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A G R E E M E N T

THIS AGREEMENT made in triplicate original at Phoenix, Arizona, this 14 day of November, 1955, by and among PHOENIX JEWISH COMMUNITY COUNCIL, an Arizona non-profit corporation, hereinafter called "Council", CONGREGATION SETH ISRAEL OF PHOENIX, ARIZONA, an Arizona non-profit corporation, hereinafter called Congregation, and PHOENIX JEWISH COMMUNITY KIVEL NURSING HOME, an Arizona non-profit corporation, hereinafter called "Nursing Home", WITNESSETH:

WHEREAS the Council has been formed to provide a medium for coordinating, planning, fostering, maintaining, directing, financing, supervising, and operating Jewish communal philanthropic activities, and to act as a central bureau through which funds for social welfare and community needs may be held and disbursed, and in carrying out said function, said council has fostered other organizations and non-profit corporations, to assist in carrying out their programs, as for example, Jewish Social Service and Jewish Community Center; and

WHEREAS the Board of Directors of said Council has heretofore determined that there is a need in Maricopa County, Arizona for a nursing home for the accommodation of convalescents, aged persons, and infirm persons, who are not acutely ill and not in need of hospital care, but who do require skilled nursing care and related medical services, and has therefore directed the incorporation of said "Nursing Home" as an affiliated agency of the Council to carry out this specific objective relating to the establishment and operation of a nursing home; and

WHEREAS the Congregation has been incorporated for the specific purpose of establishing and operating a Hebrew congregation for the holding of Hebrew religious services and also for the general purpose of encouraging and assisting in the promotion of charitable activities; and

WHEREAS paragraph SIXTH of the Last Will and Testament of Himann Kivel, Deceased, bequeathed to the Congregation the sum of \$100,000.00, "for the acquisition of land, a building, and/or equipment to be used by said organization as a convalescent and rest home for indigent ex-patients and old people, without charge, * * *", provided that at least two-thirds of the paid-up members of the Congregation agreed that said funds would be used for such purpose; and

WHEREAS an overwhelming number of the members of the Congregation, far in excess of the required two-thirds, did sign an undertaking agreeing that such bequest would be used for the purposes set out in the Last Will and Testament of Himann Kivel, Deceased; and

WHEREAS the Council, prior to the execution of said undertaking by the membership of the Congregation, did on or about March 30, 1955, acting through the lawful authority of its Board of Directors, agree to indemnify the Congregation, its Directors and members, against any liability whatsoever arising from the creation or operation of a nursing home, and said Council

1 did undertake full responsibility for all matters pertaining to
2 the creation of said nursing home and its operation thereafter;
and

3 WHEREAS pursuant to the filing of said undertaking by
4 the membership of the Congregation, the Valley National Bank did
pay said bequest to the Congregation; and

5 WHEREAS the Bank, as Trustee pursuant to the terms of
6 the Last Will and Testament, is under no obligation to investigate
7 or secure the carrying out of the provision of the Will, and the
8 full responsibility for so using such funds for the purposes set
out in the Last Will and Testament rests in the Congregation;
and

9 WHEREAS the Congregation acting by and through the
10 lawful authority vested in its Board of Directors, has determined
11 that said Congregation has been primarily created to operate a
12 religious congregation, and that heretofore the Congregation and
13 its members have cooperated and assisted the Council in carrying
14 out purely charitable activities of a general community nature;
and said Board of said Congregation and the Board of said Council
15 have heretofore determined that the new non-profit corporation
16 with its limited objective of establishing and operating a nursing
17 home is the best vehicle to carry out effectively the provisions
18 of paragraph SIXTH of the Last Will and Testament of Himann Kivel,
19 Deceased;

20 NOW, THEREFORE, the parties agree as follows:

21 1. The Council agrees:

22 (A) To indemnify the Congregation, all its
23 directors and members, and each of them, and to save all of
24 them and each of them harmless from any liability, claim, damages,
25 actions, judgments, court costs, attorney's fees, expenses or
26 otherwise, pertaining to any act of omission or commission
27 relative to the receipt or disbursement of funds or property
28 pursuant to paragraph SIXTH of the Last Will and Testament of
29 Himann Kivel, deceased, or pertaining to the creation and operation
of the nursing home.

30 (B) To give all aid and assistance through its
31 directors, members, officers, agents, committees and employees,
32 to the Nursing Home to carry out the specific objectives of
creating and operating a nursing home so as to carry out the
wishes set out in paragraph SIXTH of the Last Will and Testament
of Himann Kivel, deceased.

(C) That after the construction of a nursing
home, any deficiencies in annual operating funds will be
considered in making allocations from annual drives for charitable
purposes conducted by the Council.

(D) That the Nursing Home is hereby designated
as an affiliated agency of the Council to cooperate with the
Jewish Social Service and other affiliated charitable agencies
of the Council in creating and operating the Nursing Home.

1 2. The Nursing Home Agrees:

2 (A) To receive such funds, including principal
3 and accumulated income, as are now held by the Congregation
4 pursuant to the Last Will and Testament of Himann Kivel, Deceased,
5 and the Nursing Home agrees to use said principal and any past
6 or future income on said principal for the purposes specifically
7 set out in paragraph SIXTH of said Last Will and Testament, and
8 for no other purposes whatsoever.

9 (B) To forthwith take such steps as may be
10 necessary for the acquisition of land, a building, and/or
11 equipment for a nursing home; and specifically agrees that in
12 the event said funds have not been expended, used, contracted
13 for, or committed, for the construction of a nursing home within
14 three (3) years from date, to return such funds, together with
15 any accumulated income, to the Congregation in order that the
16 Congregation may take other steps, or designate other agencies,
17 to carry out the purposes of paragraph SIXTH of the Last Will and
18 Testament of Himann Kivel, Deceased.

19 (C) Until funds are actually needed for the
20 specific purposes, as for example acquisition of land, a building,
21 and/or equipment, the Nursing Home agrees to keep said funds
22 invested in interest bearing securities issued or guaranteed by
23 the Federal Government, with such maturities as will not inter-
24 fere with carrying out the purposes and provisions provided for
25 herein. Said funds may also be invested in Federally insured
26 savings and loan associations, or similar financial institutions
27 whose interest bearing deposits are Federally insured.

28 (D) That all funds received from the Congregation
29 shall be in special bank account or accounts and not co-mingled
30 with any other Nursing Home funds, and said funds shall not be
31 subject to withdrawal or expenditure except upon the signature of
32 two (2) officers of the Nursing Home.

33 (E) That all site selection and building and
34 equipment acquisition shall be under the direction of an architect
35 registered under the laws of the State of Arizona; and that in
36 all such matters the advice and consultation shall likewise be
37 sought of doctors registered to practice medicine under the laws
38 of the State of Arizona.

39 (F) To accept as an ex officio member of its
40 Board of Directors, without vote, any person designated from
41 time to time by the President of the Congregation, until such
42 time as all funds transferred hereunder from the Congregation to
43 the Nursing Home have been expended for the purposes herein set
44 forth, or returned to the Congregation.

45 (G) During site acquisition and construction
46 activities, to file a written report with the President of the
47 Congregation every three (3) months, setting forth all expendi-
48 tures during the preceding three (3) month period from funds
49 transferred pursuant to this agreement. Thereafter the Nursing
50 Home agrees to file an annual report with the President of the
51 Congregation setting forth the operations during the preceding
52

1 year, including items of receipt and disbursement of funds, and
2 the number of residents or patients who have received services
3 from the Nursing Home.

3 (H) To indemnify the Congregation, all its
4 directors and members, and each of them, and to save all of them
5 and each of them harmless from any liability, claim, damages,
6 actions, judgments, court costs, attorney's fees, expenses or
7 otherwise, pertaining to any act of omission or commission
8 relative to the receipt or disbursement of funds or property
9 pursuant to paragraph SIXTH of the Last Will and Testament of
10 Himann Kivel, deceased, or pertaining to the creation and operation
11 of the nursing home.

8 3. The Congregation agrees:

9 (A) That the Nursing Home is designated as the
10 agency selected by the Congregation to carry out the provisions
11 of the SIXTH paragraph of the Last Will and Testament of Himann
12 Kivel, deceased, relating to the acquisition of land, a building,
13 and/or equipment, to be used for a convalescent and rest home
14 for indigent ex-patients and old people, without charge.

12 (B) Within ten (10) days from date to transfer
13 to the Nursing Home all principal, in securities and money,
14 together with accumulated income, being held by the Congregation
15 pursuant to paragraph SIXTH of the Last Will and Testament of
16 Himann Kivel, deceased, to be used by said Nursing Home in
17 carrying out the provisions of Paragraph SIXTH of said Last Will
18 and Testament, and for no other purposes.

17 IN WITNESS WHEREOF we have hereunto set our hands and
18 seals the day and year first above written.

19 PHOENIX JEWISH COMMUNITY COUNCIL

20 By W. G. Silverman
21 President

21 ATTEST:
22 Isaac [unclear]
23 Secretary

23 AFFIX SEAL

24 CONGREGATION BETH ISRAEL OF
25 PHOENIX, ARIZONA

25 By Mary [unclear]
26 President

26 ATTEST:
27 [unclear]
28 Secretary

28 AFFIX SEAL

29 PHOENIX JEWISH COMMUNITY KIVEL
30 NURSING HOME

30 By [unclear]

31 ATTEST:
32 [unclear]
33 Secretary

1 STATE OF ARIZONA }
2 COUNTY OF MARICOPA } ss

3 On this the 14 day of November, 1955, before me, the
4 undersigned officer, personally appeared Max J. Shuman
5 AND Joseph Rudman, who acknowledged themselves to be
6 the President and Secretary, respectively of PHOENIX JEWISH
7 COMMUNITY COUNCIL, a corporation, and that they, as such President
8 and Secretary, being so authorized, executed the foregoing
9 instrument for the purposes therein contained, by signing the
10 name of the said corporation by themselves as such President and
11 Secretary, respectively.

12 IN WITNESS WHEREOF I hereunto set my hand and official
13 seal.

14 My Commission Expires:
15 Sept 11, 1957

Marion Boehm
Notary Public

16 STATE OF ARIZONA }
17 COUNTY OF MARICOPA } ss

18 On this the 14 day of November, 1955, before me, the
19 undersigned officer, personally appeared Harry Rosenfeld
20 and Benton Leubenstein, who acknowledged themselves to be
21 the President and Secretary, respectively, of CONGREGATION BETH
22 ISRAEL OF PHOENIX, ARIZONA, a corporation, and that they, as such
23 President and Secretary, being so authorized, executed the fore-
24 going instrument for the purposes therein contained, by signing
25 the name of the said corporation by themselves as such President
26 and Secretary, respectively.

27 IN WITNESS WHEREOF I hereunto set my hand and official
28 seal.

29 My Commission Expires:
30 Sept 11, 1957

Marion Boehm
Notary Public

31 STATE OF ARIZONA }
32 COUNTY OF MARICOPA } ss

33 On this the 14 day of November, 1955, before me, the
34 undersigned officer, personally appeared G. B. Spector
35 and Armine F. Shalich, who acknowledged themselves to be
36 the President and Secretary, respectively, of PHOENIX JEWISH
37 COMMUNITY KIVEL NURSING HOME, a corporation, and that they, as
38 such President and Secretary, being so authorized, executed the
39 foregoing instrument for the purposes therein contained, by signing
40 the name of the said corporation by themselves as such President
41 and Secretary, respectively.

42 IN WITNESS WHEREOF I hereunto set my hand and official
43 seal.

44 My Commission Expires:
45 Sept 11, 1957

Marion Boehm
Notary Public