

# UNOFFICIAL COPY



Doc#: 1218122062 Fee: \$60.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 06/29/2012 11:55 AM Pg: 1 of 12

Recording Requested by and  
after Recording Return to:

LEVY, LEVY & LEVY  
900 Larkspur Landing Circle, Suite 275  
Larkspur, CA 94939

Attn: Mark Levy, Esq.

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**SUBORDINATION AGREEMENT**

**SOUTH VIEW**

8850 SIO 6-1  
JP

Property of Cook County Clerk's Office

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Upon Recording, Please Return to:

Mark P. Levy, Esq.  
 Levy, Levy and Levy  
 900 Larkspur Landing, Suite 275  
 Larkspur, CA 94939

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(Space above this line for Recorder's Use)

**SUBORDINATION AGREEMENT**

**NOTICE: THE SUBORDINATION PROVIDED FOR IN THIS SUBORDINATION AGREEMENT RESULTS IN YOUR LEASEHOLD ESTATE BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE INTEREST CREATED BY SOME OTHER OR LATER INSTRUMENT.**

THIS SUBORDINATION AGREEMENT ("**Subordination Agreement**"), made as of this 21 day of June, 2012, by and between SV Chicago, LLC, a Delaware limited liability company ("**Mortgagor**" or "**Lessor**"), as lessor under the lease hereinafter described, and SV Care, LLC, a Delaware limited liability company ("**Operator**" or "**Lessee**"), lessee under the aforementioned lease, in favor of Cambridge Realty Capital Ltd. of Illinois, an Illinois corporation ("**FHA Mortgagee**"), the owner and holder of the Mortgage hereinafter described.

**RECITALS**

A. Lessor is this day purchasing the real property (the "**Property**") located in the City of Chicago, County of Cook, State of Illinois, with a legal description as set forth in Exhibit "A" attached hereto and incorporated herein by this reference, and covering the improvements situated thereon (the "**Improvements**").

B. The Property and Improvements are subject to a Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement, dated April 1, 2009 (the "**Mortgage**") recorded under Document No. 0909222055 of the Land Records of Cook County, Illinois, in favor of FHA Mortgagee, which Mortgage Lessor will assume.

C. Concurrently with the purchase of the Property and Improvements, Lessor and Lessee have entered into that certain unrecorded Operating Lease Agreement dated June \_\_\_\_\_, 2012, as it may thereafter be amended (the "**Lease**"), covering the Improvements for the term and upon the conditions set forth therein.

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D. The parties hereto now desire to enter into this Subordination Agreement to establish certain rights and obligations with respect to their interests, and to provide for various contingencies as hereinafter set forth.

## AGREEMENT

NOW, THEREFORE, in consideration for the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and of the mutual benefits to accrue to the parties hereto, it is hereby declared, understood and agreed that the Lease, all terms and conditions set forth in the Lease, the leasehold interests and estates created thereby, and the priorities, rights, privileges and powers of Lessee and Lessor thereunder shall be and the same are hereby, and with full knowledge and understanding of the effect thereof, unconditionally made subject and subordinate to the lien and charge of the Mortgage, all terms and conditions contained therein, any renewals, extensions, modifications or replacements thereof, and the rights, privileges and powers of the trustee and FHA Mortgagee thereunder, and shall hereafter be junior and inferior to the lien and charge of the Mortgage. The parties further agree as follows:

1. It is expressly understood and agreed that this Subordination Agreement shall supersede, to the extent inconsistent herewith, the provisions of the Lease relating to the subordination of the Lease and the leasehold interests and estates created thereby to the lien or charge of the Mortgage.

2. FHA Mortgagee consents to the Lease.

3. In the event FHA Mortgagee or any other purchaser at a foreclosure sale or sale under private power contained in the Mortgage, or by acceptance of a deed in lieu of foreclosure, succeeds to the interest of Lessor under the Lease by reason of any foreclosure of the Mortgage or the acceptance by FHA Mortgagee of a deed in lieu of foreclosure, or by any other manner, it is agreed as follows:

(a) Lessee shall be bound to FHA Mortgagee or such other purchaser under all of the terms, covenants and conditions of the Lease for the remaining balance of the term thereof, with the same force and effect as if FHA Mortgagee or such other purchaser were the lessor under such Lease, and Lessee does hereby agree to attorn to FHA Mortgagee or such other purchaser as its lessor, such attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties to this Agreement, immediately upon FHA Mortgagee or such other purchaser succeeding to the interest of Lessor under the Lease .

4. Lessee hereby agrees that it will not exercise any right granted it under the Lease, or which it might otherwise have under applicable law, to terminate the Lease on account of a default of Lessor thereunder or the occurrence of any other event without first giving to FHA Mortgagee prior written notice of its intent to terminate, which notice

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shall include a statement of the default or event on which such intent to terminate is based. Thereafter, Lessee shall not take any action to terminate the Lease if FHA Mortgagee (a) within thirty (30) days after service of such written notice on FHA Mortgagee by Lessee of its intention to terminate the Lease, shall cure such default or event if the same can be cured by the payment or expenditure of money, or (b) shall diligently take action to obtain possession of the leased premises (including possession by receiver) and to cure such default or event in the case of a default or event which cannot be cured unless and until FHA Mortgagee has obtained possession, but in no event to exceed ninety (90) days after service of such written notice on FHA Mortgagee by Lessee of its intention to terminate.

5. For the purposes of facilitating FHA Mortgagee's rights hereunder, FHA Mortgagee shall have, and for such purposes is hereby granted by Lessee and Lessor, the right to enter upon the Property and the Improvements thereon for the purpose of effecting any such cure.

6. Lessee hereby agrees to give to FHA Mortgagee concurrently with the giving of any notice of default under the Lease, a copy of such notice by mailing the same to FHA Mortgagee in the manner set forth hereinbelow, and no such notice given to Lessor which is not at or about the same time also given to FHA Mortgagee shall be valid or effective against FHA Mortgagee for any purpose.

7. Subordination of Lease to Mortgage and Regulatory Agreements and Regulation by the U.S. Department of Housing and Urban Development ("HUD").

(a) The Lease and all estates, rights, options, liens and charges therein contained or created under the Lease are and shall be subject and subordinate to the lien or interest of (i) the Mortgage on the Lessor's interest in the Property in favor of FHA Mortgagee, its successors and assigns insofar as it affects the real and personal property comprising the Property (and not otherwise owned, leased or licensed by Lessee) or located thereon or therein, and to all renewals, modifications, consolidations, replacements and extensions thereof, and to all advances made or to be made thereunder, to the full extent of amounts secured thereby and interest thereon, (ii) that certain Regulatory Agreement for Multifamily Housing Projects between Lessor and HUD to be recorded against the Property, and (iii) that certain Regulatory Agreement Nursing Homes between Tenant and HUD to be recorded against the Premises (the "Lessee's Regulatory Agreement").

(b) The parties to the Lease agree to execute and deliver to FHA Mortgagee and/or HUD such other instrument or instruments as the FHA Mortgagee and/or HUD, or their respective successors or assigns, shall reasonably request to effect and/or confirm the subordination of the Lease to the lien of the Mortgage and the above-described Regulatory Agreements. To the extent that any provision of the Lease shall be in conflict with the HUD Program Obligations (as such term is defined below), the HUD Program Obligations shall be controlling.

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(c) In the event HUD, at a foreclosure sale or sale under private power contained in the Mortgage, or by acceptance of a deed in lieu of foreclosure, succeeds to the interest of Lessor under the Lease by reason of any foreclosure of the Mortgage or the acceptance by HUD of a deed in lieu of foreclosure, or by any other manner, it is agreed as follows:

(i) HUD can terminate the Lease (A) for any violation of the Lease that is not cured within any applicable notice and cure period given in the Lease, (B) for any violation of Lessee's Regulatory Agreement or other HUD Program Obligations or Health Care Requirements (both as defined below) that is not cured within thirty (30) days after receipt by Lessee of written notice of such violation; provided, however, that if such cure reasonably requires more than thirty (30) days to cure, HUD may not terminate the Lease if Lessee commences such cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion, or (C) if HUD, as a result of the occurrence of either of the events described in the foregoing items (A) or (B), is required to advance funds for the operation of the facility located on the Property.

(ii) As used in this Subordination Agreement:

(A) "**HUD Program Obligations**" shall mean all applicable statutes and regulations, including all amendments to such statutes and regulations, as they become effective, and all applicable requirements in HUD handbooks, notices and mortgagee letters that apply to the Property, including all updates and changes to such handbooks, notices and mortgagee letters that apply to the Property, except that changes subject to notice and comment rulemaking shall become effective upon completion of the rulemaking process.

(B) "**Health Care Requirements**" shall mean, relating to the Property, all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions or agreements, in each case, pertaining to or concerned with the establishment, construction, ownership, operation, use or occupancy of the Property or any part thereof as a skilled nursing facility, and all material permits, licenses and authorizations and regulations relating thereto, including all material rules, orders, regulations and decrees of and agreements with health care authorities pertaining to the Property.

(d) To the extent there is any inconsistency between the terms of this Subordination Agreement, and the Lease, the terms of this Subordination Agreement shall be controlling.

8. For purposes of any notices to be given to FHA Mortgagee hereunder, the same shall be sent by U.S. certified mail, return receipt requested, postage prepaid, to FHA Mortgagee at the following address:

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Cambridge Realty Capital Ltd. of Illinois,  
an Illinois corporation  
125 South Wacker Drive, Suite 1800A  
Chicago, IL 60606

or to such other address as FHA Mortgagee may hereafter notify Lessee in writing by notice sent to Lessee as aforesaid at Lessee's address at the Property, or such other address as FHA Mortgagee may hereafter be advised of in writing by notice sent to FHA Mortgagee as aforesaid.

9. The agreements contained herein shall run with the land and shall be binding upon and inure to the benefit of the respective heirs, administrators, executors, legal representatives, successors and assigns of the parties hereto.

10. This Subordination Agreement may be executed in one or more counterparts, all of which when taken together shall constitute a single instrument.

11. This Subordination Agreement shall, in all respects, be governed by and construed and interpreted in accordance with the laws of the Illinois.

**[SEE ATTACHED SIGNATURE PAGES]**

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## SIGNATURE PAGE TO SUBORDINATION AGREEMENT

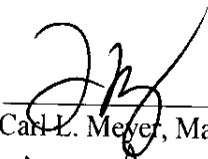
IN WITNESS WHEREOF, the undersigned have executed this instrument as of the day and year first above written.


**LESSOR:**

SV Chicago, LLC a Delaware limited liability company

By: JLM Financial Healthcare, LP, a Texas limited partnership, its sole member

By: JLM Financial Investments 13, LLC, a Texas limited liability company, its general partner

By:   
Carl L. Meyer, Manager

By:   
Jimmy Nassour, Manager

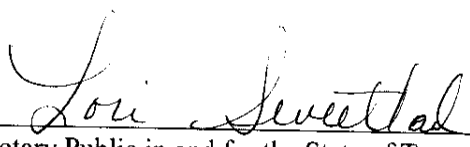
THE STATE OF TEXAS

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COUNTY OF TRAVIS

This instrument was acknowledged before me on this the 15 day of June, 2012, by Carl L. Meyer, Manager of JLM Financial Investments 13, LLC, a Texas limited liability company, general partner of JLM Financial Healthcare, LP, a Texas limited partnership, sole member of SV Chicago, LLC, on behalf of said limited liability company.



  
Notary Public in and for the State of Texas

# UNOFFICIAL COPY

THE STATE OF TEXAS

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COUNTY OF TRAVIS

This instrument was acknowledged before me on this the 11 day of June, 2012, by Jimmy Nassour, Manager of JLM Financial Investments 13, LLC, a Texas limited liability company, general partner of JLM Financial Healthcare, LP, a Texas limited partnership, sole member of SV Chicago, LLC, on behalf of said limited liability company.



*Lori Sweetland*  
Notary Public in and for the State of Texas

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## SIGNATURE PAGE TO SUBORDINATION AGREEMENT

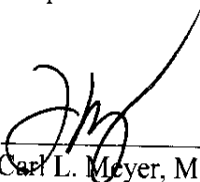
IN WITNESS WHEREOF, the undersigned have executed this instrument as of the day and year first above written.

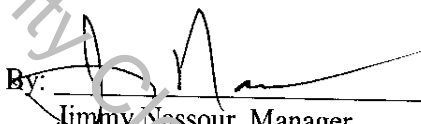
**LESSEE:**

SV Care, LLC, a Delaware limited liability company

By: JLM Financial Healthcare, LP, a Texas limited partnership, its sole member

By: JLM Financial Investments 13, LLC, a Texas limited liability company, its general partner

By:   
Carl L. Meyer, Manager

By:   
Jimmy Nassour, Manager

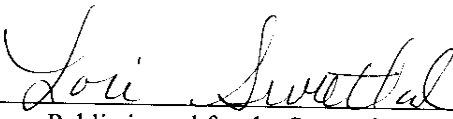
THE STATE OF TEXAS

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COUNTY OF TRAVIS

This instrument was acknowledged before me on this the 11 day of June, 2012, by Carl L. Meyer, Manager of JLM Financial Investments 13, LLC, a Texas limited liability company, general partner of JLM Financial Healthcare, LP, a Texas limited partnership, sole member of SV Care, LLC, on behalf of said limited liability company.



  
Notary Public in and for the State of Texas

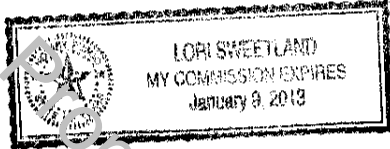
# UNOFFICIAL COPY

THE STATE OF TEXAS

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COUNTY OF TRAVIS

This instrument was acknowledged before me on this the 11 day of June, 2012, by Jimmy Nassour, Manager of JLM Financial Investments 13, LLC, a Texas limited liability company, general partner of JLM Financial Healthcare, LP, a Texas limited partnership, sole member of SV Care, LLC, on behalf of said limited liability company.



*Lori Sweetland*  
Notary Public in and for the State of Texas

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## SIGNATURE PAGE TO SUBORDINATION AGREEMENT

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the day and year first above written.

**FHA MORTGAGEE:**

Cambridge Realty Capital Ltd. of Illinois,  
an Illinois corporation

By: *Anthony T. Marino*  
Anthony Marino, Vice President

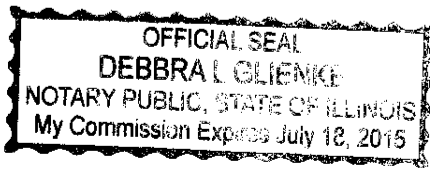
STATE OF ILLINOIS            }  
  } SS.  
COUNTY OF COOK            }

I, the undersigned, a Notary Public in and for said County and State aforesaid, do hereby certify that on this day personally appeared Anthony T. Marino, the Vice President of Cambridge Realty Capital Ltd. of Illinois, an Illinois corporation, and who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as his free act and deed as such officer of the corporation for the uses and purposes therein mentioned, and that the said instrument is the free act and deed of the said corporation.

WITNESS my signature and official seal, in the County of Cook and State of Illinois this 30th day of April, 2012.

*Debra L. Glienke*  
Notary Public

[SEAL]



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## EXHIBIT "A"

### LEGAL DESCRIPTION

LOTS 38, 39, 40, 41, 42, 43 AND 44 IN BLOCK 6 IN JOHN WENTWORTH'S SUBDIVISION OF THE SOUTH 60 ACRES OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**Address of Property:** 3311 South Michigan Avenue, Chicago, Illinois 60616

**Permanent Real Estate Index Number(s):**

- 17-34-116-003-0000
- 17-34-116-004-0000
- 17-34-116-005-0000
- 17-34-116-006-0000
- 17-34-116-007-0000
- 17-34-116-008-0000