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Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption



Report Mortgage Fraud
844-768-1713



2328515025

Doc# 2328515025 Fee \$88.00

RHSP FEE:\$18.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 10/12/2023 03:53 PM PG: 1 OF 127

The property identified as: **PIN:** 14-29-321-040-0000

Address:

Street: 1366 WEST FULLERTON AVENUE

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60614

Lender: DEUTSCHE BANK AG, NEW YORK BRANCH

Borrower: FULLERTON SNF PROPERTY HOLDINGS, LLC AND SOUTHPORT SLF PROPERTY HOLDINGS, LLC

Loan / Mortgage Amount: \$35,500,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

Certificate number: 1CB5024D-0A3B-4F18-9571-22FE1AD0DCE6

Execution date: 10/6/2023

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DOCUMENT PREPARED BY AND
WHEN RECORDED, RETURN TO:

Kutak Rock LLP
3424 Peachtree Road NE, Suite 900
Atlanta, Georgia 30326
Attention: Calvin P. Jellema, Esq.

Record and Return to:
MADISON TITLE AGENCY, LLC
COMMERCIAL DEPT.
1125 OCEAN AVE.
LAKEWOOD, NJ 0701
19029Z A

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

By

FULLERTON SNF PROPERTY HOLDINGS, LLC,

and

SOUTHPORT SLF PROPERTY HOLDINGS, LLC

collectively, as Mortgagor

to

DEUTSCHE BANK AG, NEW YORK BRANCH

(Mortgagee)

Dated: As of October 6, 2023

Property Location: See Exhibit A-1

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THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT (as it may be from time to time amended, modified, renewed, extended, substituted, and/or supplemented, this "Mortgage"), dated as of October 6, 2023, by **FULLERTON SNF PROPERTY HOLDINGS, LLC**, having an address at 1366 W Fullerton Ave., Chicago, IL 606104 ("Fullerton Property Owner"), and **SOUTHPORT SLF PROPERTY HOLDINGS, LLC**, having an address at 2437 N Southport Ave., Chicago, IL 60614 ("Southport Property Owner"; and, together with Fullerton Property Owner, individually and collectively, as the context may require, "Mortgagor" or "Property Owner"), each an Illinois limited liability company; provided, however, that the context shall always be one which affords the Lender the broadest possible rights and remedies under the Loan Documents and which permits Lender, in its discretion, to enforce the obligations and liabilities hereunder against one or more of the entities comprising Mortgagor) to **DEUTSCHE BANK AG, NEW YORK BRANCH** (together with its successors and assigns, "*Deutsche Bank*" or "*Lender*"), having an address at 1 Columbus Circle, New York, NY 10019.

WITNESSETH:

WHEREAS, Mortgagor and Mortgagee have entered into a Loan and Security Agreement dated as of the date hereof (as amended, modified, restated, consolidated or supplemented from time to time, the "Loan Agreement") pursuant to which Mortgagee is making a secured loan to Mortgagor in the aggregate original principal amount of \$35,500,000.00 (the "Loan"). Capitalized terms used herein without definition are used as defined in the Loan Agreement. The Loan is evidenced by a promissory note dated the date hereof made by Mortgagor to Mortgagee in such principal amount (as the same may be amended, modified, restated, severed, consolidated, renewed, replaced, or supplemented from time to time, the "Note").

NOW, THEREFORE, for good and valuable consideration, receipt of which the parties hereto acknowledge, to secure the payment of the Note and all sums which may or shall become due thereunder or under any of the other documents evidencing, securing or executed in connection with the Loan (the Note, this Mortgage, the Loan Agreement and such other documents, as any of the same may, from time to time, be modified, amended or supplemented, being hereinafter collectively referred to as the "Loan Documents"), including (i) the payment of interest and other amounts which would accrue and become due but for the filing of a petition in bankruptcy (whether or not a claim is allowed against Mortgagor for such interest or other amounts in any such bankruptcy proceeding) or the operation of the automatic stay under Section 362(a) of Title 11 of the United States Code (the "Bankruptcy Code"), and (ii) the costs and expenses of enforcing any provision of any Loan Document (all such sums being hereinafter collectively referred to as the "Debt"), Mortgagor hereby irrevocably mortgages and warrants, grants, bargains, sells, conveys, transfers, pledges, sets over and assigns, and grants a security interest, to and in favor of Mortgagee, and its successors and assigns, all of each individual Property Owner's fee estate and right, title and interest in and to the land described in Exhibit A-1 (the "Premises"), and the buildings, structures, fixtures and other improvements now or hereafter located thereon (the "Improvements");

TOGETHER WITH: all right, title, interest and estate of Mortgagor now owned, or hereafter acquired, in and to the following property, rights, interests and estates (the Premises, the

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Improvements, and the property, rights, interests and estates hereinafter described are collectively referred to herein as the "Mortgaged Property"):

(a) all easements, rights-of-way, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, rights to oil, gas, minerals, coal and other substances of any kind or character, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Premises and the Improvements; and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road, highway, alley or avenue, opened, vacated or proposed, in front of or adjoining the Premises, to the center line thereof; and all the estates, rights, titles, interests, dower and rights of dower, courtesy and rights of courtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Mortgagor of, in and to the Premises and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(b) all machinery, furniture, furnishings, equipment, computer software and hardware, fixtures (including all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), including inventory; furniture; furnishings; machinery, equipment, engines, boilers, incinerators and installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention or fire detection, or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; swimming pools; exercise equipment; supplies; tools; books and records (whether in written or electronic form); websites, URLs, blogs and social network pages; computer equipment (hardware and software); all kitchen or restaurant supplies and facilities; dining room supplies and facilities; medical supplies and facilities; leasehold improvements or related furniture and equipment; including all present and future parts, additions, accessories, replacements, attachments, accessions, replacement parts and substitutions of the foregoing, and the proceeds thereof (cash and non-cash, including insurance proceeds) and any other equipment, supplies or furniture owned by Mortgagor and leased to any third party service provider or any operator or manager of the Premises or the Improvements; and other tangible personal property which is used now or in the future in connection with the ownership, management, or operation of the Premises or the Improvements or are located on the Premises or in the Improvements, owned by Mortgagor, or in which Mortgagor has or shall have an interest, now or hereafter located upon the Premises or the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Premises and the Improvements (hereinafter collectively referred to as the "Equipment"), including any leases of, deposits in connection with, and proceeds of any sale or transfer of any of the foregoing, and the right, title and interest of Mortgagor in and to any of the Equipment that may be subject to any "security interest" as defined in the Uniform Commercial Code, as in effect in the State where the Mortgaged Property is located (the "UCC"), superior in lien to the lien of this Mortgage;

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(c) all awards or payments, including interest thereon, that may heretofore or hereafter be made with respect to the Premises or the Improvements, whether from the exercise of the right of eminent domain or condemnation (including any transfer made in lieu of or in anticipation of the exercise of such right), or for a change of grade, or for any other injury to or decrease in the value of the Premises or Improvements;

(d) all lease agreement(s) by and between each individual operator and each Property Owner, as more particularly described on Exhibit B attached hereto (as amended from time to time in accordance with the Loan Documents, individually and collectively, the "Operating Lease"), and all other leases, subleases, and other agreements or arrangements heretofore or hereafter entered into affecting the use, enjoyment or occupancy of, or the conduct of any activity upon or in, the Premises or the Improvements, including, without limitation, any residency, occupancy, admission and care agreements pertaining to residents of the Mortgaged Property, and including any extensions, renewals, modifications or amendments thereof (hereinafter collectively referred to as the "Leases") and all rents, rent equivalents, moneys payable as damages (including payments by reason of the rejection of a Lease in a Bankruptcy Action or in lieu of rent or rent equivalents), royalties (including all oil and gas or other mineral royalties and bonuses), income, fees, receivables, receipts, revenues, deposits (including security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, subsidy payments received from any sources, parking fees, laundry and vending machine income and fees and charges for food, health care and other services provided at the Mortgaged Property, tenant security deposits, entrance fees (if any), application fees, processing fees, community fees and any other amounts or fees forfeited by any resident or tenant (excluding resident trust funds), together with and including all proceeds from any private insurance for residents to cover rental charges and charges for services at or in connection with the Mortgaged Property, and the right to payments under Reimbursement Contracts (other than Medicaid payments from governmental entities) due for the rents or services of residents at the Mortgaged Property and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Mortgagor or its agents or employees from any and all sources arising from or attributable to the Premises and the Improvements, including all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of the Premises or the Improvements, or rendering of services by Mortgagor or any of its agents or employees, and proceeds, if any, from business interruption or other loss of income insurance (hereinafter collectively referred to as the "Rents"), together with all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(e) all proceeds of and any unearned premiums on any insurance policies covering the Mortgaged Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Mortgaged Property;

(f) the right, in the name and on behalf of Mortgagor, to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to commence any action or proceeding to protect the interest of Mortgagee in the Mortgaged Property;

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(g) all accounts (including reserve accounts), escrows, documents, instruments, chattel paper, claims, deposits and general intangibles, as the foregoing terms are defined in the UCC, and all franchises, trade names, trademarks, symbols, service marks, books, records, plans, specifications, designs, drawings, surveys, title insurance policies, permits, consents, licenses, management agreements, contract rights (including any contract with any architect or engineer or with any other provider of goods or services for or in connection with any construction, repair or other work upon the Mortgaged Property), approvals, actions, refunds of real estate taxes and assessments (and any other governmental impositions related to the Mortgaged Property), all rights to payment from Medicare or Medicaid programs or similar state or federal programs, boards, bureaus or agencies, and rights to payment from patients, residents, private insurers, and others arising from the operation of the Facility, including rights to payment pursuant to Reimbursement Contracts, any and all "health-care insurance receivables" (as defined in the UCC) and causes of action that now or hereafter relate to, are derived from or are used in connection with the Mortgaged Property, or the use, operation, maintenance, occupancy or enjoyment thereof or the conduct of any business or activities thereon (hereinafter collectively referred to as the "Intangibles");

(h) all agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Premises and any part thereof and any Improvements or any business or activity conducted on the Premises and any part thereof, including, without limitation, business licenses, state health department licenses, food service licenses, licenses to conduct business, certificates of need and all such other permits, licenses and rights, obtained from any governmental, quasi-governmental or private person or entity whatsoever concerning ownership, operation, use or occupancy, and all right, title and interest of Mortgagor therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Mortgagor thereunder;

(i) all inventories of food, beverages and other consumables owned and held by Mortgagor for sale or use at or from the Premises, and soap, paper supplies, medical supplies, drugs and all other such goods, wares and merchandise held by Mortgagor (including, without limitation, embedded software) for sale to or for consumption by residents, guests or patients of the Facility and all such other goods returned to or repossessed by Mortgagor;

(j) all third-party Reimbursement Contracts for the Facility which are now or hereafter in effect with respect to residents or patients qualifying for coverage under the same, including Medicare and Medicaid, any health maintenance organization, preferred provider organization, individual practice association, competitive medical plan, or similar arrangement, entity, organization or Person, and private insurance agreements, and any successor program or other similar reimbursement program and/or private insurance agreements, now or hereafter existing; and

(k) all proceeds, products, offspring, rents and profits from any of the foregoing, including those from sale, exchange, transfer, collection, loss, damage, disposition, substitution or replacement of any of the foregoing.

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Without limiting the generality of any of the foregoing, in the event that a case under the Bankruptcy Code is commenced by or against Mortgagor, pursuant to Section 552(b)(2) of the Bankruptcy Code, the security interest granted by this Mortgage shall automatically extend to all Rents acquired by the Mortgagor after the commencement of the case and shall constitute cash collateral under Section 363(a) of the Bankruptcy Code.

TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee and its successors and assigns, forever;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Mortgagor shall well and truly pay to Mortgagee the Debt at the time and in the manner provided in the Loan Documents and shall well and truly abide by and comply with each and every covenant and condition set forth in the Loan Documents in a timely manner, these presents and the estate hereby granted shall cease, terminate and be void;

AND Mortgagor represents and warrants to and covenants and agrees with Mortgagee as follows:

PART 1 - GENERAL PROVISIONS

1. Payment of Debt and Incorporation of Covenants, Conditions and Agreements. Mortgagor shall pay the Debt at the time and in the manner provided in the Loan Documents. All the covenants, conditions and agreements contained in the Loan Documents are hereby made a part of this Mortgage to the same extent and with the same force as if fully set forth herein. Without limiting the generality of the foregoing, Mortgagor (i) agrees to insure, repair, maintain and restore damage to the Mortgaged Property, pay Taxes and Other Charges, and comply with Laws, in accordance with the Loan Agreement, and (ii) agrees that the Net Proceeds shall be settled, held and applied in accordance with the Loan Agreement.

2. Leases and Rents.

(a) Mortgagor does hereby absolutely and unconditionally assign to Mortgagee all of Mortgagor's right, title and interest in all current and future Leases and Rents, it being intended by Mortgagor that this assignment constitutes a present, absolute assignment, and not an assignment for additional security only. Such assignment shall not be construed to bind Mortgagee to the performance of any of the covenants or provisions contained in any Lease or otherwise impose any obligation upon Mortgagee. Nevertheless, subject to the terms of this paragraph, Mortgagee grants to Mortgagor a revocable license to operate and manage the Mortgaged Property and to collect the Rents subject to the requirements of the Loan Agreement. Upon an Event of Default, without the need for notice or demand, the license granted to Mortgagor herein shall automatically be revoked, and Mortgagee shall immediately be entitled to possession of all Rents in the Borrower Accounts (including all subaccounts thereof) and all Rents collected thereafter (including Rents past due and unpaid), whether or not Mortgagee enters upon or takes control of the Mortgaged Property. Mortgagor hereby grants and assigns to Mortgagee the right, at its option, upon revocation of the license granted herein, to enter upon the Mortgaged Property in person, by agent or by court-appointed receiver to collect the Rents. Any Rents collected after the revocation

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of such license may be applied toward payment of the Debt in such priority and proportions as Mortgagee in its sole discretion shall deem proper.

(b) Mortgagor shall not enter into, modify, amend, cancel, terminate or renew any Lease except as provided in Section 4.2.11 of the Loan Agreement.

3. Use of Mortgaged Property. Mortgagor shall not initiate, join in, acquiesce in or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Mortgaged Property. If under applicable zoning provisions the use of the Mortgaged Property is or shall become a nonconforming use, Mortgagor shall not cause or permit such nonconforming use to be discontinued or abandoned without the consent of Mortgagee. Mortgagor shall not (i) change the use of the Mortgaged Property, (ii) permit or suffer to occur any waste on or to the Mortgaged Property or (iii) take any steps to convert the Mortgaged Property to a condominium or cooperative form of ownership.

4. Transfer or Encumbrance of the Mortgaged Property.

(a) Mortgagor acknowledges that (i) Mortgagee has examined and relied on the creditworthiness and experience of the principals of Mortgagor in owning and operating properties such as the Mortgaged Property in agreeing to make the Loan, (ii) Mortgagee will continue to rely on Mortgagor's ownership of the Mortgaged Property as a means of maintaining the value of the Mortgaged Property as security for the Debt, and (iii) Mortgagee has a valid interest in maintaining the value of the Mortgaged Property so as to ensure that, should Mortgagor default in the repayment of the Debt, Mortgagee can recover the Debt by a sale of the Mortgaged Property. Mortgagor shall not sell, convey, alienate, mortgage, encumber, pledge or otherwise transfer (any such act or occurrence, a "Transfer") the Mortgaged Property or any part thereof, or suffer or permit any Transfer to occur, other than a Transfer expressly permitted under Section 4.2.9 of the Loan Agreement.

(b) Mortgagee shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon any Transfer in violation of this Paragraph 4. This provision shall apply to every sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Mortgaged Property (and every other Transfer) regardless of whether voluntary or not. Any Transfer made in contravention of this Paragraph 4 shall be null and void and of no force and effect. Mortgagor agrees to bear and shall pay or reimburse Mortgagee on demand for all reasonable expenses (including reasonable attorneys' fees and disbursements, title search costs and title insurance endorsement premiums) incurred by Mortgagee in connection with the review, approval and documentation of any Permitted Transfer or a Permitted Property Release, as set forth in the Loan Documents.

5. Changes in Laws Regarding Taxation. If any law is enacted or adopted or amended after the date of this Mortgage which deducts the Debt from the value of the Mortgaged Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Mortgagee's interest in the Mortgaged Property, Mortgagor will pay such tax, with interest and penalties thereon, if any. If Mortgagee is advised by its counsel that the payment of such tax

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or interest and penalties by Mortgagor would be unlawful, taxable to Mortgagee or unenforceable, or would provide the basis for a defense of usury, then Mortgagee shall have the option, by notice of not less than 90 days, to declare the Debt immediately due and payable.

6. No Credits on Account of the Debt. Mortgagor shall not claim or demand or be entitled to any credit on account of the Debt for any part of the Taxes and Other Charges assessed against the Mortgaged Property, and no deduction shall otherwise be made or claimed from the assessed value of the Mortgaged Property for real estate tax purposes by reason of this Mortgage or the Debt. If such claim, credit or deduction shall be required by law, Mortgagee shall have the option, by notice of not less than 90 days, to declare the Debt immediately due and payable.

7. Further Acts, Etc. Mortgagor shall, at its sole cost, perform, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, transfers and assurances as Mortgagee shall, from time to time, require, for the better assuring, conveying, assigning, transferring, and confirming unto Mortgagee the property and rights hereby mortgaged, given, granted, bargained, sold, alienated, conveyed, confirmed, pledged, assigned and hypothecated or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage, or for filing, registering or recording this Mortgage or for facilitating the sale and transfer of the Loan and the Loan Documents in connection with a "Secondary Market Transaction" as described in Section 9.1 of the Loan Agreement. Upon foreclosure, the appointment of a receiver or any other relevant action, Mortgagor shall, at its sole cost, cooperate fully and completely to effect the assignment or transfer of any license, permit, agreement or any other right necessary or useful to the operation of the Mortgaged Property. Mortgagor grants to Mortgagee an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Mortgagee at law and in equity, including such rights and remedies available to Mortgagee pursuant to this paragraph.

8. Recording of Mortgage, Etc. Mortgagor forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, shall cause this Mortgage, and any mortgage creating a lien or security interest or evidencing the lien hereof upon the Mortgaged Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien or security interest hereof upon, and the interest of Mortgagee in, the Mortgaged Property. Mortgagor shall pay all filing, registration or recording fees, all expenses incident to the preparation, execution and acknowledgment of and all federal, state, county and municipal, taxes, duties, imposts, documentary stamps, assessments and charges arising out of or in connection with the execution and delivery of, this Mortgage, any mortgage supplemental hereto, any mortgage with respect to the Mortgaged Property or any instrument of further assurance, except where prohibited by law so to do. Mortgagor shall hold harmless and indemnify Mortgagee, its successors and assigns, against any liability incurred by reason of the imposition of any tax on the making or recording of this Mortgage.

9. Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default, Mortgagee may, but without any obligation to do so and without notice

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to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder, perform the obligations in Default in such manner and to such extent as Mortgagee may deem necessary to protect the security hereof. Mortgagee is authorized to enter upon the Mortgaged Property for such purposes or appear in, defend or bring any action or proceeding to protect its interest in the Mortgaged Property or to foreclose this Mortgage or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees and disbursements to the extent permitted by law), with interest thereon at the Default Rate for the period after notice from Mortgagee that such cost or expense was incurred to the date of payment to Mortgagee, shall constitute a portion of the Debt, shall be secured by this Mortgage and the other Loan Documents and shall be due and payable to Mortgagee upon demand.

10. Event of Default; Remedies.

(a) The term "Event of Default" as used in this Mortgage shall have the meaning assigned to such term in the Loan Agreement.

(b) Upon the occurrence and during the continuance of any Event of Default, Mortgagee may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Mortgagor and in and to the Mortgaged Property, by Mortgagee itself or otherwise, including the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Mortgagee:

- (i) declare the entire Debt to be immediately due and payable;
- (ii) institute a proceeding or proceedings, judicial or nonjudicial, to the extent permitted by law, by advertisement or otherwise, for the complete (or partial) foreclosure of this Mortgage, in which case the Mortgaged Property (or any part thereof) may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (iii) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Mortgage for the portion of the Debt then due and payable, subject to the continuing lien of this Mortgage for the balance of the Debt not then due;
- (iv) sell for cash or upon credit the Mortgaged Property (or any part thereof) and all estate, claim, demand, right, title and interest of Mortgagor therein and rights of redemption thereof, pursuant to the power of sale, to the extent permitted by law, or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;
- (v) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein or in any other Loan Document;
- (vi) recover judgment on the Note either before, during or after any proceeding for the enforcement of this Mortgage;

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(vii) apply for the appointment of a trustee, receiver, liquidator or conservator of the Mortgaged Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of the Mortgagor or of any person, firm or other entity liable for the payment of the Debt;

(viii) enforce Mortgagee's interest in the Leases and Rents and enter into or upon the Mortgaged Property, either personally or by its agents, nominees or attorneys and dispossess Mortgagor and its agents and employees therefrom, and thereupon Mortgagee may (A) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with the Mortgaged Property and conduct the business thereat; (B) complete any construction on the Mortgaged Property in such manner and form as Mortgagee deems advisable; (C) make alterations, additions, renewals, replacements and improvements to or on the Mortgaged Property; (D) exercise all rights and powers of Mortgagor with respect to the Mortgaged Property, whether in the name of Mortgagor or otherwise, including the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive Rents; and (E) apply the receipts from the Mortgaged Property to the payment of the Debt, after deducting therefrom all expenses (including reasonable attorneys' fees and disbursements) incurred in connection with the aforesaid operations and all amounts necessary to pay the insurance, and Taxes and Other Charges in connection with the Mortgaged Property, as well as just and reasonable compensation for the services of Mortgagee, and its counsel, agents and employees;

(ix) require Mortgagor to pay monthly in advance to Mortgagee, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of any portion of the Mortgaged Property occupied by Mortgagor, and require Mortgagor to vacate and surrender possession of the Mortgaged Property to Mortgagee or to such receiver, and, in default thereof, evict Mortgagor by summary proceedings or otherwise; or

(x) pursue such other rights and remedies as may be available at law or in equity or under the UCC, including the right to receive and/or establish a lock box for all Rents and proceeds from the Intangibles and any other receivables or rights to payments of Mortgagor relating to the Mortgaged Property.

In the event of a sale, by foreclosure or otherwise, of less than all of the Mortgaged Property, this Mortgage shall continue as a lien on the remaining portion of the Mortgaged Property.

(c) The proceeds of any sale made under or by virtue of this Paragraph 10, together with any other sums which then may be held by Mortgagee under this Mortgage, whether under the provisions of this Paragraph 10 or otherwise, shall be applied by Mortgagee to the payment of the Debt in such priority and proportion as Mortgagee in its sole discretion shall deem proper.

(d) Mortgagee may adjourn from time to time any sale by it to be made under or by virtue of this Mortgage by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by any applicable law, Mortgagee,

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without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

(e) Upon the completion of any sale or sales pursuant hereto, Mortgagee, or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. Mortgagee is hereby irrevocably appointed the true and lawful attorney of Mortgagor, in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of the Mortgaged Property and rights so sold and for that purpose Mortgagee may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, Mortgagor hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. Any sale or sales made under or by virtue of this Paragraph 10, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Mortgagor in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against Mortgagor and against any and all persons claiming or who may claim the same, or any part thereof, from, through or under Mortgagor.

(f) Upon any sale made under or by virtue of this Paragraph 10, whether made under a power of sale or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee may bid for and acquire the Mortgaged Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Debt the net sales price after deducting therefrom the expenses of the sale and costs of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage or any other Loan Document.

(g) No recovery of any judgment by Mortgagee and no levy of an execution under any judgment upon the Mortgaged Property or upon any other property of Mortgagor shall affect in any manner or to any extent the lien of this Mortgage upon the Mortgaged Property or any part thereof, or any liens, rights, powers or remedies of Mortgagee hereunder, but such liens, rights, powers and remedies of Mortgagee shall continue unimpaired as before.

(h) Mortgagee may terminate or rescind any proceeding or other action brought in connection with its exercise of the remedies provided in this Paragraph 10 at any time before the conclusion thereof, as determined in Mortgagee's sole discretion and without prejudice to Mortgagee.

(i) Mortgagee may resort to any remedies and the security given by this Mortgage or in any other Loan Document in whole or in part, and in such portions and in such order as determined by Mortgagee's sole discretion. No such action shall in any way be considered a waiver of any rights, benefits or remedies evidenced or provided by any Loan Document. The failure of Mortgagee to exercise any right, remedy or option provided in any Loan Document shall not be deemed a waiver of such right, remedy or option or of any covenant or obligation secured by any Loan Document. No acceptance by Mortgagee of any payment after the occurrence of any Event of Default and no payment by Mortgagee of any obligation for which Mortgagor is liable

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hereunder shall be deemed to waive or cure any Event of Default, or Mortgagor's liability to pay such obligation. No sale of all or any portion of the Mortgaged Property, no forbearance on the part of Mortgagee, and no extension of time for the payment of the whole or any portion of the Debt or any other indulgence given by Mortgagee to Mortgagor, shall operate to release or in any manner affect the interest of Mortgagee in the remaining Mortgaged Property or the liability of Mortgagor to pay the Debt. No waiver by Mortgagee shall be effective unless it is in writing and then only to the extent specifically stated. All costs and expenses of Mortgagee in exercising its rights and remedies under this Paragraph 10 (including reasonable attorneys' fees and disbursements to the extent permitted by law), shall be paid by Mortgagor immediately upon notice from Mortgagee, with interest at the Default Rate for the period after notice from Mortgagee, and such costs and expenses shall constitute a portion of the Debt and shall be secured by this Mortgage.

(j) The interests and rights of Mortgagee under the Loan Documents shall not be impaired by any indulgence, including (i) any renewal, extension or modification which Mortgagee may grant with respect to any of the Debt, (ii) any surrender, compromise, release, renewal, extension, exchange or substitution which Mortgagee may grant with respect to the Mortgaged Property or any portion thereof or (iii) any release or indulgence granted to any maker, endorser, guarantor or surety of any of the Debt.

11. Right of Entry. In addition to any other rights or remedies granted under this Mortgage, Mortgagee and its agents shall have the right to enter and inspect the Mortgaged Property at any reasonable time during the term of this Mortgage. The cost of such inspections or audits shall be borne by Mortgagor should Mortgagee determine that an Event of Default exists, including the cost of all follow up or additional investigations or inquiries deemed reasonably necessary by Mortgagee. The cost of such inspections, if not paid for by Mortgagor following demand, may be added to the principal balance of the sums due under the Note and this Mortgage and shall bear interest thereafter until paid at the Default Rate.

12. Security Agreement. This Mortgage is both a real property mortgage and a "security agreement" within the meaning of the UCC. The Mortgaged Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Mortgaged Property. Mortgagor by executing and delivering this Mortgage has granted and hereby grants to Mortgagee, as security for the Debt, a "security interest" (as such term is defined in the Uniform Commercial Code in the State of Illinois) in all of the Mortgagor's right, title and interest in, to and under the following property, whether now owned or hereafter acquired or arising: (i) that portion of the Property that constitutes personal property under the Uniform Commercial Code, (ii) any accounts, chattel paper, inventory, equipment, instruments, investment property, documents, deposit accounts, commercial tort claims, letter-of-credit rights, goods, general intangibles, money, oil, gas and other minerals before extraction, and supporting obligations (each term in this clause (ii) having the meaning given to it under the Uniform Commercial Code, (iii) all renewals, replacements of any of the aforementioned items, or articles in substitution therefor or in addition thereto and (iv) all proceeds and products of the foregoing (such portion of the Mortgaged Property so subject to the UCC and described in clauses (i) through (iv) being called in this paragraph the "Collateral"). The foregoing sentence is intended to grant in favor of the Mortgagee a continuing lien and security interest in all of the Mortgagor's assets. The Mortgagor authorizes the Mortgagee and its agents to file UCC financing

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statements in form and substance satisfactory to the Mortgagee, describing the collateral as “all assets of the debtor, whether now owned or existing or hereafter acquired or arising, and all proceeds and products thereof, including, without limitation, all fixtures on the Premises” or words to that effect, and any limitations on such collateral description, notwithstanding that such collateral description may be broader in scope than the Collateral. This Mortgage shall also constitute a “fixture filing” for the purposes of the UCC. As such, this Mortgage covers all items of the Collateral that are or are to become fixtures. Information concerning the security interest herein granted may be obtained from the parties at the addresses of the parties set forth in the first paragraph of this Mortgage. If an Event of Default shall occur, Mortgagee, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the UCC, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Mortgagee, Mortgagor shall at its expense assemble the Collateral and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Mortgagor shall pay to Mortgagee on demand any and all expenses, including reasonable attorneys’ fees and disbursements, incurred or paid by Mortgagee in protecting the interest in the Collateral and in enforcing the rights hereunder with respect to the Collateral. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Collateral, sent to Mortgagor in accordance with the provisions hereof at least ten days prior to such action, shall constitute commercially reasonable notice to Mortgagor. The proceeds of any disposition of the Collateral, or any part thereof, may be applied by Mortgagee to the payment of the Debt in such priority and proportions as Mortgagee in its sole discretion shall deem proper. In the event of any change in name, identity or structure of Mortgagor, Mortgagor shall notify Mortgagee thereof and promptly after request shall execute, file and record such UCC forms as are necessary to maintain the priority of Mortgagee’s lien upon and security interest in the Collateral, and shall pay all expenses and fees in connection with the filing and recording thereof. If Mortgagee shall require the filing or recording of additional UCC forms or continuation statements, Mortgagor shall, promptly after request, execute, file and record such UCC forms or continuation statements as Mortgagee shall deem necessary, and shall pay all expenses and fees in connection with the filing and recording thereof, it being understood and agreed, however, that no such additional documents shall increase Mortgagor’s obligations under the Loan Documents. Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact, coupled with an interest, to file with the appropriate public office on its behalf any financing or other statements signed only by Mortgagee, as secured party, in connection with the Collateral covered by this Mortgage.

13. Actions and Proceedings. Mortgagee has the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to bring any action or proceeding, in the name and on behalf of Mortgagor, which Mortgagee, in its sole discretion, decides should be brought to protect its or their interest in the Mortgaged Property. Mortgagee shall, at its option, be subrogated to the lien of any other mortgage discharged in whole or in part by the Debt, and any such subrogation rights shall constitute additional security for the payment of the Debt.

14. Marshaling and Other Matters. Mortgagor hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshaling in the event of any sale

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hereunder of the Mortgaged Property or any part thereof or any interest therein. Further, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Mortgagor, and on behalf of each and every person acquiring any interest in or title to the Mortgaged Property subsequent to the date of this Mortgage and on behalf of all persons to the extent permitted by applicable law. The lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Mortgagee and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by (i) any acceptance by Mortgagee of any other security for any portion of the Debt, (ii) any failure, neglect or omission on the part of Mortgagee to realize upon or protect any portion of the Debt or any collateral security therefor or (iii) any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any portion of the Debt or of any of the collateral security therefor; and Mortgagee may foreclose, or exercise any other remedy available to Mortgagee under other Loan Documents without first exercising or enforcing any of its remedies under this Mortgage, and any exercise of the rights and remedies of Mortgagee hereunder shall not in any manner impair the Debt or the liens of any other Loan Document or any of Mortgagee's rights and remedies thereunder.

15. Notices. All notices, consents, approvals and requests required or permitted hereunder shall be in writing, and shall be sent, and shall be deemed effective, as provided in the Loan Agreement.

16. Inapplicable Provisions. If any term, covenant or condition of this Mortgage is held to be invalid, illegal or unenforceable in any respect, this Mortgage shall be construed without such provision.

17. Headings. The paragraph headings in this Mortgage are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

18. Duplicate Originals. This Mortgage may be executed in any number of duplicate originals and each such duplicate original shall be deemed to be an original.

19. Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage may be used interchangeably in singular or plural form; and the word "Mortgagor" shall mean "Mortgagor and any subsequent owner or owners of the Mortgaged Property or any part thereof or any interest therein," the word "Mortgagee" shall mean "Mortgagee and any subsequent holder of the Note," the words "Mortgaged Property" shall include any portion of the Mortgaged Property and any interest therein, the word "including" means "including but not limited to" and the words "attorneys' fees" shall include any and all attorneys' fees, paralegal and law clerk fees, including fees at the pre-trial, trial and appellate levels incurred or paid by Mortgagee in protecting its interest in the Mortgaged Property and Collateral and enforcing its rights hereunder.

20. Homestead. Mortgagor hereby waives and renounces all homestead and exemption rights provided by the Laws of the United States and of any state, in and to the Mortgaged Property as against the collection of the Debt, or any part thereof.

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21. **Assignments.** Mortgagee shall have the right to assign or transfer its rights under this Mortgage without limitation. Any assignee or transferee shall be entitled to all the benefits afforded Mortgagee under this Mortgage.

22. **Waiver of Jury Trial.** MORTGAGOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS MORTGAGE OR ANY OTHER LOAN DOCUMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY MORTGAGOR, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. MORTGAGEE IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH 22 IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY MORTGAGOR.

23. **Consents.** Any consent or approval by Mortgagee in any single instance shall not be deemed or construed to be Mortgagee's consent or approval in any like matter arising at a subsequent date, and the failure of Mortgagee to promptly exercise any right, power, remedy, consent or approval provided herein or at law or in equity shall not constitute or be construed as a waiver of the same nor shall Mortgagee be estopped from exercising such right, power, remedy, consent or approval at a later date. Any consent or approval requested of and granted by Mortgagee pursuant hereto shall be narrowly construed to be applicable only to Mortgagor and the matter identified in such consent or approval and no third party shall claim any benefit by reason thereof, and any such consent or approval shall not be deemed to constitute Mortgagee a venturer or partner with Mortgagor nor shall privity of contract be presumed to have been established with any such third party. If Mortgagee deems it to be in its best interest to retain assistance of persons, firms or corporations (including attorneys, title insurance companies, appraisers, engineers and surveyors) with respect to a request for consent or approval, Mortgagor shall reimburse Mortgagee for all costs reasonably incurred in connection with the employment of such persons, firms or corporations.

24. **Loan Repayment.** Provided no Event of Default exists, this Mortgage will be satisfied and discharged of record by Mortgagee prior to the Maturity Date only in accordance with the terms and provisions set forth in the Loan Agreement.

25. **Governing Law/Submission to Jurisdiction.**

(a) THIS MORTGAGE AND ALL PROVISIONS OF THE LOAN AGREEMENT INCORPORATED HEREIN BY REFERENCE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN SUCH STATE (WITHOUT REGARD TO THE PRINCIPLE OF CONFLICTS OF LAW UNDER NEW YORK LAW OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW) AND APPLICABLE LAWS OF THE UNITED STATES OF AMERICA; PROVIDED THAT (A) WITH RESPECT TO THE PROVISIONS HEREOF WHICH RELATE TO TITLE OR TO THE CREATION, PERFECTION, PRIORITY,

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ENFORCEMENT OR FORECLOSURE OF LIENS ON AND SECURITY INTERESTS IN OR ASSIGNMENTS OF REAL PROPERTY, THIS SECURITY INSTRUMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE WHERE SUCH REAL PROPERTY IS LOCATED; AND (B) WITH RESPECT TO THE PROVISIONS HEREOF WHICH RELATE TO THE CREATION, PERFECTION, PRIORITY, ENFORCEMENT AND FORECLOSURE OF LIENS ON PROPERTY GOVERNED BY ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE, TO THE EXTENT REQUIRED THEREBY, THE CONFLICTS OF LAW PROVISIONS OF THE UNIFORM COMMERCIAL CODE SHALL CONTROL; IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN. EACH MORTGAGOR HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS MORTGAGE AND, UNLESS OTHERWISE EXPRESSLY SET FORTH THEREIN, THE OTHER LOAN DOCUMENTS.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST MORTGAGOR OR MORTGAGEE ARISING OUT OF OR RELATING TO THIS MORTGAGE MAY, AT MORTGAGEE'S OPTION, BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE STATE OF NEW YORK, AND MORTGAGOR HEREBY WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND MORTGAGOR HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING.

26. **Variable Interest Rate.** The Loan secured by this Mortgage is a variable interest rate loan, as more particularly set forth in the Loan Agreement.

PART II

STATE-SPECIFIC PROVISIONS

27. **Conflicts With Part I.** In the event of any conflict between the provisions of this Part II and any provision of Part I, then the provisions of this Part II shall control.

28. **State-Specific Provisions.**

(a) Notwithstanding the provisions of this Mortgage (including, but not limited to Sections 9 and 10), any foreclosure of all or any portion of the lien of this Mortgage shall be in accordance with the Illinois Mortgage Foreclosure Act, 735 ILCS 5/15-1101 et seq., as from time to time amended (the "Act").

(b) Mortgagor represents and warrants that the amounts secured by this Mortgage will be used for the purposes specified in Paragraph 815 ILCS 205/4(1)(c), and that the obligations secured hereby constitutes a "business loan" within the purview of said paragraph and that Loan is "a loan secured by a mortgage on real estate" within the purview and operation of Section 815 ILCS 205/4(1)(l).

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(c) Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Act) or residential real estate (as defined in Section 15-1219 of the Act), and to the fullest extent permitted by law, Mortgagor hereby voluntarily and knowingly waives its rights to reinstatement and redemption as allowed under Section 15-1601(b) of the Act, and to the full extent permitted by law, the benefits of all present and future valuation, appraisal, homestead, exemption, stay, redemption and moratorium law, under any state or federal law.

(d) Subordination of Property Manager's Lien and Real Estate Broker's Lien. To the extent permitted by law, any property management agreement for the Property entered into hereafter by Mortgagor with a property manager shall contain a "no lien" provision whereby the property manager waives and releases any and all mechanics' lien rights that the property manager may have pursuant to the Illinois Mechanics Lien Act, 770 ILCS 60/1 et seq. Such property management agreement or a short form thereof shall, at Mortgagee's request, be recorded with the Recorder of Deeds of the county where the Property is located. In addition, Mortgagor shall cause the property manager under any property management agreement for the Property to enter into a subordination of management agreement with Mortgagee, in recordable form, whereby the property manager subordinates present and future lien rights and those of any party claiming by, through or under the property manager, to the lien of this Mortgage. To the extent permitted by law, any agreement entered into hereafter by Mortgagor or any agent of Mortgagor with any "broker" (as defined in the Real Estate License Act of 2000, 225 ILCS 45/1 et seq.) that is an affiliate of Mortgagor for the purpose of selling, leasing or otherwise conveying an interest in the Property shall contain a "no lien" provision whereby such broker waives and releases any and all lien rights that such broker or anyone claiming by, through or under such broker may have pursuant to the Commercial Broker Lien Act, 770 ILCS 15/1 et seq. Mortgagor shall cause such broker to enter into a subordination agreement with Mortgagee, in recordable form, whereby such broker, on its own behalf and on behalf of any party claiming by, through or under such broker, subordinates present and future lien rights to the lien of this Mortgage.

(e) The total principal amount secured by this Mortgage at any one time and from time to time shall not exceed SEVENTY-ONE MILLION AND 00/100 DOLLARS (\$71,000,000). Any limitation of amount does not include interest, attorneys' fees and other fees and charges validly made pursuant to this Mortgage. Also, this limitation does not apply to advances made under the terms of this Mortgage to protect Mortgagee's security and to perform any of the covenants contained in this Mortgage.

(f) Pursuant to 815 ILCS 180/5 *et seq.* of Illinois Compiled Statutes, unless Mortgagor provides Mortgagee with evidence of the insurance coverage required by the Loan Agreement, Mortgagee may purchase insurance at Mortgagor's expense to protect Mortgagee's interests in Mortgagor's collateral. This insurance may, but need not, protect Mortgagor's interests. The coverage that Mortgagee purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the collateral. Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained insurance as required by the Loan Agreement. If Mortgagee purchases insurance for the collateral, Mortgagor will be responsible for the costs of that insurance, including interest and any other charges Mortgagee may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The

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costs of the insurance may be added to Mortgagor's total outstanding balance or obligation. The costs of the insurance may be more than the cost of insurance Mortgagor may be able to obtain on its own.

[Signature pages follow]

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

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

MORTGAGOR:

FULLERTON SNF PROPERTY HOLDINGS, LLC, an Illinois limited liability company

By: [Signature]
Name: Mordechai Kaplan
Its: Authorized Signatory

Acknowledgment

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

The foregoing instrument was acknowledged before me on 9/27/23 by Mordechai Kaplan, as the Authorized Signatory of Fullerton SNF Property Holdings, LLC, an Illinois limited liability company. Mordechai Kaplan, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Authorized Signatory, appeared before me in person and acknowledged that he (or she) signed and delivered said instrument as his (or her) own free and voluntary act, and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

Dated:

[Signature]
Notary Public
My commission expires: 11/20/2026

[NOTARY STAMP OR SEAL]



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MORTGAGOR:

**SOUTHPORT SLF PROPERTY HOLDINGS,
LLC, an Illinois limited liability company**

By: [Signature]
Name: Mordechai Kaplan
Its: Authorized Signatory

Acknowledgment

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The foregoing instrument was acknowledged before me on 9/27/23 by Mordechai Kaplan as the Authorized Signatory of Southport SLF Property Holdings, LLC, an Illinois limited liability company. Mordechai Kaplan, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Authorized Signatory, appeared before me in person and acknowledged that he (or she) signed and delivered said instrument as his (or her) own free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Dated:

Notary Public

My commission expires:

[NOTARY STAMP OR SEAL]



[Signature page to Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing]

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EXHIBIT A-1

Legal Description for the Lincoln Park SNF Facility and Lincoln Park SLF Facility

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Chicago, County of Cook, State of Illinois.

That portion of Lot 9 of the County Clerk's Division of Block 43 of Sheffield's Addition to Chicago in the Southwest 1/4 of Section 29, Township 40 North, Range 14, East of the Third Principal Meridian, lying west of the east 132.10 feet of said lot.

Also:

All that part of the east 132.10 feet of said Lot 9 of County Clerk's Division of Block 43 of Sheffield's Addition To Chicago, described as follows:

Beginning at the Southwest corner of said east 132.10 feet of said Lot 9, which point is 99.64 feet east from the east line of Southport Avenue; thence north along the west line of said east 132.10 feet of said Lot 9, a distance of 595.80 feet to the south line of West Altgeld Street; thence east along the south line of West Altgeld Street, 9.60 feet to a point; thence south on a straight line, 9.60 feet east of and parallel to the west line of the said east 132.10 feet of said Lot 9, a distance of 123.00 feet to a point; thence west parallel to and 123.00 feet from the south line of West Altgeld Street, a distance of 6.90 feet to a point; thence south parallel to and 2.70 feet from the west line of said east 132.10 feet of said Lot 9, a distance of 472.80 feet to the north line of Fullerton Avenue; thence west along the north line of Fullerton Avenue, a distance of 2.70 feet to the point of beginning, all in Cook County, Illinois.

NOTE FOR INFORMATION: Being Parcel No(s). 14-29-321-040-0000, of the City of Chicago, County of Cook.

1366 W Fullerton
Chicago IL 60614

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EXHIBIT B

Operating Lease

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

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LEASE AGREEMENT

By and Between

Fullerton SNF Property Holdings, LLC

and

**Fullerton Skilled Nursing Facility, LLC/
DBA Avantara Lincoln Park**

October 6, 2023

1366 West Fullerton Avenue, Chicago, IL 60614

**COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387**

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LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") made and entered into this 6th day of October, 2023 (the "Effective Date"), by and between **Fullerton SNF Property Holdings, LLC**, an Illinois limited liability company (hereinafter referred to as "Lessor"), and **Fullerton Skilled Nursing Facility, LLC/ DBA Avantara Lincoln Park**, an Illinois limited liability company (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor owns certain tracts of land which are improved with a skilled care nursing facility, located at 1366 W. Fullerton Avenue, as well as any other structures located thereon, all as more particularly described in **Exhibit A** attached hereto and made a part hereof (hereinafter collectively referred to as the "Demised Premises");

WHEREAS, the Facility (as defined herein) and the 2437 N. Southport Avenue, Chicago Illinois facility ("Southport Facility") are each further described, delineated and defined in the survey attached hereto as **Exhibit B**;

WHEREAS, Lessor owns the furnishings, furniture, equipment and fixtures used in or about the Demised Premises (hereinafter collectively referred to as the "Personal Property");

WHEREAS, Lessor desires to lease the Demised Premises and Personal Property to Lessee and Lessee desires to lease the Demised Premises and Personal Property from Lessor; and

WHEREAS, Lessor has obtained financing pursuant to the terms of a loan agreement (the "Existing Loan Agreement") dated as of October 6, 2023, entered into by Lessor, as a borrower, together with certain related borrowers (collectively, the "Borrower") and Deutsche Bank AG, New York Branch (together with its successors and assigns, the "Lender"), providing a loan (the "Loan"), guaranteed by certain guarantors, with respect to Lessor's acquisition of the Facility. Such Loan Agreement, together with the Existing Mortgage (as hereinafter defined) and all other documents evidencing or securing Lender's Loan to Lessor, as the same may be amended, restated, modified, or extended from time to time, are referred to herein, collectively, as the "Existing Loan Documents."

NOW THEREFORE, in consideration of the above Recitals, which are incorporated herein by this reference, and of the mutual covenants, agreements and undertakings hereinafter set forth, it is agreed that the use and occupancy of the Demised Premises, and the use of the Personal Property shall be subject to and in accordance with the terms, conditions and provisions of this Lease.

ARTICLE I - DEFINITIONS

1.1 The terms defined in this Article shall, for all purposes of this Lease and all agreements supplemental hereto, have the meaning herein specified.

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(a) "Facility" shall mean that certain facility located at 1366 W. Fullerton Ave., Chicago, IL 60614 as well as any other structures located on the Demised Premises.

(b) "Mortgage" shall mean the Mortgage (the "Existing Mortgage") from Lessor, as mortgagor, to and in favor of Lender, as mortgagee, securing the Loan, as further described on Appendix A attached hereto and made a part hereof, and any amendments, modifications or extensions thereof and any mortgages which in the future may encumber the Demised Premises, provided that any such amendments, modifications or extensions of the Existing Mortgage or new mortgages comply with the terms of this Lease.

(c) "Lender" shall mean Deutsche Bank AG, New York Branch, its successors and assigns, as Lender under the Loan Agreement and, following the indefeasible payment in full of the Loan and satisfaction of the Existing Mortgage, the mortgagee under any subsequent Mortgage.

(d) "Loan Agreement" shall mean the Existing Loan Agreement (as defined in the recitals) and, following the indefeasible payment in full of the Loan and satisfaction of the Existing Mortgage, any subsequent loan agreement pursuant to which a Lender makes a loan secured by a Mortgage on the Demised Premises, including any loan agreement with respect to a loan obtained to refinance the Loan.

(e) "Loan Documents" shall mean the Existing Loan Documents (as defined in the recitals) and, following the indefeasible payment in full of the Loan and satisfaction of the Existing Mortgage, any documents evidencing or securing a subsequent Loan Agreement including any documents with respect to a loan obtained to refinance the Loan.

All other terms shall be as defined in the recitals and other sections of this Lease.

ARTICLE II - DEMISED PREMISES AND PERSONAL PROPERTY

2.1 Lessor, for and in consideration of the rents, covenants and agreements hereinafter reserved, mentioned and contained on the part of the Lessee, its successors and assigns, to be paid, kept and performed, does hereby lease unto Lessee the Demised Premises together with the Personal Property to be used in and upon the Demised Premises for the term hereinafter specified, for use and operation therein and thereon of the Facility, in substantial compliance with all the rules and regulations and minimum standards applicable thereto, as prescribed by the State of Illinois and such other governmental authorities having jurisdiction thereof.

ARTICLE III - TERM OF LEASE

3.1 The term of this Lease (the "Term") shall begin and be effective as of the Effective Date, provided that Lessee shall have a license to operate the skilled care nursing care facility located on the Demised Premises, and shall extend for a period of six (6) years (the "Initial Term"), unless sooner terminated or extended as provided herein.

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3.2 Following the Initial Term, and any subsequent extension thereto, the term of this lease shall be automatically extended for an additional term of one (1) year (the "Extension"), up to a total term of thirty (30) years from the Effective Date. Notwithstanding the foregoing, either Lessee or Lessor may provide written notice prior to the expiration of the Initial Term, or any subsequent Extension, indicating that no further Extension shall occur, in which case this Lease shall terminate upon expiration of the term then in effect and shall not be further extended.

ARTICLE IV - RENT

4.1 From and after the date hereof, Lessee shall pay to Lessor, or as Lessor shall direct, without demand, deduction or offset for any reason whatsoever except as herein specifically provided, as fixed monthly base rental as provided in Schedule 1 attached hereto (the "Base Rent") for the Demised Premises and the Personal Property over and above all other and additional payments to be made by Lessee as provided in this Lease, and in all cases an amount greater than debt service payable by Lessor with respect to the Demised Premises.

All rental payments, together with all tax and insurance deposits provided for in this Lease, shall be paid in arrears on the first day of each month. Unless otherwise notified Lessor directs Lessee to deliver all rental payments payable to Lessor and shall be sent to 3450 Oakton Street, Skokie, IL 60076. Any payment by Lessee to Lessor's Lender or to account number 1098314 at CIBC Bank USA shall be credited against Lessee's Base Rent obligations hereunder.

4.2 This Lease is and shall be deemed and construed to be a triple net lease and the Base Rent specified herein shall be net to the Lessor in each year during the term of this Lease. The Lessee shall pay all costs, expenses and obligations of every kind whatsoever relating to the Demised Premises which may arise or become due during the term of this Lease, except for any principal and interest payments due with respect to any Loan Agreement. Lessee does hereby agree to indemnify, defend and hold harmless the Lessor against any and all such costs, expenses and obligations.

ARTICLE V - INTENTIONALLY OMITTED

ARTICLE VI - PAYMENT OF TAXES AND ASSESSMENTS

6.1 Lessee will pay as Additional Rent before any fine, penalty, interest or cost may be added thereto for the nonpayment thereof, all taxes, assessments, license and permit fees and other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which during the term of this Lease may have been, or may be, assessed, levied, confirmed, imposed upon or become due and payable out of or in respect of, or become a lien on the Demised Premises and/or Personal Property or any part thereof (hereinafter collectively referred to as "Taxes and Assessments").

6.2 Any Taxes and Assessments relating to a fiscal period of any authority, a part of which is included within the term of this Lease and a part of which is included in a period of time

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before or after the term of this Lease, shall be adjusted pro rata between Lessor and Lessee as of the commencement and termination of the Lease term and each party shall be responsible for its pro-rata share of any such Taxes and Assessments.

6.3 Nothing herein contained shall require Lessee to pay income taxes assessed against Lessor, or capital levy, franchise, estate, succession or inheritance taxes of Lessor or its beneficiary.

6.4 If permitted by the terms of the Loan Documents, Lessee shall have the right to contest the amount or validity, in whole or in part, of any Taxes and Assessments by appropriate proceedings diligently conducted in good faith, but only after payment of such Taxes and Assessments, unless such payment would operate as a bar to such contest or interfere materially with the prosecution thereof, in which event, Lessee may postpone or defer such payment only if neither the Demised Premises, nor any part thereof, would by reason of such postponement or deferment be in danger of being forfeited or lost.

6.5 Upon the termination of any such proceedings, Lessee shall pay the amount of such Taxes and Assessments or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees, interest, penalties, or other liabilities in connection therewith, and such payment, at Lessee's request, shall be made by Lessor out of the amount deposited with respect to such Taxes and Assessments and accrued interest as aforesaid. In the event such amount is insufficient, then the balance due shall be promptly paid by Lessee.

6.6 Lessor shall not be required to join in any proceedings referred to in this Article, unless the provisions of any law, rule or regulation at the time in effect shall require that such proceedings be brought by and/or in the name of Lessor in which event Lessor shall join in such proceedings or permit the same to be brought in its name. Lessor shall not ultimately be subjected to any liability for the payment of any costs or expenses in connection with any such proceedings, and Lessee will indemnify, defend and save harmless Lessor from any such costs and expenses, including, without limitation, reasonable attorneys' fees, as a result of such proceedings. Lessee shall be entitled to any refund of any real estate taxes and penalties or interest thereon received by Lessor but previously reimbursed in full by Lessee.

6.7 In the event that Lessor determines in its reasonable judgment that it is not being adequately represented by Lessee's counsel in any proceedings referred to in this Article, Lessor may upon ten (10) days' prior written notice to Lessee, obtain separate counsel to represent it in such action. In such event, the cost of such counsel shall be paid by Lessor.

6.8 If any income, profits or revenue tax shall be levied, assessed or imposed upon the income, profits or revenue arising from the Rent payable hereunder, partially or totally in lieu of or as a substitute for real estate taxes imposed upon the Demised Premises or Personal Property, then Lessee shall be responsible for the payment of such tax.

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ARTICLE VII - CAPITAL EXPENDITURES; DISTRIBUTIONS

7.1 Upon the occurrence of an Event of Default under the Existing Loan Agreement, beginning within ten (10) days after written notice from Lender, and continuing on the first day of each month thereafter, Lessee shall deposit in the deposit account established by Lessor with Lender for capital expenditures ("Capital Ex Reserve Account"), as Additional Rent, a monthly amount equal to at least \$350 per bed, per year, or any greater amount Lessor is required to make under the Loan Documents (the "Minimum Cap Ex Obligation"), to be used for capital improvements at the applicable Facility and/or to purchase furniture, fixtures and equipment ("Capital Expenditures Reserves"). Not more than annually, at the request of Lessor, Lessor and Lessee shall review capital expenditures budgets and agree on modifications, if any, required by changed circumstances and the changed conditions of the Demised Premises. Thereafter throughout the Term, Lessee shall submit to the Lessor written requests for disbursement of amounts from the Capital Ex Reserve Account for capital expenditures completed during the Term, provided that such amounts shall be disbursed to Lessee upon Lessor's receipt of due paid invoices and subject to the requirements of the Loan Documents. Upon termination of this Lease and payment of any amounts owing by Lessee hereunder, any remaining Capital Expenditure Reserves held by Lessor and posted by any Lessee shall be promptly returned to Lessee.

7.2 In addition to the requirements of Section 7.1, Lessee shall, within the time frame referenced in the Loan Documents, cause the work required to be completed pursuant to the Loan Documents (including without limitation, critical and non-critical repairs) to be completed in a good, safe and workmanlike manner and in accordance with all applicable laws, ordinances, rules and regulations at its expense. Promptly following completion thereof, Lessee shall provide Lessor with evidence thereof reasonably acceptable to Lessor and Lender. Any capital repairs or improvements with a cost in excess of \$10,000 shall be required to be approved by Lessor in writing prior to the commencement of such work.

7.3 Following the occurrence and continuation of any uncured Event of Default Lessee shall not (i) declare, pay or make any Distribution (other than dividends or distributions payable in its stock, or split-ups or reclassifications of its stock) (ii) apply any of its funds, property or assets to the acquisition, redemption or other retirement of any membership or equity interest, (iii) otherwise make any payments or Distributions to any stockholder, member, partner or other equity owner in such person's capacity as such, or (iv) make any payment in excess of documented, out-of-pocket costs and expenses, but in no event to exceed two percent (2%) of the gross monthly revenue of the Facility, for any management, consulting or service fee to any related or affiliated party; and any obligation of Lessee to make any of the foregoing payments shall be and hereby is made subordinate and junior in right of payment to the payment of all Rent, and other payment obligations of Lessee hereunder. "**Distribution**" shall mean any direct or indirect dividend, distribution or other payment of any kind or character (whether in cash, securities or other property) in respect of any equity interests or any repayment of indebtedness to any member of Lessee or any affiliate or relative thereof. Notwithstanding the foregoing, Lessee shall not make any Distributions that would limit Lessor's ability to distribute available cash under the Loan

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Documents, as applicable, and prior to any Distribution, Lessee shall obtain written consent from Lessor, not to be unreasonably withheld, that no such limitation will result.

ARTICLE VIII - OCCUPANCY

8.1 During the term of this Lease, the Demised Premises shall be used and occupied by Lessee for and as a skilled care nursing facility, as well as any other structures located thereon, and for no other purpose. Subject to the terms of Article XX hereof, Lessee shall at all times maintain in good standing and full force a probationary or non-probationary license issued by the State of Illinois and any other governmental agencies permitting the operation on the Demised Premises of a skilled nursing facility and shall use its best efforts to obtain a certificate to participate in the Illinois Medicaid Program as soon as practicable after the Effective Date. Thereafter, subject to the terms of Article XX hereof, Lessee shall at all times maintain in good standing and full force a provider agreement pursuant to which the Facility shall be entitled to participate in the Illinois Medicaid Program and receive reimbursement for the services provided at the Facility.

8.2 Lessee will not suffer any act to be done or any condition to exist at the Facility which may be dangerous or which may, in law, constitute a public or private nuisance or which may void or make voidable any insurance then in force affecting the Facility.

8.3 Upon termination of this Lease for any reason, Lessee will return to Lessor the Demised Premises in the same condition as existed on the Effective Date, reasonable wear and tear excepted, and with an unrestricted license issued by the State of Illinois and by any and all governmental agencies having jurisdiction over the Demised Premises, subject to any change in the number of beds required by any governmental authority solely as a result of changes in laws, rules and regulations relating to the physical attributes or the improvements on the Demised Premises. Except as otherwise specifically provided herein, no reduction in the number of beds shall entitle Lessee to any reduction or adjustment of the Rent payable hereunder, which shall be and continue to be payable by Lessee in the full amount set forth herein notwithstanding any such reduction in the number of beds. However, the Lessor shall increase the Rent in the event the Facility is licensed for additional beds, as further provided in Section 8.5 hereof. Lessee shall, within five (5) business days following its receipt thereof, provide Lessor with a copy of any notice from the Illinois Department of Public Health ("IDPH") or any federal, state or municipal governmental agency or authority regarding any reduction in the number of beds and Lessor shall have the right to contest, by appropriate legal or administrative proceedings, any such reduction.

8.4 During the term hereof, Lessee shall only use the Demised Premises in accordance with Environmental Laws (as hereinafter defined) and shall not use nor permit the Demised Premises to be used for the treatment, storage or disposal of any Hazardous Substances (as hereinafter defined) nor for any purpose involving the use of Hazardous Substances; provided, however, that Lessee may use in and store at the Facility such materials and substances

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as are customarily used in residential care facilities but only in such quantities as are reasonably necessary for the routine business operation of the Facility and such use and storage must in all cases comply with all applicable Environmental Laws. For purposes hereof "Hazardous Substances" shall mean any toxic or hazardous waste or pollutants, or substances, including, without limitation, asbestos, PCB'S, petroleum products and by products, substances defined or listed as: "Hazardous Substances" or "Toxic Substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") as amended, 42 U.S.C. § 9601, et seq., "Hazardous Materials" in the Hazardous Materials Transportation Act, 49 U.S.C. § 1802, et seq., "Hazardous Waste" in The Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq., any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. § 2061, et seq., any "Toxic Pollutant" under the Clean Water Act, 33 U.S.C. § 1251, et seq., as amended, any "Hazardous Air Pollutant" under the Clean Air Act, 42 U.S.C. § 7401, et seq., and any hazardous or toxic substance or pollutant regulated under any other applicable federal, state or local Environmental Laws. "Environmental Laws" as used in this Lease means all federal, state and local environmental, health, or safety laws or regulations now or hereafter enacted applicable to the Demised Premises, including the Facility. Lessee hereby agrees to indemnify, defend and hold Lessor harmless from and against, and shall reimburse Lessor for any and all loss, claim, liability, damages, injunctive relief, injuries to persons, property or natural resources, cost, expense, action and causes of action in connection with the use, generation, treatment, storage, release or disposal of Hazardous Substances at or from the Demised Premises during the term of the Lease, which is caused by Lessee or its officers, directors, members, manager, agents, employees, contractors or invitees, including, without limitation, the cost of any required or necessary repair, cleanup or detoxification and the preparation of any closure or other required work to be performed, to the full extent that such action is attributable, directly or indirectly, to the use, generation, treatment, storage, release or disposal of Hazardous Substances on the Demised Premises during the term hereof.

8.5 In no event shall Lessee relocate any of the licensed bed, or certificate of need, rights at the Facility to another location, or otherwise reduce the number of licensed beds, without Lessor's express written consent which may be withheld in Lessor's sole discretion. Any action taken by Lessee in connection with any of the foregoing matters without Lessor's express written consent shall be void and of no force and effect. Any and all license and beds rights with respect to the Facility, to the extent permitted under applicable law shall be the property of Lessor and included in the Demised Premises hereunder. In the event the Facility adds any licensed beds during the Term, then to the extent permitted by applicable law such additional beds shall become part of the Demised Premises and all rights with respect thereto shall be the property of Lessor and may not be subsequently removed or transferred by Lessee. In such event, Lessor shall proportionately increase the Rent as a result of such additional licensed beds simultaneously with the licensing thereof.

ARTICLE IX - INSURANCE

9.1 Subject to any additional requirements of the Loan Documents, as applicable, Lessee shall, at its sole cost and expense, during the full term of this Lease, maintain fire and casualty insurance, with extended coverage endorsement,

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which includes coverage for malicious mischief and vandalism both on the Demised Premises and the Personal Property on the Illinois standard form with a responsible company or companies designated by Lessee. Such insurance shall, at all times, be maintained in an amount equal to the full replacement value of the Demised Premises and Personal Property, but not less than that required by any Lender, but in any event in an amount sufficient to prevent Lessor and Lessee from becoming co-insurers under applicable provisions of the insurance policies. Such insurance shall at all times be payable to Lender, as applicable, Lessor and Lessee, as their interests may appear, and shall contain a loss-payable clause to Lender, as its interest may appear. Upon the reasonable request of Lessor, not more frequently than such time as required by Lessee's insurance carrier or the Lender, Lessee shall furnish, at its sole cost and expense, to Lessor and such insurance carrier, insurance appraisals in form and substance as are regularly and ordinarily made by insurance companies, in order to determine the then replacement value of the Demised Premises and Personal Property, and if such appraisal shows that the amount of casualty insurance maintained by Lessee hereunder is insufficient, the amount of insurance required by this Section 9.1 shall be adjusted accordingly.

9.2 Lessee shall also, at Lessee's sole cost and expense, cause to be issued and shall maintain during the entire term of this Lease:

(a) A public liability policy naming Lessor, Lender and Lessee, as insured, and insuring them against claims for bodily injury, or property damage occurring upon, in or about the Demised Premises, or in or upon the adjoining streets, sidewalks, passageways and areas, such insurance to afford protection to the limits reasonably established by Lessee in the operation of its business. Such public liability insurance may be self-insured by Lessee in accordance with its standard self-insurance program.

(b) If there is a boiler, air conditioner or water heater located on the Demised Premises, boiler explosion insurance, in the amount of \$500,000.00, under the terms of which Lessor, Lender and Lessee will be indemnified, as their interests may appear, against any loss or damage which may result from any accident or casualty in connection with any such equipment used in the Demised Premises, whereby any person or persons may be injured or killed or property damaged in or about the Demised Premises.

(c) Professional malpractice insurance in the amount reasonably established by Lessee in the operations of its business (provided, however, Lessee shall not be required to include independent contractors under its insurance coverage).

9.3 All policies of insurance shall provide:

(a) They are carried in favor of the Lessor, Lessee, and Lender, as their respective interests may appear, and any loss shall be payable as therein provided, notwithstanding any act or negligence of Lessor or Lessee, which might otherwise result in forfeiture of insurance; and

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(b) They shall not be canceled, terminated, reduced or materially modified without at least thirty (30) days' prior written notice to Lessor and Lender; and

(c) A standard mortgagee and loss payee clause in favor of any Lender, and shall contain, if obtainable, a waiver of the insurer's right of subrogation against funds paid under the standard mortgagee and loss payee endorsement which are to be used to pay the cost of any repairing, rebuilding, restoring or replacing.

9.4 Certificates of insurance policies required by this Article shall be delivered to Lessor and Lender prior to or on the Effective Date. Upon receipt thereof, Lessee shall deliver the actual policies to Lessor, which certificates and policies shall be updated annually not less than twenty (20) days prior to the expiration date thereof.

9.5 Anything in this Lease to the contrary notwithstanding, Lessee hereby waives and releases Lessor from any and all rights of recovery, claim, action or cause of action, against Lessor, its shareholders, managers, members, partners, agents, officers and employees, for any loss or damage that may occur to the Demised Premises or the Personal Property, which should be covered by property insurance of the type required to be carried by Lessee under this Lease (with Lessee also being responsible and, waiving all claims against Lessor, as to all deductible amounts which the Lessee chooses to maintain under its property insurance policies and as to any damages or losses relating to risks which Lessee elects to self-insure hereunder), regardless of cause or origin, including negligence of Lessor and its shareholders, managers, members, partners, agents, officers and employees. Lessee agrees to give immediately to its insurance companies which have issued policies of insurance covering any risk of direct physical loss, written notice of the terms of the waivers contained in this Section 9.5, and to have the insurance policies properly endorsed with a waiver of subrogation endorsement running to the benefit of Lessor. Lessee acknowledges that the waivers and releases set forth in this Section 9.5 are intended to result in any loss or damage which is covered by insurance being borne by the insurance carrier of Lessee, or by Lessee if such loss is not covered by insurance and this Lease required Lessee to maintain insurance to cover such loss or if Lessee elects to self-insure if this Lease permits such party to self-insure such loss. Lessee agrees that such waivers and releases were freely bargained for and willingly and voluntarily agreed to by Lessee and do not constitute a violation of public policy.

ARTICLE X - LESSOR'S RIGHT TO PERFORM

10.1 Should Lessee fail to perform any of its covenants (excluding, however, for purposes of this paragraph Lessee's covenant to pay rent) herein agreed to be performed, Lessor may, upon ten (10) days' prior notice specifying the work to be done, covenants to be performed and the approximate amount to be expended, but shall not be required to, make such payment or perform such covenants, and all sums so expended by Lessor thereon shall upon notice of payment by Lessor be immediately payable by Lessee to Lessor, and in addition, Lessee shall reimburse Lessor for Lessor's reasonable expenses in enforcing or performing such covenants, including reasonable attorneys' fees. Any such costs or expenses incurred or payments made by

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the Lessor shall be deemed to be Additional Rent payable by Lessee and collectible as such by Lessor.

10.2 Performance of and/or payment to discharge said Lessee's obligations shall be optional with Lessor and such performance and payment shall in no way constitute a waiver of, or a limitation upon, Lessor's other rights and remedies hereunder, including, without limitation, Lessor's right to declare an Event of Default for such failure.

ARTICLE XI - REPAIRS, MAINTENANCE AND IMPROVEMENTS

11.1 Throughout the term of this Lease, Lessee, at its sole cost and expense, will keep and maintain, or cause to be kept and maintained, the Demised Premises (including the grounds, sidewalks and curbs abutting the same) and the Personal Property in good order and condition without waste and in a suitable state of repair at least comparable to that which existed immediately prior to the Effective Date (ordinary wear and tear excepted), and will make or cause to be made, as and when the same shall become necessary, all structural and nonstructural, exterior and interior, replacing, repairing and restoring necessary to that end. All replacing, repairing and restoring required of Lessee shall be (in the reasonable opinion of Lessor) of comparable quality equal to the original work and shall be in compliance with all standards and requirements of law, licenses and municipal ordinances necessary to operate the Demised Premises as a residential care facility.

11.2 In the event that any part of the improvements located on the Demised Premises or the Personal Property shall be damaged or destroyed by fire or other casualty (any such event being called a "Casualty"), Lessee shall promptly replace, repair and restore the same as nearly as possible to the condition it was in immediately prior to such Casualty, in accordance with all the terms, covenants and conditions and other requirements of this Lease and the Loan Documents applicable in the event of such Casualty. The Demised Premises and the Personal Property shall be so replaced, repaired and restored as to be of at least equal value and substantially the same character as on the Effective Date. Lessee covenants that it will give to Lessor and Lender prompt written notice of any Casualty affecting the Demised Premises in excess of Fifty Thousand Dollars (\$50,000.00). If the estimated cost of any such restoring, replacing or repairing is Two Hundred Thousand Dollars (\$200,000.00) or more, the plans and specifications for same shall be first submitted to and approved by Lender and Lessor in writing, which approval shall not be unreasonably withheld or delayed, and Lessee shall select an independent architect or engineer approved by Lender and Lessor (which approval shall not be unreasonably withheld or delayed) who shall be in charge of such repairing, restoring or replacing.

11.3 Provided that there is no uncured Event of Default by Lessee under the Lease, Lessee shall have the right, at any time and from time to time, to remove and dispose of any Personal Property which may have become obsolete or unfit for use, or which is no longer useful in the operation of the Demised Premises, provided Lessee promptly replaces any such Personal Property so removed or disposed of with other personal property free of any security interest, liens or encumbrances, and the replacement personal property shall be of the same character, and

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at least equal usefulness and quality to any such Personal Property so removed or disposed of and such replacement property shall automatically become the property of and shall belong to the Lessor and Lessee shall execute and deliver such bills of sale or other documents reasonably requested by Lessor to vest ownership of such replacement personal property in Lessor.

ARTICLE XII - ALTERATIONS AND DEMOLITION

Lessee will not remove or demolish the Demised Premises or any portion thereof or allow it to be removed or demolished, without the prior written consent of the Lessor and Lender. Lessee further agrees that it will not make, authorize or permit to be made any changes or alterations in or to the Demised Premises, the cost of which in any twelve (12) month period exceeds One Hundred Thousand Dollars (\$100,000.00), without first obtaining the Lessor's and Lender's written consent thereto which will not be unreasonably withheld or delayed. All alterations, improvements and additions to the Demised Premises shall be in quality and class at least equal to the original work and shall become the property of the Lessor and shall comply with all building and fire codes, and all other applicable codes, rules, regulations, laws and ordinances. Not less than forty-five days prior to the commencement of any such changes or alterations, the cost of which in any twelve (12) month period may exceed Two Hundred Fifty Thousand Dollars (\$250,000.00), Lessee shall furnish to Lessor and Lender (upon request), at Lessee's sole cost and expense, plans and specifications, prepared by a licensed architect, for such changes or alterations and any additional insurance reasonably required by Lessor or Lender. Such plans and drawings shall include detailed architectural, mechanical, electrical and plumbing working drawings. The plans and drawings will be subject to Lessor's and Lender's approval with respect to design, aesthetics, building code compliance and such other matters as Lessor or Lender deems relevant, which approval shall not unreasonably be withheld or delayed.

ARTICLE XIII - COMPLIANCE WITH LAWS AND ORDINANCES

13.1 Throughout the term of this Lease, Lessee, at its sole cost and expense, will obey, observe and promptly comply with all present and future laws, ordinances, orders, rules, regulations and requirements of any federal, state and municipal governmental agency or authority having jurisdiction over the Facility and the operation of the Facility as a residential care facility, which may be applicable to the Personal Property and the residential care facility located thereon and including, but not limited to, the sidewalks, alleyways, passageways, vacant land, parking spaces, curb cuts, curbs adjoining such portion of the Demised Premises, whether or not such law, ordinance, order, rules, regulation or requirement shall necessitate structural changes or improvements.

13.2 Lessee shall likewise observe and comply with the requirements of all policies of public liability and fire insurance and all other policies of insurance at any time in force with respect to any portion of the Demised Premises.

13.3 Lessee shall, subject to the terms of Article XX hereof, keep in good standing and in full force and effect all necessary licenses, permits and certifications required by any governmental authority for the purpose of maintaining and operating on the Demised Premises a

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skilled nursing facility. Lessee shall use its best efforts to obtain a certificate to participate in the Illinois Medicaid Program as soon as practicable after the Effective Date. Thereafter, subject to the terms of Article XX hereof, Lessee shall at all times continue to be qualified to, and shall participate in, the Illinois Medicaid Program.

13.4 Upon request of Lessor, Lessee will deliver or mail to Lessor wherever Rent is then paid, within seven (7) calendar days of receipt thereof, copies of all exit interviews, inspection reports and surveys which may have an adverse effect on the Facility's licensure status and/or the Illinois Medicaid Program certification, and administrative hearing and/or court action from all state, federal and local governmental bodies regarding the Demised Premises or the Facility operated thereon. Without request, Lessee shall in all events notify a principal of Lessor, or if Lessor's principals are unavailable, Lessor's attorney, within seven (7) calendar days after receipt thereof by the licensee of the Facility ("Licensee") of any and/or all of the following notices ("Notices") from any Governmental Authority: (i) any and all Notices of intent to impose and/or Notice of "immediate jeopardy" and/or of "Substandard Quality of Care" (as defined by federal regulations, *i.e.*, deficiencies under 42 CFR 483.13 or 483.25 with scope and severity levels of F, G, H, I, J, K or L) or any state equivalent Notices; (ii) any and all Notices or receipts of a conditional license; (iii) any and all Notices of intent to and/or Notice of revocation, termination, cancellation, surrender and/or of non-renewal of any license; (iv) any and all Notices of conditional certification and/or intent to conditionally certify Licensee; (v) any and all Notices of intent to terminate and/or Notice of Licensee's termination of participation in the Illinois Medicaid Program; (vi) any and all Notices of intent to decertify and/or Notices of decertification of Licensee's participation in the Illinois Medicaid Program and/or the termination of any payments thereunder; (vii) any and all Notices of intent to impose and/or the imposition of any Civil Monetary Penalty, and/or any fine in excess of \$25,000.00 in the aggregate for any survey cycle; (viii) any and all Notices of intent to cease payment after a certain date for any new Illinois Medicaid Program residents admitted after said date; (ix) any and all Notices of intent to place, and/or the placement of, a State Monitor in the Facility; and/or (x) any and all Notices to transfer and/or of intent to transfer any and/or all Illinois Medicaid residents on and/or after a certain date.

ARTICLE XIV - DISCHARGE OF LIENS

14.1 Subject to the right to contest provided in Section 14.2 hereof, Lessee will not create or permit to be created or to remain, and Lessee will discharge, any lien, encumbrance or charge levied on account of any mechanic's, laborer's or materialman's lien or any conditional sale, security agreement or chattel mortgage, or otherwise, which might be or become a lien, encumbrance or charge upon the Demised Premises or any part thereof or the income therefrom or the Personal Property, for work or materials or personal property furnished or supplied to, or claimed to have been supplied to or at the request of Lessee. Lessee shall have the right to purchase equipment, furniture, or furnishings which may be subject to a security agreement provided that the stockholders, partners or members, as applicable, of Lessee shall personally guarantee to Lessor that all payments for any such equipment, furniture or furnishings shall be paid on or prior to the due dates thereof and indemnify Lessor against all charges, costs and expenses that may be incurred by Lessor with respect to such security agreement or chattel

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mortgage. Lessee hereby agrees to obtain and deliver to Lessor such guaranty and indemnity agreement.

14.2 If any mechanic's, laborer's or materialman's lien caused or charged to Lessee shall at any time be filed against any portion of the Demised Premises or Personal Property, if allowed by the terms of the Loan Documents, and the applicable Lender, Lessee shall have the right to contest such lien or charge.

14.3 In the event that Lessor determines in its reasonable judgment, that it is not being adequately represented by counsel for Lessee in any contest referred to in Section 14.2 hereof, such party may, upon (10) days prior written notice to Lessee, obtain separate counsel to represent it in such contest. In such event, the cost of such counsel shall be paid by Lessee. In the event that Lessor determines, in its reasonable judgment, that Lessee has abandoned any contest referred to in Section 14.2 above, and/ or that Lessee is not pursuing any such contest with due diligence, then such party may, upon (10) days' prior written notice to Lessee, discharge such lien by paying the amount claimed to be due from the security deposited by Lessee pursuant to the terms of Section 14.2.

ARTICLE XV - INSPECTION OF PREMISES AND RECORDS BY LESSOR

15.1 At any time, during reasonable business hours, Lessor, Lender and/or their authorized representatives shall have the right to enter and inspect the Demised Premises and Personal Property.

15.2 At any time, during reasonable business hours, Lessor, Lender and/or their authorized representatives shall have the right to inspect, and, at Lessor's expense, make copies of, the books and records relating to the Demised Premises, or any part thereof, including, without limitation, to the extent permitted by applicable law all patient records, employment records, surveys and inspections reasonably required by Lessor.

15.3 Lessor agrees that upon entering and inspecting the Demised Premises, Personal Property and books and records Lessor shall take all reasonable measures to avoid disruption to Lessee's routine business operation during any such entries and the person or persons will cause as little inconvenience to the Lessee, its employees and residents of the Demised Premises as may reasonably be possible under the circumstances.

ARTICLE XVI - CONDEMNATION

16.1 If all of the Demised Premises is taken by the exercise of the power of eminent domain, or sold under eminent domain proceedings, this Lease shall terminate as of the date possession is taken by the condemnor.

16.2 If less than all of the Demised Premises are taken by the exercise of the power of eminent domain or sold under eminent domain proceedings and Lessee reasonably believes that, in light of such exercise of eminent domain or sale pursuant to eminent domain proceedings, it

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can no longer operate the Facility in materially the same manner as prior to the exercise of eminent domain and such belief is consistent with reasonable business practices, then Lessee may either (a) terminate the Lease or, (b) subject to the consent and approval of Lessor and any Lender, shall, with reasonable diligence, restore or rebuild to the extent reasonably practicable any improvements upon the Demised Premises affected by the taking. In the event the amount awarded and made available to Lessee shall be insufficient to repair and restore the Demised Premises, Lessee shall contribute the amount of any such deficiency. In the event that the number of beds is reduced or increased, even after the Demised Premises are restored under this Section, the Base Rent provided herein shall be proportionately decreased or increased (but only with respect to this paragraph), as applicable, proportionately based upon the amount of such reduction or increase.

16.3 In the event that all or less than all of the Demised Premises are taken by the exercise of the power of eminent domain, or sold under eminent domain proceedings, the entire award for the real estate, improvements, fixtures and personal property relating thereto shall be subject to the provisions of the Loan Documents and the rights of Lender thereunder. Lessee shall be entitled to any award in excess of such amount or to any award that it can prove for damage to its leasehold interest, provided that such award is separately allocated to Lessee by the condemning authorities and does not diminish or reduce the award to be paid to Lessor or Lender.

ARTICLE XVII - RENT ABSOLUTE

17.1 Except as herein provided damage to or destruction of any portion of the buildings, structures and fixtures upon the Demised Premises, by fire, the elements or any other cause whatsoever, whether with or without fault on the part of Lessee, shall not terminate this Lease or entitle Lessee to surrender the Demised Premises or entitle Lessee to any abatement of or reduction in the Rent payable, or otherwise affect the respective obligations of the parties hereto, any present or future law to the contrary notwithstanding.

ARTICLE XVIII - ASSIGNMENT AND SUBLETTING

18.1 During the term of the Lease, Lessee shall not assign this Lease or in any manner whatsoever sublet, assign, encumber or transfer all or any part of the Demised Premises or in any manner whatsoever transfer, assign or encumber any interest in the Demised Premises or any interest in this Lease (hereinafter collectively an "Assignment") without the prior written consent of the Lessor and Lender, which consent may be withheld, in such party's sole discretion. Any Assignment without the prior written consent of Lender shall be void *ab initio*. As a condition of granting its consent to any sublease or other Assignment, Lessee shall pay, and Lessee hereby agrees to pay, any and all reasonable out of pocket third-party costs and expenses of Lessor incurred in connection with such Assignment, including, without limitation, all due diligence costs and attorneys' fees.

18.2 For purposes of this Article:

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(1) Any person, corporation, limited liability company or other entity to whom Lessee's interest under this Lease passes by operation of law, or otherwise, shall be bound by the provisions of this Article, and except as otherwise specifically provided above, obtain the consent of Lessor to any subsequent sublease, assignment, encumbrance and/or transfer or such event shall be deemed an Event of Default hereunder.

(2) An agreement by any person, corporation or other entity, directly or indirectly, to assume Lessee's obligations under this Lease shall be deemed an Assignment.

ARTICLE XIX - EVENTS OF DEFAULT

19.1 The occurrence of any of the following acts or events shall be deemed to be a default ("Events of Default") on the part of the Lessee:

(1) The failure of Lessee to pay when due any Rent payment, or any part thereof, or any other sum or sums of money due or payable to the Lessor under the provisions of this Lease when such failure shall continue for a period of two (2) calendar days;

(2) The failure of Lessee to perform, or the violation by Lessee of, any of the covenants, terms, conditions or provisions of this Lease, if such failure or violation shall not be cured within thirty (30) days after written notice thereof by Lessor to Lessee;

(3) The failure of Lessee to comply with, or the violation by Lessee of, any of the terms, conditions or provisions of the Loan Documents (except for those terms, conditions or provisions requiring the making of principal and/or interest payments or which relate specifically to Lessor, and/or its beneficiaries or stockholders), if such failure or violation shall not be cured within twenty (20) days (or such lesser period as may be provided in the Loan Documents) after notice thereof by Lessor to Lessee;

(4) In the event Lessee removes any physical beds or a substantial portion of the Personal Property at the Facility or Lessee removes Personal Property necessary to the operation of the Facility, the failure of Lessee to replace within thirty (30) days after written notice by Lessor to Lessee, the Personal Property so removed by Lessee subject to the provisions of Section 30.11 hereof;

(5) The making by Lessee of an assignment for the benefit of creditors;

(6) The levying of a writ of execution or attachment on or against the property of Lessee which is not discharged or stayed by action of Lessee contesting same, within thirty (30) days after such levy or attachment (provided if the stay is vacated or ended, this paragraph shall again apply);

(7) If voluntary or involuntary proceedings are instituted in a court of competent jurisdiction for the reorganization, liquidation or involuntary dissolution of the Lessee or for its adjudication as a bankrupt or insolvent, or for the appointment of a receiver of the

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property of Lessee, and, solely in the case of involuntary proceedings, said proceedings are not dismissed or any receiver, trustee or liquidator appointed therein has not been discharged within sixty (60) days after the institution of said proceedings;

(8) The sale of the interest of Lessee in the Demised Premises under execution or other legal process;

(9) Any conveyance or transfer in violation of Article XVIII hereof;

(10) The abandonment of the Demised Premises by Lessee;

(11) Subject to Lessee's right to contest as provided in Article XX hereof, the failure or the part of Lessee during the term of this Lease to cure or abate any written violation claimed by any governmental authority, of any law, order, ordinance, rule or regulation pertaining to the operation of the Facility within the time permitted for such cure and/or abatement;

(12) Subject to Lessee's right to contest as provided in Article XX hereof, the institution of any proceedings against Lessee by any governmental authority either to: (i) revoke any license granted to Lessee for the operation of the Facility as a residential care facility or requiring Lessee to cease operating its business; or (ii) decertify the Facility from participation in the Illinois Medicaid Program; or

(13) The voluntary transfer by Lessee of residents from the Facility to any other nursing home facility owned or leased or under common control with Lessee or its affiliates where such transfer is not for reasons relating to the health and well-being of the patients transferred or is otherwise required by law;

(14) The designation of any Facility as a "Special Focus Facility" by CMS;

(15) A survey deficiency of the level of "IJ" or worse at any Facility, that is not abated within five (5) days;

(16) Lessee is obligated to pay any fine or penalty, either in one instance or in the aggregate, over any twelve (12) month period, of Fifty Thousand Dollars (\$50,000) or greater;

(17) The failure of any of Lessee to pay any and all fees or bed taxes assessed against any Facility prior to delinquency or in accordance with any payment plan with IDPH or other applicable authority (subject to Lessor's agreement with such payment plan, in accordance with the terms of this Lease);

(18) The failure of Lessee to comply with the terms of any insurance policy affecting the Demised Premises and required hereunder within the time provided in such policy to cure such non-compliance prior to cancellation thereof; provided, however, that Lessee shall

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not be in default hereunder if prior to the cancellation of such policy of insurance Lessee obtains a replacement thereof.

The occurrence of any of the events listed in this Article 19 by any party to whom the Demised Premises has been transferred shall be an Event of Default hereunder.

ARTICLE XX - RIGHT TO CONTEST/CURE

20.1 Anything to the contrary stated herein notwithstanding, Lessee shall have the right to contest by appropriate administrative and/or legal proceedings, diligently conducted in good faith, the validity or application of any law, ordinance, regulation or rule mentioned herein, and to delay compliance therewith pending the prosecution of such proceedings, including, without limitation, any proceeding pursuant to paragraphs 19.1(11) and/or 19.1(12) above. In the event such contest involves a violation, the decertification or license revocation from the Illinois Medicaid Program, Lessee shall give Lessor written notice of its election to contest. Notwithstanding anything to the contrary contained herein, Lessee shall not be in default hereunder during its diligent and good faith contest as described in the first sentence of this paragraph provided that at all times the following conditions are satisfied: (1) no civil or criminal liability would thereby be incurred by Lessor and no criminal liability would thereby be incurred by Lessee and no lien or charge would hereby be imposed upon or satisfied out of the Demised Premises; (ii) there continues during the course of such contest authority to continue operations of the Facility as a residential care facility (which may be temporary or provisional); and (iii) such situation does not at any time constitute a default under any provision of the Loan Documents.

20.2 Except for an Event of Default of Lessee in the payment of Rent or any other payment required hereunder, in any case where Lessor shall have given to Lessee a written notice specifying a situation which, as hereinbefore provided, must be remedied by Lessee within a certain time period, and, if for causes beyond Lessee's control, it would not reasonably be possible for Lessee to cure such situation within such period, then, provided Lessee, immediately upon receipt of such notice, shall advise Lessor of Lessee's intention to institute, and shall, as soon as reasonably possible thereafter, duly institute, and thereafter diligently prosecute to completion, all steps necessary to cure such situation and shall cure the same, during the period necessary to cure such situation. Notwithstanding anything to the contrary contained herein, although such situation as described in the first sentence of this paragraph shall be deemed an Event of Default hereunder, Lessor shall not pursue and shall not be entitled to pursue any remedies arising solely from the occurrence of such Event of Default hereunder so long as Lessee conducts a diligent and good faith contest as described in the first sentence, provided that at all times the following conditions are satisfied: (i) no civil or criminal liability would thereby be incurred by Lessor and no criminal liability would thereby be incurred by Lessee and no lien or charge would thereby be imposed upon or satisfied out of all or any part of the Demised Premises; and (ii) there continues during the course of such cure authority to continue to operate the Facility as a residential care facility (which may be temporary or provisional), and (iii) such situation does not at any time constitute a default under any provision of the Loan Documents.

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20.3 Lessee shall promptly provide Lessor with a copy of any notice from IDPH or other governmental authority or agency threatening or requesting a reduction in the number of beds at the Facility. Lessee shall have the right to contest any such reduction and shall notify Lessor within fifteen (15) days following the date of such notice (or shorter period required to provide notice to Lessor not later than ten (10) days prior to the cutoff date for any such contest) whether or not Lessee shall undertake such contest. If Lessee fails to contest any such reduction, Lessor may, following written notice to Lessee of its intent to do so, contest any such reduction. Any such contest shall be conducted by counsel reasonably satisfactory to the other party and the cost of such contest shall be paid by Lessee.

ARTICLE XXI - LESSOR'S REMEDIES UPON DEFAULT

21.1 In the event of any Event of Default by Lessee, Lessor may, if it so elects, and with notice of such election to Lessee, and upon demand upon Lessee, forthwith terminate this Lease and Lessee's right to possession of the Demised Premises, or, at the option of the Lessor, terminate Lessee's right to possession of the Demised Premises without terminating this Lease. Upon any such termination of this Lease, or upon any such termination of Lessee's right to possession without termination of this Lease, Lessee shall vacate the Demised Premises immediately, and shall quietly and peaceably deliver possession thereof to the Lessor, and Lessee hereby grants to the Lessor full and free license to enter into and upon the Demised Premises in such event with process of law and to repossess the Demised Premises and Personal Property as the Lessor's former estate. In the event of any such termination of this Lease, the Lessor shall again have possession and enjoyment of the Demised Premises and Personal Property to the extent as if this Lease had not been made, and thereupon this Lease and everything herein contained on the part of Lessee to be done and performed shall cease and terminate, all, however, without prejudice to and without relinquishing the rights of the Lessor to Rent (which, upon such termination of this Lease and entry of Lessor upon the Demised Premises, shall, in any event, be the right to receive Rent due up to the time of such entry) or any other right given to the Lessor hereunder or by operation of law.

21.2 In the event of an Event of Default and Lessor elects either to terminate this Lease or to terminate Lessee's right to possession of the Demised Premises, then all licenses, certifications, permits and authorizations issued by any governmental agency, body or authority in connection with or relating to the Demised Premises and the Facility thereon shall be deemed as being assigned to Lessor to the extent the same are legally assignable. Lessor shall also have the right to continue to utilize the telephone number and name used by Lessee in connection with the operation of the Facility. This Lease shall be deemed and construed as an assignment for purposes of vesting in Lessor all right, title and interest in and to (i) all licenses, certifications, permits and authorizations obtained in connection with the operation of the Facility and (ii) the names and telephone numbers used in connection with the operation of the Facility. Lessee hereby agrees to take such other action and execute such other documents as may be reasonably necessary in order to vest in Lessor all right, title and interest to the items specified herein.

21.3 If Lessee abandons the Demised Premises or otherwise entitles Lessor so to elect, and the Lessor elects to terminate Lessee's right to possession only, without terminating this

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Lease, Lessor may, at its option, enter into the Demised Premises, remove Lessee's signs and other evidences of tenancy and take and hold possession thereof as in the foregoing Section 21.1 of this Article provided, without such entry and possession terminating this Lease or releasing Lessee, in whole or in part, from Lessee's obligation to pay the Rent hereunder for the full remaining term of this Lease, and in any such case, Lessee shall pay to Lessor a sum equal to the entire amount of the Rent reserved hereunder and required to be paid by Lessee up to the time of such termination of the right of possession plus any other sums then due hereunder. Upon and after entry into possession without termination of this Lease, Lessor may attempt to relet the Demised Premises or any part thereof for the account of Lessee for such rent, or may operate the Facility for such time and upon such terms as Lessor in its sole discretion shall determine. In the event Lessor elects to take possession and operate the Demised Premises any profits due to such operation shall reduce the rents payable hereunder. In any such case, Lessor may make repairs, alterations and additions in or to the Demised Premises, to the extent reasonably deemed by Lessor desirable, and Lessee shall, upon demand, pay the cost thereof, together with Lessor's expenses of reletting. If the consideration collected by Lessor upon any such reletting is not sufficient to pay monthly the full amount of Rent reserved in this Lease, together with the costs of repairs, alterations and additions and Lessor's expenses, Lessee shall pay to the Lessor the amount of each monthly deficiency upon demand.

21.4 Lessee's liability to Lessor for damages upon the occurrence of an Event of Default shall in all events survive the termination by Lessor of the Lease or the termination by Lessor of Lessee's right to possession only, as hereinabove provided. Upon such termination of the Lease or at any time after such termination of Lessee's right to possession, Lessor may recover from Lessee and Lessee shall pay to Lessor as liquidated and final damages, whether or not Lessor shall have collected any current monthly deficiencies under the foregoing paragraph, and in lieu of such current deficiencies after the date of demand for such final damages, the amount thereof found to be due by a court of competent jurisdiction, which amount thus found shall be equal to:

- (a) the remainder, if any, of Rent and charges due from Lessee for the period up to and including the date of the termination of the Lease or Lessee's right to possession; plus
- (b) the amount of any current monthly deficiencies accruing and unpaid by Lessee up to and including the date of Lessor's demand for final damages hereunder; plus
- (c) the excess, if any, of
 - (i) the Rent reserved for what would have been the remainder of the term of this Lease together with charges to be paid by Lessee under the Lease; over
 - (ii) the then fair rental value of the Demised Premises and the Personal Property.

If any statute or rule governing a proceeding in which such liquidated final damages are to be proved shall validly limit the amount thereof to an amount less than the amount above

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agreed upon, Lessor shall be entitled to the maximum amount allowable under such statute or rule of law.

21.5 No receipt of funds by Lessor from Lessee after service of any notice of an Event of Default, termination of this Lease or of possession of the Demised Premises or after commencement of any suit or proceeding of Lessee shall in any way reinstate, continue or extend this Lease or in any way affect the notice of the Event of Default or demand or in any way be deemed a waiver by Lessor of any of its rights unless consented to by Lessor.

ARTICLE XXII - LIABILITY OF LESSOR

It is expressly agreed by the parties that in no case shall Lessor be liable, under any express or implied covenant, agreement or provisions of this Lease, for any damages whatsoever to Lessee beyond the Rent reserved in this Lease accruing after or upon any act or breach hereunder on the part of Lessor and for which damages may be sought or recovered from Lessor, and there shall be no personal liability hereunder on any partners, shareholders, members, directors, officers or employees or beneficiary of Lessor with respect to the terms, covenants, conditions or undertakings or agreements contained in this Lease, and Lessee shall look solely to Lessor's interest in this Lease and not to any of the foregoing for the satisfaction of any remedy which Lessee may have under this Lease.

ARTICLE XXIII - CUMULATIVE REMEDIES OF LESSOR

Except as provided in Section 21.4, the specific remedies to which Lessor may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Lessor may be lawfully entitled in case of any breach or threatened breach by Lessee of any provision or provisions of this Lease. The failure of Lessor to insist, in any one or more cases, upon the strict performance of any of the terms, covenants, conditions, provisions or agreements of this Lease, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment for the future of any such term, covenant, condition, provisions, agreement or option.

ARTICLE XXIV - SECURITY FOR RENT

24.1 Lessor shall have a first lien paramount to all others on every right and interest of Lessee in and to this Lease, and on any of Lessee's accounts receivable, furnishings, equipment, or fixtures, general intangibles, inventory, goods or property of any kind belonging to Lessee and located at or used in connection with the Facilities ("Lessor's Lien"). Notwithstanding the foregoing, Lessor's Lien on the accounts receivable shall be subject and subordinate to any lien thereon granted by Lessee from time to time to any institutional lender for working capital to be utilized solely for operation of the Facility (and not, for the avoidance of doubt, a master working capital line of credit covering other facilities in addition to the Facility) and to all renewals, modifications, extensions and replacements thereof if such lender enters into an intercreditor agreement satisfactory to Lender, in its sole discretion, and reasonably acceptable to Lessor. Lessee shall not have any other liabilities, other than those which are necessary and related to its

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function as the operator of the Facility, including without limitation, such working capital line of credit. In addition to and without limiting the foregoing, Lessee shall not assume the status of a guarantor, surety or other financial partner of any other business or activity, including without limitation any other business involving any of Lessee's officers, directors, members, managers, owners, representatives, agents, successors and assigns, and their respective successors, assigns, agents and representatives. Lessor agrees to prepare and file, or consent to the filing of, within five (5) business days following Lessee's request therefor, such financing statements or other instruments as may be reasonably requested by Lessee to evidence or effect subordination of Lessor's Lien to the lien of the institutional lender described above. Any financing statement evidencing or perfecting Lessor's Lien shall expressly provide for such subordination with respect to Lessee's accounts receivable. Any such intercreditor agreement shall include a mechanism to remove the Facility from such working capital line of credit and cause the lender thereunder to release all liens with respect to the Facility if an event of default exists thereunder. Lessor's Lien is granted for the purpose of securing the payments of Rent, charges, penalties, and damages herein covenanted to be paid by Lessee, and for the purpose of securing the performance of all of Lessee's obligations under this Lease. Such lien shall be in addition to all rights to Lessor given and provided by law. This Lease shall constitute a security agreement under the Uniform Commercial Code granting Lessor a security interest in such furnishings, equipment, fixtures, general intangibles, inventory, goods or property of any kind and accounts receivable, and upon the request by Lessor, Lessee shall prepare and file, or consent to the filing of, such financing statements and other documents reasonably required to perfect such security interest, which documents shall be filed or recorded at the expense of Lessee.

24.2 In addition to the foregoing, the obligations of Lessee under this Lease shall be secured by the guarantee of from Legacy Healthcare Financial Services LLC, an Illinois limited liability company, limited to an amount of One Million and 00/100 Dollars (\$1,000,000.00) following such time as the Guaranty of Lease is exercised, plus any other guaranteed obligations pursuant to the Guaranty Agreement ("Guaranty of Lease"), in the form of **Exhibit C** attached hereto.

24.3 Lessee shall deposit with Lessor a security deposit in the amount of One Hundred and Twenty-five Thousand and 00/100 Dollars (\$125,000.00) on or before Effective Date ("Security Deposit"). The Security Deposit shall not be considered an advance payment of Rent (or of any other sum payable to Lessor under this Lease) or a measure of Lessor's damages in a case of a default by Lessee. Lessor shall have no obligation to maintain the Security Deposit separate and apart from Lessor's general and/or other funds and may freely utilize the Security Deposit subject to obligations hereunder to return the Security Deposit to Lessee. In addition, in the event required by Owner and/or Lender, as applicable, Lessor may deposit the Security Deposit with Owner and/or Lender, as applicable, and/or pledge its rights in the Security Deposit to such Owner and/or Lender, as applicable. Upon any Event of Default hereunder, Lessor may elect to apply all or any part of the Security Deposit to the payment of any sum in default, any other sum that Lessor may expend or be required to expend by reason of Lessee's default or any other amounts due by Lessee hereunder. Upon the expiration or earlier termination of this Lease, following Lessor's determination of any amounts due and owing to Lessor and application of the

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Security Deposit to such outstanding amounts and provided that Lessee has returned to Lessor the Demised Premises and the Personal Property in the same condition to that which existed on the Effective Date and otherwise complied with the terms and conditions contained herein, any remaining portion of the Security Deposit shall be released to Lessee.

ARTICLE XXV - INDEMNIFICATION

25.1 Lessee agrees to defend, indemnify and save harmless the Lessor and Lender from and against any and all claims, demands and causes of action of any nature whatsoever asserted against or incurred by such parties on account of: (i) any failure on the part of Lessee during the term of this Lease to perform or comply with any of the terms of this Lease; or (ii) injury to or death of persons or loss of or damage to property, occurring on the Demised Premises or any adjoining sidewalks, streets or ways or in any manner growing out of or connected with the use or occupation of the Demised Premises or the condition thereof, or the use of any existing or future sewer system, or the use of any adjoining sidewalks, streets or ways occurring during the term of this Lease. Lessee further agrees to pay any reasonable attorneys' fees and expenses incident to the defense by such parties of any such claims, demands or causes of action.

ARTICLE XXVI - SUBORDINATION PROVISIONS

26.1 This Lease (and Lessee's interest in the Demised Premises and Personal Property) shall be subject and subordinate to the Existing Mortgage and to any Mortgage given by Lessor to any lender which may affect the Demised Premises and/or Personal Property, and to all renewals, modifications, consolidations, replacements and extensions thereof. Lessee shall execute and deliver such documents as may be required in order to evidence such subordination; provided that such documents shall not affect any of the provisions of this Lease relating to the amount of Rent, the purposes for which the Demised Premises may be used, the size and/or location of the Demised Premises, the duration and/or Effective Date of the term, nor modify any representations, covenants or warranties made by Lessor hereunder.

26.2 Notwithstanding anything to the contrary contained herein, it is understood, agreed and acknowledged that Lessor shall have the right at any time to finance, or refinance, from time to time, the Demised Premises and Personal Property in any amount, and grant a Mortgage and/or security interest thereon, to assign or pledge any or all of its interest in this Lease, and to assign or pledge the revenues and receipts to be received by Lessor hereunder to a third party without the consent of Lessee, provided that in the case of any Mortgage other than the Existing Mortgage, Lessor obtains a customary form of subordination, non-disturbance and attornment agreement ("SDNA") from such Lender, reasonably satisfactory to Lessee.

ARTICLE XXVII - LESSEE'S FAITHFUL COMPLIANCE WITH LOAN DOCUMENTS

Anything in this Lease contained to the contrary notwithstanding, and provided that Lessor has complied with Section 26.2 in the case of any Loan Agreement other than the

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Existing Loan Agreement, Lessee shall at all times and in all respects fully, timely and faithfully comply with and observe each and all of the conditions, covenants, and provisions (a) required to be performed or complied with by "Operator" under the Loan Agreement or (b) required to be performed or complied with on the part of the Lessor as "Borrower" under the Loan Documents, including, without limitation, any Lender notice requirements under the Loan Documents and any provisions granting Lender the right to make determinations or control the use and application of funds, and including all conditions, covenants and provisions thereof related to the financial covenants (including, without limitation, Section 4.1.24(a)(ii) and (iii) and (iv) of the Loan Agreement) and financial reporting, related to operations, related to the care, maintenance, repair, insurance, restoration, preservation and condemnation of the Demised Premises, notwithstanding that such conditions, covenants and provisions may require compliance and observance to a standard or degree in excess of that required by the provisions of this Lease or expressly conflict with any of the provisions of this Lease, or may require performance not required by the provisions of this Lease. If any new Lender requires compliance, observance or performance to a standard or degree in excess of that required by the terms of the Existing Loan Documents and this Lease Lessee shall comply with such standard, degree or additional performance; provided, however, that the amount by which the third party costs expended by Lessee to achieve such standard, degree or additional performance exceed the third party costs to achieve the standard of performance required by the Existing Loan Documents and this Lease shall be paid by Lessor. Lessee further agrees that it shall not do or permit to be done anything which would constitute a breach of or default under any obligation of the Lessor under the Loan Documents, it being the intention hereof that Lessee shall so comply with and observe each and all of such covenants, conditions and provisions of the Loan Documents so that Lessor will at all times be in good standing and there will not be any default on the part of the Lessor thereunder. However, nothing in this Article contained shall be construed to obligate Lessee to pay any part of the principal or interest secured by any Mortgage, except as may otherwise be provided in this Lease.

ARTICLE XXVIII - MORTGAGE RESERVES

Any tax or insurance reserve required under any Mortgage by the Lender thereof during the term of this Lease shall be paid by the Lessee to Lessor and shall be repaid to Lessee when Lender repays such sums to Lessor.

ARTICLE XXIX - LESSEE'S ATTORNMENT

29.1 Lessee covenants and agrees that, if by reason of a default upon the part of the Lessor in the performance of any of the terms and conditions of the Loan Documents, and the Lender forecloses on the estate of Lessor in the Demised Premises, Lessee will attorn to the then holder of such Mortgage or the purchaser in such foreclosure proceedings, as the case may be, and will recognize such holder of the Mortgage or such purchaser as the Lessor under this Lease. Lessee has delivered as of the date hereof that certain Operating Lease Subordination and Attornment Agreement (as defined in the Existing Loan Agreement) and covenants and agrees to execute and deliver, at any time and from time to time, upon the request of Lessor, or of the holder of such Mortgage or the purchaser in foreclosure proceedings, any instrument which may

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be necessary or appropriate to evidence such attornment. Lessee further waives the provisions of any statute or rule or law now or hereafter in effect which may terminate this Lease or give or purport to give Lessee any right of election to terminate this Lease or to surrender possession of the Demised Premises in the event any such proceedings are brought against the Lessor under such Mortgage or the holder of any such Mortgage, and agrees that this Lease shall not be affected in any way whatsoever by any such proceedings, except to the extent designated and determined by Lender pursuant to the terms of the Lease, the Operating Lease Subordination and Attornment Agreement, the Mortgage or any of the other Loan Documents.

29.2 If Lessor shall default in the performance of any of the terms, provisions, covenants or conditions under the Loan Documents, or fails to pay the amounts due thereunder when due, then, upon notice of such default or failure on the part of Lessor, Lessee shall have the right, upon five (5) days' prior written notice thereof to Lessor (or such shorter period as permitted under the Loan Documents), to cure such defaults, and to make such payments as are due from Lessor, directly to the holder of any Mortgage, as the case may be, and to the extent such payments are accepted by the holder of such Mortgage, to deduct the amounts expended by Lessee to cure such defaults from the next succeeding Rent payment or payments due under this Lease, and such deductions shall not constitute an Event of Default under this Lease. Lessor shall promptly provide Lessee with copies of any notice of default received by Lessor with respect to the Loan Documents.

ARTICLE XXX - REPRESENTATIONS

30.1 Lessee represents and covenants to Lessor as follows:

(a) Lessee is an Illinois limited liability company, duly organized and validly existing in good standing under the laws of the State of Illinois, and has full right and power to cause Lessee to enter into, and perform its obligations under this Lease and has taken all requisite actions to authorize the execution, delivery and performance of this Lease;

(b) Lessee has examined the Demised Premises, Personal Property, contracts relating to the Facility and/or to the Demised Premises and the improvements and the residential care facility thereon prior to its acceptance and execution of this Lease, and Lessee acknowledges that except as expressly stated herein no representation or warranty, express or implied, has been made by or on behalf of Lessor with respect to the condition of the Demised Premises and Personal Property. Lessee represents that it is satisfied with the condition thereof and is leasing the Demised Premises, improvements and Personal Property in "AS IS"/"WHERE IS" condition, and Lessor shall in no event whatsoever be liable for any latent or patent defects therein;

(c) In addition to all other covenants contained herein, Lessee expressly covenants that it shall keep and maintain at the Facility at all times in good order and repair all items of Personal Property necessary for operating the Facility as a skilled nursing facility in substantial compliance with all laws, rules and regulations of IDPH. Lessee shall maintain all of such items in good order and repair and shall promptly replace any such items which become

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obsolete, damaged or destroyed with substitute items substantially equivalent to that which has been replaced;

(d) Until Lessee shall have fully satisfied all of its obligations under this Lease, Lessee shall maintain its organizational existence as a limited liability company, and shall not, without the prior written consent of Lessor, dissolve, liquidate or otherwise dispose of all or substantially all of its assets or consolidate with or merge into another entity, or permit one or more other entities to consolidate with or merge into it;

ARTICLE XXXI – PRIOR LIABILITIES

31.1 Lessee acknowledges that Lessor shall have no liability to Lessee with respect to the operations of the Facility for the periods prior to the Effective Date relating to accounts receivable, accounts payable, prorations, inventory, patient trust funds and employee benefits.

31.2 Lessor shall not be liable for amounts claimed by IDPH or any other governmental authority or agency to have been overpayments made to the prior operator of the Facility with respect to periods prior to the Effective Date.

ARTICLE XXXII - LICENSURE PROVISIONS

32.1 It shall be a condition precedent to the effectiveness of this Lease that Lessee has a license or a valid right to use a license issued by IDPH and any other governmental agencies permitting Lessee to operate the Facility as a skilled nursing care facility (hereinafter collectively called the "License").

ARTICLE XXXIII - FINANCIAL STATEMENTS

33.1 Lessee shall furnish to the Lender such financial statements and tax returns which shall be certified by an officer of Lessee or a public accountant to the extent required under the Loan Documents.

33.2 At all times, Lessee shall keep and maintain full and correct records and books of account of the operations of Lessee in the Demised Premises and records and books of account of the entire business operations of Lessee in accordance with normal accounting practices consistently applied. Upon request by Lessor, from time to time, but not more than once (1) time a year, and such additional inspections which are required by any Lender, Lessee shall make available for inspection by Lessor or its designee, during reasonable business hours, at Lessee's offices, the said records and books of account covering the entire business operations of Lessee on the Demised Premises.

ARTICLE XXXIV - LICENSURE/TERMINATION

Prior to the Effective Date, within such time period as required by IDPH to operate the Facility as of the Effective Date, Lessee hereby agrees to submit a complete application (except

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for the Deed and the Effective Date Rider, if required) to IDPH in order to obtain the License permitting Lessee to operate the Facility as a skilled nursing facility, and to promptly submit any further documents as required in order to complete such application. It is a condition to Lessee's right to continued possession of the Facility that it obtains a License to operate the Facility in its own name. A copy of the IDPH application shall be provided to Lessor upon request.

Upon termination of this Lease (whether by reason of default, the natural expiration of the Term or otherwise, provided however, the provisions of this Section 34.2 shall not apply in the event this Lease is terminated or assigned by reason of the exercise and closing of the Purchase Option), the following provisions shall be applicable:

(a) Upon the expiration or other termination of this Lease, Lessee shall return to Lessor the Demised Premises and the Personal Property in a condition similar to that which existed on the Effective Date, licensed by IDPH and by any governmental agencies having jurisdiction over the Demised Premises, reasonable wear and tear excepted, and free of liens or encumbrances arising through Lessee except for tax liens for current general real estate taxes or special assessments, personalty leases and other expenses incurred in the ordinary course of business which shall be prorated, and liens disclosed on Exhibit F hereto.

(b) Lessor shall keep and shall not be obligated to return to Lessee any Base Rent paid by Lessee. Lessor shall pay to Lessee the amount of any unused tax, insurance or other reserve deposited by Lessee during the Term, other than those relating to expenses accrued during the Term; provided that in the event any such amounts are held by a Lender, as applicable, Lessor shall remit such amounts to Lessee upon Lessor's receipt from the Lender. Lessee shall not be obligated to account or pay to Lessor any earnings or income earned from the Commencement Date to the termination date. Lessee shall pay all bills incurred in the ownership of the Demised Premises and operation of the Facility from the Effective Date through the termination date, and shall receive and keep all income and suffer all losses incurred in the ownership of the Demised Premises and operation of the Facility from the Effective Date through the termination date.

(c) During the period from the Effective Date to the termination date:

Lessee shall be responsible for the payment of all real estate taxes in accordance with the provisions of Article VI hereof;

Lessee shall maintain all required insurance and Lessee shall be liable for payment of and shall pay the premiums thereon; and

In case of termination, Lessee shall be liable to return to Lessor, the Demised Premises and all Personal Property in a condition similar to that which existed on the Effective Date, reasonable wear and tear excepted, and free of liens or encumbrances arising through Lessee except for tax liens for current general real estate taxes or special assessments, which shall be prorated to the

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termination date, and except as to consumable items to the extent of consumption thereof, which, as consumed, will be replenished by Lessee in the ordinary course of business.

(d) Upon termination of this Lease, the parties will request appropriate inspections by governmental agencies upon the return of the Demised Premises to Lessor. Lessee agrees that it will cure any violations found involving the Demised Premises or Personal Property, provided such violations were not in existence on the Effective Date (with Lessee bearing the burden of proof thereof). Lessee agrees to execute such documents and take such actions as may be required in order to restore Lessor to ownership and possession of the Demised Premises and the Personal Property, including, without limitation, execution of any assignment or change of ownership documents required to license Lessor or its assignee to operate the Facility and to qualify Lessor for participation in Medicare and Medicaid under the Provider Agreements.

(e) Lessee shall keep and maintain medical records in accordance with applicable law and permit reasonable access and copy thereof by Lessor in accordance with such law, and to the extent permitted by law.

(f) Lessee shall keep and maintain such financial and operational records (including, without limitation, cost reports/contracts) as are required for the operation of the business under applicable laws.

(g) Upon termination or expiration of this Lease, any furniture, fixtures, equipment, linens, food, supplies and personal property acquired by Lessee with respect to the Facility shall become the property of Lessor, and this Lease shall serve as an assignment for purposes of giving effect to such transfer.

(h) Upon Lessor's request, Lessee shall assign to any designee of Lessor any rights of Lessee under any documents with the prior operators of the Facility. This Lease shall serve as an assignment to give effect to the foregoing.

ARTICLE XXXV - TRANSFER OF OPERATIONS UPON TERMINATION OF LEASE

The provisions of this ARTICLE XXXV shall apply in connection with any termination of this Lease or Lessee's right to possession of the Demised Premises, other than a termination resulting from the exercise by Lessee (or its permitted designee) of the Purchase Option.

The date on which (i) this Lease either terminates or expires pursuant to its terms or is terminated by either party whether pursuant to a right granted to it hereunder or otherwise, (ii) Lessee's right to possession of the Demised Premises is terminated by Lessor pursuant to a right granted to it hereunder or otherwise, or (iii) Lessee otherwise abandons the Demised Premises shall be referred to as the "Closing Date" in this Article. Upon Lessor's

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election on the Closing Date, this Lease shall be deemed and construed as an absolute assignment for purposes of vesting in Lessor (or Lessor's designee) all of Lessee's right, title and interest in and to the following intangible property which is now or hereafter used in connection with the operation of the Demised Premises (the "Intangibles") and an assumption by Lessor (or Lessor's designee) of Lessee's obligations under the Intangibles from and after the Closing Date; provided that, from and after the Closing Date, Lessee shall indemnify, defend and hold harmless Lessor and any future tenants against any claims, losses, costs or damages, including reasonable attorneys' fees incurred or arising by reason of Lessee's obligations under the Intangibles during the Term of this Lease:

(1) service contracts and equipment leases for the benefit of the Demised Premises to which Lessee is a party, and which can be terminated without penalty by Lessee within sixty (60) or fewer days' notice or which Lessor requests be assigned to Lessor (or Lessor's designee) pursuant to this Article XXXV, subject to any required consents of the Lessor or providers under such service contracts and equipment leases;

(2) to the extent permitted by law, any provider agreements with Medicare, Medicaid or any other third-party payor programs (excluding the right to any reimbursement for periods prior to the Closing Date, as defined above) entered in connection with the Demised Premises to the extent assignable by Lessee; provided that in addition thereto Lessor (or Lessor's designee) shall be permitted to bill under Lessee's Medicare and Medicaid provider agreements, as applicable, until any assignment thereof has become effective, and Lessee shall promptly remit to Lessor (or Lessor's designee) any funds received with respect to such billing);

(3) all existing agreements with residents and any guarantors thereof of the Demised Premises, to the extent assignable by Lessee (excluding the right to any payments for periods prior to the Closing Date) and any and all patient trust fund accounts; and

(4) at Lessor's option, the business of Lessee as conducted at the Demised Premises as a going concern, including but not limited to the name of the business conducted thereon and all telephone numbers presently in use therein.

All right, title and interest of Lessor in and to the Intangibles and all other rights and interests assigned by Lessee hereunder to Lessor have been further assigned and pledged to Lender under the Loan Documents and upon and after the occurrence of an Event of Default under the Loan Documents, Lender, or its designee, in accordance with the provisions of the Loan Documents shall be entitled to exercise all rights of an assignee and secured party with respect to the Intangibles and such other rights and interests as are assigned by Lessee under this Article XXXV.

Lessor shall be responsible for and shall pay all accrued expenses with respect to the Demised Premises accruing on or after 12:01 a.m. (local time) on the Closing Date and shall be entitled to receive and retain all revenues from the Demised Premises accruing on or after

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12:01 a.m. on the Closing Date. Within fifteen (15) business days after the Closing Date, the following adjustments and prorations shall be determined as of the Closing Date:

(1) Real estate taxes, ad valorem taxes, school taxes, assessments and personal property, intangible and use taxes, if any. If the information as to the actual amount of any of the foregoing taxes and assessments are not available for the tax year in which the Closing Date occurs, the proration of such taxes shall be estimated based upon reasonable information available to the parties, including information disclosed by the local tax office or other public information, and an adjustment shall be made when actual figures are published or otherwise become available.

(2) Lessee will terminate the employment of all employees on the Closing Date and shall be and remain liable for any and all wages, accrued vacation and sick leave pay for employees of the Demised Premises with respect to the period prior to 12:01 a.m. on the Closing Date.

(3) Lessor (or Lessor's designee) shall receive a credit equal to any advance payments by patients at the Demised Premises to the extent attributable to periods after 12:01 a.m. on the Closing Date.

(4) The present insurance coverage on the Demised Premises shall be terminated as of the Closing Date and there shall be no proration of insurance premiums.

(5) All other income from, and expenses of, the Demised Premises (other than interest and principal on the Loan), including but not limited to public utility charges and deposits, maintenance charges and service charges shall be prorated between Lessee and Lessor as of 12:01 a.m. on the Closing Date. Lessee shall, if possible, obtain final utility meter readings as of the Closing Date. To the extent that information for any such proration is not available, Lessee and Lessor shall effect such proration within sixty (60) days after the Closing Date.

(6) Lessee shall be and remain responsible for any employee severance pay, accrued benefits (whether vested or unvested), and related taxes which may be payable as the result of any termination of an employee's employment on or prior to 12:01 a.m. on the Closing Date.

All necessary arrangements shall be made to provide possession of the Demised Premises to Lessor or its designee on the Closing Date, at which time of possession Lessee shall deliver to Lessor, or its designee, all medical records, patient records and other personal information concerning all patients residing at the Demised Premises as of the Closing Date and other relevant records used or developed in connection with the business conducted at the Demised Premises. Such transfer and delivery shall be in accordance with all applicable laws, rules and regulations concerning the transfer of medical records and other types of patient records.

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For the period commencing on the Closing Date and ending on the date Lessor, or its designee, obtains any and all appropriate state or other governmental licenses and certifications required to operate the Facility, Lessee hereby agrees that, to the extent permitted by law, Lessor, or Lessor's designee, shall have the right, but not the obligation, to manage and operate the Demised Premises, on a triple net basis, and shall be entitled to all revenues of the Demised Premises during such period, and to use any and all licenses, certifications and provider agreements issued to Lessee by any federal, state or other governmental authority for such operation of the Demised Premises, if permitted by any such governmental authorities. If Lessor or its designee exercises the right described above in this Section 35.4, the provisions of this Section 35.4 shall be self-operative and shall constitute a management agreement between Lessee, on the one hand, and Lessor or its designee, on the other hand, on the terms set forth above in this Section 35.4; provided, however, that upon the request of Lessor or its designee, Lessee shall enter into a separate management agreement on the terms set forth in this Section 35.4 and on such other terms and provisions as may be specified by Lessor or its designee.

Lessee shall provide Lessor (or Lessor's designee) with an accounting within fifteen (15) days after the Closing Date of all funds belonging to patients at the Demised Premises which are held by Lessee in a custodial capacity. Such accounting shall set forth the names of the patients for whom such funds are held, the amounts held on behalf of each such patient and Lessee's warranty that the accounting is true, correct and complete. Additionally, Lessee, in accordance with all applicable rules and regulations, shall make all necessary arrangements to transfer such funds to a bank account designated by Lessor (or Lessor's designee), and Lessor (or Lessor's designee) shall in writing acknowledge receipt of and expressly assume all Lessee's financial and custodial obligations with respect thereto. Notwithstanding the foregoing, Lessee will indemnify, defend and hold Lessor and any future tenants harmless, from all liabilities, claims and demands, including reasonable attorney's fees, in the event the amount of funds, if any, transferred to Lessor's (or Lessor's designee's) bank account as provided above, did not represent the full amount of the funds then or thereafter shown to have been delivered to Lessee as custodian that remain undisbursed for the benefit of the patient for whom such funds were deposited, or with respect to any matters relating to patient funds which accrued during the Term and Lessor (or Lessor's designee) will indemnify, defend and hold Lessee harmless from all liabilities, claims and demands, including reasonable attorney's fees with respect to any matters relating to patient funds which accrue after the Term.

All cash, checks and cash equivalent at the Demised Premises and deposits in bank accounts (other than patient trust accounts) relating to the Demised Premises on the Closing Date shall remain Lessee's property after the Closing Date. Subject to the provisions of Article XXIV hereof, all accounts receivable, loans receivable and other receivables of Lessee whether derived from operation of the Demised Premises or otherwise, shall remain the property of Lessee after the Closing Date. Lessee shall retain full responsibility for the collection thereof. Lessor (or Lessor's designee) shall assume responsibility for the billing and collection of payments on account of services rendered by it on and after the Closing

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Date. In order to facilitate Lessee's collection efforts, Lessee agrees to deliver to Lessor (or Lessor's designee), within a reasonable time after the Closing Date, a schedule identifying all of those private pay balances owing for the month prior to the Closing Date and Lessor agrees to apply any payments received which are specifically designated as being applicable to services rendered prior to the Closing Date to reduce the pre-Closing Date balances of said patients by promptly remitting said payments to Lessee. Payments received by Lessor (or Lessor's designee) or Lessee from patients owing money for services rendered by Lessor (or Lessor's designee) and Lessee and which are not allocated to a particular time period shall (a) for the first thirty (30) days after the Closing Date be applied to any pre-Closing Date monthly balances due to Lessee for services provided prior to the Closing Date, with the excess if any, applied to any post-Closing Date monthly balances due for services rendered on or after the Closing Date, and (b) at all points after the first thirty (30) days after the Closing Date be applied to any post-Closing Date monthly balances due to Lessor or its designee for services provided after to the Closing Date, with the excess if any, applied to any pre-Closing Date monthly balances due for services rendered by Lessee on or before the Closing Date. Lessor (or Lessor's designee) shall cooperate with Lessee in Lessee's collection of its pre-Closing Date accounts receivable. Neither Lessor nor any future tenant shall have any liability for uncollectible receivables and shall not be obligated to bear any expense as a result of such activities on behalf of Lessee. Subject to the provisions of Article 24 hereof, Lessor (or Lessor's designee) shall remit to Lessee or its assignee those portions of any payments received by Lessor (or Lessor's designee) which are specifically designated as repayment or reimbursement arising out of cost reports filed for the cost reporting periods ending on or prior to the Closing Date.

With respect to residents at the Demised Premises on the Closing Date, Lessor and Lessee agree as follows:

(1) With respect to Medicare and Medicaid residents, Lessor and Lessee agree that subject to the provisions of Article XXIV hereof, payment for in-house residents covered by Medicare or Medicaid on the Closing Date will be made (on a per diem basis) by Medicare or Medicaid under current regulations directly to Lessee for services rendered at the Demised Premises prior to the Closing Date. Said payments shall be the sole responsibility of Lessee and Lessor shall in no way be liable therefor. After the Closing Date, Lessor (or Lessor's designee) and Lessee shall each have the right to review supporting books, records and documentation that are in the possession of the other relating to Medicaid or Medicare payments.

(2) If, following the Closing Date, Lessor (or Lessor's designee) receives payment from any state or federal agency or third-party provider which represents reimbursement with respect to services provided at the Demised Premises prior to the Closing Date, Lessor agrees that, subject to the provisions of Article XXIV hereof, it shall remit such payments to Lessee. Payments by Lessor to Lessee shall be accompanied by a copy of the appropriate remittance.

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In addition to the obligations required to be performed hereunder by Lessee and Lessor on and after the Closing Date, Lessee and Lessor agree to perform such other acts, and to execute, acknowledge, and/or deliver subsequent to the Closing Date such other instruments, documents and materials and Lessee shall perform such other acts and to execute, acknowledge, and/or deliver subsequent to the Closing Date such other instruments, as the other may reasonably request in order to effectuate the consummation of the transaction contemplated herein.

Lessee for itself, its successors and assigns hereby indemnifies and agrees to defend and hold Lessor and its successors and assigns, as well as any future tenant of Lessor with respect to the Facility harmless from any and all claims, demands, obligations, losses, liabilities, damages, recoveries and deficiencies (including interest, penalties and reasonable attorney's fees, costs and expenses) which any of them may suffer as a result of the breach by Lessee in the performance of any of its material commitments, covenants or obligations under this Article 36, or with respect to any suits, arbitration proceedings, administrative actions or investigations which relate to the use by Lessee of the Demised Premises during the Term or for any liability which may arise from operation of the Demised Premises as a nursing home during the Term, including without limitation, any amounts due or to be reimbursed to any governmental authority based upon any audit or review of Lessee, or of the Facility or the operation thereof and pertaining to the period prior to the Closing Date or any amounts recaptured under Titles XVIII or XIX based upon applicable Medicaid/Medicare recapture regulations. The rights of Lessor (or Lessor's designee) under this paragraph are without prejudice to any other remedies not inconsistent herewith which Lessor may have against Lessee pursuant to the terms of this Lease. The foregoing indemnity shall survive the expiration or termination of this Lease, whether due to lapse of time or otherwise.

Lessor shall have the right to offset against any monies due Lessee pursuant to the terms of this Article XXXV, any amounts due by Lessee to Lessor pursuant to this Lease, including without limitation any amounts due for taxes, utilities, unemployment insurance premiums, payroll obligations or any other obligation arising from the operation of the Demised Premises.

Anything to the contrary contained in this Article 36 notwithstanding, in the event the termination of this Lease is due to a default by Lessee hereunder, none of the provisions of this Article 36 shall in any way limit, reduce, restrict or modify the rights otherwise granted to Lessor pursuant to this Lease, and to the extent any monies are due to Lessee pursuant to this Article XXXV, such sums shall be applied by Lessor to any damages suffered by Lessor as a result of Lessee's default hereunder.

Lessor and Lessee agree to cooperate with each other in order to effectuate the terms and provisions of this Article XXXV, including without limitation, full cooperation with respect to transfer of licensure and provider agreements (including providing any signed forms or other materials required), vacating the Facility, and in transition of matters relating

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to operation of the Facility, including without limitation records, IT matters, and reconciliation of pre-Closing and post-Closing accounts receivable and accounts payable.

ARTICLE XXXIV - MISCELLANEOUS

34.1 Lessee, upon paying the Rent and all other charges herein provided, and for observing and keeping the covenants, agreements, terms and conditions of this Lease on its part to be performed, shall lawfully and quietly hold, occupy and enjoy the Demised Premises during the term of this Lease, and subject to its terms, without hindrance by Lessor or by any other person or persons claiming under Lessor.

34.2 All payments to be made by the Lessee hereunder in addition to Base Rent, whether or not designated as Additional Rent, shall be deemed Additional Rent, so that in default of payment when due, the Lessor shall be entitled to all of the remedies available at law or equity, or under this Lease, for the nonpayment of Rent. Base Rent and Additional Rent are sometimes referred to collectively herein as "Rent".

34.3 It is understood and agreed that the granting of any consent by Lessor to Lessee to perform any act of Lessee requiring Lessor's consent under the terms of this Lease, or the failure on the part of Lessor to object to any such action taken by Lessee without Lessor's consent, shall not be deemed a waiver by Lessor of its right to require such consent for any further similar act by Lessee, and Lessee hereby expressly covenants and warrants that as to all matters requiring Lessor's consent under the terms of this Lease, Lessee shall secure such consent for each and every happening of the event requiring such consent, and shall not claim any waiver on the part of Lessor of the requirement to secure such consent.

34.4 Each of Lessor and Lessee represents and warrants to the other that it has not dealt with any broker or finder in connection with this Lease. Lessor and Lessee each covenant and agree to indemnify and hold harmless the other from and against any and all costs, expenses, liabilities, claims, demands, suits, judgments and interest, including, without being limited to, reasonable attorneys' fees and disbursements, arising out of or in connection with any claim by any broker or agent with respect to this Lease, the negotiation of this Lease or the transactions contemplated herein based upon the acts of the indemnifying party.

34.5 If an action shall be brought to recover any Rent under this Lease, or for or on account of any breach of or to enforce or interpret any of the terms, covenants or conditions of this Lease, or for the recovery of possession of the Demised Premises, the prevailing party shall be entitled to recover from the other party, as part of the prevailing party's costs, reasonable attorneys' fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered.

34.6 Should Lessee hold possession hereunder after the expiration of the term of this Lease with or without the consent of Lessor, Lessee shall become a tenant on a month-to-month basis upon all the terms, covenants and conditions herein specified, excepting however that

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Lessee shall pay Lessor a monthly rental, for the period of such month-to-month tenancy, in an amount equal to 150% the last Rent specified.

34.7 All notices, demands or requests which may or are required to be given by either party to the other shall be in writing and shall be sent by (i) personal delivery; (ii) Federal Express or other national overnight courier service; or (iii) United States certified mail, return receipt requested, addressed to the other party hereto at the last known address of such party. Notices shall be effective upon receipt or refusal thereof.

34.8 [Reserved].

34.9 Each party agrees at any time, and from time to time, upon not less than ten (10) days' prior written request from the other party, to execute, acknowledge and deliver to the other party a statement in writing, certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), the dates to which the Rent has been paid, the amount of the Additional Rent held by Lessor, and whether to the best knowledge of such party an Event of Default has occurred or whether any events have occurred which, with the giving of notice or the passage of time, or both, could constitute an Event of Default hereunder, it being intended that any such statement delivered pursuant to this paragraph may be relied upon by any prospective assignee, lender or purchaser of the fee interest in the Demised Premises or of this Lease.

34.10 All of the provisions of this Lease shall be deemed and construed to be "conditions" and "covenants" as though the words specifically expressing or importing covenants and conditions were used in each separate provision hereof.

34.11 Any reference herein to the termination of this Lease shall be deemed to include any termination thereof by expiration, or pursuant to Articles referring to earlier termination.

34.12 The headings and titles in this Lease are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Lease, nor in any way affect this Lease.

34.13 This Lease contains the entire agreement between the parties and any executory agreement hereafter made shall be ineffective to change, modify or discharge it in whole or in part unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought. This Lease cannot be changed orally or terminated orally.

34.14 Except as otherwise herein expressly provided, the covenants, conditions and agreements in this Lease shall bind and inure to the benefit of the Lessor and Lessee and their respective successors and assigns.

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34.15 All nouns and pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons, firm or firms, corporation or corporations, entity or entities or any other thing or things may require.

34.16 If any term or provision of this Lease shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this Lease shall not be affected thereby, but each term and provision shall be valid and be enforced to the fullest extent permitted by law.

34.17 Notwithstanding anything to the contrary contained herein, and except as otherwise provided in this Lease, there shall be no personal liability hereunder on any partners, shareholders, members, directors, officers, employees or trustees of Lessee, with respect to the terms, covenants, conditions, undertakings or agreements contained in this Lease and Lessor shall look solely to Lessee, and not to any such partners, shareholders, members, directors, officers, employees or trustees of Lessee for the satisfaction of each and every remedy which Lessor may have hereunder.

34.18 Rent shall at all times equal an amount such that Lessee maintains (a) an Operator Debt Service Coverage Ratio (as defined in the Existing Loan Agreement) as required under Section 4.1.24(a)(ii) of the Existing Loan Agreement, tested as of the last day of each calendar quarter as set forth therein, and (b) an Operator Rent Coverage Ratio (as defined in the Existing Loan Agreement) as required under Section 4.1.24(a)(iii) of the Existing Loan Agreement, tested as of the last day of each calendar quarter as set forth therein, and (c) a Debt Yield (as defined in the Existing Loan Agreement) as required under Section 4.1.24(a)(iv) of the Existing Loan Agreement, tested as of the last day of each calendar quarter as set forth therein.

34.19 It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, warranties, covenants, undertakings and agreements herein and in the Lease made on the part of Lessor while in form purporting to be the representations, warranties, covenants, undertakings and agreements of Lessor are nevertheless each and every one of them made and intended, not as personal representations, warranties, covenants, undertakings and agreements by Lessor or for the purpose or with the intention of binding Lessor personally, but are made and intended for the purpose only of subjecting Lessor's interest in the Demised Premises to the terms of the Lease, and for no other purpose whatsoever and in case of default hereunder by Lessor (or default through, under or by any of its beneficiaries, or agents or representatives of said beneficiaries), Lessee shall look solely to the interests of Lessor in the Demised Premises; that, if Lessor is a land trust, the Lease is executed and delivered by Lessor not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; that neither the Lessor nor any of Lessor's shareholders, officers, directors, members, managers, partners, beneficiaries or agents shall have any personal liability to pay any indebtedness accruing hereunder or to perform any covenant, either express or implied, herein contained, and no liability or duty shall rest upon Lessor to sequester the Demised Premises (or the trust estate) or the rents, issues and profits arising therefrom, or the proceeds arising from any sale or other disposition thereof; and that no personal liability or personal responsibility of any sort is assumed by, nor shall at any time be asserted or enforceable against said Lessor or any of Lessor's shareholders, officers, directors,

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members, managers, partners, beneficiaries or agents, on account of the Lease or on account of any representation, warranty, covenant, undertaking or agreement of Lessor contained in the Lease, either express or implied, all such personal liability, if any, being expressly waived and released by Lessee and by all persons claiming by, through or under Lessee.

Property of Cook County Clerk's Office

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

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IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by persons authorized so to do on behalf of each of them respectively the day and year first above written.

LESSOR:

Fullerton SNF Property Holdings, LLC

By: _____

Name: Chaim Rajchenbach

Its: Manager

LESSEE:

**Fullerton Skilled Nursing Facility, LLC/ DBA
Avantara Lincoln Park**

By: Legacy Healthcare Financial Services, LLC,
Its: Manager

By: _____

Name: Menachem Shabat

Its: Manager

Property of Cook County Clerk's Office

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By: _____
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Its: Manager

LESSEE:

**Fullerton Skilled Nursing Facility, LLC/ DBA
Avantara Lincoln Park**

By: Legacy Healthcare Financial Services, LLC,
Its: Manager

By: _____
Name: Menachem Shabat
Its: Manager

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SCHEDULE 1

BASE RENT:

The annual base rent ("Base Rent"), payable in monthly installments, under the Lease shall be as follows:

- Year 1: \$1,300,000.00
- Year 2: \$1,930,000.00

After Year 2, the Base Rent for each subsequent Sublease Year of the Term shall be 102.5% of the Base Rent which was in effect for the prior Sublease Year (i.e., for the third Sublease Year the Base Rent will be \$1,947,500.00 for the fourth Sublease Year the Base Rent will be \$1,996,188.00 and so on).

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

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EXHIBIT A

DEMISED PREMISES

Legal Description of the Property

“Symphony Lincoln Park” and “Symphony Residences of Lincoln Park”

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Chicago, County of Cook, State of Illinois.

THAT PORTION OF LOT 9, OF THE COUNTY CLERK'S DIVISION OF BLOCK 43 OF SHEFFIELD'S ADDITION TO CHICAGO IN THE SOUTHWEST 1/4 OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE EAST 132.10 FEET OF SAID LOT.

ALSO:

ALL THAT PART OF THE EAST 132.10 FEET OF SAID LOT 9 OF COUNTY CLERK'S DIVISION OF BLOCK 43 OF SHEFFIELD'S ADDITION TO CHICAGO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID EAST 132.10 FEET OF SAID LOT 9, WHICH POINT IS 99.64 FEET EAST FROM THE EAST LINE OF SOUTHPORT AVENUE; THENCE NORTH ALONG THE WEST LINE OF SAID EAST 132.10 FEET OF SAID LOT 9, A DISTANCE OF 595.80 FEET TO THE SOUTH LINE OF WEST ALTGELD STREET; THENCE EAST ALONG THE SOUTH LINE OF WEST ALTGELD STREET 9.60 FEET TO A POINT; THENCE SOUTH ON A STRAIGHT LINE 9.60 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE SAID EAST 132.10 FEET OF SAID LOT 9, A DISTANCE OF 123.00 FEET TO A POINT; THENCE WEST PARALLEL TO AND 123.00 FEET FROM THE SOUTH LINE OF WEST ALTGELD STREET, A DISTANCE OF 6.90 FEET TO A POINT; THENCE SOUTH PARALLEL TO AND 2.70 FEET FROM THE WEST LINE OF SAID EAST 132.10 FEET OF SAID LOT 9, A DISTANCE OF 472.80 FEET TO THE NORTH LINE OF FULLERTON AVENUE; THENCE WEST ALONG THE NORTH LINE OF FULLERTON AVENUE, 2.70 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

NOTE: Being Parcel No. 14-29-321-040-0000, of the City of Chicago, County of Cook.

Facility Addresses:

Symphony Lincoln Park: 1366 W. Fullerton Avenue, Chicago, IL 60614

Symphony Residences of Lincoln Park: 2437 N. Southport Avenue, Chicago, IL 60614

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EXHIBIT B

Survey

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

Record Legal Description

- [illegible]

Miscellaneous Notes

- [illegible]

ONE REASON FOR THIS IS THAT OF THESE FIVE, ONLY TWO ARE

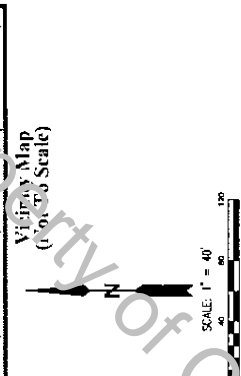
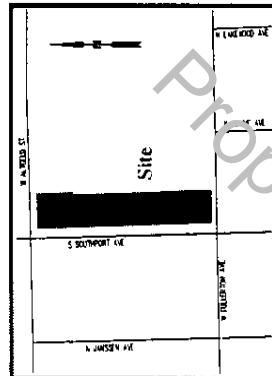
-

Utility Notes

- STATE OF TEXAS
COUNTY OF DALLAM
- I, _____, Clerk of said County, do hereby certify that _____ is duly qualified as a Justice of the Peace for said County.
- WITNESS my hand and seal of office at _____, Texas, this _____ day of _____, 19____.
- _____
Clerk of Court

Flood Note

- For zoning plotting only, this property is in Zone
 of the Flood Insurance Rate Map, Community Panel No.
1703104182, which bears an effective date of
08/19/2008, and is not in a Special Flood Hazard Area.



Legend of Symbols & Abbreviations

- | | |
|----------------------------|------------------------|
| FOUND MONUMENT | FOUND POLE |
| SET MONUMENT | ELECTRIC WIRE |
| RIGHT OF WAY | GAS VALVE |
| CENTLINE | GAS METER |
| LANDSCAPING | WATER METER |
| PAVING SPACES | WATER VALVE |
| PARALLEL PARKING SPACES | HYDRANT |
| CPS COVERED PARKING SPACES | CATCH BASIN (ROUND) |
| OVERPASS | SANITARY MANHOLE |
| UNDERPASS | SEWER MANHOLE |
| MAINTAINED/UNMAINTAINED | POINT OF BEGINNING |
| RECORD DEDICATION | POINT OF COMMENCEMENT |
| RECORD PLAT | ACCESS POINT OF ACCESS |
| SECTION | SECT |
| PLUMBO | LINE |
| ADJ. PARKING | CELESTIAL OF ROAD |
| | BOUNDRY LINE |
| | CORNER |
| | POINT OF JAY |

ALT/ANSPS Land Title Survey

SYMPHONY LINCOLN PARK AND SYMPHONY RESIDENCES
PROJECT #21-8805-SITE #D01
1366 W FULLERTON AND 2437 N SOUTHPORT AVE

CHICAGO, ILL. 60614
BANK OF AMERICA



BUREAU OF INVESTIGATION
 SUPERVISOR LEECH & 3000 10th
 IN THE STATE OF ALABAMA
 DATE OF COMPLETION 11/20/2022
 DATE OF PLAT OR MAP 05/28/2022

BLS & ASSOCIATES, P.A.
 3025 N. SHELTON DRIVE
 SUITE 100, FAYETTEVILLE, ALABAMA 37203
 478-443-4500

Sheet 1 of 1

PLEASE DIRECT ALL INQUIRIES FOR THIS SURVEY TO:

CRESURVEYS
EMAIL: INFO@CRESURVEYS.COM
PHONE: (330) 777-0502
24 N High Street Suite 103 Akron OH 44302

24 N. High Street, Suite 103, Akron, OH 44308

DATE OF PRELIMINARY		JAN 73	
REVISIONS			
BY	DATE	REVISION	
BY	04/23/2021	ISSUE REPORT	
BY	04/26/2021	CLIENT COMMENTS	
BY	04/28/2021	CLIENT UPDATE	
BY	05/11/2021	CLIENT UPDATE	
BY	05/20/2021	CLIENT UPDATE	

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EXHIBIT C

FORM OF GUARANTY

GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT (the "Guaranty Agreement") is made as of the 6th day of October, 2023, by **Legacy Healthcare Financial Services, LLC**, an Illinois limited liability company (the "Guarantor"), in favor of **Fullerton SNF Property Holdings, LLC**, an Illinois limited liability company (the "Landlord").

WHEREAS, concurrently herewith, Landlord and **Fullerton Skilled Nursing Facility, LLC/ DBA Avantara Lincoln Park**, an Illinois limited liability company (the "Tenant") are entering into that certain Sublease Agreement (the "Lease") of the Leased Premises (as defined therein) pursuant to the terms, conditions and covenants set forth therein;

WHEREAS, Guarantor is, indirectly or directly, the record owner and beneficial holder of all of the membership and equity interests in the Tenant and will, directly and indirectly, derive economic and other benefit from the transactions contemplated by the Lease; and

WHEREAS, in order to induce Landlord to enter into the Lease, the Guarantor has agreed to execute and deliver this Guaranty Agreement;

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Guarantor hereby agrees as follows:

1. Guaranty. Guarantor hereby irrevocably, absolutely and unconditionally guarantees to Lessor, its successors and assigns, the prompt payment by Lessee of all amounts due by Lessee under the Lease (the "**Guaranteed Obligations**"), subject to the Guaranty Cap. For purposes of the foregoing, the "**Guaranty Cap**" shall be an amount equal to an aggregate of (i) the amount of twelve months of rent (as of the date of the Event of Default under the Lease), plus (ii) any Enforcement Costs (as defined below).

2. Continuing Guaranty. This Guaranty Agreement is a continuing guaranty. The liability of Guarantor shall continue until the full payment and performance is made of all obligations of Tenant under the Lease.

3. Extension or Renewal of Lease. Landlord and Tenant may, without prior notice to and without the consent of Guarantor, and without impairing or in any way affecting the liability of Guarantor to Landlord: (a) extend, in whole or in part, by renewal or otherwise, and on one or any number of occasions, the term of the Lease or any of the other terms or provisions

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therein, including the rent payable thereunder; (b) release, surrender, exchange, modify, impair or extend the period of duration or the time for performance of, any of Tenant's obligations under the Lease; (c) settle or compromise any claim of Landlord in respect of any of Tenant's obligations under the Lease; (d) exchange or surrender all or any part of any property or interest in property held by Landlord by way of pledge, mortgage or otherwise, as security for any of Tenant's obligations under the Lease; and (e) exercise or refrain from exercising any rights against Tenant or others (including any other Guarantor) or otherwise act or refrain from acting.

4. Waiver of Notice. Guarantor waives: (a) notice of acceptance of this Guaranty Agreement by Landlord; (b) notice of dishonor, presentment, demand for payment and protest of the Lease; and (c) notice of the failure of Tenant or its successors and assigns to pay any amounts due under the Lease or perform any other obligations provided for therein.

5. Subordination of Tenant's Obligations to Guarantor. Any indebtedness of Tenant to Guarantor now or hereafter existing (including, but not limited to, any rights to subrogation Guarantor may have as a result of any payment by Guarantor under this Guaranty Agreement), together with any interest thereon, shall be, and such indebtedness is hereby, subordinated to the prior payment in full of the Guaranteed Obligations. Until the Lease has been terminated or expired in accordance with its terms and all Guaranteed Obligations are paid in full, Guarantor agrees not to accept any payment or satisfaction of any kind of any indebtedness of Tenant to Guarantor and hereby assigns such indebtedness to Landlord, including the right to file a proof of claim and to vote thereon in connection with any bankruptcy, insolvency or reorganization, and the right to vote on any plan of arrangement or organization.

6. Absolute and Unconditional Obligations. The Guaranteed Obligations shall be in each instance absolute and unconditional, and independent of the obligations of Tenant or any other obligor or guarantor of the Lease. This Guaranty Agreement is a guaranty of payment and performance and not of collection and Guarantor waives any right to require that any action, case or proceeding be brought against any other person or entity or to require that resort be had to any security.

7. Events Not Affecting Guaranty. Neither the declaration of a default, nor the exercise of any remedies, nor any sale, enforcement or realization of any security for any of Tenant's obligations under the Lease shall in any way affect Guarantor's obligations hereunder, even though any rights which Guarantor may have may be extinguished, diminished or otherwise affected by such action.

8. No Assignment of Obligations. Guarantor's obligations hereunder shall not be assigned nor delegated.

9. Severability. If any term or provision of this Guaranty Agreement shall be determined to be illegal or unenforceable, all other terms and provisions hereunder shall nevertheless remain effective and shall be enforced to the fullest extent permitted by law.

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10. Reinstatement of Guaranty. This Guaranty Agreement shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of the any amount due under the Lease is rescinded or must otherwise be restored or returned by Landlord upon any insolvency or bankruptcy or otherwise, all as though such payment had not been made. If at any time any payment, or portion thereof, made by, or for the account of, Guarantor on account of the obligations under this Guaranty Agreement, is set aside by any court or trustee having jurisdiction as a voidable preference, fraudulent conveyance or otherwise as being subject to avoidance or recovery under the provisions of Bankruptcy Code or under any other applicable Federal or state bankruptcy, insolvency or similar law, Guarantor hereby agrees that this Guaranty Agreement (a) shall continue and remain in full force and effect, or (b) if previously terminated as a result of Guarantor having fulfilled Guarantor's obligations hereunder in full or as a result of Landlord having released Guarantor from Guarantor's obligations and liabilities hereunder, shall without further act or instrument be reinstated and shall thereafter remain in full force and effect, in either case with the same force and effect as though such payment or portion thereof had not been made, and if applicable, as if such previous termination had not occurred.

11. Subrogation. Notwithstanding any amounts collected by Landlord from Guarantor and any collateral pursuant to the provisions of this Guaranty Agreement, Guarantor shall not seek to enforce or collect upon any rights which Guarantor now has or may acquire against Tenant either by way of subrogation, indemnity, reimbursement or contribution for any amount paid under this Guaranty Agreement, nor shall Guarantor file, assert or receive payment on any claim, whether now existing or hereafter arising, against Tenant subsequent to the commencement of a case by or against Tenant under the Bankruptcy Code or under any other applicable Federal or state bankruptcy, insolvency or similar law, in each case unless and until all amounts due under the Lease have been paid in full and provided that no such action by Guarantor could, in the reasonable opinion of Landlord and its counsel, result in the "preference" period (as set forth in Section 547(b)(4) of the Bankruptcy Code or any successor provision) with respect to any payment or other transfer of assets to Landlord from or on behalf of any party being held to be longer than such period would have been held to be if Guarantor had not taken such action. In the event an action, case or proceeding is filed or commenced under the Bankruptcy Code or under any other applicable Federal or state bankruptcy, insolvency or similar law or an action, case or proceeding is otherwise commenced, this Guaranty Agreement shall at all times thereafter remain effective in regard to any payments or other transfers of assets to Landlord which are held voidable on the grounds of preference, fraudulent conveyance or otherwise, whether or not all amounts due under the Lease have been paid in full.

12. Representations and Warranties. As a material inducement to Landlord, Guarantor hereby represents and warrants to Landlord as follows:

(a) Guarantor has full power and authority to execute, deliver and perform any action which may be necessary or advisable to carry out the terms of this Guaranty Agreement.

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(b) The execution and delivery of this Guaranty has been duly authorized, executed and delivered by Guarantor.

(c) The execution, delivery and performance of this Guaranty Agreement will not (a) violate any provision of any existing law, statute, rule, regulation or ordinance, (b) conflict with, result in a breach of or constitute a default under (i) any order, judgment, award or decree of any court, governmental authority, bureau or agency, or (ii) any mortgage, lease, material contract or other material agreement or undertaking to which Guarantor is a party or by which Guarantor or any of its properties or assets may be bound, or (c) result in the creation or imposition of any lien upon or with respect to any property or asset now or hereafter acquired by Guarantor.

(d) No consent, license, permit, approval or authorization of, exemption by, notice to, report to, or registration, filing or declaration with any person is required in connection with the execution, delivery, performance or validity of this Guaranty or the transactions contemplated thereby.

(e) There are no outstanding judgments, actions, proceedings, claims or investigations pending or, to the best knowledge of Guarantor, threatened before any court or governmental body or arbitrator which may materially adversely affect the financial condition of Guarantor;

(f) This Guaranty Agreement, when executed and delivered, will constitute the valid and legal binding obligations of Guarantor, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally;

(g) Guarantor will derive substantial benefit from the Lease.

13. Enforcement Costs. If: (a) this Guaranty Agreement is placed in the hands of one or more attorneys for collection or is collected through any legal proceeding; (b) one or more attorneys is retained to represent Lessor in any bankruptcy, reorganization, receivership or other proceedings affecting creditors' rights and involving a claim under this Guaranty Agreement; or (c) one or more attorneys is retained to represent Lessor in any other proceedings whatsoever in connection with this Guaranty Agreement, then Guarantor shall pay to Lessor upon demand all reasonable fees, costs and expenses incurred by Lessor in connection therewith, including, without limitation, reasonable attorneys' fees, court costs and filing fees (the "Enforcement Costs").

14. Covenants. As a material inducement to Landlord, Guarantor covenants and agrees with Landlord that Guarantor will not sell, assign or otherwise dispose of its interest in any material asset other than for fair market value and consideration.

15. Entire Agreement. The whole of this Guaranty Agreement is herein set forth, and there is no verbal or other written agreement, and no understanding or custom affecting the terms

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thereof. This Guaranty Agreement can be modified only by a written instrument signed by Guarantor and Landlord.

16. Successors and Assigns. This Guaranty Agreement is binding upon Guarantor and its representatives, heirs, successors and assigns and shall inure to the benefit of Landlord, its successors and assigns. Landlord shall have the right to assign and transfer this Guaranty Agreement, and any security deposited hereunder, in whole or part, to any assignee of any transaction or debt or any portion thereof. Landlord's successors and assigns shall have all of the rights, privileges and powers granted hereunder to Landlord, and shall have the right to rely upon this Guaranty Agreement.

17. Notices: Any notice, request, demand, statement, authorization, approval or consent made hereunder shall be in writing and shall be sent by Federal Express or other reputable national courier service or by postage prepaid registered or certified mail, return receipt requested addressed to each party at its address indicated on the signature page of this Agreement. Notices shall be deemed given: (i) when received at the foregoing addresses if sent by Federal Express or other reputable national courier service; and (ii) three business days after being postmarked and addressed as aforesaid if sent by registered or certified mail return receipt requested.

Each party may designate a change of address by notice to the other party, given at least 15 days before such change of address is to become effective.

18. Gender. Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

19. No Waivers. No delay on the part of Landlord in exercising any right or remedy under this Guaranty Agreement or failure to exercise the same shall operate as a waiver in whole or in part of any such right or remedy. No notice to or demand upon Guarantor shall be deemed to be a waiver of the obligation of Guarantor or of the right of Landlord to take further action without notice or demand as provided in this Guaranty Agreement. No waiver of any term, covenant or provision of this Guaranty Agreement shall be effective unless given in writing by Landlord and if so given by Landlord shall only be effective in the specific instance in which given.

20. Waiver of Jury Trial. GUARANTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, CASE, PROCEEDING, SUIT OR COUNTERCLAIM ARISING IN CONNECTION WITH, OUT OF OR OTHERWISE RELATING TO THIS GUARANTY AGREEMENT.

21. Governing Law: This Guaranty Agreement has been executed and delivered in the State of Illinois and is to be construed and enforced according to and governed by the laws of the State of Illinois.

22. Personal Jurisdiction: Guarantor agrees to submit to personal jurisdiction in the State of Illinois in any action, case or proceeding arising out of this Guaranty Agreement and consents that

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all service of process be sent by nationally recognized overnight courier service directed to the Guarantor at the address set forth herein and service so made will be deemed to be completed on the business day after deposit with such courier; provided that nothing contained herein will prevent the Landlord from bringing any action, enforcing any award or judgment or exercising any rights against the Guarantor individually, against any security or against any property of the Guarantor within any other county, state or other foreign or domestic jurisdiction. The Guarantor acknowledges and agrees that the venue provided above is the most convenient forum for both the Landlord and the Guarantor. The Guarantor waives any objection to venue and any objection based on a more convenient forum in any action instituted under this instrument.

23. Counterparts: This Guaranty Agreement may be executed in one or more counterparts by some or all of the parties hereto, each of which counterparts shall be an original and all of which together shall constitute a single agreement of Guaranty.

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Property of Cook County Clerk's Office

UNOFFICIAL COPY

IN WITNESS WHEREOF, the undersigned has executed and delivered this Guaranty Agreement as of the date first hereinabove written.

Legacy Healthcare Financial Services,
LLC

By: MEHMET SABAT
Its: MANAGER

Address:

3450 DANFORTH ST.

SHAWNEE, IL 60076

Property of Cook County Clerk's Office

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APPENDIX A

MORTGAGE

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

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LEASE AGREEMENT

By and Between

Southport SLF Property Holdings, LLC

and

**Lincoln Park Supportive Living Facility, LLC/
DBA The Vistas of Lincoln Park**

October 6, 2023

2437 N. Southport Avenue, Chicago, IL 60614

**COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387**

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LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") made and entered into this 6TH day of October, 2023 (the "Effective Date"), by and between **Southport SLF Property Holdings, LLC**, an Illinois limited liability company (hereinafter referred to as "Lessor"), and **Lincoln Park Supportive Living Facility, LLC/ DBA The Vistas of Lincoln Park**, an Illinois limited liability company (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor owns certain tracts of land which are improved with a supportive living nursing facility, located at 2437 N. Southport Ave., Chicago, IL, 60614, as well as any other structures located thereon, all as more particularly described in **Exhibit A** attached hereto and made a part hereof (hereinafter collectively referred to as the "Demised Premises");

WHEREAS, the Facility (as defined herein) and the 1366 W. Fullerton Avenue, Chicago Illinois facility ("Fullerton Facility") are each further described, delineated and defined in the survey attached hereto as **Exhibit B**;

WHEREAS, Lessor owns the furnishings, furniture, equipment and fixtures used in or about the Demised Premises (hereinafter collectively referred to as the "Personal Property");

WHEREAS, Lessor desires to lease the Demised Premises and Personal Property to Lessee and Lessee desires to lease the Demised Premises and Personal Property from Lessor; and

WHEREAS, Lessor has obtained financing pursuant to the terms of a loan agreement (the "Existing Loan Agreement") dated as of October 6, 2023, entered into by Lessor, as a borrower, together with certain related borrowers (collectively, the "Borrower") and Deutsche Bank AG, New York Branch (together with its successors and assigns, the "Lender"), providing a loan (the "Loan"), guaranteed by certain guarantors, with respect to Lessor's acquisition of the Facility. Such Loan Agreement, together with the Existing Mortgage (as hereinafter defined) and all other documents evidencing or securing Lender's Loan to Lessor, as the same may be amended, restated, modified, or extended from time to time, are referred to herein, collectively, as the "Existing Loan Documents."

NOW THEREFORE, in consideration of the above Recitals, which are incorporated herein by this reference, and of the mutual covenants, agreements and undertakings hereinafter set forth, it is agreed that the use and occupancy of the Demised Premises, and the use of the Personal Property shall be subject to and in accordance with the terms, conditions and provisions of this Lease.

ARTICLE I - DEFINITIONS

1.1 The terms defined in this Article shall, for all purposes of this Lease and all agreements supplemental hereto, have the meaning herein specified.

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(a) "Facility" shall mean that certain facility located at 2437 N. Southport Ave., Chicago, IL 60614 as well as any other structures located on the Demised Premises.

(b) "Mortgage" shall mean the Mortgage (the "Existing Mortgage") from Lessor, as mortgagor, to and in favor of Lender, as mortgagee, securing the Loan, as further described on Appendix A attached hereto and made a part hereof, and any amendments, modifications or extensions thereof and any mortgages which in the future may encumber the Demised Premises, provided that any such amendments, modifications or extensions of the Existing Mortgage or new mortgages comply with the terms of this Lease.

(c) "Lender" shall mean Deutsche Bank AG, New York Branch, its successors and assigns, as Lender under the Loan Agreement and, following the indefeasible payment in full of the Loan and satisfaction of the Existing Mortgage, the mortgagee under any subsequent Mortgage.

(d) "Loan Agreement" shall mean the Existing Loan Agreement (as defined in the recitals) and, following the indefeasible payment in full of the Loan and satisfaction of the Existing Mortgage, any subsequent loan agreement pursuant to which a Lender makes a loan secured by a Mortgage on the Demised Premises, including any loan agreement with respect to a loan obtained to refinance the Loan.

(e) "Loan Documents" shall mean the Existing Loan Documents (as defined in the recitals) and, following the indefeasible payment in full of the Loan and satisfaction of the Existing Mortgage, any documents evidencing or securing a subsequent Loan Agreement including any documents with respect to a loan obtained to refinance the Loan.

All other terms shall be as defined in the recitals and other sections of this Lease.

ARTICLE II - DEMISED PREMISES AND PERSONAL PROPERTY

2.1 Lessor, for and in consideration of the rents, covenants and agreements hereinafter reserved, mentioned and contained on the part of the Lessee, its successors and assigns, to be paid, kept and performed, does hereby lease unto Lessee the Demised Premises together with the Personal Property to be used in and upon the Demised Premises for the term hereinafter specified, for use and operation therein and thereon of the Facility, in substantial compliance with all the rules and regulations and minimum standards applicable thereto, as prescribed by the State of Illinois and such other governmental authorities having jurisdiction thereof.

ARTICLE III - TERM OF LEASE

3.1 The term of this Lease (the "Term") shall begin and be effective as of the Effective Date, provided that Lessee shall have a license to operate the supportive living facility located on the Demised Premises, and shall extend for a period of six (6) years (the "Initial Term"), unless sooner terminated or extended as provided herein.

{1066/100/00361839.2}

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3.2 Following the Initial Term, and any subsequent extension thereto, the term of this lease shall be automatically extended for an additional term of one (1) year (the "Extension"), up to a total term of thirty (30) years from the Effective Date. Notwithstanding the foregoing, either Lessee or Lessor may provide written notice prior to the expiration of the Initial Term, or any subsequent Extension, indicating that no further Extension shall occur, in which case this Lease shall terminate upon expiration of the term then in effect and shall not be further extended.

ARTICLE IV - RENT

4.1 From and after the date hereof, Lessee shall pay to Lessor, or as Lessor shall direct, without demand, deduction or offset for any reason whatsoever except as herein specifically provided, as fixed monthly base rental as provided in Schedule 1 attached hereto (the "Base Rent") for the Demised Premises and the Personal Property over and above all other and additional payments to be made by Lessee as provided in this Lease, and in all cases an amount greater than debt service payable by Lessor with respect to the Demised Premises.

All rental payments, together with all tax and insurance deposits provided for in this Lease, shall be paid in arrears on the first day of each month. Unless otherwise notified Lessor directs Lessee to deliver all rental payments payable to Lessor and shall be sent to 3450 Oakton Street, Skokie, IL 60076. Any payment by Lessee to Lessor's Lender or to account number 1098314 at CIBC Bank USA shall be credited against Lessee's Base Rent obligations hereunder.

4.2 This Lease is and shall be deemed and construed to be a triple net lease and the Base Rent specified herein shall be net to the Lessor in each year during the term of this Lease. The Lessee shall pay all costs, expenses and obligations of every kind whatsoever relating to the Demised Premises which may arise or become due during the term of this Lease, except for any principal and interest payments due with respect to any Loan Agreement. Lessee does hereby agree to indemnify, defend and hold harmless the Lessor against any and all such costs, expenses and obligations.

ARTICLE V - INTENTIONALLY OMITTED

ARTICLE VI - PAYMENT OF TAXES AND ASSESSMENTS

6.1 Lessee will pay as Additional Rent before any fine, penalty, interest or cost may be added thereto for the nonpayment thereof, all taxes, assessments, license and permit fees and other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which during the term of this Lease may have been, or may be, assessed, levied, confirmed, imposed upon or become due and payable out of or in respect of, or become a lien on the Demised Premises and/or Personal Property or any part thereof (hereinafter collectively referred to as "Taxes and Assessments").

6.2 Any Taxes and Assessments relating to a fiscal period of any authority, a part of which is included within the term of this Lease and a part of which is included in a period of time {1066/100/00361839.2}

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before or after the term of this Lease, shall be adjusted pro rata between Lessor and Lessee as of the commencement and termination of the Lease term and each party shall be responsible for its pro-rata share of any such Taxes and Assessments.

6.3 Nothing herein contained shall require Lessee to pay income taxes assessed against Lessor, or capital levy, franchise, estate, succession or inheritance taxes of Lessor or its beneficiary.

6.4 If permitted by the terms of the Loan Documents, Lessee shall have the right to contest the amount or validity, in whole or in part, of any Taxes and Assessments by appropriate proceedings diligently conducted in good faith, but only after payment of such Taxes and Assessments, unless such payment would operate as a bar to such contest or interfere materially with the prosecution thereof, in which event, Lessee may postpone or defer such payment only if neither the Demised Premises, nor any part thereof, would by reason of such postponement or deferment be in danger of being forfeited or lost.

6.5 Upon the termination of any such proceedings, Lessee shall pay the amount of such Taxes and Assessments or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees, interest, penalties, or other liabilities in connection therewith, and such payment, at Lessee's request, shall be made by Lessor out of the amount deposited with respect to such Taxes and Assessments and accrued interest as aforesaid. In the event such amount is insufficient, then the balance due shall be promptly paid by Lessee.

6.6 Lessor shall not be required to join in any proceedings referred to in this Article, unless the provisions of any law, rule or regulation at the time in effect shall require that such proceedings be brought by and/or in the name of Lessor in which event Lessor shall join in such proceedings or permit the same to be brought in its name. Lessor shall not ultimately be subjected to any liability for the payment of any costs or expenses in connection with any such proceedings, and Lessee will indemnify, defend and save harmless Lessor from any such costs and expenses, including, without limitation, reasonable attorneys' fees, as a result of such proceedings. Lessee shall be entitled to any refund of any real estate taxes and penalties or interest thereon received by Lessor but previously reimbursed in full by Lessee.

6.7 In the event that Lessor determines in its reasonable judgment that it is not being adequately represented by Lessee's counsel in any proceedings referred to in this Article, Lessor may upon ten (10) days' prior written notice to Lessee, obtain separate counsel to represent it in such action. In such event, the cost of such counsel shall be paid by Lessor.

6.8 If any income, profits or revenue tax shall be levied, assessed or imposed upon the income, profits or revenue arising from the Rent payable hereunder, partially or totally in lieu of or as a substitute for real estate taxes imposed upon the Demised Premises or Personal Property, then Lessee shall be responsible for the payment of such tax.

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ARTICLE VII - CAPITAL EXPENDITURES; DISTRIBUTIONS

7.1 Upon the occurrence of an Event of Default under the Existing Loan Agreement, beginning within ten (10) days after written notice from Lender, and continuing on the first day of each month thereafter, Lessee shall deposit in the deposit account established by Lessor with Lender for capital expenditures ("Capital Ex Reserve Account"), as Additional Rent, a monthly amount equal to at least \$350 per bed, per year, or any greater amount Lessor is required to make under the Loan Documents (the "Minimum Cap Ex Obligation"), to be used for capital improvements at the applicable Facility and/or to purchase furniture, fixtures and equipment ("Capital Expenditures Reserves"). Not more than annually, at the request of Lessor, Lessor and Lessee shall review capital expenditures budgets and agree on modifications, if any, required by changed circumstances and the changed conditions of the Demised Premises. Thereafter throughout the Term, Lessee shall submit to the Lessor written requests for disbursement of amounts from the Capital Ex Reserve Account for capital expenditures completed during the Term, provided that such amounts shall be disbursed to Lessee upon Lessor's receipt of due paid invoices and subject to the requirements of the Loan Documents. Upon termination of this Lease and payment of any amounts owing by Lessee hereunder, any remaining Capital Expenditure Reserves held by Lessor and posted by any Lessee shall be promptly returned to Lessee.

7.2 In addition to the requirements of Section 7.1, Lessee shall, within the time frame referenced in the Loan Documents, cause the work required to be completed pursuant to the Loan Documents (including without limitation, critical and non-critical repairs) to be completed in a good, safe and workmanlike manner and in accordance with all applicable laws, ordinances, rules and regulations at its expense. Promptly following completion thereof, Lessee shall provide Lessor with evidence thereof reasonably acceptable to Lessor and Lender. Any capital repairs or improvements with a cost in excess of \$10,000 shall be required to be approved by Lessor in writing prior to the commencement of such work.

7.3 Following the occurrence and continuation of any uncured Event of Default Lessee shall not (i) declare, pay or make any Distribution (other than dividends or distributions payable in its stock, or split-ups or reclassifications of its stock), (ii) apply any of its funds, property or assets to the acquisition, redemption or other retirement of any membership or equity interest, (iii) otherwise make any payments or Distributions to any stockholder, member, partner or other equity owner in such person's capacity as such, or (iv) make any payment in excess of documented, out-of-pocket costs and expenses, but in no event to exceed two percent (2%) of the gross monthly revenue of the Facility, for any management, consulting or service fee to any related or affiliated party; and any obligation of Lessee to make any of the foregoing payments shall be and hereby is made subordinate and junior in right of payment to the payment of all Rent, and other payment obligations of Lessee hereunder. "**Distribution**" shall mean any direct or indirect dividend, distribution or other payment of any kind or character (whether in cash, securities or other property) in respect of any equity interests or any repayment of indebtedness to any member of Lessee or any affiliate or relative thereof. Notwithstanding the foregoing, Lessee shall not make any

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Distributions that would limit Lessor's ability to distribute available cash under the Loan Documents, as applicable, and prior to any Distribution, Lessee shall obtain written consent from Lessor, not to be unreasonably withheld, that no such limitation will result.

ARTICLE VIII - OCCUPANCY

8.1 During the term of this Lease, the Demised Premises shall be used and occupied by Lessee for and as a supportive living facility, as well as any other structures located thereon, and for no other purpose. Subject to the terms of Article XX hereof, Lessee shall at all times maintain in good standing and full force a probationary or non-probationary license issued by the State of Illinois and any other governmental agencies permitting the operation on the Demised Premises of a supportive living facility and shall use its best efforts to obtain a certificate to participate in the Illinois Medicaid Program as soon as practicable after the Effective Date. Thereafter, subject to the terms of Article XX hereof, Lessee shall at all times maintain in good standing and full force a provider agreement pursuant to which the Facility shall be entitled to participate in the Illinois Medicaid Program and receive reimbursement for the services provided at the Facility.

8.2 Lessee will not suffer any act to be done or any condition to exist at the Facility which may be dangerous or which may, in law, constitute a public or private nuisance or which may void or make voidable any insurance then in force affecting the Facility.

8.3 Upon termination of this Lease for any reason, Lessee will return to Lessor the Demised Premises in the same condition as existed on the Effective Date, reasonable wear and tear excepted, and with an unrestricted license issued by the State of Illinois and by any and all governmental agencies having jurisdiction over the Demised Premises, subject to any change in the number of beds required by any governmental authority solely as a result of changes in laws, rules and regulations relating to the physical attributes or the improvements on the Demised Premises. Except as otherwise specifically provided herein, no reduction in the number of beds shall entitle Lessee to any reduction or adjustment of the Rent payable hereunder, which shall be and continue to be payable by Lessee in the full amount set forth herein notwithstanding any such reduction in the number of beds. However, the Lessor shall increase the Rent in the event the Facility is licensed for additional beds, as further provided in Section 8.5 hereof. Lessee shall, within five (5) business days following its receipt thereof, provide Lessor with a copy of any notice from the Illinois Department of Public Health ("IDPH") or any federal, state or municipal governmental agency or authority regarding any reduction in the number of beds and Lessor shall have the right to contest, by appropriate legal or administrative proceedings, any such reduction.

8.4 During the term hereof, Lessee shall only use the Demised Premises in accordance with Environmental Laws (as hereinafter defined) and shall not use nor permit the Demised Premises to be used for the treatment, storage or disposal of any Hazardous Substances

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(as hereinafter defined) nor for any purpose involving the use of Hazardous Substances; provided, however, that Lessee may use in and store at the Facility such materials and substances as are customarily used in residential care facilities but only in such quantities as are reasonably necessary for the routine business operation of the Facility and such use and storage must in all cases comply with all applicable Environmental Laws. For purposes hereof "Hazardous Substances" shall mean any toxic or hazardous waste or pollutants, or substances, including, without limitation, asbestos, PCB'S, petroleum products and by products, substances defined or listed as: "Hazardous Substances" or "Toxic Substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") as amended, 42 U.S.C. § 9601, et seq., "Hazardous Materials" in the Hazardous Materials Transportation Act, 49 U.S.C. § 1802, et seq., "Hazardous Waste" in The Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq., any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. § 2061, et seq., any "Toxic Pollutant" under the Clean Water Act, 33 U.S.C. § 1251, et seq., as amended, any "Hazardous Air Pollutant" under the Clean Air Act, 42 U.S.C. § 7401, et seq., and any hazardous or toxic substance or pollutant regulated under any other applicable federal, state or local Environmental Laws. "Environmental Laws" as used in this Lease means all federal, state and local environmental, health, or safety laws or regulations now or hereafter enacted applicable to the Demised Premises, including the Facility. Lessee hereby agrees to indemnify, defend and hold Lessor harmless from and against, and shall reimburse Lessor for any and all loss, claim, liability, damages, injunctive relief, injuries to persons, property or natural resources, cost, expense, action and causes of action in connection with the use, generation, treatment, storage, release or disposal of Hazardous Substances at or from the Demised Premises during the term of the Lease, which is caused by Lessee or its officers, directors, members, manager, agents, employees, contractors or invitees, including, without limitation, the cost of any required or necessary repair, cleanup or detoxification and the preparation of any closure or other required work to be performed, to the full extent that such action is attributable, directly or indirectly, to the use, generation, treatment, storage, release or disposal of Hazardous Substances on the Demised Premises during the term hereof.

8.5 In no event shall Lessee relocate any of the licensed bed, or certificate of need, rights at the Facility to another location, or otherwise reduce the number of licensed beds, without Lessor's express written consent which may be withheld in Lessor's sole discretion. Any action taken by Lessee in connection with any of the foregoing matters without Lessor's express written consent shall be void and of no force and effect. Any and all license and beds rights with respect to the Facility, to the extent permitted under applicable law, shall be the property of Lessor and included in the Demised Premises hereunder. In the event the Facility adds any licensed beds during the Term, then to the extent permitted by applicable law such additional beds shall become part of the Demised Premises and all rights with respect thereto shall be the property of Lessor and may not be subsequently removed or transferred by Lessee. In such event, Lessor shall proportionately increase the Rent as a result of such additional licensed beds simultaneously with the licensing thereof.

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ARTICLE IX - INSURANCE

9.1 Subject to any additional requirements of the Loan Documents, as applicable, Lessee shall, at its sole cost and expense, during the full term of this Lease, maintain fire and casualty insurance, with extended coverage endorsement, which includes coverage for malicious mischief and vandalism both on the Demised Premises and the Personal Property on the Illinois standard form with a responsible company or companies designated by Lessee. Such insurance shall, at all times, be maintained in an amount equal to the full replacement value of the Demised Premises and Personal Property, but not less than that required by any Lender, but in any event in an amount sufficient to prevent Lessor and Lessee from becoming co-insurers under applicable provisions of the insurance policies. Such insurance shall at all times be payable to Lender, as applicable, Lessor and Lessee, as their interests may appear, and shall contain a loss-payable clause to Lender, as its interest may appear. Upon the reasonable request of Lessor, not more frequently than such time as required by Lessee's insurance carrier or the Lender, Lessee shall furnish, at its sole cost and expense, to Lessor and such insurance carrier, insurance appraisals in form and substance as are regularly and ordinarily made by insurance companies, in order to determine the then replacement value of the Demised Premises and Personal Property, and if such appraisal shows that the amount of casualty insurance maintained by Lessee hereunder is insufficient, the amount of insurance required by this Section 9.1 shall be adjusted accordingly.

9.2 Lessee shall also, at Lessee's sole cost and expense, cause to be issued and shall maintain during the entire term of this Lease:

(a) A public liability policy naming Lessor, Lender and Lessee, as insured, and insuring them against claims for bodily injury, or property damage occurring upon, in or about the Demised Premises, or in or upon the adjoining streets, sidewalks, passageways and areas, such insurance to afford protection to the limits reasonably established by Lessee in the operation of its business. Such public liability insurance may be self-insured by Lessee in accordance with its standard self-insurance program.

(b) If there is a boiler, air conditioner or water heater located on the Demised Premises, boiler explosion insurance, in the amount of \$500,000.00, under the terms of which Lessor, Lender and Lessee will be indemnified, as their interests may appear, against any loss or damage which may result from any accident or casualty in connection with any such equipment used in the Demised Premises, whereby any person or persons may be injured or killed or property damaged in or about the Demised Premises.

(c) Professional malpractice insurance in the amount reasonably established by Lessee in the operations of its business (provided, however, Lessee shall not be required to include independent contractors under its insurance coverage).

9.3 All policies of insurance shall provide:

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(a) They are carried in favor of the Lessor, Lessee, and Lender, as their respective interests may appear, and any loss shall be payable as therein provided, notwithstanding any act or negligence of Lessor or Lessee, which might otherwise result in forfeiture of insurance; and

(b) They shall not be canceled, terminated, reduced or materially modified without at least thirty (30) days' prior written notice to Lessor and Lender; and

(c) A standard mortgagee and loss payee clause in favor of any Lender, and shall contain, if obtainable, a waiver of the insurer's right of subrogation against funds paid under the standard mortgagee and loss payee endorsement which are to be used to pay the cost of any repairing, rebuilding, restoring or replacing.

9.4 Certificates of insurance policies required by this Article shall be delivered to Lessor and Lender prior to or on the Effective Date. Upon receipt thereof, Lessee shall deliver the actual policies to Lessor, which certificates and policies shall be updated annually not less than twenty (20) days prior to the expiration date thereof.

9.5 Anything in this Lease to the contrary notwithstanding, Lessee hereby waives and releases Lessor from any and all rights of recovery, claim, action or cause of action, against Lessor, its shareholders, managers, members, partners, agents, officers and employees, for any loss or damage that may occur to the Demised Premises or the Personal Property, which should be covered by property insurance of the type required to be carried by Lessee under this Lease (with Lessee also being responsible and, waiving all claims against Lessor, as to all deductible amounts which the Lessee chooses to maintain under its property insurance policies and as to any damages or losses relating to risks which Lessee elects to self-insure hereunder), regardless of cause or origin, including negligence of Lessor and its shareholders, managers, members, partners, agents, officers and employees. Lessee agrees to give immediately to its insurance companies which have issued policies of insurance covering any risk of direct physical loss, written notice of the terms of the waivers contained in this Section 9.5, and to have the insurance policies properly endorsed with a waiver of subrogation endorsement running to the benefit of Lessor. Lessee acknowledges that the waivers and releases set forth in this Section 9.5 are intended to result in any loss or damage which is covered by insurance being borne by the insurance carrier of Lessee, or by Lessee if such loss is not covered by insurance and this Lease required Lessee to maintain insurance to cover such loss or if Lessee elects to self-insure if this Lease permits such party to self-insure such loss. Lessee agrees that such waivers and releases were freely bargained for and willingly and voluntarily agreed to by Lessee and do not constitute a violation of public policy.

ARTICLE X - LESSOR'S RIGHT TO PERFORM

10.1 Should Lessee fail to perform any of its covenants (excluding, however, for purposes of this paragraph Lessee's covenant to pay rent) herein agreed to be performed, Lessor may, upon ten (10) days' prior notice specifying the work to be done, covenants to be performed

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and the approximate amount be expended, but shall not be required to, make such payment or perform such covenants, and all sums so expended by Lessor thereon shall upon notice of payment by Lessor be immediately payable by Lessee to Lessor, and in addition, Lessee shall reimburse Lessor for Lessor's reasonable expenses in enforcing or performing such covenants, including reasonable attorneys' fees. Any such costs or expenses incurred or payments made by the Lessor shall be deemed to be Additional Rent payable by Lessee and collectible as such by Lessor.

10.2 Performance of and/or payment to discharge said Lessee's obligations shall be optional with Lessor and such performance and payment shall in no way constitute a waiver of, or a limitation upon, Lessor's other rights and remedies hereunder, including, without limitation, Lessor's right to declare an Event of Default for such failure.

ARTICLE XI - REPAIRS, MAINTENANCE AND IMPROVEMENTS

11.1 Throughout the term of this Lease, Lessee, at its sole cost and expense, will keep and maintain, or cause to be kept and maintained, the Demised Premises (including the grounds, sidewalks and curbs abutting the same) and the Personal Property in good order and condition without waste and in a suitable state of repair at least comparable to that which existed immediately prior to the Effective Date (ordinary wear and tear excepted), and will make or cause to be made, as and when the same shall become necessary, all structural and nonstructural, exterior and interior, replacing, repairing and restoring necessary to that end. All replacing, repairing and restoring required of Lessee shall be (in the reasonable opinion of Lessor) of comparable quality equal to the original work and shall be in compliance with all standards and requirements of law, licenses and municipal ordinances necessary to operate the Demised Premises as a residential care facility.

11.2 In the event that any part of the improvements located on the Demised Premises or the Personal Property shall be damaged or destroyed by fire or other casualty (any such event being called a "Casualty"), Lessee shall promptly replace, repair and restore the same as nearly as possible to the condition it was in immediately prior to such Casualty, in accordance with all the terms, covenants and conditions and other requirements of this Lease and the Loan Documents applicable in the event of such Casualty. The Demised Premises and the Personal Property shall be so replaced, repaired and restored as to be of at least equal value and substantially the same character as on the Effective Date. Lessee covenants that it will give to Lessor and Lender prompt written notice of any Casualty affecting the Demised Premises in excess of Fifty Thousand Dollars (\$50,000.00). If the estimated cost of any such restoring, replacing or repairing is Two Hundred Thousand Dollars (\$200,000.00) or more, the plans and specifications for same shall be first submitted to and approved by Lender and Lessor in writing, which approval shall not be unreasonably withheld or delayed, and Lessee shall select an independent architect or engineer approved by Lender and Lessor (which approval shall not be unreasonably withheld or delayed) who shall be in charge of such repairing, restoring or replacing.

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11.3 Provided that there is no uncured Event of Default by Lessee under the Lease, Lessee shall have the right, at any time and from time to time, to remove and dispose of any Personal Property which may have become obsolete or unfit for use, or which is no longer useful in the operation of the Demised Premises, provided Lessee promptly replaces any such Personal Property so removed or disposed of with other personal property free of any security interest, liens or encumbrances, and the replacement personal property shall be of the same character, and at least equal usefulness and quality to any such Personal Property so removed or disposed of and such replacement property shall automatically become the property of and shall belong to the Lessor and Lessee shall execute and deliver such bills of sale or other documents reasonably requested by Lessor to vest ownership of such replacement personal property in Lessor.

ARTICLE XII - ALTERATIONS AND DEMOLITION

Lessee will not remove or demolish the Demised Premises or any portion thereof or allow it to be removed or demolished, without the prior written consent of the Lessor and Lender. Lessee further agrees that it will not make, authorize or permit to be made any changes or alterations in or to the Demised Premises, the cost of which in any twelve (12) month period exceeds One Hundred Thousand Dollars (\$100,000.00), without first obtaining the Lessor's and Lender's written consent thereto which will not be unreasonably withheld or delayed. All alterations, improvements and additions to the Demised Premises shall be in quality and class at least equal to the original work and shall become the property of the Lessor and shall comply with all building and fire codes, and all other applicable codes, rules, regulations, laws and ordinances. Not less than forty-five days prior to the commencement of any such changes or alterations, the cost of which in any twelve (12) month period may exceed Two Hundred Fifty Thousand Dollars (\$250,000.00), Lessee shall furnish to Lessor and Lender (upon request), at Lessee's sole cost and expense, plans and specifications, prepared by a licensed architect, for such changes or alterations and any additional insurance reasonably required by Lessor or Lender. Such plans and drawings shall include detailed architectural, mechanical, electrical and plumbing working drawings. The plans and drawings will be subject to Lessor's and Lender's approval with respect to design, aesthetics, building code compliance and such other matters as Lessor or Lender deems relevant, which approval shall not unreasonably be withheld or delayed.

ARTICLE XIII - COMPLIANCE WITH LAWS AND ORDINANCES

13.1 Throughout the term of this Lease, Lessee, at its sole cost and expense, will obey, observe and promptly comply with all present and future laws, ordinances, orders, rules, regulations and requirements of any federal, state and municipal governmental agency or authority having jurisdiction over the Facility and the operation of the Facility as a residential care facility, which may be applicable to the Personal Property and the residential care facility located thereon and including, but not limited to, the sidewalks, alleyways, passageways, vacant land, parking spaces, curb cuts, curbs adjoining such portion of the Demised Premises, whether or not such law, ordinance, order, rules, regulation or requirement shall necessitate structural changes or improvements.

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13.2 Lessee shall likewise observe and comply with the requirements of all policies of public liability and fire insurance and all other policies of insurance at any time in force with respect to any portion of the Demised Premises.

13.3 Lessee shall, subject to the terms of Article XX hereof, keep in good standing and in full force and effect all necessary licenses, permits and certifications required by any governmental authority for the purpose of maintaining and operating on the Demised Premises a supportive living facility. Lessee shall use its best efforts to obtain a certificate to participate in the Illinois Medicaid Program as soon as practicable after the Effective Date. Thereafter, subject to the terms of Article XX hereof, Lessee shall at all times continue to be qualified to, and shall participate in, the Illinois Medicaid Program.

13.4 Upon request of Lessor, Lessee will deliver or mail to Lessor wherever Rent is then paid, within seven (7) calendar days of receipt thereof, copies of all exit interviews, inspection reports and surveys which may have an adverse effect on the Facility's licensure status and/or the Illinois Medicaid Program certification, and administrative hearing and/or court action from all state, federal and local governmental bodies regarding the Demised Premises or the Facility operated thereon. Without request, Lessee shall in all events notify a principal of Lessor, or if Lessor's principals are unavailable, Lessor's attorney, within seven (7) calendar days after receipt thereof by the licensee of the Facility ("Licensee") of any and/or all of the following notices ("Notices") from any Governmental Authority: (i) any and all Notices of intent to impose and/or Notice of "immediate jeopardy" and/or of "Substandard Quality of Care" (as defined by federal regulations, *i.e.*, deficiencies under 42 CFR 483.13 or 483.25 with scope and severity levels of F, G, H, I, J, K or L) or any state equivalent Notices; (ii) any and all Notices or receipts of a conditional license; (iii) any and all Notices of intent to and/or Notice of revocation, termination, cancellation, surrender and/or of non-renewal of any license; (iv) any and all Notices of conditional certification and/or intent to conditionally certify Licensee; (v) any and all Notices of intent to terminate and/or Notice of Licensee's termination of participation in the Illinois Medicaid Program; (vi) any and all Notices of intent to decertify and/or Notices of decertification of Licensee's participation in the Illinois Medicaid Program and/or the termination of any payments thereunder; (vii) any and all Notices of intent to impose and/or the imposition of any Civil Monetary Penalty, and/or any fine in excess of \$25,000.00 in the aggregate for any survey cycle; (viii) any and all Notices of intent to cease payment after a certain date for any new Illinois Medicaid Program residents admitted after said date; (ix) any and all Notices of intent to place, and/or the placement of, a State Monitor in the Facility; and/or (x) any and all Notices to transfer and/or of intent to transfer any and/or all Illinois Medicaid residents on and/or after a certain date.

ARTICLE XIV - DISCHARGE OF LIENS

14.1 Subject to the right to contest provided in Section 14.2 hereof, Lessee will not create or permit to be created or to remain, and Lessee will discharge, any lien, encumbrance or charge levied on account of any mechanic's, laborer's or materialman's lien or any conditional sale, security agreement or chattel mortgage, or otherwise, which might be or become a lien,

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encumbrance or charge upon the Demised Premises or any part thereof or the income therefrom or the Personal Property, for work or materials or personal property furnished or supplied to, or claimed to have been supplied to or at the request of Lessee. Lessee shall have the right to purchase equipment, furniture, or furnishings which may be subject to a security agreement provided that the stockholders, partners or members, as applicable, of Lessee shall personally guarantee to Lessor that all payments for any such equipment, furniture or furnishings shall be paid on or prior to the due dates thereof and indemnify Lessor against all charges, costs and expenses that may be incurred by Lessor with respect to such security agreement or chattel mortgage. Lessee hereby agrees to obtain and deliver to Lessor such guaranty and indemnity agreement.

14.2 If any mechanic's, laborer's or materialman's lien caused or charged to Lessee shall at any time be filed against any portion of the Demised Premises or Personal Property, if allowed by the terms of the Loan Documents, and the applicable Lender, Lessee shall have the right to contest such lien or charge.

14.3 In the event that Lessor determines in its reasonable judgment, that it is not being adequately represented by counsel for Lessee in any contest referred to in Section 14.2 hereof, such party may, upon (10) days prior written notice to Lessee, obtain separate counsel to represent it in such contest. In such event, the cost of such counsel shall be paid by Lessee. In the event that Lessor determines, in its reasonable judgment, that Lessee has abandoned any contest referred to in Section 14.2 above, and/or that Lessee is not pursuing any such contest with due diligence, then such party may, upon (10) days' prior written notice to Lessee, discharge such lien by paying the amount claimed to be due from the security deposited by Lessee pursuant to the terms of Section 14.2.

ARTICLE XV - INSPECTION OF PREMISES AND RECORDS BY LESSOR

15.1 At any time, during reasonable business hours, Lessor, Lender and/or their authorized representatives shall have the right to enter and inspect the Demised Premises and Personal Property.

15.2 At any time, during reasonable business hours, Lessor, Lender and/or their authorized representatives shall have the right to inspect, and, at Lessor's expense, make copies of, the books and records relating to the Demised Premises, or any part thereof, including, without limitation, to the extent permitted by applicable law all patient records, employment records, surveys and inspections reasonably required by Lessor.

15.3 Lessor agrees that upon entering and inspecting the Demised Premises, Personal Property and books and records Lessor shall take all reasonable measures to avoid disruption to Lessee's routine business operation during any such entries and the person or persons will cause as little inconvenience to the Lessee, its employees and residents of the Demised Premises as may reasonably be possible under the circumstances.

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ARTICLE XVI - CONDEMNATION

16.1 If all of the Demised Premises is taken by the exercise of the power of eminent domain, or sold under eminent domain proceedings, this Lease shall terminate as of the date possession is taken by the condemnor.

16.2 If less than all of the Demised Premises are taken by the exercise of the power of eminent domain or sold under eminent domain proceedings and Lessee reasonably believes that, in light of such exercise of eminent domain or sale pursuant to eminent domain proceedings, it can no longer operate the Facility in materially the same manner as prior to the exercise of eminent domain and such belief is consistent with reasonable business practices, then Lessee may either (a) terminate the Lease or, (b) subject to the consent and approval of Lessor and any Lender, shall, with reasonable diligence, restore or rebuild to the extent reasonably practicable any improvements upon the Demised Premises affected by the taking. In the event the amount awarded and made available to Lessee shall be insufficient to repair and restore the Demised Premises, Lessee shall contribute the amount of any such deficiency. In the event that the number of beds is reduced or increased, even after the Demised Premises are restored under this Section, the Base Rent provided herein shall be proportionately decreased or increased (but only with respect to this paragraph), as applicable, proportionately based upon the amount of such reduction or increase.

16.3 In the event that all or less than all of the Demised Premises are taken by the exercise of the power of eminent domain, or sold under eminent domain proceedings, the entire award for the real estate, improvements, fixtures and personal property relating thereto shall be subject to the provisions of the Loan Documents and the rights of Lender thereunder. Lessee shall be entitled to any award in excess of such amount or to any award that it can prove for damage to its leasehold interest, provided that such award is separately allocated to Lessee by the condemning authorities and does not diminish or reduce the award to be paid to Lessor or Lender.

ARTICLE XVII - RENT ABSOLUTE

17.1 Except as herein provided damage to or destruction of any portion of the buildings, structures and fixtures upon the Demised Premises, by fire, the elements or any other cause whatsoever, whether with or without fault on the part of Lessee, shall not terminate this Lease or entitle Lessee to surrender the Demised Premises or entitle Lessee to any abatement of or reduction in the Rent payable, or otherwise affect the respective obligations of the parties hereto, any present or future law to the contrary notwithstanding.

ARTICLE XVIII - ASSIGNMENT AND SUBLETTING

18.1 During the term of the Lease, Lessee shall not assign this Lease or in any manner whatsoever sublet, assign, encumber or transfer all or any part of the Demised Premises or in any manner whatsoever transfer, assign or encumber any interest in the Demised Premises or any

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interest in this Lease (hereinafter collectively an "Assignment") without the prior written consent of the Lessor and Lender, which consent may be withheld, in such party's sole discretion. Any Assignment without the prior written consent of Lender shall be void *ab initio*. As a condition of granting its consent to any sublease or other Assignment, Lessee shall pay, and Lessee hereby agrees to pay, any and all reasonable out of pocket third-party costs and expenses of Lessor incurred in connection with such Assignment, including, without limitation, all due diligence costs and attorneys' fees.

18.2 For purposes of this Article:

(1) Any person, corporation, limited liability company or other entity to whom Lessee's interest under this Lease passes by operation of law, or otherwise, shall be bound by the provisions of this Article, and except as otherwise specifically provided above, obtain the consent of Lessor to any subsequent sublease, assignment, encumbrance and/or transfer or such event shall be deemed an Event of Default hereunder.

(2) An agreement by any person, corporation or other entity, directly or indirectly, to assume Lessee's obligations under this Lease shall be deemed an Assignment.

ARTICLE XIX - EVENTS OF DEFAULT

19.1 The occurrence of any of the following acts or events shall be deemed to be a default ("Events of Default") on the part of the Lessee:

(1) The failure of Lessee to pay when due any Rent payment, or any part thereof, or any other sum or sums of money due or payable to the Lessor under the provisions of this Lease when such failure shall continue for a period of two (2) calendar days;

(2) The failure of Lessee to perform, or the violation by Lessee of, any of the covenants, terms, conditions or provisions of this Lease, if such failure or violation shall not be cured within thirty (30) days after written notice thereof by Lessor to Lessee;

(3) The failure of Lessee to comply with, or the violation by Lessee of, any of the terms, conditions or provisions of the Loan Documents (except for those terms, conditions or provisions requiring the making of principal and/or interest payments or which relate specifically to Lessor, and/or its beneficiaries or stockholders), if such failure or violation shall not be cured within twenty (20) days (or such lesser period as may be provided in the Loan Documents) after notice thereof by Lessor to Lessee;

(4) In the event Lessee removes any physical beds or a substantial portion of the Personal Property at the Facility or Lessee removes Personal Property necessary to the operation of the Facility, the failure of Lessee to replace within thirty (30) days after written notice by Lessor to Lessee, the Personal Property so removed by Lessee subject to the provisions of Section 30.11 hereof;

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- (5) The making by Lessee of an assignment for the benefit of creditors;
- (6) The levying of a writ of execution or attachment on or against the property of Lessee which is not discharged or stayed by action of Lessee contesting same, within thirty (30) days after such levy or attachment (provided if the stay is vacated or ended, this paragraph shall again apply);
- (7) If voluntary or involuntary proceedings are instituted in a court of competent jurisdiction for the reorganization, liquidation or involuntary dissolution of the Lessee or for its adjudication as a bankrupt or insolvent, or for the appointment of a receiver of the property of Lessee, and, solely in the case of involuntary proceedings, said proceedings are not dismissed or any receiver, trustee or liquidator appointed therein has not been discharged within sixty (60) days after the institution of said proceedings;
- (8) The sale of the interest of Lessee in the Demised Premises under execution or other legal process;
- (9) Any conveyance or transfer in violation of Article XVIII hereof;
- (10) The abandonment of the Demised Premises by Lessee;
- (11) Subject to Lessee's right to contest as provided in Article XX hereof, the failure or the part of Lessee during the term of this Lease to cure or abate any written violation claimed by any governmental authority, of any law, order, ordinance, rule or regulation pertaining to the operation of the Facility within the time permitted for such cure and/or abatement;
- (12) Subject to Lessee's right to contest as provided in Article XX hereof, the institution of any proceedings against Lessee by any governmental authority either to: (i) revoke any license granted to Lessee for the operation of the Facility as a residential care facility or requiring Lessee to cease operating its business; or (ii) decertify the Facility from participation in the Illinois Medicaid Program; or
- (13) The voluntary transfer by Lessee of residents from the Facility to any other nursing home facility owned or leased or under common control with Lessee or its affiliates where such transfer is not for reasons relating to the health and well-being of the patients transferred or is otherwise required by law;
- (14) The designation of any Facility as a "Special Focus Facility" by CMS;
- (15) A survey deficiency of the level of "IJ" or worse at any Facility, that is not abated within five (5) days;

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(16) Lessee is obligated to pay any fine or penalty, either in one instance or in the aggregate, over any twelve (12) month period, of Fifty Thousand Dollars (\$50,000) or greater;

(17) The failure of any of Lessee to pay any and all fees or bed taxes assessed against any Facility prior to delinquency or in accordance with any payment plan with IDPH or other applicable authority (subject to Lessor's agreement with such payment plan, in accordance with the terms of this Lease);

(18) The failure of Lessee to comply with the terms of any insurance policy affecting the Demised Premises and required hereunder within the time provided in such policy to cure such non-compliance prior to cancellation thereof; provided, however, that Lessee shall not be in default hereunder if prior to the cancellation of such policy of insurance Lessee obtains a replacement thereof.

The occurrence of any of the events listed in this Article 19 by any party to whom the Demised Premises has been transferred shall be an Event of Default hereunder.

ARTICLE XX - RIGHT TO CONTEST/CURE

20.1 Anything to the contrary stated herein notwithstanding, Lessee shall have the right to contest by appropriate administrative and/or legal proceedings, diligently conducted in good faith, the validity or application of any law, ordinance, regulation or rule mentioned herein, and to delay compliance therewith pending the prosecution of such proceedings, including, without limitation, any proceeding pursuant to paragraphs 19.1(11) and/or 19.1(12) above. In the event such contest involves a violation, the decertification or license revocation from the Illinois Medicaid Program, Lessee shall give Lessor written notice of its election to contest. Notwithstanding anything to the contrary contained herein, Lessee shall not be in default hereunder during its diligent and good faith contest as described in the first sentence of this paragraph provided that at all times the following conditions are satisfied: (i) no civil or criminal liability would thereby be incurred by Lessor and no criminal liability would thereby be incurred by Lessee and no lien or charge would thereby be imposed upon or satisfied out of the Demised Premises; (ii) there continues during the course of such contest authority to continue operations of the Facility as a residential care facility (which may be temporary or provisional); and (iii) such situation does not at any time constitute a default under any provision of the Loan Documents.

20.2 Except for an Event of Default of Lessee in the payment of Rent or any other payment required hereunder, in any case where Lessor shall have given to Lessee a written notice specifying a situation which, as hereinbefore provided, must be remedied by Lessee within a certain time period, and, if for causes beyond Lessee's control, it would not reasonably be possible for Lessee to cure such situation within such period, then, provided Lessee, immediately upon receipt of such notice, shall advise Lessor of Lessee's intention to institute, and shall, as soon as reasonably possible thereafter, duly institute, and thereafter diligently

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prosecute to completion, all steps necessary to cure such situation and shall cure the same, during the period necessary to cure such situation. Notwithstanding anything to the contrary contained herein, although such situation as described in the first sentence of this paragraph shall be deemed an Event of Default hereunder, Lessor shall not pursue and shall not be entitled to pursue any remedies arising solely from the occurrence of such Event of Default hereunder so long as Lessee conducts a diligent and good faith contest as described in the first sentence, provided that at all times the following conditions are satisfied: (i) no civil or criminal liability would thereby be incurred by Lessor and no criminal liability would thereby be incurred by Lessee and no lien or charge would thereby be imposed upon or satisfied out of all or any part of the Demised Premises; and (ii) there continues during the course of such cure authority to continue to operate the Facility as a residential care facility (which may be temporary or provisional), and (iii) such situation does not at any time constitute a default under any provision of the Loan Documents.

20.3 Lessee shall promptly provide Lessor with a copy of any notice from IDPH or other governmental authority or agency threatening or requesting a reduction in the number of beds at the Facility. Lessee shall have the right to contest any such reduction and shall notify Lessor within fifteen (15) days following the date of such notice (or shorter period required to provide notice to Lessor not later than ten (10) days prior to the cutoff date for any such contest) whether or not Lessee shall undertake such contest. If Lessee fails to contest any such reduction, Lessor may, following written notice to Lessee of its intent to do so, contest any such reduction. Any such contest shall be conducted by counsel reasonably satisfactory to the other party and the cost of such contest shall be paid by Lessee.

ARTICLE XXI - LESSOR'S REMEDIES UPON DEFAULT

21.1 In the event of any Event of Default by Lessee, Lessor may, if it so elects, and with notice of such election to Lessee, and upon demand upon Lessee, forthwith terminate this Lease and Lessee's right to possession of the Demised Premises, or, at the option of the Lessor, terminate Lessee's right to possession of the Demised Premises without terminating this Lease. Upon any such termination of this Lease, or upon any such termination of Lessee's right to possession without termination of this Lease, Lessee shall vacate the Demised Premises immediately, and shall quietly and peaceably deliver possession thereof to the Lessor, and Lessee hereby grants to the Lessor full and free license to enter into and upon the Demised Premises in such event with process of law and to repossess the Demised Premises and Personal Property as the Lessor's former estate. In the event of any such termination of this Lease, the Lessor shall again have possession and enjoyment of the Demised Premises and Personal Property to the extent as if this Lease had not been made, and thereupon this Lease and everything herein contained on the part of Lessee to be done and performed shall cease and terminate, all, however, without prejudice to and without relinquishing the rights of the Lessor to Rent (which, upon such termination of this Lease and entry of Lessor upon the Demised Premises, shall, in any event, be the right to receive Rent due up to the time of such entry) or any other right given to the Lessor hereunder or by operation of law.

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21.2 In the event of an Event of Default and Lessor elects either to terminate this Lease or to terminate Lessee's right to possession of the Demised Premises, then all licenses, certifications, permits and authorizations issued by any governmental agency, body or authority in connection with or relating to the Demised Premises and the Facility thereon shall be deemed as being assigned to Lessor to the extent the same are legally assignable. Lessor shall also have the right to continue to utilize the telephone number and name used by Lessee in connection with the operation of the Facility. This Lease shall be deemed and construed as an assignment for purposes of vesting in Lessor all right, title and interest in and to (i) all licenses, certifications, permits and authorizations obtained in connection with the operation of the Facility and (ii) the names and telephone numbers used in connection with the operation of the Facility. Lessee hereby agrees to take such other action and execute such other documents as may be reasonably necessary in order to vest in Lessor all right, title and interest to the items specified herein.

21.3 If Lessee abandons the Demised Premises or otherwise entitles Lessor so to elect, and the Lessor elects to terminate Lessee's right to possession only, without terminating this Lease, Lessor may, at its option, enter into the Demised Premises, remove Lessee's signs and other evidences of tenancy and take and hold possession thereof as in the foregoing Section 21.1 of this Article provided, without such entry and possession terminating this Lease or releasing Lessee, in whole or in part, from Lessee's obligation to pay the Rent hereunder for the full remaining term of this Lease, and in any such case, Lessee shall pay to Lessor a sum equal to the entire amount of the Rent reserved hereunder and required to be paid by Lessee up to the time of such termination of the right of possession plus any other sums then due hereunder. Upon and after entry into possession without termination of this Lease, Lessor may attempt to relet the Demised Premises or any part thereof for the account of Lessee for such rent, or may operate the Facility for such time and upon such terms as Lessor in its sole discretion shall determine. In the event Lessor elects to take possession and operate the Demised Premises any profits due to such operation shall reduce the rents payable hereunder. In any such case, Lessor may make repairs, alterations and additions in or to the Demised Premises, to the extent reasonably deemed by Lessor desirable, and Lessee shall, upon demand, pay the cost thereof, together with Lessor's expenses of reletting. If the consideration collected by Lessor upon any such reletting is not sufficient to pay monthly the full amount of Rent reserved in this Lease, together with the costs of repairs, alterations and additions and Lessor's expenses, Lessee shall pay to the Lessor the amount of each monthly deficiency upon demand.

21.4 Lessee's liability to Lessor for damages upon the occurrence of an Event of Default shall in all events survive the termination by Lessor of the Lease or the termination by Lessor of Lessee's right to possession only, as hereinabove provided. Upon such termination of the Lease or at any time after such termination of Lessee's right to possession, Lessor may recover from Lessee and Lessee shall pay to Lessor as liquidated and final damages, whether or not Lessor shall have collected any current monthly deficiencies under the foregoing paragraph, and in lieu of such current deficiencies after the date of demand for such final damages, the amount thereof found to be due by a court of competent jurisdiction, which amount thus found shall be equal to:

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- (a) the remainder, if any, of Rent and charges due from Lessee for the period up to and including the date of the termination of the Lease or Lessee's right to possession; plus
- (b) the amount of any current monthly deficiencies accruing and unpaid by Lessee up to and including the date of Lessor's demand for final damages hereunder; plus
- (c) the excess, if any, of
 - (i) the Rent reserved for what would have been the remainder of the term of this Lease together with charges to be paid by Lessee under the Lease; over
 - (ii) the then fair rental value of the Demised Premises and the Personal Property.

If any statute or rule governing a proceeding in which such liquidated final damages are to be proved shall validly limit the amount thereof to an amount less than the amount above agreed upon, Lessor shall be entitled to the maximum amount allowable under such statute or rule of law.

21.5 No receipt of funds by Lessor from Lessee after service of any notice of an Event of Default, termination of this Lease or of possession of the Demised Premises or after commencement of any suit or proceeding of Lessee shall in any way reinstate, continue or extend this Lease or in any way affect the notice of the Event of Default or demand or in any way be deemed a waiver by Lessor of any of its rights unless consented to by Lessor.

ARTICLE XXII - LIABILITY OF LESSOR

It is expressly agreed by the parties that in no case shall Lessor be liable, under any express or implied covenant, agreement or provisions of this Lease, for any damages whatsoever to Lessee beyond the Rent reserved in this Lease accruing after or upon any act or breach hereunder on the part of Lessor and for which damages may be sought or recovered from Lessor, and there shall be no personal liability hereunder on any partners, shareholders, members, directors, officers or employees of beneficiary of Lessor with respect to the terms, covenants, conditions or undertakings or agreements contained in this Lease, and Lessee shall look solely to Lessor's interest in this Lease and not to any of the foregoing for the satisfaction of any remedy which Lessee may have under this Lease.

ARTICLE XXIII - CUMULATIVE REMEDIES OF LESSOR

Except as provided in Section 21.4, the specific remedies to which Lessor may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Lessor may be lawfully entitled in case of any breach or threatened breach by Lessee of any provision or provisions of this Lease. The failure of Lessor to insist, in any one or more cases, upon the strict performance of any of the terms, covenants, conditions, provisions or agreements of this Lease, or to exercise any option herein contained,

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shall not be construed as a waiver or relinquishment for the future of any such term, covenant, condition, provisions, agreement or option.

ARTICLE XXIV - SECURITY FOR RENT

24.1 Lessor shall have a first lien paramount to all others on every right and interest of Lessee in and to this Lease, and on any of Lessee's accounts receivable, furnishings, equipment, or fixtures, general intangibles, inventory, goods or property of any kind belonging to Lessee and located at or used in connection with the Facilities ("Lessor's Lien"). Notwithstanding the foregoing, Lessor's Lien on the accounts receivable shall be subject and subordinate to any lien thereon granted by Lessee from time to time to any institutional lender for working capital to be utilized solely for operation of the Facility (and not, for the avoidance of doubt, a master working capital line of credit covering other facilities in addition to the Facility) and to all renewals, modifications, extensions and replacements thereof if such lender enters into an intercreditor agreement satisfactory to Lender, in its sole discretion, and reasonably acceptable to Lessor. Lessee shall not have any other liabilities, other than those which are necessary and related to its function as the operator of the Facility, including without limitation, such working capital line of credit. In addition to and without limiting the foregoing, Lessee shall not assume the status of a guarantor, surety or other financial partner of any other business or activity, including without limitation any other business involving any of Lessee's officers, directors, members, managers, owners, representatives, agents, successors and assigns, and their respective successors, assigns, agents and representatives. Lessor agrees to prepare and file, or consent to the filing of, within five (5) business days following Lessee's request therefor, such financing statements or other instruments as may be reasonably requested by Lessee to evidence or effect subordination of Lessor's Lien to the lien of the institutional lender described above. Any financing statement evidencing or perfecting Lessor's Lien shall expressly provide for such subordination with respect to Lessee's accounts receivable. Any such intercreditor agreement shall include a mechanism to remove the Facility from such working capital line of credit and cause the lender thereunder to release all liens with respect to the Facility if an event of default exists thereunder. Lessor's Lien is granted for the purpose of securing the payments of Rent, charges, penalties, and damages herein covenanted to be paid by Lessee, and for the purpose of securing the performance of all of Lessee's obligations under this Lease. Such lien shall be in addition to all rights to Lessor given and provided by law. This Lease shall constitute a security agreement under the Uniform Commercial Code granting Lessor a security interest in such furnishings, equipment, fixtures, general intangibles, inventory, goods or property of any kind and accounts receivable, and upon the request by Lessor, Lessee shall prepare and file, or consent to the filing of, such financing statements and other documents reasonably required to perfect such security interest, which documents shall be filed or recorded at the expense of Lessee.

24.2 In addition to the foregoing, the obligations of Lessee under this Lease shall be secured by the guarantee of from Legacy Healthcare Financial Services LLC, an Illinois limited liability company, limited to an amount of One Million and 00/100 Dollars (\$1,000,000.00) following such time as the Guaranty of Lease is exercised, plus any other guaranteed obligations

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pursuant to the Guaranty Agreement ("Guaranty of Lease"), in the form of **Exhibit C** attached hereto.

24.3 Lessee shall deposit with Lessor a security deposit in the amount of One Hundred and Twenty-five Thousand and 00/100 Dollars (\$125,000.00) on or before Effective Date ("Security Deposit"). The Security Deposit shall not be considered an advance payment of Rent (or of any other sum payable to Lessor under this Lease) or a measure of Lessor's damages in a case of a default by Lessee. Lessor shall have no obligation to maintain the Security Deposit separate and apart from Lessor's general and/or other funds and may freely utilize the Security Deposit subject to obligations hereunder to return the Security Deposit to Lessee. In addition, in the event required by Owner and/or Lender, as applicable, Lessor may deposit the Security Deposit with Owner and/or Lender, as applicable, and/or pledge its rights in the Security Deposit to such Owner and/or Lender, as applicable. Upon any Event of Default hereunder, Lessor may elect to apply all or any part of the Security Deposit to the payment of any sum in default, any other sum that Lessor may expend or be required to expend by reason of Lessee's default or any other amounts due by Lessee hereunder. Upon the expiration or earlier termination of this Lease, following Lessor's determination of any amounts due and owing to Lessor and application of the Security Deposit to such outstanding amounts and provided that Lessee has returned to Lessor the Demised Premises and the Personal Property in the same condition to that which existed on the Effective Date and otherwise complied with the terms and conditions contained herein, any remaining portion of the Security Deposit shall be released to Lessee.

ARTICLE XXV - INDEMNIFICATION

25.1 Lessee agrees to defend, indemnify and save harmless the Lessor and Lender from and against any and all claims, demands and causes of action of any nature whatsoever asserted against or incurred by such parties on account of: (i) any failure on the part of Lessee during the term of this Lease to perform or comply with any of the terms of this Lease; or (ii) injury to or death of persons or loss of or damage to property, occurring on the Demised Premises or any adjoining sidewalks, streets or ways or in any manner growing out of or connected with the use or occupation of the Demised Premises or the condition thereof, or the use of any existing or future sewer system, or the use of any adjoining sidewalks, streets or ways occurring during the term of this Lease. Lessee further agrees to pay any reasonable attorneys' fees and expenses incident to the defense by such parties of any such claims, demands or causes of action.

ARTICLE XXVI - SUBORDINATION PROVISIONS

26.1 This Lease (and Lessee's interest in the Demised Premises and Personal Property) shall be subject and subordinate to the Existing Mortgage and to any Mortgage given by Lessor to any lender which may affect the Demised Premises and/or Personal Property, and to all renewals, modifications, consolidations, replacements and extensions thereof. Lessee shall execute and deliver such documents as may be required in order to evidence such subordination;

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provided that such documents shall not affect any of the provisions of this Lease relating to the amount of Rent, the purposes for which the Demised Premises may be used, the size and/or location of the Demised Premises, the duration and/or Effective Date of the term, nor modify any representations, covenants or warranties made by Lessor hereunder.

26.2 Notwithstanding anything to the contrary contained herein, it is understood, agreed and acknowledged that Lessor shall have the right at any time to finance, or refinance, from time to time, the Demised Premises and Personal Property in any amount, and grant a Mortgage and/or security interest thereon, to assign or pledge any or all of its interest in this Lease, and to assign or pledge the revenues and receipts to be received by Lessor hereunder to a third party without the consent of Lessee, provided that in the case of any Mortgage other than the Existing Mortgage, Lessor obtains a customary form of subordination, non-disturbance and attornment agreement ("SDNA") from such Lender, reasonably satisfactory to Lessee.

ARTICLE XXVII - LESSEE'S FAITHFUL COMPLIANCE WITH LOAN DOCUMENTS

Anything in this Lease contained to the contrary notwithstanding, and provided that Lessor has complied with Section 26.2 in the case of any Loan Agreement other than the Existing Loan Agreement, Lessee shall at all times and in all respects fully, timely and faithfully comply with and observe each and all of the conditions, covenants, and provisions (a) required to be performed or complied with by "Operator" under the Loan Agreement or (b) required to be performed or complied with on the part of the Lessor as "Borrower" under the Loan Documents, including, without limitation, any Lender notice requirements under the Loan Documents and any provisions granting Lender the right to make determinations or control the use and application of funds, and including all conditions, covenants and provisions thereof related to the financial covenants (including, without limitation, Section 4.1.24(a)(ii) and (iii) and (iv) of the Loan Agreement) and financial reporting, related to operations, related to the care, maintenance, repair, insurance, restoration, preservation and condemnation of the Demised Premises, notwithstanding that such conditions, covenants and provisions may require compliance and observance to a standard or degree in excess of that required by the provisions of this Lease or expressly conflict with any of the provisions of this Lease, or may require performance not required by the provisions of this Lease. If any new Lender requires compliance, observance or performance to a standard or degree in excess of that required by the terms of the Existing Loan Documents and this Lease, Lessee shall comply with such standard, degree or additional performance; provided, however, that the amount by which the third party costs expended by Lessee to achieve such standard, degree or additional performance exceed the third party costs to achieve the standard of performance required by the Existing Loan Documents and this Lease shall be paid by Lessor. Lessee further agrees that it shall not do or permit to be done anything which would constitute a breach of or default under any obligation of the Lessor under the Loan Documents, it being the intention hereof that Lessee shall so comply with and observe each and all of such covenants, conditions and provisions of the Loan Documents so that Lessor will at all times be in good standing and there will not be any default on the part of the Lessor thereunder. However, nothing in this Article contained shall be construed to obligate Lessee to pay any part