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RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:



Gutnicki LLP
4711 W. Golf Road, Suite 200
Skokie, Illinois 60076
Attn: Jeremy F. Segall, Esq.

Doc#: 1321016048 Fee: \$52.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 07/29/2013 12:34 PM Pg: 1 of 8

(Space above this line for Recorder's Use)

SUBORDINATION AGREEMENT

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

THIS AGREEMENT, made as of this 1st day of July, 2013, by and between Forest Villa Property, LLC, an Illinois limited liability company ("Mortgagor" or "Lessor"), as lessor under the lease hereinafter described, and Forest Villa Nursing and Rehabilitation Center, LLC ("Operator" or "Lessee"), as lessee under the lease hereinafter described, in favor of Greystone Funding Corporation, a Virginia corporation ("FHA Mortgagee"), the owner and holder of the Mortgage hereinafter described.

WITNESSETH:

WHEREAS, Lessor has or will execute that certain Mortgage, dated as of July 1, 2013 (the "Mortgage"), in favor of FHA Mortgagee and covering certain real property (the "Property") located in the Village of Niles, 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"), and which Mortgage is being recorded concurrently herewith; and

WHEREAS, Lessor and Lessee entered into that certain Lease Agreement dated as of January 22, 2009, as amended by that certain First Amendment to Lease Agreement dated as of November 1, 2009, and that certain Second Amendment to Lease Agreement dated as of even date herewith (the "Lease"), covering the Improvements for the term and upon the conditions set forth therein; and

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

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 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. INTENTIONALLY OMITTED.

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 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

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Mortgagee in the manner set forth herein below, 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 Lessee and HUD to be recorded against the Property (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.

(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 Agreement:

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(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:

Greystone Funding Corporation
419 Belle Air Lane
Warrenton, Virginia 20186
Attention: Loan Servicing Department

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

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

[SIGNATURE PAGES FOLLOW]

UNOFFICIAL COPY**EXHIBIT "A"**

**LEGAL DESCRIPTION
FOR FOREST VILLA NURSING AND REHABILITATION CENTER
FEDERAL HOUSING ADMINISTRATION
PROJECT NO. 071-22278**

PARCEL 1:

THAT PART OF LOT 5, LYING SOUTHWESTERLY OF A LINE DESCRIBED AS:

BEGINNING 140.00 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 5 AND RUNNING SOUTHEASTERLY TO A POINT IN THE SOUTHERLY LINE OF SAID LOT, A DISTANCE OF 350.15 FEET EASTERLY OF THE INTERSECTION OF THE SOUTHERLY LINE PRODUCED WEST TO THE WEST LINE OF SAID LOT 5 IN THE CIRCUIT COURT PARTITION OF LOT 2 IN THE WILLIAM WEST AND OTHERS SUBDIVISION OF PART OF LOT 1 AND LOT 18 OF THE ASSESSOR'S DIVISION OF THE SOUTHWEST 1/4 OF SECTION 30 AND LOT 9 OF THE ASSESSOR'S DIVISION OF JANE MIRANDA'S RESERVE; ALSO LOT 11 OF THE ASSESSOR'S DIVISION OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. ✓

PARCEL 2:

THAT PART LYING NORTH OF TOUHY AVENUE AND LYING WESTERLY OF A LINE DESCRIBED AS:

BEGINNING AT A POINT IN THE NORTHERLY LINE OF HEREAFTER DESCRIBED LOT 14, A DISTANCE OF 350.15 FEET EASTERLY OF THE INTERSECTION OF SAID NORTHERLY LINE PRODUCED WESTERLY TO THE WESTERLY LINE OF LOT 5 IN CIRCUIT COURT COMMISSIONER'S SUBDIVISION OF LOT 2 IN HEREAFTER DESCRIBED WILLIAM WEST AND OTHERS SUBDIVISION; THENCE SOUTHERLY IN A STRAIGHT LINE FORMING AN ANGLE OF 90 DEGREES, 14 MINUTES WITH SAID NORTHERLY LINE OF SAID LOT 14 (TURNED EAST TO SOUTHERLY) OF THE FOLLOWING DESCRIBED LAND TAKEN AS A TRACT, TO WIT: ✓

LOT 9 (EXCEPT THE WESTERLY 25 FEET THEREOF), ALL OF LOTS 10 TO 14 IN WILLIAM WEST AND OTHERS SUBDIVISION OF PART OF LOT 1 AND LOT 18 OF THE ASSESSOR'S DIVISION OF THE SOUTHWEST FRACTIONAL 1/4 OF SECTION 30 AND LOT 8 IN JANE MIRANDA'S RESERVATION IN SECTION 30, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPTING FROM SAID PREMISES THAT PART FALLING IN TOUHY AVENUE), ALL IN COOK COUNTY, ILLINOIS.

PERMANENT REAL ESTATE INDEX NOS.: 10-30-317-030; 10-30-317-044 ✓
ADDRESS: 6840 WEST TOUHY AVENUE, NILES, ILLINOIS 60714