

## APPENDIX G-3

### Equipment Lease

## EQUIPMENT LEASE AGREEMENT

This Equipment Lease Agreement (this “Agreement”), dated as of April <sup>12</sup>, 2023 (the “Effective Date”), is made by and between *HealthFirst Family Care Center, Inc.*, a New Hampshire nonprofit corporation with a place of business at 841 Central Street, Franklin, NH 03235 (“HealthFirst”), and *Mascoma Community Healthcare, Inc.*, a New Hampshire corporation with a place of business at 18 Roberts Road, Canaan, NH 03741 (“Mascoma Health Center”).

### RECITALS

**WHEREAS**, HealthFirst is a Federally Qualified Health Center that offers integrated primary care and other healthcare services; and

**WHEREAS**, HealthFirst desires to lease the Equipment as defined below from Mascoma Health Center, and Mascoma Health Center desires to lease the Equipment to HealthFirst in connection with HealthFirst’s assumption of the operations of the health care center at 18 Roberts Road in Canaan, New Hampshire (the “Facility”) under that certain Operations Transfer Agreement (the “OTA”) and that certain Lease Agreement of real property and improvements (the “Premises Lease”) of even date herewith; and

**NOW, THEREFORE**, in consideration of the mutual benefits and covenants set forth herein, the parties hereto, intending to be legally bound hereby, agree as follows.

**1. Contingencies.** In order for this Agreement to become effective, the following contingencies must occur on or before July 1, 2023 (the “Operations Transfer Date”): (i) Mascoma Health Center shall receive approval to enter into the Premises Lease from its lender, the United States Department of Agriculture (“USDA”); (ii) HealthFirst and Mascoma Health Center shall execute an Operations Transfer Agreement; (iii) the Charitable Trusts Unit of the NH Department of Justice shall not object to the operations transfer contemplated by the OTA, this Agreement, or the Premises Lease under RSA 7:19-b; (iv) the New Hampshire Probate Court for the district in which the Facility is located shall approve Mascoma Health Center’s cy pres petition; (v) the U.S. DHHS Health Resources and Services Administration shall approve HealthFirst’s request to add the Facility as an FQHC site of service; and (vi) the New Hampshire Governor and Council shall approve the NH DHHS emergency funding guarantee related to HealthFirst’s operation of the Facility. If any of the approvals listed in this Section 1 is withheld or denied, without an opportunity for reconsideration, then this Agreement shall not take effect and shall automatically terminate unless the parties agree otherwise in writing. If one or more approvals is delayed beyond July 1, 2023 but is expected to be obtained within thirty (30) days thereafter, then the automatic termination provision in the foregoing sentence and the commencement date of this Agreement will be delayed by thirty (30) days. If Mascoma Health Center or HealthFirst can obtain said approvals only upon the basis of modifications of the terms and provisions of this Agreement, said party shall have the right to cancel this Agreement if the other party declines in good faith to approve in writing any such modification within thirty (30) days after request therefor. If such right to cancel is exercised, this Agreement shall thereafter be null and void, and neither party shall have any liability to the other by reason of such cancellation.

## 2. Equipment Lease.

2.1. Equipment. Mascoma Health Center hereby leases the equipment set forth on the attached Exhibit A (the "Equipment") to HealthFirst for its use at the Facility to support the Facility's provision of healthcare services to patients at the Facility's location in Canaan, NH.

(a) Mascoma Health Center will cause the Equipment to be delivered to HealthFirst on the Effective Date in good and working order. The Equipment is leased exclusively to HealthFirst for its use at the Facility during the Term.

(b) Neither Mascoma Health Center nor HealthFirst may remove the Equipment from the Facility during the Term, although Equipment may be replaced as necessary by equipment of like functionality and quality.

(c) At least thirty (30) days before the Operations Transfer Date, HealthFirst representatives shall inspect the Equipment and determine which, if any, items of Equipment that HealthFirst does not wish to lease under this Agreement. HealthFirst shall promptly notify Mascoma Health Center of the equipment it does not wish to lease. Mascoma Health Center shall remove or store the equipment that HealthFirst does not wish to lease within sixty (60) days of the Operations Transfer Date. HealthFirst shall provide Mascoma Health Center with access to the Facility to remove or store the specified equipment. Notwithstanding the above, HealthFirst acknowledges and agrees that the Rent as defined in Section 4.1 below will not change if it decides not to lease all of the Equipment from Mascoma Health Center.

2.2. Title and Maintenance. During the Term, Mascoma Health Center grants to HealthFirst the exclusive right to use and operate the Equipment on the terms and conditions hereinafter set forth. Subject to Section 5.3 below, title to the Equipment, including any improvements thereto, shall be and remain in Mascoma Health Center at all times during the Term. HealthFirst agrees to take no action that it knows would adversely affect Mascoma Health Center's title to or interest in the Equipment. At all times, HealthFirst shall use the Equipment hereunder in a careful and proper manner. All maintenance, repair and replacement, if necessary, of the Equipment shall be performed by HealthFirst at its sole expense. HealthFirst shall promptly notify Mascoma Health Center of any defective or malfunctioning Equipment.

2.3. Licenses and Permits. HealthFirst shall obtain and maintain throughout the Term all licenses, permits, subscriptions and other registrations required for the performance of their respective functions hereunder, including, but not limited to, the lawful possession and operation of the Equipment under all applicable laws and regulations. The cost of such licenses or permits or subscriptions shall solely be borne by HealthFirst.

2.4. Liens, Encumbrances. HealthFirst shall not directly or indirectly create or suffer to exist any mortgage, security interest, attachment, writ or other lien or encumbrance on the Equipment, and will promptly and at its own expense, discharge any such lien or encumbrance which shall arise, unless the same shall have been created or approved by Mascoma Health Center.

### **3. Representations, Warranties and Covenants.**

3.1. Authority. Each party hereby represents to the other party that (i) it is duly incorporated or organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization; (ii) it has the power, authority and legal right to enter into this Agreement and to lease the Equipment contemplated hereunder, and that it has taken all necessary corporate action to authorize execution of this Agreement; (iii) all necessary consents, approvals and authorizations of governmental authorities and other persons required to be obtained related to the performance of this Agreement and lease of the Equipment have been obtained and all approvals will be in full force and effect during the Term; and (iv) the execution and delivery of this Agreement will not materially conflict with or violate any material requirement of any applicable law or regulation and does not materially conflict with or constitute a material default under any contractual obligation enforceable against it.

3.2. Title to Equipment. Mascoma Health Center represents and warrants that it has sufficient right, title and interest in the Equipment to fulfill its obligations under this Agreement subject to encumbrances of record.

3.3. Disclaimer of Warranties. MASCOMA HEALTH CENTER HEREBY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE; DESIGN OR CONDITION OF EQUIPMENT; WORKMANSHIP; COMPLIANCE OF EQUIPMENT WITH ANY APPLICABLE LAW, RULE, SPECIFICATION OR CONTRACT PERTAINING THERETO; LATENT DEFECTS; AND AGAINST INFRINGEMENT CLAIMS. HEALTHFIRST LEASES THE EQUIPMENT "AS IS" AND WITH ALL FAULTS. IN NO EVENT WILL MASCOMA HEALTH CENTER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES INCURRED BY HEALTHFIRST RELATIVE TO ITS USE AND OPERATION OF THE EQUIPMENT. HealthFirst accordingly agrees not to assert any claim whatsoever against Mascoma Health Center for loss of anticipatory profits or consequential damages arising from or relating to the Equipment under this Agreement. Mascoma Health Center will have no obligation to test, service, or maintain the Equipment. HealthFirst will look to the manufacturer and/or seller of the Equipment for any claims related to the Equipment.

### **4. Payment Provisions.**

#### **4.1. Rent.**

(a) In consideration of the lease of the Equipment, HealthFirst shall pay Mascoma Health Center a fixed monthly rental payment of Seven Hundred and Fifty Dollars (\$750.00) per month (the "Rent") during each month of the Term, payable on the first day of each month following the Effective Date. Mascoma Health Center shall not increase the Rent during the Term.

(b) HealthFirst agrees to pay the Rent promptly when due without set-off.

4.2. Reasonableness of Rent. The parties hereto represent, warrant and acknowledge that the Rent to be paid by HealthFirst to Mascoma Health Center has been determined by the parties

through good-faith and arm's length bargaining, and is commercially reasonable and reflects the fair market rental/lease value of the Equipment. The Rent has not been determined in a manner that takes into account, either directly or indirectly, the volume or value of any referrals. No amount paid or payable hereunder is intended, nor shall be construed to be, an inducement or payment for referral of or recommending referral of, patients by HealthFirst to Mascoma Health Center (or its affiliates), or by Mascoma Health Center (or its affiliates) to HealthFirst, or for ordering, leasing or purchasing any item, product or service covered by any governmental or private health care payment program. In addition, the Rent charged hereunder does not include any discount, rebate, kickback or other reduction in charge.

## 5. Term and Termination.

5.1. Term. This Agreement shall have a term of five (5) years from the Effective Date unless terminated as provided for herein (the "Term").

5.2. Termination. This Agreement shall terminate upon the happening of any of the following events:

(a) Termination for Cause. Either party may terminate this Agreement for cause if the other party fails to cure any material breach of this Agreement, or of the Premises Lease, within sixty (60) days of receiving written notice of such breach.

(b) Termination of the Premises Lease Agreement. This Agreement shall automatically terminate upon termination of the Premises Lease.

(c) Effect of Expiration or Earlier Termination. Upon the expiration or earlier termination of this Agreement, no party shall have any further obligations hereunder except for: (a) obligations accruing prior to the date of expiration or termination; and (b) obligations, promises or covenants contained herein which are expressly made to extend beyond the Term. Should this Agreement terminate before the end of the Term, HealthFirst shall, or shall cause the Facility to, return the Equipment to Mascoma Health Center, in the same condition as when received by HealthFirst, reasonable wear and tear excepted. HealthFirst shall cease use of the Equipment upon termination of this Agreement.

5.3. Purchase of Equipment. Notwithstanding provisions herein to the contrary, at the end of the Term, in consideration of the Rent paid by HealthFirst during the Term, Mascoma Health Center shall transfer title to the Equipment to HealthFirst for the consideration of One Dollar (\$1.00).

5.4. Holdover. If this Agreement is terminated, and should HealthFirst retain possession of and continue use of the Equipment, the parties agree that this Agreement shall continue in effect until termination and return of the Equipment to Mascoma Health Center, with such holdover being on the same terms and conditions herein.

5.5. Repurchase of Equipment. If HealthFirst purchases the Equipment under Section 5.3 above and the Premises Lease subsequently is terminated, then HealthFirst agrees to transfer title to

the Equipment back to Mascoma Health Center in consideration of the acquisition and debt payment costs incurred by Mascoma Health Center plus One Dollar (\$1.00). This Section 5.5 will survive the expiration of this Agreement.

## **6. Indemnification; Insurance.**

6.1 Indemnification. HealthFirst hereby indemnifies Mascoma Health Center, its board officers, employees and agents (the “Indemnified Parties”), against any claims, actions, damages or liabilities, including all attorneys’ fees, arising out of or in connection with HealthFirst’s use and operation of the Equipment hereunder, except to the extent such claims, actions, damages or liabilities arise out of the negligence of the Indemnified Parties or the actions of the Indemnified Parties before the Effective Date of this Agreement. This Section 6.1 will survive the expiration, cancellation or termination of this Agreement.

6.2 Indemnification Procedure. The Indemnified Party shall provide HealthFirst (“Indemnitor”) with timely notice of any Claim for which indemnification will be sought hereunder; provided, however, that failure to provide timely notice shall relieve the Indemnitor of its duty to indemnify only to the extent such delay prejudices the Indemnitor. The Indemnified Party shall permit the Indemnitor to assume full responsibility for the investigation of, preparation for, and defense of any Claim for which indemnification is sought, provided the Indemnified Party may, in its discretion, assist in such defense. The Indemnitor may not compromise or settle any such Claim without the Indemnified Party’s prior written consent. Notwithstanding the above, the Indemnified Party shall have the right in its sole discretion and at its sole expense to select and obtain representation by separate legal counsel.

6.3 Insurance. During the Term, HealthFirst shall, as applicable, self-insure and/or maintain commercial general liability insurance written on an occurrence form, insuring against damages because of bodily injury, including death, property damage and personal and advertising injury and include without limitation, coverage for blanket contractual liability, broad form property and fire damage legal liability, and premises and operations liability. The minimum limits of insurance shall be \$1,000,000 per occurrence, and \$3,000,000 general annual aggregate. Mascoma Health Center shall be a named insured on any HealthFirst policies related to the Equipment. HealthFirst shall provide certificates of coverage and any necessary endorsements evidencing compliance with these obligations to the other party upon reasonable request. All self-insured retentions or deductibles shall be the sole responsibility of HealthFirst and are subject to approval by Mascoma Health Center in its reasonable judgment. Insurance effected or procured by Mascoma Health Center shall not reduce or limits HealthFirst’s obligation to indemnify and defend the Indemnitees as contemplated in this Section 8.

## **7. Miscellaneous.**

7.1 Entire Agreement; Amendments. This Agreement contains the complete and full understanding of the parties with respect to the subject matter hereof and supersedes any and all prior oral or written agreements of the parties regarding the subject matter covered by this Agreement. All amendments or additions hereto must be in writing and signed by both parties to the Agreement.

7.2 Non-Waiver. The failure of a party to insist upon strict adherence to any term of this

Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to that term or any other term of this Agreement.

7.3 Assignment. Neither this Agreement nor any of the rights or duties under this Agreement may be assigned or delegated by either party without the express written consent of the other party hereto.

7.4 Independent Contractors. The relationship of the parties hereunder shall at all times be that of independent contractors.

7.5 Notices. Any notice given pursuant to this Agreement shall be in writing and shall either be personally delivered or sent by certified mail, return receipt requested, postage prepaid, or by means of another regularly scheduled delivery service customarily utilized for business correspondence that provides equivalent proof of delivery and receipt, fees prepaid, addressed to the appropriate party as set forth in the preamble hereto, or to such other address as a party shall designate by notice to the other, given in accordance with this Section. Notice shall be deemed to have been given (i) when received if personally delivered, or (ii) on the delivery date indicated on the return receipt.

7.6 Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable, then the invalidity, illegality, or unenforceability of such specific provision herein shall not be held to invalidate any other provision herein, which other provision shall remain in full force and effect unless the removal of the invalid, illegal, or unenforceable provision destroys the legitimate purposes of this Agreement in which event this Agreement shall be null and void.

7.7 Counterparts and Signatures. This Agreement may be executed in more than one counterpart, and each executed counterpart shall be considered as the original. Any signature transmitted by facsimile, e-mail, or other electronic means shall be deemed to be an original signature.

7.8 Further Actions. Each of the parties agrees that it shall hereafter execute and deliver such further instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and as are not inconsistent with the terms hereof.

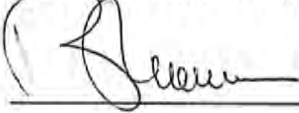
7.9 Governing Law & Forum Selection. The laws of the State of New Hampshire shall govern this Agreement and venue for all disputes arising from or relating to this Agreement shall be in the state or federal courts in New Hampshire.

7.10 No Third-Party Beneficiaries. This Agreement is made and entered into solely for the benefit and protection of the parties hereto and their successors and permitted assigns, and no other person or entity shall have any cause of action or rights hereunder.

*Signature Page Follows*

**IN WITNESS WHEREOF**, the parties have signed this Agreement through their duly authorized representatives on the date set forth above.

**HEALTHFIRST FAMILY  
CARE CENTER, INC.**



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Signature

Name: Russell Keene

Title: CEO

Date:

**MASCOMA COMMUNITY  
HEALTHCARE, INC.**



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Signature

Name: Sandra Hayden

Title: Board Chair

Date: April 8, 2023



**Exhibit A**  
**EQUIPMENT**