



## SETTLEMENT AGREEMENT

Filed April 18, 2024

This Settlement Agreement (“Agreement”) is made and entered into by and between the Division of Mental Health and Addiction of Indiana Family and Social Services Administration (“DMHA”) and Landmark Recovery of Carmel, LLC (“Landmark”) (collectively, the “Parties”).

### WITNESSETH:

**WHEREAS**, on July 26, 2023, DMHA invoked its emergency powers under Indiana Code § 4-21.5-4-1 to revoke the certifications of three of Landmark’s facilities operating in Indiana: Mishawaka, Carmel, and Bluffton; and

**WHEREAS**, on August 4, 2023, Landmark filed its Petition for Review and Request for Stay of Effectiveness of an Agency Action with the Indiana Office of Administrative Law Proceedings under Case ID 4502959255 and Cause MHL2308001 (“Petition for Review”); and

**WHEREAS**, the Parties have conducted extensive meetings and discussions in good faith, and have negotiated in an effort to resolve and settle such matter in accordance with the terms of this Agreement.

**NOW, THEREFORE**, in consideration of the promises and mutual covenants herein provided and the mutual consideration provided by and between the Parties pursuant to this Agreement, the Parties agree and acknowledge as follows:

#### 1.) Applications for Certification.

Landmark’s Carmel, Bluffton, and Mishawaka facilities were closed in August 2023. Landmark agrees to surrender all appellate rights in order to permit it an opportunity to pursue certification of new certifications for the Carmel, Bluffton, and Mishawaka facilities. Any reopening of these three facilities will be subject to DMHA’s approval of new certifications, in compliance with the Indiana Code and applicable regulations, except as provided herein. And, as to Mishawaka, Landmark will not reapply for certification for a minimum of one year after the execution of this Agreement.

DMHA agrees to waive for Landmark the one year statutory “wait period” imposed on entities submitting new applications following a surrender or revocation of a prior certification under 440 IAC 4.4-2-9 (c) and Indiana Code §12-23-1-6. Landmark agrees not to submit an application for a new location more frequently than every six months.

Landmark agrees that an application for certification for any new facility will be limited to 32 beds and that any subsequent application to expand that bed count will be contingent on submitting evidence that Landmark has hired sufficient staff for any such additional beds, in compliance with Landmark’s minimum staffing policy. Landmark further agrees that any such expansion beyond 100 beds will require evidence that Landmark has hired a full-time, on-site physician to oversee medical care at that facility.

For a period of one year following the execution of this Agreement, regarding any new facilities, Landmark agrees to provide bi-weekly reports to DMHA evidencing Landmark’s compliance with the Indiana Code and its internal safety practices, along with its target compliance rates, at any such newly certified facility. For a period of two years following the execution of this Agreement, regarding any new

facilities, Landmark agrees not to apply for new certification unless all actively certified locations in Indiana meet or exceed agreed target compliance rates for at least 12 consecutive weeks prior to application.

Landmark agrees that all locations granted certification by DMHA will apply to be a Medicaid provider with Type 11 and Specialty 836 Permanent Restrictions.

Prior to any new applications for certification, Landmark agrees to solicit feedback from Recovery Hubs and community stakeholders, including state and local elected officials and local fire, police, and hospital representatives. Landmark will provide evidence of these meetings and feedback in any application packets submitted to DMHA. The Parties acknowledge, as an act of good faith in anticipation of this agreement, Landmark has already begun this process of Restorative Justice including hosting a public open house for Indiana's recovery hubs, politicians, Medicaid payors and local community partners on February 9, 2024. Landmark will continue to engage the local communities as well as applicable state authority within which they operate.

If any Landmark location in Indiana receives a Statement of Deficiency from DMHA indicating non-compliance with ten or more materially different statutes of Indiana code requiring a Corrective Action Plan, Landmark will not apply for any new certification until it has demonstrated compliance with an approved plan of correction for a minimum of six months prior to the application date. If a received Statement of Deficiency results in conditional status at any location, Landmark agrees not to apply for any new certification until the conditional status has been lifted.

2.) Change of Ownership at Digital Way. DMHA acknowledges Landmark's stated intent to make structural ownership changes for its location at 6330 Digital Way, Indianapolis IN, 46278 ("Digital Way"). While the Digital Way location was not subject to the Petition for Review, ensuring that it remains open is a material term to Landmark in entering into this Agreement. As such, as a term of this Agreement, DMHA agrees to expeditiously process a change of ownership once submitted, and further agrees that the anticipated change of ownership does not implicate the agreed-upon restrictions for new applications.

3.) Release. The Parties mutually, fully, irrevocably and unconditionally release each other and their respective agents, successors, representatives, assigns, officers, directors, shareholders, partners, members, attorneys and employees from all claims, liabilities, obligations, assessments, payments and expenses of any kind or nature whatsoever relating to any and all disputes, issues or controversies related to the Petition for Review and Request for Stay of Effectiveness of an Agency Action filed under Case ID 4502959255 and Cause MHL2308001.

4.) Successors. All terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective officers, directors, shareholders, subsidiaries, affiliates, agents, heirs, successors, and assigns.

5.) Additional Documents and Proceedings. The Parties agree to execute any additional documents and undertake such proceedings that may be needed now or in the future to effectuate the terms, promises, and covenants of this Agreement.

6.) No Admission. This Agreement does not contain any admission, concession, or agreement by the Parties concerning the merits of any issue of fact or law, and this Agreement shall not be construed as constituting or containing any such admission, concession, or agreement.

7.) Interpretation. This Agreement represents the entire Agreement between the Parties. It supersedes all prior negotiations, representations, documents, communications or agreements relating to the subject matter hereof, whether written or oral. No amendment, change, alteration, waiver or modification to the Agreement shall be effective unless in writing and signed by duly authorized representatives of each of the Parties. Each of the Parties has been involved in determining the provisions of this Agreement, and no ambiguity or interpretation of this Agreement shall be resolved or determined in favor of or against a Party based in whole or in part on whether or not such Party has prepared this Agreement or any provision hereof. The validity, interpretation and performance of this Agreement and the legal relations of the Parties shall be governed by and construed in accordance with the law of the State of Indiana without regard to the choice of law or conflicts of law provisions of any jurisdiction.

8.) Severability. If any portion of this Agreement is held or adjudged by a court, agency or tribunal of competent jurisdiction to be invalid or unenforceable in any way, to the fullest extent permitted by law, all remaining provisions and portions hereof shall remain in full force and effect.

9.) Costs. Except as otherwise provided expressly herein, each Party shall bear its own costs, including attorneys' fees, in regard to the matters settled hereunder.

10.) Due Authorizations. Each of the individuals below represents that he or she is authorized to execute this Agreement on behalf of the Party for whom such individual is executing this Agreement.

11.) Counterparts. This Agreement may be executed in a number of counterparts, and each counterpart's signature shall, when taken with all other signatures, be treated as if executed upon one original of this Agreement. A facsimile signature of any Party shall be binding upon that Party as if it were the original.

12.) Confidentiality. The Parties agree that the terms of this Agreement are not confidential and may be disclosed to any third-party except if forbidden by law or via other the terms of this Agreement.

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**LANDMARK RECOVERY OF CARMEL, LLC**

By:  \_\_\_\_\_

Printed: Matthew Boyle \_\_\_\_\_

Title: CEO \_\_\_\_\_

Date: 04/15/2024

**DIVISION OF MENTAL HEALTH AND  
ADDICTION, INDIANA FAMILY AND  
SOCIAL SERVICES ADMINISTRATION**

By:  \_\_\_\_\_

Printed: Rebecca Buhner

Title: Chief of Staff

Date: 4/18/24