Military Leave Entitlements

Eligible employees shall be entitled to The Family and Medical Leave Act (FMLA), pursuant to all federal and state laws on the subject as FMLA interpretations are constantly changing. Upon expiration of the FMLA entitlement, an employee who continues to be unable to work due to an FMLA-qualified event shall be entitled to unpaid leave for up to one (1) additional month without loss of seniority. Additional leave beyond the FMLA entitlement shall be granted pursuant to the FMLA documentation requirements. No benefits shall accrue during the one (1) additional month of leave. During any approved FMLA including any additional one-month leave, employees shall not engage in any employment, which is in violation of their stated job restrictions nor shall they undertake any new employment they did not already have at the onset of their FMLA. The Employer shall have the right to require proof of job

restrictions and to have the employee examined by a Company-selected physician in accordance with this Agreement

Except for Family and Medical Leave/Military Leave Entitlements (as outlined in Section 28.5), an employee returning from a leave of absence (LOA) will be placed in the first vacancy in the same job classification in which they were employed at the commencement of the LOA. If the employee is not placed in her/his original shift, that employee shall be offered the first open position in the same job classification on that original shift. This paragraph does not guarantee that an employee will be reassigned to the same shift. If no open position exists within thirty (30) days of the employee returning from the LOA, or if the employee declines any open position offered, the employee will be discharged/terminated from employment and allowed to re-apply when a position becomes available.

Employees returning from their FMLA entitlement shall be returned to work pursuant to federal and state laws governing FMLA.

The Employer agrees to maintain employee health care insurance coverage, if any, and pay the Employer's portion of the premium during the twelve (12) week FMLA leave, provided the employee continues to pay her/his portion of the monthly premium to the Payroll Department no later than the first (1st) of the month for the month of insurance coverage.

Section 28.6 Union Leave

An employee may apply for union leave thirty (30) calendar days in advance for up to ninety (90) calendar days with the understanding that the employee will not be involved in any organizing activities at any Consulate Health Care or Envoy Health Care affiliated entity.

Section 28.7

For all other leaves in this Article, and for FMLA leaves in excess of twelve (12) weeks, the employee may continue their health care insurance, if any, during a leave provided the employee pays the entire monthly premium to the Payroll Department no later than the first (1st) of the month for the month of insurance coverage.

ARTICLE 29
MEAL POLICY

Employees may purchase meals in the Care Center at a cost not to exceed \$3.00 per meal in accordance to the Care Center meal policy. The Employer reserves the right to periodically increase the cost of meals to employees as they deem necessary to assist in covering the cost of these meals.

**ARTICLE 30
EDUCATION FUND**

The Employer shall make a contribution on or before December 31, 2016, of two hundred dollars (\$200.00) to the UFCW, Local 1625 Education Fund. The Employer shall make a like contribution of a like amount to such Fund on or before December 31 each year of this Agreement.

**ARTICLE 31
DISCIPLINE, SUSPENSION AND DISCHARGE**

Section 31.1

The Employer may discipline, suspend, or discharge/terminate any employee for just cause. Employees shall receive copies of all written disciplinary actions at the time such warnings are issued.

Section 31.2

All disciplinary actions in employee's file shall not be considered for further disciplinary action after twelve (12) consecutive months from the date of the current infraction. Notwithstanding this provision, disciplinary actions issued more than twelve (12) months prior to the date of the current infraction may be considered in determining appropriate disciplinary action if a pattern of performance issues is evident, as determined by Management.

Section 31.3 Disciplinary Meetings

Any employee who is required to attend a disciplinary interview or investigatory interview that might lead to discipline, shall be notified as to the time and nature of the meeting in order to have the opportunity to exercise her/his right to have a Union Steward accompany her/him. In the unlikely event that a Union Steward is not available and an employee must be suspended pending investigation of resident/patient neglect, abuse, or a severe violation of Company policy, it is Management's sole right to suspend the employee pending investigation.

Section 31.4

The Employer will discipline in accordance with the Policy and Procedure Manual and/or the Employee Guidebook.

ARTICLE 32 GRIEVANCE PROCEDURE

Section 32.1

Any and all disputes, grievances, or complaints arising between the parties hereto, under, out of, or in relation to this Agreement, or in the interpretation, application, performance, discharge/termination, or any alleged breach thereof, shall be processed in the following manner:

STEP 1:

The grievance must be presented in writing to the employee's department head no later than ten (10) workdays after the occurrence of the event which led to the dispute or the date on which the employee should have known of the event. The written grievance must state the Article and Section of the Agreement alleged to have been violated, the nature of the violation, the remedy or correction desired, and be signed and dated by the employee or the Union Representative involved. The department head will answer all written grievances in writing within ten (10) workdays. The settlement of any grievance at this step shall not constitute a precedent for any other past, present, or future grievance.

STEP 2:

If the grievance is not settled in Step 1, the written grievance must be submitted to the Executive Director/Administrator within ten (10) workdays following receipt of the answer from the department head. The Executive Director/Administrator shall reply in writing to the employee and the Union Representative within ten (10) workdays after receipt of the grievance. The settlement of any grievance at this step shall not constitute a precedent for any other past, present, or future grievance.

At the Union's request, the Executive Director/Administrator may meet to discuss the grievance prior to replying to the grievance. If both parties agree to such a meeting, the meeting should be held expediently.

STEP 3:

If the grievance is not settled at Step 2, it may be submitted to the Regional Director of Human Resources or her/his designee within ten (10) workdays after receipt of the answer in Step 2. The Regional Director of Human Resources or her/his designee shall answer in writing to the employee and the Union representative within ten (10) workdays after receiving such grievance. The settlement of any grievance at this step shall not constitute a precedent for any other past, present, or future grievance.

Section 32.2

Any grievance based upon the disciplinary suspension or discharge/termination of an employee shall be referred directly to Step 2 of this procedure within ten (10) workdays following the suspension or discharge/termination.

Section 32.3

The time limits specified in this Article may be waived or modified by mutual written agreement of the Employer and the Union. Absent such an agreement, the time limits contained herein shall be strictly construed. If the employee or the Union fails to process the grievance at any step within the time limits, the grievance shall be deemed to have been withdrawn. If the Employer's designated representative fails to answer a grievance at any step within the specified time limits, the Union shall have the right to immediately appeal the grievance to the next step of the grievance procedure.

Section 32.4

If the Union or the Employer is not satisfied with the Step 3 response, the matter may be submitted to arbitration under the arbitration procedure.

Section 32.5

The Employer shall recognize the Union Stewards as representatives of the employees if such representation is requested by an employee.

Section 32.6

For the purpose of this article, workdays are considered to be Monday through Friday. All notices between the Union and the Employer shall be in writing. This requirement shall be strictly construed.

**ARTICLE 33
EMPLOYER GRIEVANCES**

If the Employer believes that the Union through its agents, representatives or members is not in compliance to the provisions of this Agreement, the Employer shall have standing to raise such determination as a grievance before duly authorized representatives of the Union. Such grievances shall be set forth in writing and served on the Union's local business office. The Union agrees on receipt of Employer grievance(s) to hold a meeting within five (5) workdays in an effort to amicably settle the dispute. In the event the matter is not settled at the local level, the Employer may take the matter to a mutually agreed upon higher level for consideration, including arbitration.

ARTICLE 34 ARBITRATION

Section 34.1

If the Union is not satisfied with the reply in Step 3, the Union shall have fifteen (15) days following receipt of the Step 3 answer to file a request for arbitration. The Union will file said request with the Executive Director/Administrator within the specified fifteen (15) days. The parties shall request a list of seven (7) arbitrators from the FMCS. Within fifteen (15) workdays of the receipt of this list, the parties shall strike from said list, alternately, three (3) names, after determining the first strike by lot or by mutual agreement of the Union and the Employer, and the remaining name shall be the arbitrator. The Union and the Employer will each have ten (10) workdays from the previous party's strike to strike a name. Failure of either party to meet this time limit authorizes the last striking party to select an arbitrator from the remaining names.

Section 34.2

The decision of the arbitrator shall be final and binding upon the parties and all Union members affected. Only one (1) grievance shall be submitted to an arbitrator at a time unless mutually agreed by both parties.

Section 34.3

The arbitrator shall have jurisdiction and authority to interpret and apply provisions of this Agreement insofar as it is necessary to a determination of the grievance properly submitted hereunder, but such arbitrator shall have no power to add to, subtract from, or modify any terms of this Agreement. The award of the arbitrator shall be confined to the issue raised in the written grievance, and the arbitrator shall have no power to decide any other issue. Any case referred to an arbitrator on which she/he has no power to rule shall be referred back to the parties without a decision.

Section 34.4

In cases not involving resident/patient neglect or abuse, just cause will have the meaning of "cause" under traditional labor law principles. In cases of discipline related to resident/patient neglect or abuse as determined by AHCA and/or the appropriate county/city agency, the Employer satisfies its "just cause" obligations under this Agreement if it has a reasonable belief that the employee engaged in the acts or omissions that led to the discipline related to resident/patient care. If an arbitrator determines that the Employer has met the just cause obligation through acting upon its reasonable belief, the arbitrator may not change the discipline imposed by the Employer, notwithstanding the finding or lack of finding by AHCA and/or the appropriate county/city agency.

Section 34.5

In reviewing whether the Employer's belief was reasonable, the Arbitrator's review shall include:

1. The appropriateness of the Employer's investigation.
2. The strength of the evidence supporting the allegation.
3. The employee's work history.
4. The resident's/patient's complaint history.
5. The resident's/patient's cognitive ability.
6. Physical evidence, if any.

Section 34.6

The arbitrator may, in her/his discretion, make an economic award not to exceed two (2) weeks pay where the Employer has a reasonable belief to discharge/terminate under Sections 34.4 and 34.5 above, but the arbitrator believes some economic award is appropriate under all of the circumstances.

Section 34.7

Employees have an affirmative duty to honestly cooperate in Employer investigations related to employee conduct and resident/patient care issues. Failure to fully and honestly cooperate in an investigation, or failure to report suspected resident/patient neglect or abuse, will be grounds for disciplinary action, up to and including discharge/termination.

Section 34.8

For purposes of resident/patient neglect or abuse investigation, the Union and the Employer agree that residents/patients, family members, and visitors should not be subjected to involvement in the Grievance and Arbitration process. The Union Steward may present to the Director of Clinical Services/DON relevant questions to be asked of the resident/patient, family members, and/or visitors, and the Union Steward may be present during any interviews with such parties. The arbitrator maintains discretion in whether to admit statements from such persons and any weight to be accorded to the statements. The parties also agree that there shall be no adverse inference from the failure of any resident/patient, family member, or visitor to testify at arbitration. The parties agree that such persons may, however, testify telephonically in cases where such parties are ready, willing, and able to do so.

Section 34.9

The expenses of the arbitrator shall be paid equally by the parties, with each paying one-half (½) of the total.

**ARTICLE 35
LABOR MANAGEMENT CONFERENCES**

The Company and the Union, as evidence of attitude and intent, agree that during the life of this Agreement individuals from both parties (not to exceed three (3) from each) may be designated, in writing, by each party to the other for the purpose of meeting at the call of either party at mutually agreeable times and places so as to appraise the other of problems, concerns, suggestions, ideas, etc., related to the Care Center, the workforce, and resident/patient services, all to promote better understanding with the other. The meetings may be on work time. Such meetings shall not be for the purpose of initiating or continuing collective bargaining nor in any way to modify, add to, or detract from the provisions of this Agreement and such meeting shall be exclusive of the grievance and arbitration proceedings in this Agreement, as grievances shall not be considered proper subject at such meeting.

**ARTICLE 36
SUCCESSORSHIP AND JOB SECURITY**

Section 36.1

The Employer agrees that it will make the recognition and acceptance of the Collective Bargaining Agreement a term and condition of any sale of its operations, in whole or in part, to any other business entity.

Section 36.2

Upon the sale, lease, transfer, or assignment of the Care Center, in whole or in part, the Employer agrees to be responsible for paying to any affected employees any accumulated unused Paid Time Off pursuant to the conditions set forth in Section 25.1, except where the successor Employer agrees, in writing, prior to the sale, lease, transfer, or assignment to be responsible for such payment.

Section 36.3

In the event that the Employer moves its establishment to another location, this Agreement shall continue in full force and effect with reference to such Employer for all its establishments covered by this Agreement.

Section 36.4

The Employer shall not contract or subcontract bargaining unit work without first notifying the Union. Further, the Employer shall require the contractor or subcontractor to retain the employees and the terms and conditions of employment substantially equivalent to those in this Agreement.

ARTICLE 37
EFFECT OF LEGISLATION – SEPARABILITY

Section 37.1

The Employer agrees to comply with all federal, state, and municipal laws, ordinances, rules and regulations covering the workers in the industry; to grant the employees all benefits provided for by said laws, ordinances, rules, and regulations.

Section 37.2

It is understood and agreed that all agreements herein are subject to all applicable laws now or hereafter in effect; and to the lawful regulations, rulings, or orders or regulatory commissions or agencies having jurisdiction. If any provision of this Agreement is in contravention of the laws or regulations of the United States or the State of Florida, such provisions shall be superseded by the appropriate provision of such law or regulation, as long as same is in force and effect; but all other provisions of this Agreement shall continue in full force and effect.

ARTICLE 38
ENTIRE AGREEMENT

Section 38.1

The parties acknowledge that during the negotiations that resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to all proper subjects of collective bargaining and that all subjects have been discussed and negotiated and the agreements contained in this Agreement were arrived at after the free exercise of such rights and responsibilities. The parties have had full opportunity to discuss all terms and conditions of employment. Therefore, this Agreement supersedes all prior agreements, understandings, and past practices that are not specifically set forth herein.

Section 38.2

This Agreement expresses the complete understanding of the parties on the subjects of wages, working conditions, hours of labor, benefits, and conditions of employment.

Section 38.3

This Agreement can be changed only by written amendment executed by the parties hereto. The waiver or any breach thereof shall not constitute a waiver of such terms or conditions or any breach thereof in any other instance.

Section 38.4

The parties agree that if any practice which develops subsequent to the effective date of this Agreement conflicts with the express language contained in this Agreement, then the language of this Agreement shall be controlling.

**ARTICLE 39
DURATION OF AGREEMENT**

This Agreement shall become effective upon ratification and shall continue in full force and effect through June 30, 2019. It shall be automatically renewed from year to year thereafter unless either party gives written notice of a desire to modify, amend or terminate it at least ninety (90) days but not more than one hundred and twenty (120) days immediately preceding the termination of this Agreement or any date thereafter if it is automatically renewed.

For and on behalf of Bradenton Health Care,

By: _____

Signed on this ____ day of _____, ____

For and on behalf of United Food & Commercial Workers Union, Local 1625,

By: _____

Signed on this ____ day of _____, ____

HR-501

POLICIES

Human Resources

Policies and Procedures

Effective Date: 03-01-2011

Revision Date: 10-01-2013

Paid Time Off

Policy

The Company believes that employees should have the opportunity to enjoy time away from work to help balance their lives. We recognize that employees have diverse needs for time off from work. We have established this Paid Time Off (PTO) Policy to meet those needs. The policy contains provisions for vacation, holiday and sick leave. The benefits of PTO are that it promotes a flexible approach to time off. Employees are accountable and responsible for managing their own PTO hours to allow for adequate reserves if there is a need to cover vacation, holiday, illness or disability, appointments, emergencies or other needs that require time off from work.

Procedure**Eligibility:**

All full-time, benefit-eligible employees are eligible to earn PTO. Full-time status requires a minimum of seventy (70) regularly paid hours worked per two (2) week pay period. PTO accruals begin at day ninety-one (91) following date of full-time status.

Change in Status:

- PTO begins accruing at day ninety-one (91) following a change to full-time status.
- Full-time employees with two (2) or more years of continuous service and less than eleven (11) years service who change to PRN/part-time, if approved and with proper working notice, will receive sixty percent (60%) pay out of PTO accruals.
- Full time employees with eleven (11) or more years of service that change to PRN/part-time, if approved and with proper working notice, will receive eighty percent (80%) pay out of PTO accruals.

Availability:

PTO accruals are available for use after completing ninety (90) days of full time service.

Accrual Schedule:

Accruals are calculated on hours paid (excluding overtime) to a maximum of 80 hours per biweekly pay period. Length of service determines the rate at which the employee will accrue PTO.

Years of Service	Maximum Annual PTO Accrual* 8 + Hours Per Day	Maximum Annual PTO Accrual** 7.5 Hours Per Day
91 Days to 1 Year of Completed Service	9 Days- 72 Hours	9 Days- 67.5 Hours
Beginning the 2 nd Year of Employment to the 5 th Year of Completed Service	22 Days- 176 Hours	22 Days- 165 Hours
Beginning the 6 th Year of Employment to the 10 th year of Completed Service	26 Days- 208 Hours	26 Days- 195 Hours
Beginning the 11 th Year of Employment +	31 Days- 248 Hours	31 Days- 232.5 Hours

***Note- Annual PTO Accruals for eight (8) or more hours per day are based on an employee having 2080 paid hours per year (forty (40) hours per week).**

****Note- Annual PTO Accruals for seven and one-half (7.5) hours per day are based on an employee having 1950 paid hours per year (thirty-seven and one-half (37.5) hours per week).**

Maximum Accruals:

- Total PTO accumulation for eight (8) or more hours per day: **Fifty (50) Days – Four Hundred (400) Hours.**
- Total PTO accumulation for seven and one-half (7.5) hours per day: **Fifty (50) Days – Three Hundred Seventy-five (375) Hours.**

Use and Scheduling of PTO:

Whenever possible, PTO must be scheduled in advance for time off. PTO use is subject to supervisory approval, department staffing needs and established departmental procedures. The Company has established specific guidelines regarding PTO. The specifics are:

- **Minimum PTO** use is limited to one (1) hour increments for hourly employees.
 - **PTO** is defined as time requested with a minimum two (2) hour advance approved request. Except as specified below for FMLA approved absences, requests for PTO with less than a two (2) hour advance notice will not be approved.
 - The requested PTO hours are paid one-to-one.
 - For example, employee requests five days of PTO on December 1 for a vacation scheduled January 1. The employee receives 40 hours or 37.5 hours PTO pay depending on their work schedule. The PTO bank reduces by 40 hours or 37.5 hours depending on their work schedule.
 - For scheduling purposes, employees should request PTO at least two (2) weeks in advance of the time off needed.

- **FMLA Exclusion:** Employees who do not provide a two (2) hour advance notice of absence but are subsequently approved for FMLA, will be permitted to use PTO.
- PTO may not be used for missed time because an employee reports late to work.
- PTO is paid at the employee's straight time rate.
- PTO is not part of any overtime calculation.
- Employees may not borrow against their PTO bank, therefore, no advance leave will be granted.
- The attendance and punctuality policy remains in effect.
- When PTO is used, an employee is required to request payment of PTO hours according to his/her regularly scheduled workday. For example,
 - if an employee works a twelve (12) hour day, he/she would request twelve (12) hours of PTO when taking that day off;
 - if an employee works an eight (8) hour day, he/she would request eight (8) hours of PTO;
 - if an employee works a seven and one-half (7.5) hour day, he/she would request seven and one-half (7.5) hours of PTO.
- Utilize the Request for Time Off Form.
- Employees who miss more than three (3) consecutive unscheduled days may be required to present a doctor's release that permits them to return to work.
- PTO hours used intermittently or for three (3) days or more due to a serious health condition shall run concurrently with the Family and Medical Leave, if employee qualifies for FMLA.
- If an employee has a disability policy, then their total pay can not exceed their normal weekly salary.
- For an employee who has a serious medical condition and is eligible for Family and Medical Leave and has submitted medical certification, time off with pay (PTO and/or EIB), if available, may be used for all of the absence. The Extended Illness Bank (EIB), if available, will be used on the sixth (6th) consecutive work day of an illness or injury. If there are no EIB hours available, the employee who has been approved for FMLA may use their PTO hours to supplement their time off. If an employee has a disability policy, then their total pay can not exceed their normal weekly salary.
- For an employee who has an eligible family member with a serious medical condition as defined by Family and Medical Leave, PTO will be used for the length of the leave.

PTO Buy Back:

At the discretion of the Company each year, a decision will be made to announce a buy back of PTO hours for all eligible hourly/non-exempt employees. The Company will make the announcement by September 30th each year for a potential buy back of hours in December of each calendar year.

If approved, the hourly/non-exempt employee would be paid at sixty percent (60%) of the designated approved buy back hours established by the Company. To be eligible, hourly/non-exempt employees must have more than ten (10) days in their PTO bank. Following the buy back, the employee must retain at least ten (10) hours in their PTO bank.

Payment Upon Termination:

Employees, who resign with two (2) or more years of continuous full time service and less than eleven (11) years full time service and provide proper working notice, will be paid sixty percent (60%) of their PTO hours.

Employees who resign with eleven (11) or more years of full time service and provide proper working notice will be paid at eighty percent (80%) of their PTO hours.

Employees with less than two (2) years of full time service will not receive any payment of PTO hours.

HR-502

POLICIES

Human Resources

Policies and Procedures

Effective Date: 01-01-2012

Revision Date: 09-01-2012

Extended Illness Bank

Policy

It is the policy of the Company to provide paid sick leave to eligible employees through an Extended Illness Bank (EIB). The EIB is designed to replace earnings in case of an employee's own illness or injury. The EIB can be used at the employee's discretion to cover additional days after an employee has covered the first five days of their own illness or injury with their PTO bank (if there are not enough PTO hours available to cover these five days, then whatever time is not covered shall be unpaid).

Procedure

1. Eligibility: All full-time employees, who work thirty (35) or more hours a week, are eligible to earn time in their EIB. The EIB accruals begin on day ninety-one (91) following the full-time status date. Eligible employees may accrue up to three (3) days per year in their EIB. Employees may accrue to an unlimited number of days in their EIB.
2. Approval of Changes in the EIB Policy: No Care Center may make any change in the applicable EIB policy.
3. Exclusion from Calculation in Over-Time Pay: EIB hours shall not be included as "hours worked" for purposes of calculating overtime pay.
4. EIB Hours Are Not Accrued During Unpaid Time: Unless otherwise required by law, EIB hours shall not accrue during unpaid time, to include unpaid leave of absence.
5. EIB Hours Are Not Paid Out at Termination of Employment or Upon the Employee Changing to an Ineligible Status: Unless otherwise required by law, unused EIB hours shall not be paid out to an employee upon termination of employment, regardless of the reason for termination. In addition, unless otherwise required by law, unused EIB hours shall not be paid out to an employee upon changing to an ineligible status.
6. Use and Scheduling of EIB: Utilize the Request for Time Off Form.

Exhibit 3

COLLECTIVE BARGAINING AGREEMENT

**UNITED FOOD & COMMERCIAL WORKERS UNION,
LOCAL 1625**

and

CORAL BAY HEALTHCARE AND REHABILITATION

July 1, 2016 through June 30, 2020

TABLE OF CONTENTS

<u>Article</u>	<u>Subject</u>	<u>Page</u>
	Agreement.....	1
1	Introduction.....	1
2	Recognition of the Union.....	1
3	Management Rights.....	2
4	Resident/Patient Care Concern and Staffing.....	4
5	Resident/Patient Confidentiality.....	5
6	Safety and Health.....	5
7	Peace and Stability.....	6
8	Non-Discrimination.....	7
9	Union Activity.....	8
10	Voluntary Dues Deductions.....	9
11	Introductory/Probationary Period.....	10
12	Category of Employees.....	11
13	Orientation and In-Service Training.....	11
14	Seniority.....	12
15	Job Descriptions.....	15
16	License/Certification Renewal.....	15
17	Hours of Work and Overtime.....	15
18	On Call List and Distribution of Overtime.....	17
19	Temporary Work Assignments.....	18
20	Vacancies.....	18
21	Starting Wages.....	19
22	Wages.....	19
23	Insurance.....	20
24	Retirement.....	21
25	Paid Time Off.....	22
26	Holidays.....	22
27	Paid Leave.....	22
28	Unpaid Leave.....	23
29	Meal Policy.....	24
30	Education Fund.....	25
31	Discipline, Suspension and Discharge.....	25
32	Grievance Procedure.....	26
33	Employer Grievances.....	27
34	Arbitration.....	28
35	Labor Management Conferences.....	30
36	Successorship and Job Security.....	30
37	Effect of Legislation – Separability.....	31
38	Entire Agreement.....	31
39	Duration of Agreement.....	32
	Attachment 1 – PTO/EIB Policies.....	33

AGREEMENT

This AGREEMENT made and entered into this 1st day of July, 2016, by and between Coral Bay Healthcare and Rehabilitation (hereinafter referred to as the “Employer”) and United Food & Commercial Workers Union, Local 1625 (hereinafter referred to as the “Union”).

ARTICLE 1 INTRODUCTION

The parties to this Agreement declare and establish these terms and conditions of employment set forth herein to be mutual expressions of understanding bearing the good faith intentions of each and jointly acknowledge their commitment to harmonious relations, bearing in mind that the interests of quality care for Care Center residents/patients is promoted through the assurance of dignity and respect to employees.

ARTICLE 2 RECOGNITION OF THE UNION

Section 2.1

The Employer recognizes the Union as the exclusive bargaining agent for the purposes of collective bargaining with respect to wages, hours, and conditions of employment for all full-time and regular part-time cooks, dietary aides, activities assistants, maintenance assistants, nursing assistants, janitors, and housekeeping employees employed by the Employer at its Care Center located at 2939 South Haverhill Road, West Palm Beach, FL 33415, but excluding administrator, director of nursing, assistant director of nursing, nursing supervisor, charge nurses, all registered nurses, all licensed practical nurses, activities director, social service director, maintenance supervisor, staff development coordinator, bookkeepers, administrative secretary/personnel specialist, all office clerical employees, medical records secretary, licensed physical therapy assistants, professional employees, and technical supervisors as defined in the National Labor Relations Act.

Section 2.2

The parties agree that all Registered Nurses and Licensed Practical Nurses are supervisors as defined by the National Labor Relations Act. As such, Registered Nurses and Licensed Practical Nurses are expressly excluded from current or future union membership.

Section 2.3

The Employer shall have the right to assign any job to a non-bargaining unit employee on a temporary basis for training purposes or in special situations or emergencies, such as, but not limited to state and federal surveys, natural disasters, fire, severe weather,

unforeseen tragedy or power outage, or when the Employer cannot reasonably obtain bargaining unit personnel to perform the required work on a timely basis, provided that such assignment shall not have the effect of reducing the scope of the bargaining unit or reducing the previously scheduled work hours of a bargaining unit employee.

Section 2.4

In the event that a full-time employee wishes to be a regular part-time employee, the employee should inform her/his Care Center Human Resources Coordinator in writing. If a regular part-time employee wishes to adjust her/his status to full-time, the employee should inform her/his Care Center Human Resources Coordinator in writing in writing. Changes in full-time or part-time status shall only occur when a position is available.

Section 2.5

Part-time employees are those employees who regularly work less than thirty-five (35) hours per week. Full-time employees are employees who work thirty-five (35) hours or more per week.

ARTICLE 3 MANAGEMENT RIGHTS

Section 3.1

All rights which ordinarily vest in and are exercised by Employers, and all of the rights, powers, and authority possessed by the Care Center prior to entering into this Collective Bargaining Agreement, except as expressly and specifically abridged, delegated, granted, or modified by this Agreement, shall continue to vest in the Care Center. This shall include – this enumeration being merely by way of illustration and not by limitation – the right to:

1. Hire, promote, demote, layoff, assign, transfer, suspend, discharge/terminate, or discipline employees for just cause.
2. Select and determine the number of its employees, including the number assigned to any particular work, if any, including the shift and schedule of employees.
3. Direct and schedule the workforce, including determining and changing the number and duration of shifts and the starting and ending times of all shifts.
4. Determine the location and type of operation.
5. Determine and schedule when overtime shall be worked, if any, and how that overtime work shall be distributed.
6. Install or remove equipment.

7. Determine or change the location or type of operations, equipment, materials, and procedures to be utilized, including the ability to discontinue their performance by employees of the Employer and contract or subcontract any or all of the unit work.
8. Establish, increase, or decrease the number of work shifts, duration of shifts, and their starting and/or ending times.
9. Determine the job or work classification and required classification of employees, and change, combine, or abolish job classifications and determine change, or combine and abolish qualifications of those classifications.
10. Establish, adopt, change, delete, and enforce work rules and regulations governing discipline, conduct, obligations and acts of employees, including an employee handbook, safety guidelines, and work rules.
11. Select supervisory employees and determine the work they shall perform, including bargaining unit work.
12. Train employees.
13. Discontinue any department.
14. Introduce new and improved methods of operations.
15. Transfer or relocate any or all of the operations of the Care Center to any location or to discontinue such operations, or lease or sub-lease the Care Center or transfer or consolidate operations, or shutdown the Care Center and discontinue all operations.
16. Set standards of performance for employees, evaluate employees, and enforce those standards with discipline, including discharge/termination.

Section 3.2

The parties expressly acknowledge and agree that LPNs and/or RNs may perform bargaining unit work on a temporary basis during emergency situations or when staffing levels cannot be met using bargaining unit employees.

Section 3.3

The listing of Management Rights and Prerogatives in Section 3.1 above, is not intended to restrict Management's authority and prerogatives, except as specifically stated. If the Employer should fail to exercise any right hereby reserved to it, such failure should not be interpreted as a waiver of such right. All rights reserved for Management are retained.

Section 3.4

It is expressly intended and agreed upon by the parties that in any arbitration or other adjudication of this Agreement, that anyone interpreting this Agreement shall do so with particular regard to the parties' intention to reserve in the sole discretion of Management all rights except those which are explicitly limited by an express provision of this Agreement.

Section 3.5

Without limiting the foregoing, by way of clarification, the parties agree that nothing contained in this Agreement confers upon bargaining unit employees, any right to a particular type or amount of work. Further, it shall not be a violation of this Agreement for the Employer to cease any and all operations or services performed by any employees subject to this Agreement. The parties recognize the express right of Management to take any of the above actions during the term of this Agreement.

Section 3.6

From time to time, the Employer shall revise the Employee Guidebook and distribute the revised Employee Guidebook to employees. In this event, the Employer shall notify the Union thirty (30) days in advance of such Employee Guidebook distribution. In the event that any language in the Employee Guidebook conflicts with language in the Collective Bargaining Agreement, the language in this Agreement shall prevail.

ARTICLE 4 RESIDENT/PATIENT CARE CONCERN AND STAFFING

Section 4.1

Along with the Employer, the Union recognizes the obligations of its members and unit employees to render good resident/patient care with warmth and compassion so as to transmit to the residents/patients a sense of security and dignity. The Union offers its full cooperation in fostering these resident/patient care values. Understanding the necessity that its members and unit employees provide good resident/patient care, the Union commits to fully support the Employer's efforts to correct substandard performance and if necessary, the appropriate corrective action for employees who fail to provide good resident/patient care, with just cause.

Section 4.2

The Employer shall establish and maintain staffing levels and staffing patterns it deems appropriate and consistent with operational efficiency and high standards of resident/patient care. Staffing shall be determined solely and exclusively by Management.

**ARTICLE 5
RESIDENT/PATIENT CONFIDENTIALITY**

The Employer agrees to provide training to all employees relative to the employee's obligation under HIPAA statutes. The Union agrees to support this initiative by not revealing, communicating, sharing, transmitting, or otherwise conveying any resident/patient information which an employee may present to the Union. The Union further agrees to fully support the Employer's investigation of possible HIPAA violations and if necessary, the appropriate corrective action for employees who violate HIPAA statutes.

**ARTICLE 6
SAFETY AND HEALTH**

Section 6.1 General Duty

The Employer agrees to provide a safe and healthful work environment for employees and to maintain high standards of workplace safety. The Employer will establish safety rules and safe working practices as it may deem appropriate for the protection and safety of employees and residents/patients. Changes in safety rules and policies that promote safe working practices shall be determined solely and exclusively by Management.

No employee shall be required to work under hazardous conditions in violation of applicable state or federal regulation or which are likely to result in death or serious physical harm, and any employee who believes that such conditions may exist shall immediately report her/his concerns to the supervisor or Executive Director/Administrator.

No employee shall be discriminated against for exercising her/his right to bring a safety concern to the Employer or to the appropriate state and/or federal agencies, or for cooperating with their investigation as provided in this Article.

Section 6.2 Infection Control

The Employer agrees to comply with all OSHA regulations related to the safety, health, and protection of employees from all infectious and blood borne diseases and to provide employees with a safe working environment free from recognized hazards which are likely to result in death or serious physical harm.

The Employer agrees to continue its Universal Precautions and Infection Control protocols to ensure ongoing compliance with all OSHA regulations related to the safety, health, and protection of employees from all infectious and blood borne diseases. The Employer will continue its process of evaluating and updating such programs on an ongoing basis. The Employer will continue to provide employees with required Personal Protective Equipment (PPE) that is consistent with accepted long term healthcare practices to address recognized workplace hazards.

Section 6.3 Occupational Injuries and Illness

The Employer agrees to comply with all OSHA regulations related to on-the-job injuries and illnesses. The Employer will maintain a log and summary of all occupational injuries and illnesses as required by law.

Section 6.4 Modified Duty Program

Employees who are receiving workers' compensation benefits and have been released to return to work on a restricted basis such that they cannot perform all of the duties of their pre-injury job, shall be eligible to be assigned Modified Duty consistent with physician's restrictions during the employee's recovery period:

1. Care Center Management will make a determination if a Modified Duty assignment can be made available to allow the employee to perform productive work for the Care Center within the limitations placed upon the employee by the treating physician.
2. Modified Duty assignments will be updated periodically as physician's work restrictions are changed to reflect the employee's progress in the process of recovery and are made on a temporary basis generally not to exceed ninety (90) days in length.
3. Employees who are temporarily reassigned to work in another regular position where they can perform all of the duties of the position will be paid in accordance with Florida workers' compensation statutes.
4. Once the employee's condition allows, she/he will be returned to her/his regular job at the regular rate of pay. Failure to return to work as scheduled upon release from the treating physician constitutes abandonment of the position.

Section 6.5

The Employer agrees to follow Company practice relative to workers' compensation and will maintain up to three (3) modified duty positions. The number of employees on modified duty shall be increased as determined exclusively by Management.

**ARTICLE 7
PEACE AND STABILITY**

Section 7.1

It is understood that the Grievance and Arbitration processes are the sole and exclusive means of resolving disputes or controversies between the parties during the term of this Agreement. There shall be no strike, work stoppage, slowdown, picketing, attempt to influence public opinion against the Employer through the use of social media, use of public media, involvement of residents/patients and/or family

members, members of the community, outside agencies, or others in disputes or controversies or any other unauthorized job action against the Employer during the life of this Agreement, nor shall any officer, representative or official of the Union authorize, assist or encourage any prohibited activity during the life of this Agreement.

Section 7.2

Should any such prohibited activity occur, not authorized by the Union, the Union shall within twenty-four (24) hours:

1. Publicly disavow such actions by the employees.
2. Advise the Employer in writing that such employee's action has not been authorized or sanctioned by the Union.
3. Post notices on all bulletin boards advising employees that it disapproves of such action and instruct them to return to work immediately.

Section 7.3

The Employer reserves the right to discipline any employee or employees who violate provisions of the Article. The suspension or discharge/termination of any employee found in violation of this Article shall not be subject to the grievance and arbitration provisions of this Agreement.

Section 7.4

The Employer agrees not to lockout employees provided, however, that a layoff of one (1) or more employees shall not constitute a lockout.

**ARTICLE 8
NON-DISCRIMINATION**

Section 8.1

The Employer and the Union agree that there will not be any form of discrimination against any employee on the basis of her/his status with regard to Union Membership or for activities on behalf of the Union that are consistent with the terms of this Agreement.

Section 8.2

The Employer shall not discriminate against employees or applicants for employment on the basis of race, religion, age, color, sex, national origin, disability, sexual orientation, ancestry, pregnancy, marital status, familial status, or other reasons protected by law.

Section 8.3

The Union and the Employer agree to respect the rights of employees to speak the language of their choice in non-work areas when they are not in the presence of residents/patients or family members. Nothing in this Agreement shall prevent an employee from directly addressing a resident/patient in the resident's/patient's native language, provided the resident/patient requests to be addressed in a language other than English and that the request is documented in the resident's/patient's record, and that such conversation is within the bounds of permissible staff to resident/patient communication. Absent such request documented in the resident's/patient's record, it is a violation of Resident/Patient Rights to speak to a resident/patient in a language other than English. The suspension or discharge/termination of any employee found in violation of this Article shall not be subject to the grievance and arbitration provisions of this Agreement.

ARTICLE 9 UNION ACTIVITY

Section 9.1 Stewards

The Employer recognizes the right and the authority of the Union to appoint and/or designate individuals as Stewards. The number of Union Stewards will be mutually agreed on by the Union and the Employer, and will be sufficient to meet the needs of employees, without affecting resident/patient care. The Union agrees to furnish the Employer with a written list of Stewards so designated and with any changes in the list of Stewards which may be made from time to time. Any change in the Union-designated Stewards will be communicated to the Care Center Executive Director/Administrator in writing within one (1) week of the change. It is also understood that the Union may assign to Stewards any duties it wishes and these Stewards will not be discriminated against for discharging such duties, provided such duties are not performed during paid working time without supervisory authorization to do so and do not interfere with the regular performance of their work for the Employer in any way.

Stewards shall be entitled to a leave of one (1) day each calendar year for Steward Training and Education. The Union must notify the Employer at least two (2) weeks in advance thereof. The Steward must, upon returning from the leave, present the Executive Director/Administrator with written evidence from the Union that the Steward has used the leave for the purpose for which the leave was intended. Such leave time will not be compensated by the Employer.

Section 9.2 Visitation

A duly authorized representative of the Union may visit the Employer's Care Center at reasonable times for the purpose of discharging the Union's obligations under the Collective Bargaining Agreement provided that prior permission is secured from the Executive Director/Administrator or her/his designee. For routine visits, the Union Representative will endeavor to contact the Care Center Executive Director/Administrator or her/his designee the day prior to the visit. If such contact is

not possible, the Union Representative will contact the Executive Director/Administrator or her/his designee at least thirty (30) minutes prior to the visit, and such permission shall not be unreasonably denied by the Employer. The Union acknowledges that from time to time, such visitation may be postponed by the Employer due to legitimate business concerns such as AHCA survey, OSHA visit/investigation, DOL audit, and the like. Said Union Representative may only meet with employees in non-work areas during non-work time.

Section 9.3 Union Bulletin Board

The Union shall provide one (1) enclosed, locking bulletin board (2 feet by 3 feet) for the exclusive use of the Union which shall be placed near the employees' time clock or in a place mutually agreed upon by the Union and the Employer. The Employer will install this bulletin board, as necessary. The Union Representative will retain one (1) key and the Executive Director/Administrator will retain one (1) key. Official Union notices containing no inflammatory comment(s) shall be posted as soon as the Union Representative has notified the Care Center Executive Director/Administrator of intent to post such notice. Notices or literature other than that for the normal conduct of the Union's business must first have the Executive Director/Administrator's approval by initializing the notice or literature. The Employer, in its sole discretion, will determine if a notice contains inflammatory comment(s).

ARTICLE 10
VOLUNTARY DUES DEDUCTIONS

Section 10.1

The Employer agrees to deduct union dues, initiations fees, and political contributions from the wages of employees in the bargaining unit who voluntarily provide the Employer with a written authorization for such deduction. Such deduction shall be made by the Employer from the wages of employees so authorizing during each calendar month and shall be transmitted to the Union. In the event that no wages are due the employee or that they are insufficient to cover the desired deduction, the deduction for such month shall nevertheless be made from the first wages of adequate amount next due the employee and shall thereupon be transmitted to the Union. Together with the transmittal of deductions referred to above, the Employer shall furnish the Union with a list of employees for whom deductions were made.

Section 10.2

All deductions shall be remitted to the Union by the fifteenth (15th) of the month following the month for which deductions were made or as soon as possible thereafter.

Section 10.3

The Employer assumes no obligation, financial or otherwise, arising out of any provisions of this Article, and the Union hereby agrees it will indemnify and hold the Employer harmless from any claims, actions or proceedings by any employee arising from deductions made by the Employer hereunder, including the cost of defending against such. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

Section 10.4

Each month the Employer shall furnish the Union with the names, home addresses, classifications, and dates of hire of new employees, and the name and termination date of employees discharged/terminated the preceding month, and any address changes which may apply to existing employees.

ARTICLE 11 INTRODUCTORY/PROBATIONARY PERIOD

Section 11.1

Newly hired employees, including former employees, shall be considered probationary employees for the first ninety (90) days of employment. During an employee's introductory/probationary period, she/he shall be covered by the terms of this Agreement, except that she/he may be discharged/terminated by the Employer with or without cause. Such discharge/termination will not be considered a breach of this Agreement or provide grounds for a grievance.

Section 11.2

Seniority shall not accrue to employees during their introductory/probationary period. However, upon successful completion of the said introductory/probationary period, all employees shall be deemed to be regular employees covered by the terms of this Agreement and their seniority shall revert back to the date of hire.

Section 11.3

During the introductory/probationary period, the employees shall work under the terms and conditions of this Agreement, except as otherwise expressly provided herein.

Section 11.4

The Employer may, in its discretion, extend the introductory/probationary period of any probationary employee for an additional thirty (30) days provided that the Employer informs the employee and the Union Steward of its intent to do so before the expiration of the introductory/probationary period.

ARTICLE 12 CATEGORY OF EMPLOYEES

Section 12.1

A full-time employee is one who is regularly scheduled to work thirty-five (35) or more hours per week.

Section 12.2

A part-time employee is one who is regularly scheduled to work less than thirty-five (35) hours per week.

Section 12.3

A casual/PRN employee is one who has no regular schedule of hours of work, but works intermittently as required. A casual/PRN employee who is regularly scheduled to work sixteen (16) hours or more per week over a two (2) month period shall be reclassified as a full-time or part-time employee, as appropriate, and shall be subject to an introductory/probationary period of thirty (30) days from the date of reclassification.

Section 12.4

A temporary employee is one who works for a predetermined period of time. Employees hired as temporary summer replacements during the period June 1 to September 30 shall be treated as introductory/probationary employees.

ARTICLE 13 ORIENTATION AND IN-SERVICE TRAINING

Section 13.1

The Employer agrees to provide new employee orientation, all mandatory staff education, and other in-service training it deems necessary to facilitate employee's ability to perform their jobs effectively. Employees not on an approved leave of absence or an approved Paid Time Off (PTO) absence who fail to participate in mandatory in-services are subject to disciplinary action, up to and including discharge/termination. Time spent attending orientation and other job-related in-service training, including mandatory training, shall be considered time worked for wage payment purposes.

Section 13.2

The Employer will allow the Union Representative/Steward to meet with new bargaining unit employees for up twenty (20) minutes during their initial orientation at a time mutually agreed to by both parties. If the Union is not notified of the orientation in advance or the date of the orientation changes without notice to the Union, the Union Representative or the Chief Steward will be provided a twenty (20) minute period of time to discuss employee rights under the Collective Bargaining Agreement.

Section 13.3 No Retaliation

The Union and the Employer agree that our mutual commitment to quality resident/patient care requires that any suspected violation of regulations or resident/patient rights must be reported immediately to the appropriate supervisor on duty. In the event that the supervisor does not take prompt and appropriate corrective action, the employee shall carry out her/his responsibility under the Corporate Compliance Plan.

Section 13.4

No employee will be disciplined, discharged/terminated, or otherwise singled out for carrying out her/his obligation under the Employer's Corporate Compliance Plan and/or any state and federal regulations when reporting suspected or observed violations and cooperating fully and honestly with the respective investigations.

ARTICLE 14
SENIORITY

Section 14.1

Bargaining unit seniority shall be defined as the employee's length of continuous service with the Employer in the bargaining unit commencing with the date and hour on which the employee began to work after last being hired. A list of all full-time employees in seniority order and a separate list of all part-time employees in seniority order shall be furnished to the Union quarterly in the calendar year.

Section 14.2

Job classification seniority shall be defined as the employee's length of continuous service with the Employer within her/his present job classification commencing with the date and hour on which the employee last began to work in such classification.

Section 14.3 Accrual

An employee's seniority shall commence after the completion of her/his probationary period and shall be retroactive to the date of her/his last hire.

Bargaining unit seniority shall accrue during a continuous authorized leave of absence with or without pay, and during a period of continuous layoff not to exceed three (3) months, if the employee is recalled into employment.

Job classification seniority shall accrue during the periods specified in Section 14.2 above and during the time an employee works in a specific job classification.

Section 14.4

An employee shall lose seniority and seniority shall be broken for any of the following reasons:

1. Terminates voluntarily.
2. Is discharged/terminated.
3. Abandons her/his job or fails to report to work (ie, No Call/No Show).
4. Fails to return to work following expiration of an approved leave of absence.
5. Is laid off for a period of three (3) months.
6. Fails to return to work following recall from layoff within five (5) calendar days after the Employer has sent notice to return by certified letter to the last address furnished to the Employer by the employee.
7. Is promoted into a supervisory or other non-bargaining unit position with the Employer.
8. Fails to secure license/certification renewal prior to the license/certification expiration date and is permanently replaced.

Section 14.5 Application

Bargaining unit seniority shall apply in the computation and determination of eligibility for all benefits where length of service is a factor pursuant to this Agreement.

Classification seniority shall apply in layoffs and recalls and for scheduling of Paid Time Off as herein provided.

Section 14.6

In the event the Employer finds it necessary and desires to reduce its staff by laying off employees or reducing the regularly scheduled hours of employees, it shall notify the Union one (1) full pay period in advance of the effective date of the layoff and/or reduction of hours and shall inform the Union of the names and classification of the employees who are to be laid off, as well as the effective date of the layoff and/or reduction of hours. The Employer retains the exclusive right to determine when to layoff employees or when to reduce hours of work for employees in order to avert layoffs.

Section 14.7

Whenever lay off becomes necessary in a job classification and shift, such layoff shall be affected in the following order:

1. Introductory employees on the shift shall be laid off first, without regard to their individual periods of employment.
2. Non-introductory part-time employees on the shift shall be laid off next in the order of their classification seniority, the least senior laid off first.
3. Non-introductory full-time employees on the shift shall be laid off next in order of their classification seniority, the least senior laid off first.

Section 14.8

If, after considering the above order of layoff, a senior employee elects not to work a schedule or in a category occupied by a less senior or introductory employee, the less senior or introductory/probationary employee will remain while the more senior employee is laid off.

Section 14.9 Recall

Whenever a vacancy occurs in a classification from which an employee has been laid off less than three (3) months, the Employer shall contact the most senior employee on layoff in that classification, by sending one (1) registered letter to the employee's last known address. If the employee fails to contact the Employer within ten (10) calendar days after the letter is sent, the employee loses her/his right to recall.

Section 14.10

It shall be the responsibility of the employee to keep the Employer informed of her/his current address and to notify the Employer at once, in writing, of any change of address.

Section 14.11

In the event an employee is offered another job by the Employer outside the bargaining unit and the employee accepts such job and leaves the bargaining unit, such employee shall lose all her/his seniority rights under this Agreement.

Section 14.12

An employee shall not accrue seniority while he is on layoff. An employee shall accrue seniority while he is on approved leave of absence but shall not accrue benefits.

Section 14.13

An employee whose seniority is lost for any of the reasons outlined in Section 14.4 above shall be considered as a new employee if he or she is again employed by the Employer.

Section 14.14 Low Census

In the event resident/patient census is not sufficient to warrant maintaining scheduled employees, the Employer has the right to reduce the number of employees accordingly. The Employer will first request volunteers to be sent home. If an insufficient number of employees volunteer, the Employer will send home PRN employees first, probationary employees next, and then part-time and full-time employees last in reverse order of seniority on a rotating basis. This process will be implemented by unit and by shift.

**ARTICLE 15
JOB DESCRIPTIONS**

The Employer will maintain job descriptions for all classifications covered by this Agreement. Job descriptions will be made available to a Union Representative or interested employees.

**ARTICLE 16
LICENSE/CERTIFICATION RENEWAL**

Employees have an obligation to maintain their license/certification in good standing. As such, any employee who fails to provide proof of license/certification renewal to the Director of Clinical Services/DON or her/his designee at least twenty-one (21) days prior to the expiration of the license/certification will be removed from the work schedule and a permanent replacement will be sought. Under this condition, the employee removed from the schedule will be permitted to work when proof of renewal is provided to the Director of Clinical Services/DON or her/his designee, provided a permanent replacement has not been hired. If not returned to the schedule, the employee will be offered the first available position for which she/he is qualified.

**ARTICLE 17
HOURS OF WORK AND OVERTIME**

Section 17.1 Schedule

The Employer will post the work schedule two (2) weeks in advance. Such work schedules are subject to change by the Employer as the needs of the Care Center require and this section shall not be construed as limiting or preventing the Employer from establishing other work shifts or hours as the need arises. Employees may exchange days off with other employees in the same classification provided that employees request and receive supervisory permission for the exchange in writing. Employees wishing other special scheduling considerations shall make such requests, in writing, at least four (4) weeks prior to the schedule posting. All hours worked on a given shift shall be consecutive except for contractual breaks.

Section 17.2 Report Pay

Employees reporting for work at their regularly scheduled starting time who have not previously been notified not to report to work shall receive a minimum of two (2) hours of work for that day, or two (2) hours of straight time in lieu thereof.

Section 17.3 Meal Period

Each shift of five (5) or more hours in duration will include an unpaid uninterrupted thirty (30) minute meal period. Meal periods must be taken in approved non-working areas at times scheduled by the supervisor. Employees must communicate with their supervisor before leaving their assigned work area to take the meal period and must verbally check back in with their supervisor upon returning to the work area after the meal period. In addition, employees who leave the Care Center for the meal break must punch out before leaving and punch in upon return. Failure to provide such notification to the supervisor or failure to punch out/ punch in by the employee will be grounds for disciplinary action.

In the event that resident/patient care needs require the cancellation or interruption of a meal break, the employee shall be paid for the meal period.

Section 17.4 Rest Breaks

Two (2) paid rest breaks of fifteen (15) minutes in duration are normally provided during a full shift of seven and one-half (7½) or eight (8) hours, unless unusual circumstances require that employees remain on duty to meet resident/patient needs. Rest breaks are to be taken at times scheduled by the supervisor. Employees must communicate with their supervisor before leaving their assigned work area and must verbally check back in with their supervisor upon returning to the work area after the rest break. Failure to provide such notification to the supervisor by the employee will be grounds for disciplinary action.

Rest breaks and meal periods cannot be combined.

Section 17.5 Overtime

Employees shall receive one and one-half (1½) times their regular hourly rate of pay for all hours worked in excess of forty (40) hours in a work-week. When possible, all available overtime shall be offered to employees in the appropriate job classification using a rotating system so as to equalize such overtime opportunities. Before requiring overtime, the supervisor shall endeavor to meet resident/patient needs through other appropriate means. The overtime shall be given to the most senior employee who requests the overtime work.

For purposes of this section, one (1) telephone call with a message to the employee's telephone number of record at the Care Center shall be considered prior notice. If the telephone number of record is not current, a documented attempt to reach the employee at the telephone number of record will satisfy the notice requirement.

Section 17.6 Weekend Schedule

Weekend is defined as two (2) consecutive days between Friday and Monday. Where practical, when scheduling weekend work, the Employer will endeavor to use these guidelines:

1. Employees with less than ten (10) years of service will be given every third (3rd) weekend off.
2. Employees with ten (10) or more years service will receive every other Saturday and Sunday off.

This provision shall not apply when an employee agrees to work on her/his unscheduled weekend. If the minimum staffing requirements are not met and if volunteers are not available, the Employer will maintain the right to schedule employees to work vacant shifts with probationary employees first, and then part-time and full-time employees last in reverse order of seniority on a rotating basis. If an employee calls off for her/his scheduled weekend shift(s), the Employer may schedule that employee for another equivalent weekend shift(s) on a weekend within four (4) weeks of the call off without violating this provision of the Agreement.

Starting in September 2016, centers without every other weekend schedules will begin a labor-management analysis of CNA schedules for every other weekend off availability. These meetings will include the center management team and respective stewards. Where parties are able to reach an agreement on a weekend schedule, it shall be implemented as soon as possible. Should the parties not agree on a pilot program after sixty (60) days, the parties agree to meet with the Consulate Vice President of Human Resource Operations or his designee and the Union President or his designee to assist in creating a pilot that provides for every other weekend off availability. Where any such implemented schedules fail to meet resident care needs or staffing prevents it, the schedule will be reverted back to the prior schedule.

ARTICLE 18
ON CALL LIST AND DISTRIBUTION OF OVERTIME

Section 18.1

The Employer will make every effort to maintain staffing levels in accordance with applicable local, state and federal laws.

Section 18.2

Two (2) "on call" lists will be maintained by the Employer for use in replacing scheduled employees who fail to report. These listings will be available for employees to sign:

1. Regular part-time employees available for extra work.
2. Regular full-time employees desiring overtime.

If an employee who has volunteered for the list refuses to report after being contacted on two (2) consecutive occasions, the employee's name shall be dropped from the list for six (6) months, except if the refusal is due to an illness substantiated by a doctor's certificate.

Section 18.3

Employees on the regular part-time list shall have the first opportunity for additional non-overtime hours according to shift. If no employee on the regular part-time list is available for additional non-overtime hours, the regular full-time on-call list shall be utilized. If the absence is still not filled, the Employer may offer the overtime to any employee in its discretion or employees may be required to work on a rotating basis, least senior employee within a department first.

ARTICLE 19 TEMPORARY WORK ASSIGNMENTS

Section 19.1

If an employee is temporarily placed in a lower classification than that in which the employee is regularly assigned, no reduction in pay will be effected.

Section 19.2

If an employee is temporarily assigned to a higher paid job classification, the employee shall be paid the higher rate for all hours worked after one (1) week of continuous service in the higher paid job classification.

ARTICLE 20 VACANCIES

Section 20.1

For the purposes of this Article, a vacancy is defined to mean any permanent job opening in which the Employer intends to fill.

Section 20.2 Job Vacancies

Notice of all open positions and newly created positions within the bargaining unit shall be conspicuously posted for five (5) calendar days. Such notice shall contain the job classification, full-time/part-time status, shift, number of hours, and effective date. Any employee desiring to apply for a posted open position shall apply in accordance with the notice posted within the time stated above.

Section 20.3

All bargaining unit vacancies shall be filled by the most qualified candidate/employee. Management will make the determination regarding the qualifications of applicants.

Section 20.4

Bargaining unit employees shall have preference over less qualified outside candidates. If bargaining unit employees and outside candidates apply and have reasonably equal qualifications, Management shall determine the most qualified applicant for the open position.

Section 20.5

The terms of this article are subject to the grievance procedure.

**ARTICLE 21
STARTING WAGES**

Section 21.1 Hiring Rates for Education and Experience

New employees may be hired at wage rates above the Care Center's current minimum starting wage rate where justified by experience and/or education, provided that the maximum starting wage rate for any new hire cannot be greater than the wage rate paid to any current employee who has comparable experience and education.

Section 21.2

In order to comply with this provision, the Employer may increase the wage rates of current employees.

**ARTICLE 22
WAGES**

Section 22.1

The following provisions apply to employees' current wage rates:

1. All bargaining unit members will receive a wage rate increase of two percent (2%) effective the beginning of the first pay period following July 1, 2016, 2017, 2018, and 2019.

2. Should the State of Florida modify its reimbursement for 2017 or any subsequent year of the Agreement, the Employer and the Union agree to meet and discuss any proposed wage increase for that current year, solely for the purpose of negotiating rates of pay and for no other purpose, without exception. All other provisions of this Agreement shall remain in full force and effect in the event of such negotiations.

Section 22.2

The Employer and the Union recognize that from time to time the requirements of staffing and operating a nursing home may, due to circumstances beyond anyone's control, become burdensome to employees. To this end, the Employer may from time to time in situations where it is necessary to maintain the efficient operation of the Care Center, offer extra shift bonus programs, premium pay, overtime, or other programs designed to create incentives toward attracting staff to work additional shifts, recruit new staff, or retain existing staff. The Employer reserves the unilateral right to initiate and discontinue incentives, award programs to encourage and/or reward employees.

Section 22.3

If the Care Center offers a Pay in Lieu of Benefits (PIB) program to non-bargaining unit employees, certain bargaining unit employees will be eligible for this program in accordance with the policy covering PIB. The Employer may initiate or terminate such program as it deems necessary to ensure efficient operations.

Section 22.4

All shift differentials in effect at the execution of this Agreement shall remain in effect during the life of this Agreement, unless the Employer and the Union mutually agree to a decrease or an elimination of the shift differential. The Employer may unilaterally increase a shift differential, temporarily or permanently, as it deems necessary.

ARTICLE 23 INSURANCE

Section 23.1

The UFCW Local 1625 Health and Welfare Plan is designed to provide benefits for single employee coverage. Effective January 1, 2016, the Employer will make a payment of four hundred three dollars and eighty cents (\$403.80) per month on behalf of each full-time employee working thirty (30) hours or more per week that chooses coverage. To participate in the UFCW Local 1625 Health and Welfare plan, the employee must contribute one hundred fifty dollars (\$150.00) every month for single coverage. The Employer agrees to deduct, upon receipt of a voluntary signed authorization, this contribution from each such employee. Employees may opt up at their own expense to add dependent coverage.

Section 23.2

The rates effective January 1, 2017 will be set by the Trustees of the UFCW Local 1625 Health and Welfare Plan in compliance with the ACA regulations.

Section 23.3

To be eligible to participate in the UFCW Local 1625 Health and Welfare Plan, an employee must regularly work thirty (30) hours or more per week and have completed sixty (60) days of employment. Employer contributions for eligible employees will begin on the first of the month following completion of the initial sixty (60) day period. Should a part-time employee qualify for insurance under the ACA, the Employer will contribute the same amount after qualification is confirmed.

Section 23.4

Payments shall be made to the United Food and Commercial Workers Retail Employees and Employers Health and Welfare Fund, and are due and payable by the 15th day of each month.

Section 23.5

A plan participant is defined as an employee who meets the eligibility requirements and must be contributing the amounts specified in Section 23.1 through payroll deduction in each and every payday.

Section 23.6

The Union agrees to provide any reasonable information required for the Employer to monitor the Health and Welfare Plan. The Plan will remain compliant with the ACA.

Section 23.7

A description of the benefits provided by the plan will be given to the Employer and to each participating employee in the plan and is appended to this Agreement.

Section 23.8

The Union agrees to indemnify and hold the Employer harmless against all suits, claims, demands or liabilities that may arise from or by reason of the Employer's compliance with or administration of the foregoing provisions of this Article.

**ARTICLE 24
RETIREMENT**

The Employer shall offer eligible bargaining unit employees participation in the Company's 401(k) Plan, consistent with the Summary Plan Description and Plan Document.

ARTICLE 25 PAID TIME OFF

Section 25.1

All bargaining unit employees will be granted Paid Time Off (PTO) in accordance with the Employer's Paid Time Off Policy. A copy of the "current" policy on PTO/EIB is included as "Attachment 1".

Section 25.2

An employee who works a full shift on December 25th (which includes any shift the day prior or the day following December 25th in which some portion of the shift falls on December 25th) will be granted eight (8) hours of PTO which will be added to the employee's PTO Bank. These additional PTO hours will be used in accordance with the PTO Policy attached to this Agreement ("Attachment 1").

ARTICLE 26 HOLIDAYS

Recognizing that the Care Center operates every day of the year and that it is not possible for all employees to off on the same day, the Care Center agrees to distribute traditional holiday days off on an equitable basis. These traditional holidays include Thanksgiving Day, Christmas Day, and New Years Day. When a conflict arises between the preferences of employees, the employee(s) with the greatest classification seniority shall prevail.

ARTICLE 27 PAID LEAVE

Section 27.1 Bereavement

Time off will be granted to non-probationary full-time employees up to three (3) consecutive workdays and regular part-time employees one (1) regularly scheduled workday off with pay at the time of a death of an immediate family member. At Management's sole discretion, proof of death may be required. For the purposes of this policy, immediate family is defined as the employee's spouse, children, step children, parents, step parents, brother, step brother, sister, step sister, parents-in-law, daughter-in-law, son-in-law, brothers-in-law, sisters-in-law, grandparents, grandchildren and step grandchildren.

Section 27.2 Jury Duty

Time off shall be granted to any regular full-time or regular part-time employee who is called for jury duty service. The Employer will pay the difference between amounts given the employee for serving jury duty and the amounts the employee would have earned by working the scheduled days for up to five (5) scheduled workdays. Hours spent on jury duty shall not count as hours worked for purposes of computing overtime.

ARTICLE 28 UNPAID LEAVE

Section 28.1

Employees shall be eligible for unpaid leave in accordance with the types of leave of absence (LOA).

Section 28.2 Personal Leave

Employees who have been employed for at least ninety (90) days may request a leave of absence, in writing, not to exceed thirty (30) days for personal reasons. Such leave is granted solely at the discretion of the Employer.

Section 28.3 Medical Leave

Employees shall be eligible for a medical leave of absence if they have ninety (90) days of continuous service. Medical leaves of absence may be granted to employees who are unable to continue working as a result of illness or injury. As soon as an employee becomes aware that she/he is or will become, disabled from working for any medical reason, the employee must promptly advise the Employer in writing of the reason and the anticipated commencement date and duration of the disability.

Medical leaves of absence shall not exceed thirty (30) days, but may be extended beyond that period of time for successive periods of thirty (30) days each, up to a maximum leave of six (6) months, provided that a physician's certificate states the necessity for such extensions. The Employer may require periodic verification of the employee's ability to work, including examination by a physician designated by the Employer.

Employees who return from medical leave must furnish from their attending physician a release verifying their ability to work and fulfill the job duties assigned.

Section 28.4 Military Leave

Leaves of absence for the performance of duty with U.S. Armed Forces or with Reserve component thereof shall be granted in accordance with applicable law.

Section 28.5 Family and Medical Leave/Military Leave Entitlements

Eligible employees shall be entitled to The Family and Medical Leave Act (FMLA), pursuant to all federal and state laws on the subject as FMLA interpretations are constantly changing. Upon expiration of the FMLA entitlement, an employee who continues to be unable to work due to an FMLA-qualified event shall be entitled to unpaid leave for up to one (1) additional month without loss of seniority. Additional leave beyond the FMLA entitlement shall be granted pursuant to the FMLA documentation requirements. No benefits shall accrue during the one (1) additional month of leave. During any approved FMLA including any additional one-month leave, employees shall not engage in any employment, which is in violation of their stated job restrictions nor shall they undertake any new employment they did not already have at the onset of their FMLA. The Employer shall have the right to require proof of job

restrictions and to have the employee examined by a Company-selected physician in accordance with this Agreement

Except for Family and Medical Leave/Military Leave Entitlements (as outlined in Section 28.5), an employee returning from a leave of absence (LOA) will be placed in the first vacancy in the same job classification in which they were employed at the commencement of the LOA. If the employee is not placed in her/his original shift, that employee shall be offered the first open position in the same job classification on that original shift. This paragraph does not guarantee that an employee will be reassigned to the same shift. If no open position exists within thirty (30) days of the employee returning from the LOA, or if the employee declines any open position offered, the employee will be discharged/terminated from employment and allowed to re-apply when a position becomes available.

Employees returning from their FMLA entitlement shall be returned to work pursuant to federal and state laws governing FMLA.

The Employer agrees to maintain employee health care insurance coverage, if any, and pay the Employer's portion of the premium during the twelve (12) week FMLA leave, provided the employee continues to pay her/his portion of the monthly premium to the Payroll Department no later than the first (1st) of the month for the month of insurance coverage.

Section 28.6 Union Leave

An employee may apply for union leave thirty (30) calendar days in advance for up to ninety (90) calendar days with the understanding that the employee will not be involved in any organizing activities at any Consulate Health Care or Envoy Health Care affiliated entity.

Section 28.7

For all other leaves in this Article, and for FMLA leaves in excess of twelve (12) weeks, the employee may continue their health care insurance, if any, during a leave provided the employee pays the entire monthly premium to the Payroll Department no later than the first (1st) of the month for the month of insurance coverage.

**ARTICLE 29
MEAL POLICY**

Employees may purchase meals in the Care Center at a cost not to exceed \$3.00 per meal in accordance to the Care Center meal policy. The Employer reserves the right to periodically increase the cost of meals to employees as they deem necessary to assist in covering the cost of these meals.

**ARTICLE 30
EDUCATION FUND**

The Employer shall make a contribution on or before December 31, 2016, of two hundred dollars (\$200.00) to the UFCW, Local 1625 Education Fund. The Employer shall make a like contribution of a like amount to such Fund on or before December 31 each year of this Agreement.

**ARTICLE 31
DISCIPLINE, SUSPENSION AND DISCHARGE**

Section 31.1

The Employer may discipline, suspend, or discharge/terminate any employee for just cause. Employees shall receive copies of all written disciplinary actions at the time such warnings are issued.

Section 31.2

All disciplinary actions in employee's file shall not be considered for further disciplinary action after twelve (12) consecutive months from the date of the current infraction. Notwithstanding this provision, disciplinary actions issued more than twelve (12) months prior to the date of the current infraction may be considered in determining appropriate disciplinary action if a pattern of performance issues is evident, as determined by Management.

Section 31.3 Disciplinary Meetings

Any employee who is required to attend a disciplinary interview or investigatory interview that might lead to discipline, shall be notified as to the time and nature of the meeting in order to have the opportunity to exercise her/his right to have a Union Steward accompany her/him. In the unlikely event that a Union Steward is not available and an employee must be suspended pending investigation of resident/patient neglect, abuse, or a severe violation of Company policy, it is Management's sole right to suspend the employee pending investigation.

Section 31.4

The Employer will discipline in accordance with the Policy and Procedure Manual and/or the Employee Guidebook.

ARTICLE 32 GRIEVANCE PROCEDURE

Section 32.1

Any and all disputes, grievances, or complaints arising between the parties hereto, under, out of, or in relation to this Agreement, or in the interpretation, application, performance, discharge/termination, or any alleged breach thereof, shall be processed in the following manner:

STEP 1:

The grievance must be presented in writing to the employee's department head no later than ten (10) workdays after the occurrence of the event which led to the dispute or the date on which the employee should have known of the event. The written grievance must state the Article and Section of the Agreement alleged to have been violated, the nature of the violation, the remedy or correction desired, and be signed and dated by the employee or the Union Representative involved. The department head will answer all written grievances in writing within ten (10) workdays. The settlement of any grievance at this step shall not constitute a precedent for any other past, present, or future grievance.

STEP 2:

If the grievance is not settled in Step 1, the written grievance must be submitted to the Executive Director/Administrator within ten (10) workdays following receipt of the answer from the department head. The Executive Director/Administrator shall reply in writing to the employee and the Union Representative within ten (10) workdays after receipt of the grievance. The settlement of any grievance at this step shall not constitute a precedent for any other past, present, or future grievance.

At the Union's request, the Executive Director/Administrator may meet to discuss the grievance prior to replying to the grievance. If both parties agree to such a meeting, the meeting should be held expediently.

STEP 3:

If the grievance is not settled at Step 2, it may be submitted to the Regional Director of Human Resources or her/his designee within ten (10) workdays after receipt of the answer in Step 2. The Regional Director of Human Resources or her/his designee shall answer in writing to the employee and the Union representative within ten (10) workdays after receiving such grievance. The settlement of any grievance at this step shall not constitute a precedent for any other past, present, or future grievance.

Section 32.2

Any grievance based upon the disciplinary suspension or discharge/termination of an employee shall be referred directly to Step 2 of this procedure within ten (10) workdays following the suspension or discharge/termination.

Section 32.3

The time limits specified in this Article may be waived or modified by mutual written agreement of the Employer and the Union. Absent such an agreement, the time limits contained herein shall be strictly construed. If the employee or the Union fails to process the grievance at any step within the time limits, the grievance shall be deemed to have been withdrawn. If the Employer's designated representative fails to answer a grievance at any step within the specified time limits, the Union shall have the right to immediately appeal the grievance to the next step of the grievance procedure.

Section 32.4

If the Union or the Employer is not satisfied with the Step 3 response, the matter may be submitted to arbitration under the arbitration procedure.

Section 32.5

The Employer shall recognize the Union Stewards as representatives of the employees if such representation is requested by an employee.

Section 32.6

For the purpose of this article, workdays are considered to be Monday through Friday. All notices between the Union and the Employer shall be in writing. This requirement shall be strictly construed.

**ARTICLE 33
EMPLOYER GRIEVANCES**

If the Employer believes that the Union through its agents, representatives or members is not in compliance to the provisions of this Agreement, the Employer shall have standing to raise such determination as a grievance before duly authorized representatives of the Union. Such grievances shall be set forth in writing and served on the Union's local business office. The Union agrees on receipt of Employer grievance(s) to hold a meeting within five (5) workdays in an effort to amicably settle the dispute. In the event the matter is not settled at the local level, the Employer may take the matter to a mutually agreed upon higher level for consideration, including arbitration.

ARTICLE 34 ARBITRATION

Section 34.1

If the Union is not satisfied with the reply in Step 3, the Union shall have fifteen (15) days following receipt of the Step 3 answer to file a request for arbitration. The Union will file said request with the Executive Director/Administrator within the specified fifteen (15) days. The parties shall request a list of seven (7) arbitrators from the FMCS. Within fifteen (15) workdays of the receipt of this list, the parties shall strike from said list, alternately, three (3) names, after determining the first strike by lot or by mutual agreement of the Union and the Employer, and the remaining name shall be the arbitrator. The Union and the Employer will each have ten (10) workdays from the previous party's strike to strike a name. Failure of either party to meet this time limit authorizes the last striking party to select an arbitrator from the remaining names.

Section 34.2

The decision of the arbitrator shall be final and binding upon the parties and all Union members affected. Only one (1) grievance shall be submitted to an arbitrator at a time unless mutually agreed by both parties.

Section 34.3

The arbitrator shall have jurisdiction and authority to interpret and apply provisions of this Agreement insofar as it is necessary to a determination of the grievance properly submitted hereunder, but such arbitrator shall have no power to add to, subtract from, or modify any terms of this Agreement. The award of the arbitrator shall be confined to the issue raised in the written grievance, and the arbitrator shall have no power to decide any other issue. Any case referred to an arbitrator on which she/he has no power to rule shall be referred back to the parties without a decision.

Section 34.4

In cases not involving resident/patient neglect or abuse, just cause will have the meaning of "cause" under traditional labor law principles. In cases of discipline related to resident/patient neglect or abuse as determined by AHCA and/or the appropriate county/city agency, the Employer satisfies its "just cause" obligations under this Agreement if it has a reasonable belief that the employee engaged in the acts or omissions that led to the discipline related to resident/patient care. If an arbitrator determines that the Employer has met the just cause obligation through acting upon its reasonable belief, the arbitrator may not change the discipline imposed by the Employer, notwithstanding the finding or lack of finding by AHCA and/or the appropriate county/city agency.

Section 34.5

In reviewing whether the Employer's belief was reasonable, the Arbitrator's review shall include:

1. The appropriateness of the Employer's investigation.
2. The strength of the evidence supporting the allegation.
3. The employee's work history.
4. The resident's/patient's complaint history.
5. The resident's/patient's cognitive ability.
6. Physical evidence, if any.

Section 34.6

The arbitrator may, in her/his discretion, make an economic award not to exceed two (2) weeks pay where the Employer has a reasonable belief to discharge/terminate under Sections 34.4 and 34.5 above, but the arbitrator believes some economic award is appropriate under all of the circumstances.

Section 34.7

Employees have an affirmative duty to honestly cooperate in Employer investigations related to employee conduct and resident/patient care issues. Failure to fully and honestly cooperate in an investigation, or failure to report suspected resident/patient neglect or abuse, will be grounds for disciplinary action, up to and including discharge/termination.

Section 34.8

For purposes of resident/patient neglect or abuse investigation, the Union and the Employer agree that residents/patients, family members, and visitors should not be subjected to involvement in the Grievance and Arbitration process. The Union Steward may present to the Director of Clinical Services/DON relevant questions to be asked of the resident/patient, family members, and/or visitors, and the Union Steward may be present during any interviews with such parties. The arbitrator maintains discretion in whether to admit statements from such persons and any weight to be accorded to the statements. The parties also agree that there shall be no adverse inference from the failure of any resident/patient, family member, or visitor to testify at arbitration. The parties agree that such persons may, however, testify telephonically in cases where such parties are ready, willing, and able to do so.

Section 34.9

The expenses of the arbitrator shall be paid equally by the parties, with each paying one-half (½) of the total.

**ARTICLE 35
LABOR MANAGEMENT CONFERENCES**

The Company and the Union, as evidence of attitude and intent, agree that during the life of this Agreement individuals from both parties (not to exceed three (3) from each) may be designated, in writing, by each party to the other for the purpose of meeting at the call of either party at mutually agreeable times and places so as to appraise the other of problems, concerns, suggestions, ideas, etc., related to the Care Center, the workforce, and resident/patient services, all to promote better understanding with the other. The meetings may be on work time. Such meetings shall not be for the purpose of initiating or continuing collective bargaining nor in any way to modify, add to, or detract from the provisions of this Agreement and such meeting shall be exclusive of the grievance and arbitration proceedings in this Agreement, as grievances shall not be considered proper subject at such meeting.

**ARTICLE 36
SUCCESSORSHIP AND JOB SECURITY**

Section 36.1

The Employer agrees that it will make the recognition and acceptance of the Collective Bargaining Agreement a term and condition of any sale of its operations, in whole or in part, to any other business entity.

Section 36.2

Upon the sale, lease, transfer, or assignment of the Care Center, in whole or in part, the Employer agrees to be responsible for paying to any affected employees any accumulated unused Paid Time Off pursuant to the conditions set forth in Section 25.1, except where the successor Employer agrees, in writing, prior to the sale, lease, transfer, or assignment to be responsible for such payment.

Section 36.3

In the event that the Employer moves its establishment to another location, this Agreement shall continue in full force and effect with reference to such Employer for all its establishments covered by this Agreement.

Section 36.4

The Employer shall not contract or subcontract bargaining unit work without first notifying the Union. Further, the Employer shall require the contractor or subcontractor to retain the employees and the terms and conditions of employment substantially equivalent to those in this Agreement.

ARTICLE 37
EFFECT OF LEGISLATION – SEPARABILITY

Section 37.1

The Employer agrees to comply with all federal, state, and municipal laws, ordinances, rules and regulations covering the workers in the industry; to grant the employees all benefits provided for by said laws, ordinances, rules, and regulations.

Section 37.2

It is understood and agreed that all agreements herein are subject to all applicable laws now or hereafter in effect; and to the lawful regulations, rulings, or orders or regulatory commissions or agencies having jurisdiction. If any provision of this Agreement is in contravention of the laws or regulations of the United States or the State of Florida, such provisions shall be superseded by the appropriate provision of such law or regulation, as long as same is in force and effect; but all other provisions of this Agreement shall continue in full force and effect.

ARTICLE 38
ENTIRE AGREEMENT

Section 38.1

The parties acknowledge that during the negotiations that resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to all proper subjects of collective bargaining and that all subjects have been discussed and negotiated and the agreements contained in this Agreement were arrived at after the free exercise of such rights and responsibilities. The parties have had full opportunity to discuss all terms and conditions of employment. Therefore, this Agreement supersedes all prior agreements, understandings, and past practices that are not specifically set forth herein.

Section 38.2

This Agreement expresses the complete understanding of the parties on the subjects of wages, working conditions, hours of labor, benefits, and conditions of employment.

Section 38.3

This Agreement can be changed only by written amendment executed by the parties hereto. The waiver or any breach thereof shall not constitute a waiver of such terms or conditions or any breach thereof in any other instance.

Section 38.4

The parties agree that if any practice which develops subsequent to the effective date of this Agreement conflicts with the express language contained in this Agreement, then the language of this Agreement shall be controlling.

**ARTICLE 39
DURATION OF AGREEMENT**

This Agreement shall become effective upon ratification and shall continue in full force and effect through June 30, 2020. It shall be automatically renewed from year to year thereafter unless either party gives written notice of a desire to modify, amend or terminate it at least ninety (90) days but not more than one hundred and twenty (120) days immediately preceding the termination of this Agreement or any date thereafter if it is automatically renewed.

For and on behalf of Coral Bay Healthcare and Rehabilitation,

By: _____

Signed on this ____ day of _____, ____

For and on behalf of United Food & Commercial Workers Union, Local 1625,

By: _____

Signed on this ____ day of _____, ____

HR-501

POLICIES

Human Resources

Policies and Procedures

Effective Date: 03-01-2011

Revision Date: 10-01-2013

Paid Time Off

Policy

The Company believes that employees should have the opportunity to enjoy time away from work to help balance their lives. We recognize that employees have diverse needs for time off from work. We have established this Paid Time Off (PTO) Policy to meet those needs. The policy contains provisions for vacation, holiday and sick leave. The benefits of PTO are that it promotes a flexible approach to time off. Employees are accountable and responsible for managing their own PTO hours to allow for adequate reserves if there is a need to cover vacation, holiday, illness or disability, appointments, emergencies or other needs that require time off from work.

Procedure**Eligibility:**

All full-time, benefit-eligible employees are eligible to earn PTO. Full-time status requires a minimum of seventy (70) regularly paid hours worked per two (2) week pay period. PTO accruals begin at day ninety-one (91) following date of full-time status.

Change in Status:

- PTO begins accruing at day ninety-one (91) following a change to full-time status.
- Full-time employees with two (2) or more years of continuous service and less than eleven (11) years service who change to PRN/part-time, if approved and with proper working notice, will receive sixty percent (60%) pay out of PTO accruals.
- Full time employees with eleven (11) or more years of service that change to PRN/part-time, if approved and with proper working notice, will receive eighty percent (80%) pay out of PTO accruals.

Availability:

PTO accruals are available for use after completing ninety (90) days of full time service.

Accrual Schedule:

Accruals are calculated on hours paid (excluding overtime) to a maximum of 80 hours per biweekly pay period. Length of service determines the rate at which the employee will accrue PTO.

Years of Service	Maximum Annual PTO Accrual* 8 + Hours Per Day	Maximum Annual PTO Accrual** 7.5 Hours Per Day
91 Days to 1 Year of Completed Service	9 Days- 72 Hours	9 Days- 67.5 Hours
Beginning the 2 nd Year of Employment to the 5 th Year of Completed Service	22 Days- 176 Hours	22 Days- 165 Hours
Beginning the 6 th Year of Employment to the 10 th year of Completed Service	26 Days- 208 Hours	26 Days- 195 Hours
Beginning the 11 th Year of Employment +	31 Days- 248 Hours	31 Days- 232.5 Hours

***Note- Annual PTO Accruals for eight (8) or more hours per day are based on an employee having 2080 paid hours per year (forty (40) hours per week).**

****Note- Annual PTO Accruals for seven and one-half (7.5) hours per day are based on an employee having 1950 paid hours per year (thirty-seven and one-half (37.5) hours per week).**

Maximum Accruals:

- Total PTO accumulation for eight (8) or more hours per day: **Fifty (50) Days – Four Hundred (400) Hours.**
- Total PTO accumulation for seven and one-half (7.5) hours per day: **Fifty (50) Days – Three Hundred Seventy-five (375) Hours.**

Use and Scheduling of PTO:

Whenever possible, PTO must be scheduled in advance for time off. PTO use is subject to supervisory approval, department staffing needs and established departmental procedures. The Company has established specific guidelines regarding PTO. The specifics are:

- **Minimum PTO** use is limited to one (1) hour increments for hourly employees.
 - **PTO** is defined as time requested with a minimum two (2) hour advance approved request. Except as specified below for FMLA approved absences, requests for PTO with less than a two (2) hour advance notice will not be approved.
 - The requested PTO hours are paid one-to-one.
 - For example, employee requests five days of PTO on December 1 for a vacation scheduled January 1. The employee receives 40 hours or 37.5 hours PTO pay depending on their work schedule. The PTO bank reduces by 40 hours or 37.5 hours depending on their work schedule.
 - For scheduling purposes, employees should request PTO at least two (2) weeks in advance of the time off needed.

- **FMLA Exclusion:** Employees who do not provide a two (2) hour advance notice of absence but are subsequently approved for FMLA, will be permitted to use PTO.
- PTO may not be used for missed time because an employee reports late to work.
- PTO is paid at the employee's straight time rate.
- PTO is not part of any overtime calculation.
- Employees may not borrow against their PTO bank, therefore, no advance leave will be granted.
- The attendance and punctuality policy remains in effect.
- When PTO is used, an employee is required to request payment of PTO hours according to his/her regularly scheduled workday. For example,
 - if an employee works a twelve (12) hour day, he/she would request twelve (12) hours of PTO when taking that day off;
 - if an employee works an eight (8) hour day, he/she would request eight (8) hours of PTO;
 - if an employee works a seven and one-half (7.5) hour day, he/she would request seven and one-half (7.5) hours of PTO.
- Utilize the Request for Time Off Form.
- Employees who miss more than three (3) consecutive unscheduled days may be required to present a doctor's release that permits them to return to work.
- PTO hours used intermittently or for three (3) days or more due to a serious health condition shall run concurrently with the Family and Medical Leave, if employee qualifies for FMLA.
- If an employee has a disability policy, then their total pay can not exceed their normal weekly salary.
- For an employee who has a serious medical condition and is eligible for Family and Medical Leave and has submitted medical certification, time off with pay (PTO and/or EIB), if available, may be used for all of the absence. The Extended Illness Bank (EIB), if available, will be used on the sixth (6th) consecutive work day of an illness or injury. If there are no EIB hours available, the employee who has been approved for FMLA may use their PTO hours to supplement their time off. If an employee has a disability policy, then their total pay can not exceed their normal weekly salary.
- For an employee who has an eligible family member with a serious medical condition as defined by Family and Medical Leave, PTO will be used for the length of the leave.

PTO Buy Back:

At the discretion of the Company each year, a decision will be made to announce a buy back of PTO hours for all eligible hourly/non-exempt employees. The Company will make the announcement by September 30th each year for a potential buy back of hours in December of each calendar year.

If approved, the hourly/non-exempt employee would be paid at sixty percent (60%) of the designated approved buy back hours established by the Company. To be eligible, hourly/non-exempt employees must have more than ten (10) days in their PTO bank. Following the buy back, the employee must retain at least ten (10) hours in their PTO bank.

Payment Upon Termination:

Employees, who resign with two (2) or more years of continuous full time service and less than eleven (11) years full time service and provide proper working notice, will be paid sixty percent (60%) of their PTO hours.

Employees who resign with eleven (11) or more years of full time service and provide proper working notice will be paid at eighty percent (80%) of their PTO hours.

Employees with less than two (2) years of full time service will not receive any payment of PTO hours.

HR-502**POLICIES**

Human Resources

Policies and Procedures

Effective Date: 01-01-2012

Revision Date: 09-01-2012

Extended Illness Bank

Policy

It is the policy of the Company to provide paid sick leave to eligible employees through an Extended Illness Bank (EIB). The EIB is designed to replace earnings in case of an employee's own illness or injury. The EIB can be used at the employee's discretion to cover additional days after an employee has covered the first five days of their own illness or injury with their PTO bank (if there are not enough PTO hours available to cover these five days, then whatever time is not covered shall be unpaid).

Procedure

1. Eligibility: All full-time employees, who work thirty (35) or more hours a week, are eligible to earn time in their EIB. The EIB accruals begin on day ninety-one (91) following the full-time status date. Eligible employees may accrue up to three (3) days per year in their EIB. Employees may accrue to an unlimited number of days in their EIB.
2. Approval of Changes in the EIB Policy: No Care Center may make any change in the applicable EIB policy.
3. Exclusion from Calculation in Over-Time Pay: EIB hours shall not be included as "hours worked" for purposes of calculating overtime pay.
4. EIB Hours Are Not Accrued During Unpaid Time: Unless otherwise required by law, EIB hours shall not accrue during unpaid time, to include unpaid leave of absence.
5. EIB Hours Are Not Paid Out at Termination of Employment or Upon the Employee Changing to an Ineligible Status: Unless otherwise required by law, unused EIB hours shall not be paid out to an employee upon termination of employment, regardless of the reason for termination. In addition, unless otherwise required by law, unused EIB hours shall not be paid out to an employee upon changing to an ineligible status.
6. Use and Scheduling of EIB: Utilize the Request for Time Off Form.

Exhibit 4

From: Walker, Robert [<mailto:Robert.Walker@consulatehc.com>]
Sent: Thursday, August 11, 2016 1:16 PM
To: Dale Ewart <dale.ewart@1199.org>
Cc: McWilliams, Richard C <Richard.C.McWilliams@consulatehc.com>
Subject: RE: New CBAs

Dale,

In offering the UFCW plan to the FL union buildings, our agreement with Ed regarding the health insurance premiums was to pay the same dollar amount as Consulate contributes to our plan. Currently, that equates to 73% of the total employee only premium in the UFCW plan. As you recall, this is the same contribution percentage we provided to your members in the former Consulate plan.

Indicating the premium amount to be paid by Consulate is left to the discretion of the Trustees is not something we would entertain. If you want language that indicates we'll pay the same dollar amount as the amount Consulate contributes to our plan, we will agree. However, I would think that a specified percentage is in the members best interest, as indicated in the language I sent to you.

Regarding the non-wage/health insurance economic items at North Fort Myers, Coral Trace, and Heritage Park – Fort Myers, the CBA will reflect the pre-negotiation status.

From: Dale Ewart [<mailto:dale.ewart@1199.org>]
Sent: Thursday, August 11, 2016 11:08 AM
To: Walker, Robert
Cc: McWilliams, Richard C
Subject: RE: New CBAs

Bob:

Thanks for this. A couple of questions:

1. On page 18, Art 24, Sec 1 (Medical Benefits)—the last sentence indicates an even split in any future premium increases. Shouldn't that read "In the event of a premium change, the Employer and employee will pay amounts as determined by the Trustees of the Plan"?
2. With respect to the three new buildings, the West Altamonte agreement is the template we agreed upon. With respect to the (non wage and health) economic benefits however, our TA is status quo for those facilities. I don't know that the differential, bereavement, etc are the same at West Altamonte as they are for Heritage Park, North Ft Myers and Coral Trace.

From: Walker, Robert [<mailto:Robert.Walker@consulatehc.com>]
Sent: Monday, August 08, 2016 3:44 PM
To: Dale Ewart <dale.ewart@1199.org>
Cc: McWilliams, Richard C <Richard.C.McWilliams@consulatehc.com>
Subject: New CBAs

Dale,

Before I have the CBAs printed for your signature, please review the language in the West Altamonte agreement that will serve as a template for the changes to the remaining CBAs. Specifically, the only language changes are highlighted on the cover page and pages 1, 17, 18, and 27. Except for the description of the bargaining unit, I'll use the West Altamonte agreement to create the CBAs for North Fort Myers, Coral Trace, and Heritage Park – Fort Myers.

Once we agree on these changes, I'll replace the respective language in the existing CBAs and have copies sent to you.

Please note that page numbers may have changed due to the length of the new sections on wages and health insurance.

- Bob

Robert Walker
Vice President of Labor Relations
robert.walker@consulatehc.com

Consulate Health Care
800 Concourse Parkway, South - Suite 200
Maitland, Florida 32751
www.consulatehc.com [consulatehc.com]

o. 407.571.1550
c. 407.739.6905
f. 407.571.1599

This electronic message and any attachments may contain information that may be confidential and/or protected by work product or other confidentiality privilege. It is intended for the exclusive use of the recipient named above. If you are not the intended recipient, please do not disclose, copy, or distribute this information. Unauthorized use or distribution is prohibited and may be unlawful. Also, please notify the sender immediately and destroy the message and its attachments. Thank you.

Exhibit 5

**MINUTES OF THE BOARD OF TRUSTEES OF
THE UFCW LOCAL 1625 AND EMPLOYERS HEALTH & WELFARE FUND
SEPTEMBER 9, 2019 SPECIAL CALL MEETING**

A special call meeting of the Board of Trustees of the United Food and Commercial Workers Local 1625 and Employers Health & Welfare Fund was held on Monday, September 9, 2019 via teleconference. Those in attendance were as follows:

Union Trustees

Edward K. Chambers, Jr.; UFCW Local Union No. 1625
William R. Barry; UFCW Local Union No. 1625

Employer Trustees

Richard Sox; American Financial
David Armstrong; Airamid Health Services
Robert Walker; Consulate Health Care
Richard "Chip" McWilliams; Consulate Health Care
Phyllis Doyle, Alternate; Consulate Health Care

Others Present

Kathleen Phillips; Phillips, Richard & Rind, P.A.
Jennifer Banzhof; BHA Consulting LLC
Bob Sudler; Sudler Insurance Services
Karin Peters; National Employee Benefits Administrators, Inc.
Janet Ferreiro; National Employee Benefits Administrators, Inc.

Chairman Chambers called the meeting to order at 10:01 a.m. and the business of the Trust was transacted in the following order:

Item I. Quorum

The Chairman determined that a quorum of Trustees was present.

Item II. 2020 Contribution Rates

Chairman Chambers noted that the Board did not formally adopt the 2020 Contribution Rates presented by the Fund Consultant at the August 19, 2019 regular meeting.

After discussion, a MOTION was made and seconded to approve the contribution rates as presented. Trustees Walker and McWilliams opposed. MOTION PASSED

BY MAJORITY. A copy of the Final 2020 Contribution Rates is attached hereto and identified as Exhibit "A."

Item III. Withdrawal of Consulate Health Care from the Fund

Chairman Chambers reported that Consulate Health Care has announced its intent to withdraw from the Fund effective December 31, 2019 with respect to all covered facilities.

In response to a question, Fund Counsel explained that in accordance with federal law, should Consulate withdraw, it will be assessed its pro-rata share of IBNR and unpaid claims, with the total amount owed to be calculated by the Fund Consultant when Consulate leaves the Fund.

Ms. Phillips advised that because the Fund is not shutting down and has unfunded liability, the Board of Trustees has a fiduciary obligation to recoup any unpaid liability from a withdrawing employer. Ms. Phillips further advised that she had shared the same opinion when Airamid was considering a withdrawal from the Fund. Trustee Armstrong agreed that the Trustees had agreed with this interpretation when Airamid requested to withdraw.

The Consulate Trustees asked for the amount that would be owed if they were to withdraw. Ms. Banzhof used the current period as an example, noting that the Fund had a cash deficit of around \$50,000 as of June 30, 2019. She explained that this included the contribution income received in the month of June and an estimate of the claims which had been incurred prior to June 30, 2019 but which were not yet reported but did not include any liabilities for benefits for the nursing home group that may be provided in July in exchange for that contribution. She explained that if, under the example, Consulate's withdrawal date was June 30th and they did not pay a contribution in the month of June, that as the Fund was basically operating at a breakeven level she would estimate that Consulate's total accrued unfunded liability would be equal to approximately one month of contributions plus a portion of the \$50,000. She noted if Consulate were to withdraw effective December 31st and they did not make a contribution payment in the month of December that the unfunded liability amount would be significantly higher than the current cash deficit because then the Fund would not have enough in reserves to cover that month's expenses. Ms. Doyle asked if Ms. Banzhof was referring to the contribution for December eligibility and Ms. Banzhof advised that she was referring to the contribution that is due in December, not the contribution that provides eligibility for December.

Ms. Phillips noted that Consulate is obligated under its CBA to pay contributions to the UFCW Local 1625 and Employers Health and Welfare Fund at the rates set by the Board of Trustees, and the Board has a fiduciary obligation to collect those contributions. Trustee McWilliams pointed out that Section 23.2 of the CBA states "The rates effective January 1, 2017 will be set by the Trustees of the UFCW Local 1625 Health and Welfare Plan in compliance with the ACA regulations" and noted

that Consulate did not formally agree to any rates for the years after 2017. Ms. Phillips responded that Section 23.2 was not intended to apply solely to the 2017 calendar year, but rather beginning in 2017 and each year thereafter.

Potential Amendment to Trust Agreement

Chairman Chambers asked Fund Counsel if the Trust Agreement could be amended to set forth a formula that a withdrawing employer from the Fund will be required to pay as its pro-rata share of IBNR and unfunded liability. Ms. Phillips agreed that such an amendment would be prudent. She proposed that a new subsection (e) be added to Section 4.1, Employer Contributions, stating that a termination premium would be applied to any employer withdrawing from the Fund based on the unfunded liability on the employer's termination date.

Chairman Chambers asked if the proposed language is more stringent than the law requires, and Ms. Phillips advised that she believes it is in line with federal law.

There was a MOTION and second to amend the Trust Agreement as recommended by Fund Counsel to clearly state that any employer withdrawing from the Fund will be required to pay its pro-rata share of IBNR and unfunded liability. Under discussion on the MOTION, the Trustees from Consulate requested that they see the amendment language in writing before voting. Ms. Phillips said she would circulate proposed amendment language to the Trustees during the meeting.

Trustee McWilliams asked Ms. Banzhof if Consulate is currently in compliance with the Trust Agreement. Fund Counsel instructed Ms. Banzhof not to answer since that would be a legal determination. Ms. Phillips advised that there has not been a recent payroll audit of Consulate, and she is unable to answer whether the employer is currently in compliance.

Ms. Phillips provided the draft language for a proposed Amendment No. 5 to the Restated Agreement and Declaration of Trust of the United Food and Commercial Workers Local 1625 & Employers Health and Welfare Fund, which was circulated to the Trustees and the Fund Professionals for review.

Fund Counsel noted that Amendment No. 5 would add the following subsection (e) to Section 4.1, Employer Contributions:

(e) Termination Premium. In addition to the contributions due under this section, any Employer who terminates participation in the Trust Fund shall be required to pay a termination premium. The termination premium shall be calculated as the terminating Employer's pro-rata share of incurred but unreported claims and/or outstanding claims of the Trust Fund as of the date of the Employer's termination. The Employer shall pay the termination premium in one lump sum or on the terms that the Trustees shall specify.

Termination Premium Calculation Method

The Trustees asked how the termination premium would be calculated. Ms. Banzhof explained that her firm performs these calculations different ways for different funds. One method would be based on participation; for example, since Consulate represents 32-35% of the Plan's total participation, her firm would calculate an estimate of the Plan's total liabilities and assign 32-35% to Consulate. Trustee Armstrong commented that he does not think Airamid should be responsible for other employers' claims and liabilities.

Ms. Banzhof said she believes they would have received 95% of claims by 2 months after December 31, 2019, assuming the Plan continues to pay claims on a timely basis. She suggested using a hybrid approach to determine the termination premium whereby an estimate of 75% of expected liability is calculated and assessed upon withdrawal and the final amount is calculated at 2 months and at 3 months to allow sufficient time for the December claims to be processed.

Ms. Phillips noted that she would not typically include a detailed description of the calculation method in the amendment, as that is more of an administrative decision for the Fund Consultant to determine, and the Trustees agreed.

Amendment No. 5 to Trust Agreement

Chairman Chambers called for a vote on the MOTION on the floor, which was to amend the Trust Agreement as described in the proposed Amendment No. 5 to the Restated Agreement and Declaration of Trust of the United Food and Commercial Workers Local 1625 & Employers Health and Welfare Fund, which was circulated to the Trustees. Trustees Walker and McWilliams opposed. MOTION PASSED BY MAJORITY.

Item IV. Adjournment

There being no further business to come before the Board of Trustees, the Chairman declared the meeting adjourned at 10:45 a.m.

Respectfully submitted,

UFCW LOCAL 1625 AND EMPLOYERS HEALTH AND WELFARE FUND

FINAL 2020 CONTRIBUTION RATES

	APPROVED 2020 RATES			JULY 2019 RATES*			% CHANGE FROM 2019*		
	EE Only	EE + Child	EE + Children	EE Only	EE + Child	EE + Children	EE Only	EE + Child	EE + Children
MEDICAL RATES (includes operations)									
New Orange Plan	\$ 854.00	\$ 1,151.00	\$ 1,522.00	\$ 776.25	\$ 1,046.25	\$ 1,383.75	10.0%	10.0%	10.0%
New Orange Plan									
ER Contribution	\$684.00			\$606.25			12.8%		
EE Contribution	\$ 170.00	\$ 467.00	\$ 838.00	\$ 170.00	\$ 440.00	\$ 777.50	0.0%	6.1%	7.8%
ANCILLARY RATES									
Dental	\$ 52.00	\$ 52.00	\$ 52.00	\$ 52.00	\$ 52.00	\$ 52.00	0%	0%	0%
Vision	\$ 7.57	\$ 14.71	\$ 20.55	\$ 7.57	\$ 14.71	\$ 20.55	0%	0%	0%
Time Loss (EE Only): \$150/26 wks	\$ 9.00			\$ 9.00			0%		
Time Loss (EE Only): \$500/13 wks	\$ 30.00			\$ 30.00			0%		
Life/AD&D (EE Only): \$5,000 both	\$ 3.00			\$ 3.00			0%		
Life/AD&D (EE Only): \$6,000 both	\$ 3.00			\$ 3.00			0%		
Life/AD&D (EE Only): \$10,000/no ad&d	\$ 3.00			\$ 3.00			0%		
Operations (for Ancillary-only plans)	\$ 31.00	\$ 31.00	\$ 31.00	\$ 31.00	\$ 31.00	\$ 31.00	0%	0%	0%
COBRA RATES									
	Standard COBRA Rate			19th - 29th Month Disability Rate					
Orange Plan	\$ 871.08	\$ 1,174.02	\$ 1,552.44	\$1,281.00	\$ 1,726.50	\$ 2,283.00			
Dental	\$ 53.04	\$ 53.04	\$ 53.04	\$ 78.00	\$ 78.00	\$ 78.00			
Vision	\$ 7.72	\$ 15.00	\$ 20.96	\$ 11.35	\$ 22.06	\$ 30.82			
Operations (Add-on for ancillary)	\$ 31.62	\$ 31.62	\$ 31.62	\$ 46.50	\$ 46.50	\$ 46.50			

* Rates shown are the prevailing rates in place for the majority of the employers during that period.

Exhibit 6

From: McWilliams, Richard C
Sent: Monday, May 11, 2020 10:41 AM
To: 'Dale Ewart' <dale.ewart@1199.org>
Cc: Walker, Robert <Robert.Walker@consulatehc.com>
Subject: Consulate UHC Employer Premium Costs

Dale,

In order to resolve the unfair labor practice charge regarding you're the SEIU's request for information, we wanted to provide you with the employer contribution information you had requested.

I believe that you already have a copy of the SPD for the Company's plan and the employee premium amounts, which mirror the 2020 premiums under the UFCW plan. Here is the Company's premium for each of those plans:

Single Coverage	\$ 456.74 per month
Employee + Child	\$ 377.73 per month
Employee + Children	\$ 279.23 per month

Please let me know if you have any additional questions.

Chip