

Exhibit No. 1
Draft Conditions of Approval

EXHIBIT 1

DRAFT CONDITIONS OF APPROVAL

USE PERMIT NO. 2008-030

OCEAN RECOVERY, LLC

1. **Governmental Referrals.** The operator of Ocean Recovery, LLC, hereinafter referred to as "Operator," shall not provide any services to any client or house any client who has been referred or caused to be referred to Ocean Recovery's facility by any governmental agency, including but not limited to probationers or parolees, due to the limitations that Section 509.9 of the California Building Code places on Group I and R occupancies.
2. **Medical Waste.** Any and all medical waste generated through the operation of the facility shall be disposed of in accordance with the City of Newport Beach's Municipal Code, all other laws and best industry standards and practices.
3. **Trash & Trash Enclosures.** Operator shall comply with City code provisions pertaining to trash enclosures, and if directed by the Planning Director, shall secure and maintain commercial bin service at the subject property. Operator shall provide a sufficient number of plastic trash cans with sealable covers to contain all of the refuse generated by the facility which are to be used at all times. Trash cans shall be put out for pick up no earlier than 7:00 p.m. and before 8:00 p.m. on the evening before trash collection day and shall be put back within the property by 6:00 p.m. on the day of collection.
4. **Smoking, Tobacco Products, and Cigarette Litter.** No guests, clients, or any other users of the facility may smoke in any area from which secondhand smoke may be detected on any parcel, other than the subject parcel, upon which the facility is located. Operator shall use best efforts to contain secondhand smoke generated by patients, clients, customers, and staff within the lot line of the subject property. These "best efforts" include, but are not limited to:
 - Limiting smoking to a designated smoking area located inside the facility and equipped with an air filter and smoke containment device or structure.
 - Prohibition of smoking outside of the facility to prevent unreasonable annoyance to adjacent residences.
 - Rapidly addressing neighbor complaints of secondhand smoke, when it can be reasonably determined that the smoke comes from the facility.

In addition, Operator shall not allow clients, staff, or residents to litter cigarette butts on the ground, floor, deck, sidewalk, gutter, boardwalk or street. Operator's administrators and managers shall actively enforce, on the City's behalf, the City's prohibition on clients' tobacco use on beaches, boardwalks, and piers (NBMC §11.08.080), including when Operator's clients are at "AA" meetings.

5. **Off-Street Parking, and Loading and Unloading.** Operator shall provide six (6) off-street parking spaces for the use of the facility at all times. The additional following conditions shall apply:

- Client residents shall not be permitted to have vehicles during their stay at Ocean Recovery.
- On-site parking garages shall be kept clear and available for parking of vehicles at all times.
- The operator shall purchase three master parking permits from the City for use of on-street parking.
- The operator shall make parking available for a minimum of four staff members per daytime shift, one staff member per nighttime shift, and visitors. To fulfill this requirement the facility may utilize six on-site parking spaces and three on-street permit parking spaces.
- The facility use by visitors or staff shall not occupy more than three on-street parking spaces at any time.
- The operator shall familiarize clients with local OCTA bus stops and routes and keep a current route map and OCTA schedule in the facility at all times.

Loading and unloading of passengers of the facility's transportation van shall occur only in open parking spaces on West Balboa Boulevard. The van driver is strictly prohibited from stopping or double-parking in a traffic lane to load and unload passengers. In addition:

- Client drivers shall respect all City rules regarding parking and/or stopping and waiting to load residents. Client transport vehicles shall not block adjacent alleys or street ends.
- Client drivers shall not leave vehicles in reverse gear if reverse has an audible back-up warning sound.
- Client drivers shall speak to residents at a level protective of neighborhood peace, cognizant of the hour, to avoid waking neighbors.

6. **Assembly, Family Counseling, and Special Sessions.** Assembly uses, including but not limited to, meetings and group counseling sessions involving persons who do not reside at the facility where the meeting is taking place are prohibited, except that house staff and family members of persons residing at the facility may meet with residents provided such meetings preserve the quiet of the neighborhood. In the event the operator provides counseling or educational sessions to family members of persons housed at the facility the following conditions shall apply:

- A. The counseling and educational sessions shall be expressly authorized within the facility's ADP license;
- B. In no case shall the facility provide counseling or educational sessions to persons who either do not have a relative receiving in patient treatment at the facility or provide alumni sessions.

- C. In no case shall the facility conduct "AA" type meetings or group sessions for persons who do not reside at the facility.
7. **Hotline.** Operator shall establish, provide public notice of and operate a hotline for receiving inquiries and/or complaints in reference to its operation of its facility. The phone number need not be staffed 24 hours a day seven days a week, but callers should be responded to within the next 24-hour period.
 8. **Curfew Hours.** Operator shall apply the Curfew Hours of 10:00 p.m. daily to its patients, clients and customers occupying beds in its facility. During these Curfew Hours, all residents will be inside except during emergencies.
 9. **Quiet Hours.** Operator shall enforce the Quiet Hours of 9:00 p.m. to 8:00 a.m. daily to its patients, clients and customers occupying beds in its facility. During these Quiet Hours, all residents will be inside except during emergencies. Quiet means no noise, including music, television, and voices, is audible beyond the perimeter of the facility except in a demonstrable emergency.
 10. **Route Plans.** Operator shall adhere to the Route Plans for transport of its staff, residents, clients, and customers. The Route Plans are included in the Operations and Management Plan. Short-term interruptions, such as medical emergencies or street maintenance beyond Operator's control, are allowable modifications to the Route Plans.
 11. **Deliveries.** Any deliveries to the facility shall only be made between 8:00 a.m. and 5:00 p.m. on weekdays and not at all on Saturdays or Sundays, unless urgently necessary. In addition, delivery vehicles may not block the alley.
 12. **Stakeholder Group.** Upon invitation by the City, Operator shall participate in the activities of any stakeholder committee or group established by the City to address complaints and concerns of residents of the City regarding the operation of Residential Care Facilities in the City.
 13. **Persons per Bedroom.** Operator shall not allow more than two (2) clients in one bedroom. This is consistent with the provisions of the ADP license.
 14. **House Rules.** The operator shall post and enforce, at all times, the House Rules adopted by Ocean Recovery.
 15. **State Licensing, Treatment, and Occupancy (if licensed).** All occupancies at the subject property shall comply with the State ADP License Number 300165AP, which expires on December 31, 2010, and any successor license offering the same treatment services. Operator shall maintain ADP licensing throughout the duration of this use permit.
 16. **Building and Zoning Codes.** Operator recognizes that subject property has specific setbacks from the side yards, front yard, and/or back yard per the City's Building and Zoning Codes. Operator will keep these setbacks clear of

obstruction, including building obstruction. The orderly storage of trash cans is acceptable in setbacks.

The subject property is a Residential Group R-4 Occupancy Classification within the California Building Code. R-4 occupancies include buildings arranged for occupancy as residential care/assisted living facilities including more than six ambulatory clients, excluding staff, and include alcoholism or drug abuse recovery or treatment facilities. The operator agrees to work with the City's Fire Marshal to improve the fire safety of the subject property, if necessary.

17. **Staffing.** Operator will have enough staff to appropriately and responsibly manage the facility and shall limit the staff to no more than five full time staff members on-site at any one time, so as to avoid overwhelming the facility's neighborhood with cars, shuttles, trash cans, or other aspects of a high-staff commercial use in a residential neighborhood. The operator shall staff the facility with at least one qualified on-site manager, who shall be a certified addiction specialist, and who shall be present at all times unless an emergency requires their presence elsewhere.
18. **Nuisances.** The subject property shall not be unsafe, unsightly or poorly maintained. If Operator receives a nuisance violation from the City in regards to any of these issues, Operator shall correct the violation within seven days or contact the City directly to negotiate a mutually agreed upon timeline.
19. **Profanity and Lewd Behavior.** Operator shall not tolerate lewd behavior, lewd speech, or profanity at the subject property, nor shall the operator tolerate profanity by staff or clients at levels audible to neighboring residents. The operator shall enforce the house rules against lewd speech, lewd behavior, or profanity. Profanity at a level audible to neighboring residents may result in an administrative citation issued by the City upon the property owner and operator.
20. **Noise.** Operator shall strictly adhere to the City's noise standards (NBMC §10.26.025; 10.26.030). Operator shall be responsible for minimizing clapping, stomping, or other noises at meetings or gatherings at the subject property, consistent with NBMC §10.26.030.
21. **Beaches and Other Common Gathering Areas.** Operator's use of the beaches for meetings, prayer, conversation, or other gatherings shall show due respect to non-resident visitors, residents, and other beachgoers, thus allowing them to take full enjoyment of the beach. Operator shall not conduct business on the beach (per NBMC §10.08.030).
22. **Services to Facility's Clients or Residents.** Operator will use industry's best practices to ensure that the facility's clients or residents stay in recovery (including scheduled substance testing, random substance testing, and required counseling). Operator shall ensure that any client or resident removed from Operator's program or facility has the resources necessary to return home. Operator shall preserve and maintain its present (May 2009) recovery model

which provides State licensed non-medical residential treatment for persons in recovery from alcohol and/or drug addiction. The operator shall not operate its facilities in a manner that does not comply with its state license.

23. **Federal, State and Local Laws.** Operator shall comply with all federal, state, and local laws. The issuance of this use permit shall not constitute a waiver of the requirements of any federal, state or local law, including the requirements of the California Building Code.
24. **On-Street Parking.** Clients and staff of the facility are prohibited from parking on public streets in Newport Beach, except for on-street spaces utilized following notification to the City from Ocean Recovery and following the purchase of one master parking permit by the Operator from the City for each three residents permitted to drive to and from the facility.
25. **Occupancy.** Operator shall obtain an amended State of California ADP license for the facility to reflect a maximum permitted occupancy of 18 residents.
26. **Grant of Use Permit.** Use Permit No. 2008-030 is granted to Ocean Recovery, LLC to operate an adult alcohol and/or drug abuse recovery treatment facility for males only, and all clients of the facility shall be classified as disabled, as that term is defined by Federal and State fair housing laws. The Operator shall execute an affidavit declaring that all clients receiving services from this Facility are disabled persons.
27. **Compliance with Conditions of Approval.** Any changes in operational characteristics, including but not limited to the following, shall require an amendment to this use permit or issuance of a new use permit:
 - a. Modification, expiration without renewal, or loss of ADP license.
 - b. Increase in number of resident clients.
 - c. Increase in on-site staffing.
 - d. Increase in physical capacity of facility including number of beds, number of bedrooms, floor area of facility, etc.
 - e. Change in the Operations and Management Plan.
 - f. Request for amendment to any condition or conditions of approval.
 - g. Change in property ownership in a manner that causes the majority of the property to be owned by a person or entity not identified in the Use Permit or its application.
 - h. Alteration and/or loss of approved on-site parking.

- i. Upon determination by the City's Planning Director, a change in facility management, a change in facility ownership, or a change in the population served by this facility.
 - j. Any other material change in the operational characteristics that is not in substantial conformance with the Operation and Management Plan, upon determination by the City's Planning Director.
28. **Security & Safety.** The entrances and exits of each facility shall be secured and monitored. Fire exits shall be marked in accordance with the California Building Code. Smoke detectors and fire extinguishers shall be kept in operable condition. Exit passages shall be kept clear at all times.
29. **Side Property Wall.** The "pony wall" that exists along the eastern side property line of the facility shall be increased to up to 6 feet in height (except within the 10-foot front yard setback). All construction associated with this condition shall be subject to issuance of a City Building Permit and shall comply with the California Building Code. Ocean Recovery shall complete construction work within 60 days of the issuance of a Use Permit. Ocean Recovery shall install landscaping screening material, such as bamboo, along the interior of the raised walls to further reduce the interactions facility residents with adjacent neighbors.

The City Manager or his designee shall review and approve the construction and landscape plans for improvements to the side property walls, to assure that they are aesthetically appropriate.

30. **Additions or Modifications to Conditions of Approval, or Revocation of Use Permit.** The Hearing Officer or City Council may add or modify conditions of approval to this Use Permit, or revoke this Use Permit upon a finding of failure to comply with the conditions set forth. The City Council may also revoke, modify, or amend this Use Permit if it determines the conditions under which this facility is being operated or maintained are detrimental to the public health, safety, peace, morals, comfort, or general welfare of the community, or if the facility is materially injurious to property or improvements in the vicinity, or if the facility is operated or maintained so as to constitute a public nuisance. In any proceeding to revoke this Use Permit, the cumulative effect of violation of two or more conditions shall be considered.