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Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: COTTONWOOD TITLE INSURANCE AGENCY, INC.
1996 EAST 6400 SOUTH SUITE 120SALT LAKE CITY, UT 84121

Jackson Walker LLP
2323 Ross Ave, Suite 600
Dallas, TX 75201
Attention: Jamie Fowler
CTIA 157129-WHF
TAX ID # 16-35-307-018

**TRUST DEED, SECURITY AGREEMENT, FIXTURE FILING
AND ASSIGNMENT OF LEASES AND RENTS
(LEASEHOLD)**

by

WOJV HOLLADAY, LLC,
as Borrower

to

COTTONWOOD TITLE INSURANCE AGENCY, INC.,
as Trustee

for the Benefit of

SYNOVUS BANK,
as Lender

Dated: August 24, 2022

**TRUST DEED, SECURITY AGREEMENT, FIXTURE FILING AND ASSIGNMENT
OF LEASES AND RENTS**

(LEASEHOLD)

THIS TRUST DEED, SECURITY AGREEMENT, FIXTURE FILING AND ASSIGNMENT OF LEASES AND RENTS (LEASEHOLD) (the “**Security Instrument**”) is made effective as of August 24, 2022 by **WOJV HOLLADAY, LLC**, a Delaware limited liability company (together with its successors and assigns, “**Borrower**”), whose address is c/o White Oak Healthcare REIT I, LLC, 8000 Towers Crescent Drive, Suite 1425, Vienna, VA 22182, Attention: Jeffrey Erhardt to **COTTONWOOD TITLE INSURANCE AGENCY, INC.** having an office at 1996 East 6400 South, Suite 120, Salt Lake City, UT 84121 (including any substitute trustees hereunder, “**Trustee**”), as Trustee, for the benefit of **SYNOVUS BANK**, a Georgia state banking corporation (together with its successors and assigns, “**Lender**”), whose address is 800 Shades Creek Parkway, Suite 325, Birmingham, Alabama 35209, Attention: Senior Housing and Healthcare Lending.

RECITALS

A. Borrower is indebted to Lender for money loaned in the principal sum of up to Thirty-Seven Million Seven Hundred Thousand and 00/100 Dollars (\$37,700,000.00) (the “**Loan**”), as is evidenced by a certain Promissory Note of even date herewith from the Persons listed on Schedule I hereto (including Borrower) (the “**Borrower Parties**”) payable to the order of Lender (as amended, modified, substituted, extended, and renewed from time to time, the “**Note**”) with interest from the date thereof at the rates set forth in the Note, principal and interest to be payable in accordance with the terms and conditions provided in the Note and matures on August 24, 2027, as such date may be extended in accordance with the Loan Agreement, or any earlier date on which the entire Loan is required to be paid in full, whether at maturity, by acceleration or otherwise, under the Loan Agreement or any of the other Loan Documents.

B. Borrower desires to secure the payment of the outstanding principal amount of the Loan together with all interest accrued and unpaid thereon and all other sums due to Lender in respect of the Loan and the Loan Documents and the performance of all of its obligations under the Note, the Loan Agreement and the other Loan Documents; and

C. This Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment and performance by Borrower of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement, the Note, and the other Loan Documents (as the same may be amended, restated, replaced, supplemented, extended, renewed or otherwise modified from time to time), including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations

and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Security Instrument.

GRANTING CLAUSES

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, Borrower has GRANTED, BARGAINED, SOLD, CONVEYED AND ASSIGNED, and by these presents does GRANT, BARGAIN, SELL, CONVEY AND ASSIGN, in trust, unto Trustee (with respect to those portions of the Mortgaged Property which constitute personal property, to Lender) for the benefit of Lender, the Mortgaged Property (hereinafter defined).

TO SECURE unto Lender the repayment of the Indebtedness, at and in the manner stipulated herein, in the Note and in the other Loan Documents, and the performance of the covenants and agreements of Borrower Parties contained in the Loan Documents, subject, however, to the terms and conditions herein. Notwithstanding anything to the contrary set forth herein or in any other document that has been executed in connection with the Loan, this Security Instrument shall not secure the obligations of Borrower or Guarantor under the Environmental Indemnity Agreement, the obligations of Guarantor under the Guaranty of Recourse Obligations, or the substantial equivalent of the obligations arising under the Environmental Indemnity Agreement or the Guaranty of Recourse Obligations. All of such obligations (and substantial equivalents thereof) shall constitute the separate, unsecured recourse obligations of Borrower or Guarantor, as the case may be, and shall not be deemed to be evidenced by the Note or secured by this Security Instrument.

TO HAVE AND TO HOLD the Mortgaged Property unto Trustee and its substitutes and successors forever, IN TRUST WITH POWER OF SALE, and Borrower does hereby bind Borrower, its successors and assigns, to warrant and forever defend the Mortgaged Property unto Trustee and Lender, and their respective, substitutes, successors and assigns, subject to the terms and conditions hereof, against the claim or claims of all persons whomsoever claiming or to claim the same, or any part thereof:

PROVIDED, HOWEVER, that if Borrower shall pay to Lender the entire Indebtedness (other than contingent Indebtedness which by its terms survive the release hereof and as to which no event giving rise to the incurrence of any such Indebtedness shall have occurred), at the times and in the manner stipulated herein, in the Note (as hereinafter defined) and in the other Loan Documents (as hereinafter defined), all without any deduction or credit for taxes or other similar charges paid by Borrower, and Borrower shall cause all other obligated parties to, keep, perform, and observe all and singular the covenants and promises herein, in the Note and in each of the other Loan Documents to be kept, performed, and observed, all without fraud or delay, then this Security Instrument, and all the properties, interests, and rights hereby granted, bargained, and sold shall cease, terminate, and be void, but shall otherwise remain in full force and effect.

AGREEMENT

AND Borrower and Lender covenant and agree as follows:

1. **Definitions.** Capitalized terms used herein and not otherwise defined shall have the meaning given to such terms in the Loan Agreement. The following terms, when used in this Security Instrument (including when used in the above recitals), shall have the following meanings:

(a) **"1933 Act"** has the meaning given to that term in Section 14.

(b) **"Accounts"** has the meaning given such term in the UCC, and includes, without limitation, any rights of Borrower arising from the operation of the Facility to payment for goods sold or leased or for services rendered, not evidenced by an Instrument, including, without limitation, (i) all accounts arising from the operation of the Facility, (ii) all moneys and accounts, if any, held by Lender pursuant to this Security Instrument or any other Loan Document, (iii) all rights to payment from Medicare or Medicaid programs or similar state or federal programs, boards, bureaus or agencies, and rights to payment from residents, private insurers, and others arising from the operation of the Facility, (iv) receivables arising out of the use of a credit or charge card or information contained on or for use with the card, (v) any and all "health care insurance receivables" (as defined in the UCC), Supporting Obligations, letter-of-credit rights and letters of credit given by any Person with respect to any of the foregoing, and (vi) all books and records in whatever media (paper, electronic or otherwise) recorded or stored, with respect to any or all of the foregoing and all equipment and general intangibles necessary or beneficial to retain, access and/or process the information contained in those books and records. Accounts shall include the Proceeds thereof.

(c) **"Appurtenant Rights"** means all air rights, development rights, zoning rights, easements (including the Easement Agreement), rights-of-way, strips and gores of land, vaults, streets, roads, alleys, tenements, passages, ditches and ditch rights, reservoir and reservoir rights, stock or interest in irrigation or ditch companies, sewer rights, waters, water courses, water rights and powers, minerals, oil and gas rights and royalties, flowers, shrubs, crops, trees, timber and other emblements now or hereafter appurtenant to, or used or useful in connection with, or located on, under or above the Land, or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Land, or any part thereof, now or hereafter.

(d) **"Assignment of Leases and Rents"** means that certain Assignment of Leases and Rents of even date herewith executed by Borrower for the benefit of Lender, together as amended, modified, substituted, extended, and renewed from time to time.

(e) **“Borrower”** means all persons or entities identified as “Borrower” in the first paragraph of this Security Instrument, together with their successors and assigns.

(f) **“Business Day”** means a day, other than Saturday, Sunday or legal holidays, when Lender is open for business.

(g) **“Chattel Paper”** has the meaning given such term in the UCC, and includes, without limitation, a record or records (including, without limitation, electronic chattel paper) which evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, or a lease of specific goods; all Supporting Obligations with respect thereto; any returned, rejected or repossessed goods and software covered by any such record or records and all proceeds (in any form including, without limitation, accounts, contract rights, documents, chattel paper, instruments and general intangibles) of such returned, rejected or repossessed goods; and all proceeds (cash proceeds and noncash proceeds) of the foregoing.

(h) **“Condemnation”** has the meaning given to that term in Section 12.

(i) **“Contracts”** means all license agreements, operating contracts, and all management, service, employment, supply and maintenance contracts and agreements (including the Management Agreement Holladay), and any other agreements, licenses or contracts of any nature whatsoever now or hereafter obtained or entered into by Borrower with respect to the acquisition, construction, renovation, expansion, ownership, occupancy, use, operation, maintenance and administration of the Facility and/or the Mortgaged Property, including, without limitation, any and all contracts between Borrower and any resident of the Facility giving the resident certain rights of occupancy in the Facility and providing for certain services to such resident.

(j) **“Default Rate”** has the meaning given to that term in the Note.

(k) **“Deposit Accounts”** has the meaning given such term in the UCC.

(l) **“Easement Agreement”** means that certain Declaration and Grant of Cross Access Easements & Cross Parking Easements with Agreement Regarding Construction of Certain Improvements by and between Ground Lessor and Borrower, as successor in interest to Holladay Senior Living Group, LLC, a Utah limited liability company, dated September 4, 2015 and recorded September 4, 2015 as Entry No. 12127343 in Book 10359 at Page 4192, as such Easement Agreement may hereafter be amended, restated, supplemented and otherwise modified from time to time.

(m) **“Equipment”** has the meaning given such term in the UCC, and includes, without limitation, all beds, linen, televisions, carpeting, telephones, cash

registers, computers, lamps, glassware, rehabilitation equipment, restaurant and kitchen equipment, and other fixtures and equipment of Borrower (including, without limitation, embedded software) located on, attached to or used or useful in connection with any of the Mortgaged Property or the Facility and all renewals and replacements thereof and substitutions therefor; provided, however, that with respect to any items which are leased for the benefit of the Facility and not owned by Borrower, the Equipment shall include the leasehold interest only of Borrower together with any options to purchase any of said items and any additional or greater rights with respect to such items which Borrower may hereafter acquire, but the foregoing shall not be construed to mean that such leasing shall be permitted hereunder to an extent greater than set forth in the other Loan Documents.

(n) “**Event of Default**” has the meaning given to that term in the Loan Agreement.

(o) “**Facility**” means the senior housing community currently containing a total of 77 units and 83 beds, comprised of 56 assisted living units (62 beds) and 21 memory care units (21 beds) on the Land, as any may now or hereafter exist.

(p) “**Fixtures**” means all property which is now or hereafter so attached to the Land or the Improvements as to constitute a fixture under applicable law and all renewals and replacements thereof and substitutions therefor, including, without limitation: machinery, equipment, engines, boilers, incinerators, 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; and exercise equipment.

(q) “**General Intangibles**” has the meaning given such term in the UCC, and includes, without limitation, all intangible personal property of Borrower arising out of or connected with the Mortgaged Property or the Facility and all renewals and replacements thereof and substitutions therefor (other than Accounts, Rents, Instruments, Inventory, Money, Permits, and Reimbursement Contracts), including, without limitation, things in action, contract rights and other rights to payments of Money, commercial tort claims, other claims (including without limitation all claims for income tax and other refunds), payment intangibles and Supporting Obligations.

(r) **“Governmental Authority”** means any board, commission, department or body of any municipal, county, state or federal governmental unit, or any subdivision of any of them, that has or acquires jurisdiction over the Mortgaged Property and/or the Improvements or the use, operation or improvement of the Mortgaged Property.

(s) **“Ground Lease”** means the Ground Lease Agreement dated as of April 27, 2015, by and between Ground Lessor, as landlord, and Holladay Senior Living Group, LLC, a Utah limited liability company (**“HSLG”**), as tenant, as amended by that certain First Amendment to Ground Lease Agreement, by and between Ground Lessor and HSLG dated as of October 28, 2015, and that certain Assignment of Ground Lease and Memorandum of Ground Lease Agreement, dated as of December 20, 2019, by and between HSLG and Borrower Holladay, and as further amended, modified, substituted, extended, and renewed from time to time.

(t) **“Ground Lessor”** means Risen Life Church, a Utah corporation (f.k.a. Holladay Baptist Church).

(u) **“Guarantor”** means White Oak Healthcare REIT I, LLC, a Delaware limited liability company.

(v) **“Guaranty Agreement”** means the Guaranty of Recourse Obligations of even date herewith from Guarantor in favor of Lender, as amended, modified, substituted, extended and renewed from time to time.

(w) **“Improvements”** means all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, including but not limited to, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatuses which are or shall be attached to the Land or said buildings, structures or improvements.

(x) **“Indebtedness”** means the (i) aggregate of the principal of and interest on the Note due and owing from time to time and all expenses, charges and other amounts due and owing from time to time under the Note, the Loan Agreement, this Security Instrument or any other Loan Document, including, without limitation, prepayment premiums, late charges, default interest and advances to protect the security of this Security Instrument under Section 7, if any and (ii) any and all obligations of Borrower to Lender arising under or in connection with any transaction now existing or hereafter entered into between Borrower and Lender which is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any

other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures, including without limitation, the interest rate hedging transactions under any ISDA Master Agreement and Schedule thereto between Borrower and Lender, and Confirmations (as such term is defined in such ISDA Master Agreement) between Borrower and Lender, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for any of the foregoing, it being contemplated that Borrower may hereafter become indebted to Lender in further sum or sums.

(y) **“Instruments”** has the meaning given such term in the UCC, and includes, without limitation, all instruments, Chattel Paper, documents or other writings obtained by Borrower from or in connection with the operation of the Mortgaged Property or the construction and operation of the Facility (including without limitation, all ledger sheets, computer records and printouts, data bases, programs, books of account, software, trademarks or trade names, utility contracts, maintenance and service contracts and files of Borrower relating thereto).

(z) **“Interest Rate Management Agreements”** means any agreement relating to any transaction that is a rate swap, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures.

(aa) **“Inventory”** has the meaning given such term in the UCC, and includes, without limitation, all inventories of food, beverages and other comestibles owned and held by Borrower for sale or use at or from the Mortgaged Property or the Facility, and soap, paper supplies, medical supplies, drugs and all other such goods, wares and merchandise held by Borrower (including, without limitation, embedded software) for sale to or for consumption by residents, guests or patients of the Land or the Facility and all such other goods returned to or repossessed by Borrower.

(bb) **“Investment Property”** has the meaning given such term in the UCC, and includes, without limitation, a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account, and all proceeds (cash proceeds and noncash proceeds) of, and Supporting Obligations with respect to, the foregoing.

(cc) “**Land**” means the land described in Exhibit “A” attached hereto and incorporated herein, including all Appurtenant Rights.

(dd) “**Leases**” means the Operating Lease, the Operating Sublease, and all present and future leases, subleases, licenses, Resident Agreements, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Mortgaged Property and/or the Facility, or any portion of the Mortgaged Property and/or the Facility and all modifications, extensions or renewals thereof.

(ee) “**Lender**” means the entity identified as “Lender” in the first paragraph of this Security Instrument, or any subsequent holder of the Note.

(ff) “**Lien**” means any voluntary or involuntary mortgage, security deed, Security Instrument, lien, pledge, assignment, security interest, title retention agreement, financing lease, levy, execution, seizure, judgment, attachment, garnishment, charge, lien or other encumbrance of any kind, including those contemplated by or permitted in this Security Instrument, the Loan Agreement and the other Loan Documents.

(gg) “**Loan**” has the meaning given to that term in the Recitals.

(hh) “**Loan Agreement**” means that certain Loan Agreement of even date herewith by and among Borrower Parties and Lender, together with all amendments and supplements thereto.

(ii) “**Loan Documents**” shall have the meaning given such term in the Loan Agreement.

(jj) “**Money**” means all monies, cash, rights to Deposit Accounts, or other items of legal tender obtained from or for use in connection with the operation of the Facility.

(kk) “**Mortgaged Property**” means the leasehold estate created under the Ground Lease in the Land together with any greater estate therein as hereafter may be acquired by Borrower in the Land and all rights of Borrower in the Ground Lease, the Improvements, and Borrower’s right, title, and interest in all of the following, provided that if any of the following capitalized terms are defined in the UCC, each such term shall have the meaning given such term in the UCC and shall include, without limitation, the additional items set forth in this Security Instrument with respect to such term:

(i) all Appurtenant Rights;

- (ii) all Equipment;
- (iii) all Fixtures;
- (iv) all Accounts;
- (v) all Deposit Accounts;
- (vi) all Contracts;
- (vii) all General Intangibles;
- (viii) all Permits (to the extent assignable);
- (ix) all Money;
- (x) all Instruments;
- (xi) all Inventory;
- (xii) all Rents;
- (xiii) all Personalty;
- (xiv) all Leases;
- (xv) all Chattel Paper;
- (xvi) all Supporting Obligations;
- (xvii) all Investment Property;
- (xviii) all Proceeds;
- (xix) all Reimbursement Contracts;
- (xx) all contracts, options and other agreements for the sale of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property entered into by Borrower now or in the future, including cash or securities deposited to secure performance by parties of their obligations;
- (xxi) refunds or rebates of Taxes by any municipal, state or federal authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Security Instrument is dated);

(xxii) all names under or by which any of the above Mortgaged Property may be operated or known, and all trademarks, trade names, and goodwill relating to any of the Mortgaged Property;

(xxiii) all Interest Rate Management Agreements;

(xxiv) all renewals, replacements and Proceeds of any of the foregoing and any substitutions therefor; and

(xxv) all prepaid rents and security deposits and other security which Ground Lessor now or hereafter holds for the performance of Borrower's obligations under the Ground Lease.

Notwithstanding anything in this Security Instrument to the contrary, any of the above property that cannot, due to applicable Requirements of Law, be pledged as collateral or security for the Loan, shall not constitute "Mortgaged Property" for so long as prohibited under applicable Requirements of Law; provided, however, that "Mortgaged Property" shall be construed as broadly as possible to include all property within the definition of "Mortgaged Property" that is not prohibited to be pledged under applicable Requirements of Law.

(ll) "Note" has the meaning given to that term in the recitals.

(mm) "Notice" has the meaning given to that term in Section 24.

(nn) "Operating Lease" means the Operating Lease, as defined in the Loan Agreement.

(oo) "Operating Sublease" means the Operating Sublease Holladay, as defined in the Loan Agreement.

(pp) "Permits" means any and all licenses, permits and certificates used or necessary in connection with the renovation, ownership, operation, use or occupancy of the Mortgaged Property and/or the Facility, including, without limitation, as applicable, certificates of occupancy, 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.

(qq) "Permitted Encumbrances" has the meaning given to that term in the Loan Agreement.

(rr) "Person" means any natural person, firm, trust, corporation, partnership, limited liability company and any other form of legal entity.

(ss) **“Personalty”** means all Equipment, Inventory, General Intangibles which are used now or in the future in connection with the ownership, management or operation of the Land or the Improvements or are located on the Land or in the Improvements, including furniture, furnishings, machinery, building materials, appliances, goods, supplies, tools, books, records (whether in written or electronic form), computer equipment (hardware and software) and other tangible personal property (other than Fixtures) which are used now or in the future in connection with the ownership, management or operation of the Land or the Improvements or are located on the Land or in the Improvements, and any operating agreements relating to the Land or the Improvements, and any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements and all other intangible property and rights relating to the operation of, or used in connection with, the Land or the Improvements, including all governmental Permits relating to any activities on the Land.

(tt) **“Prior Lien”** has the meaning given to that term in Section 26.

(uu) **“Proceeds”** means all awards, payments, earnings, royalties, issues, profits, liquidated claims and proceeds (including proceeds of insurance and condemnation and any conveyance in lieu thereof), whether cash or noncash, moveable or immovable, tangible or intangible, from the sale, conversion (whether voluntary or involuntary), exchange, transfer, collection, loss, damage, condemnation, disposition, substitution or replacement of any of the Mortgaged Property.

(vv) **“Property Jurisdiction”** means the jurisdiction in which the Land is located.

(ww) **“Reimbursement Contracts”** means all third-party reimbursement contracts for the Facility which are now or hereafter in effect with respect to residents or patients (if applicable) qualifying for coverage under the same, including Medicare and Medicaid, Managed Care Plans, and private insurance agreements, and any successor program or other similar reimbursement program and/or private insurance agreements, now or hereafter existing.

(xx) **“Rents”** means all rent and other payments of whatever nature from time to time payable pursuant to the Leases (including, without limitation, rights to payment earned under leases for space in the Improvements for the operation of ongoing retail businesses such as newsstands, barbershops, beauty shops and specialty shops).

(yy) **“Resident Agreements”** shall mean, collectively, the leases or other occupancy agreements entered into with the residents of the Facility.

(zz) “**Single-Purpose Entity**” shall have the meaning ascribed in the Loan Agreement.

(aaa) “**Stock**” means all shares, options, warrants, general or limited partnership interests, membership interests, participations or other equivalents (regardless of how designated) in a corporation, limited liability company, partnership or any equivalent entity, whether voting or nonvoting, including, without limitation, common stock, preferred stock, or any other “equity security” (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended).

(bbb) “**Supporting Obligation**” has the meaning given such term in the UCC, and includes, without limitation, a letter-of-credit right, secondary obligation, or obligation of a secondary obligor, or secondary obligation that supports the payment or performance of an Account, Chattel Paper, a document, a General Intangible, an Instrument, or Investment Property.

(ccc) “**Taxes**” means all taxes, assessments, vault rentals and other charges, if any, general, special or otherwise, including all assessments for schools, public betterments and general or local improvements, which are levied, assessed or imposed by any public authority or quasi-public authority, and which, if not paid, will become a lien, on the Land or the Improvements.

(ddd) “**Transfer**” shall mean the conveyance, assignment, sale, transfer, mortgaging, collateral assignment, encumbrance, pledging, alienation, hypothecation, granting of a security interest in, granting of options with respect to, or other disposition of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) all or any portion of any legal or beneficial interest (i) in all or any portion of the Mortgaged Property; (ii) in the Stock of any corporation which is Borrower, a member of Borrower (if Borrower is a limited liability company), a partner of Borrower or, if applicable, a partner of a general partner of Borrower; and (iii) in Borrower (or any trust of which Borrower is a trustee), or, if Borrower is a limited or general partnership, limited liability company, joint venture, trust, nominee trust, tenancy in common or other unincorporated form of business association or form of ownership interest, in any Person having a direct or indirect legal or beneficial ownership in Borrower. The term “Transfer” shall also include, without limitation, the following: an installment sales agreement wherein Borrower agrees to sell the Mortgaged Property or any part thereof or any interest therein for a price to be paid in installments; an agreement by Borrower leasing all or a substantial part of the Mortgaged Property to one or more Persons pursuant to a single transaction or related transactions, or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower’s right, title and interest in and to any Leases or any Rent; any instrument subjecting the Mortgaged Property to a condominium regime or transferring ownership

to a cooperative corporation or other form of multiple ownership or governance; the dissolution or termination of Borrower, any general partner of Borrower, any general partner of any general partner of Borrower, if applicable, or, if Borrower is a limited liability company, any corporate member of Borrower; the issuance of new Stock in any corporation which is Borrower, a member of Borrower (if Borrower is a limited liability company), a partner of Borrower or, if applicable, a partner of a general partner of Borrower; and the merger or consolidation with any other Person of Borrower, any general partner of Borrower, any general partner of any general partner of Borrower, if applicable, or, if Borrower is a limited liability company, any corporate member of Borrower.

(eee) “UCC” has the meaning given to that term in Section 2.

(fff) “UCC Collateral” has the meaning given to that term in Section 2.

2. **Uniform Commercial Code Security Agreement.** This Security Instrument is also a security agreement and fixture filing under the Uniform Commercial Code as in effect from time to time in the State of Utah (the “UCC”) for any of the Mortgaged Property which, under applicable law, may be subject to a security interest under the UCC, whether acquired now or in the future, and all products and cash and non-cash Proceeds thereof (collectively, “UCC Collateral”), and Borrower hereby grants to Lender a security interest in the UCC Collateral. Borrower hereby authorizes Lender to file financing statements, continuation statements and financing statement amendments in such form as Lender may require to perfect or continue the perfection of this security interest and Borrower agrees, if Lender so requests, to execute and deliver to Lender such financing statements, continuation statements and amendments. Borrower shall pay all reasonable filing costs and all reasonable costs and expenses of any record searches for financing statements that Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or permit to exist any other lien or security interest in any of the UCC Collateral, other than Permitted Encumbrances (it being understood, for clarity, that none of the following shall constitute a violation of this sentence: financing statements relating to loans and other financial accommodations, if any, which are to be paid with the proceeds of the Loan and are to be terminated promptly following the date hereof and financing statements relating to any other secured loans that have previously been paid in full and discharged). If an Event of Default has occurred and is continuing, Lender shall have the remedies of a secured party under the UCC, in addition to all remedies provided by this Security Instrument or existing under applicable law. In exercising any remedies, Lender may exercise its remedies against the UCC Collateral separately or together and in any order, without in any way affecting the availability of Lender’s other remedies hereunder and/or under applicable law. The terms “sign,” “signed” and “signatures” shall have their ordinary meanings except that, to limited extent Lender in an authenticated record expressly agrees otherwise from time to time in the exercise of its sole and absolute discretion, the terms may also include other methods used to authenticate. Without implying any limitation on the foregoing, with respect to the UCC Collateral that may be perfected by control, Borrower shall

take such steps as Lender may reasonably require in order that Lender may have such control. To the extent that the proceeds of any of the Accounts are expected to become subject to the control of, or in the possession of, a party other than Borrower or Lender, Borrower shall cause all such parties to execute and deliver on the date of this Security Instrument and from time to time hereafter security documents, financing statements or other documents as reasonably requested by Lender and as may be necessary to evidence and/or perfect the security interest of Lender in those proceeds. Borrower agrees that a copy of a fully executed security agreement and/or financing statement shall be sufficient to satisfy for all purposes the requirements of a financing statement as set forth in Article 9 of the UCC. Borrower hereby irrevocably appoints Lender as Borrower's attorney-in-fact, with power of substitution, in the name of Lender or in the name of Borrower or otherwise, for the use and benefit of Lender, but at the cost and expense of Borrower and without notice to Borrower, to execute and deliver any and all of the instruments and other documents and take any action which Lender may require pursuant to the foregoing provisions of this Section (it being understood that, except with respect to the filing of financing statements and similar documents, such power-of-attorney shall only be exercised if there is a continuing Event of Default or if Borrower does not respond, within five (5) Business Days after the receipt of written request from Lender, to a request to so execute and deliver the applicable instruments or documents or take the applicable action). Further, to the extent permitted by applicable laws, Lender may file, without Borrower's signature, one or more financing statements or other notices disclosing Lender's liens and other security interests in the UCC Collateral. All financing statements and notices may describe Lender's collateral as all assets or all personal property of Borrower. Borrower hereby ratifies and confirms the validity of any and all financing statements filed by Lender prior to the date of this Security Instrument.

3. **Leases; Management Agreements.** Borrower shall not, without the prior written consent and approval of Lender (which consent shall not be unreasonably withheld, conditioned or delayed), enter into any Lease (except as permitted under the Loan Agreement), or enter into or permit any management agreement of or affecting any part of the Mortgaged Property (except as permitted under the Loan Agreement).

4. **Intentionally Deleted.**

5. **Application Of Payments.** If at any time Lender receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, then Lender may apply that payment to amounts then due and payable in the manner set forth in the Note. Neither Lender's acceptance of an amount which is less than all amounts then due and payable nor Lender's application of such payment in the manner authorized in the immediately preceding sentence shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction. Notwithstanding the application of any such amount to the Indebtedness, Borrower's obligations under this Security Instrument and the Note shall remain unchanged (other than as reduced by the amount of such payment).

6. **Use Of Property.** Unless required by applicable law, Borrower shall not (a) except for any change in use approved by Lender or permitted under the Loan Agreement, allow changes in the use for which all or any part of the Mortgaged Property is being used at the time this Security Instrument was executed, (b) convert any part of the Facility to a use other than a senior living use and ancillary uses related thereto, or (c) initiate or acquiesce in a change in the zoning classification of the Land and/or the Facility.

7. **Protection of Lender's Security.**

(a) If either (i) an Event of Default occurs and is continuing, (ii) Borrower fails to timely perform any of its obligations under this Security Instrument or any other Loan Document, or (iii) any action or proceeding is commenced which purports to affect the Mortgaged Property, Lender's security or Lender's rights under this Security Instrument, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Hazardous Materials Laws, fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, and Borrower fails to promptly undertake the defense thereof with counsel and in a manner satisfactory to Lender in Lender's reasonable discretion in accordance with its obligations under the Loan Documents, then, in the case of (i), (ii) or (iii), Lender at Lender's option and upon notice to Borrower may make such appearances, disburse such sums and take such actions as Lender reasonably deems necessary to perform such obligations of Borrower and to protect Lender's interest, including (w) disbursement of fees and reasonable expenses of attorneys, accountants, inspectors and consultants, (x) entry upon the Mortgaged Property to make repairs or secure the Mortgaged Property, (y) procurement of the insurance coverages required under the Loan Agreement, and (z) payment of amounts which Borrower has failed to pay under Section 9.

(b) Any amounts disbursed by Lender under this Section, or under any other provision of this Security Instrument, or under any of the other Loan Documents, that treats such disbursement as being made under this Section, shall be added to, and become part of the Indebtedness, shall be immediately due and payable and shall bear interest from the date of disbursement until paid at the Default Rate.

(c) This Security Instrument shall also secure any funds advanced by Lender for insurance, taxes, maintenance, repair, construction, or compliance with laws as set forth herein and for any other advance made by Lender to protect the Mortgaged Property to the extent reasonably deemed necessary by Lender. Any such amount shall be treated as additional principal and shall be due and payable by Borrower to Lender, with interest, at the rate specified in the Note, upon written demand for payment sent by Lender to Borrower. Any receipts for amounts incurred and paid by Lender shall serve as conclusive evidence thereof.

(d) Nothing in this Section shall require Lender to incur any expense or take any action.

8. **Inspection.** Lender, its agents, representatives, and designees may make or cause to be made entries upon and inspections of the Mortgaged Property in accordance with Lender's rights under the terms and provisions of the Loan Agreement. For clarity, as set forth in the Loan Agreement, such Lender's rights are subject to Requirements of Law (including, without limitation, COVID-19 restrictions and HIPAA).

9. **Taxes; Operating Expenses.**

(a) Subject to the provisions of Section 9(c) and Section 9(d), Borrower shall pay, or cause to be paid (whether by enforcing the terms of the Operating Lease to cause Operating Tenant to do so or to cause Operating Tenant to enforce the Operator Agreements to cause the Property Related Persons to do so [provided that such enforcement of the Operating Lease and Operator Agreements shall not extend Borrower's time for performance hereunder]), all Taxes when due and before the addition of any interest, fine, penalty or cost for nonpayment.

(b) Subject to the provisions of Section 9(c), Borrower shall pay or cause to be paid (whether by enforcing the terms of the Operating Lease to cause Operating Tenant to do so or to cause Operating Tenant to enforce the Operator Agreements to cause the Property Related Persons to do so [provided that such enforcement of the Operating Lease and Operator Agreements shall not extend Borrower's time for performance hereunder]) the expenses of operating, managing, maintaining and repairing the Mortgaged Property (including insurance premiums, utilities, repairs and replacements) before the last date upon which each such payment may be made without any penalty or interest charge being added or lien imposed.

(c) Intentionally Deleted.

(d) Borrower, at its own expense, may contest (or cause Operating Tenant to contest, whether by enforcing the terms of the Operating Lease to cause Operating Tenant to do so or to cause Operating Tenant to enforce the Operator Agreements to cause the Property Related Persons to do so [provided that such enforcement of the Operating Lease and Operator Agreements shall not extend Borrower's time for performance hereunder]) by appropriate legal proceedings, conducted diligently and in good faith, the amount or validity of any Imposition or other expenses of owning, operating, maintaining or repairing the Mortgaged Property (other than insurance premiums), if (i) Borrower notifies Lender of the commencement or expected commencement of such proceedings, (ii) the Mortgaged Property is not in danger of being sold or forfeited, as reasonably determined by Lender, (iii) if reasonably requested by Lender, Borrower deposits with Lender cash reserves or other collateral sufficient to

pay the contested Imposition or other applicable expense, (iv) Borrower furnishes whatever security is required in the proceedings or is reasonably requested by Lender, which may include the delivery to Lender of the reserves established by Borrower to pay the contested Imposition or other applicable expense, as additional security, and (v) such contest operates to suspend enforcement of such Imposition or other applicable expense.

(e) Upon Lender's request (or as otherwise may be required under the terms of the Loan Agreement), Borrower shall promptly deliver to Lender receipts evidencing payments of the Impositions.

(f) In the event of the passage of any law subsequent to the date of this Security Instrument in any manner changing or modifying the laws now in force governing the taxation of deeds of trust or mortgages or debts secured by deeds of trust or mortgages or the manner of collecting any such taxes so as to adversely affect Lender (including, without limitation, a requirement that internal revenue stamps be affixed to this Security Instrument or any of the other Loan Documents), Borrower will promptly pay any such tax upon written demand together with reasonable supporting evidence therefor. If Borrower fails to make such prompt payment, or if any law prohibits Borrower from making such payment or would penalize Lender if Borrower makes such payment, then Lender, at its sole option, may elect to declare the entire unpaid principal balance of the Loan, together with all unpaid interest accrued thereon and any other amounts due under the Loan Documents immediately due and payable. In no event, however, shall any income taxes of Lender or franchise taxes of Lender measured by income, or taxes in lieu of such income taxes or franchise taxes, be required to be paid by Borrower. Without limitation of the foregoing, in no event shall Borrower be required to pay any Excluded Taxes.

10. **Liens; Encumbrances.** Borrower acknowledges that the existence of any Lien on the Mortgaged Property, other than Permitted Encumbrances or other liens or encumbrances permitted by the Loan Documents or consented to in writing by Lender, whether voluntary, involuntary or by operation of law, is a "Transfer" which constitutes an Event of Default as provided under Section 12(b), and will subject Borrower to personal liability under the Note.

11. **Preservation, Management And Maintenance Of Mortgaged Property.** Borrower (a) subject to temporary abandonments due to casualties, shall not commit physical waste, abandon the Facility or knowingly permit impairment or deterioration of the Mortgaged Property, (b) shall restore or repair promptly, in a good and workmanlike manner, any damaged part of the Mortgaged Property to the equivalent of its original condition (provided that obsolete parts of the Mortgaged Property can be removed and disposed of, without replacement, as part of such restoration or repair, so long as such portion of the Mortgaged Property is restored to that which is consistent in all material respects with the quality and appearance of the remainder of the Mortgaged Property), or such other condition as Lender may approve in writing, whether

or not insurance proceeds or condemnation awards are available to cover any costs of such restoration or repair, provided Lender agrees to make net proceeds of insurance, if any, received by Lender available to Borrower for repair and restoration to the extent required by the Loan Documents, (c) shall keep the Mortgaged Property in good repair, including the replacement of Personalty and Fixtures with items of equal or better function and quality (provided, however, that any Personalty and Fixtures that are obsolete need not be replaced), (d) shall provide for professional management of the Mortgaged Property in accordance with the terms and provisions of the Loan Agreement, and (e) shall give notice to Lender of and, unless otherwise directed in writing by Lender, shall appear in and defend any action or proceeding purporting to affect the Mortgaged Property, Lender's security or Lender's rights under this Security Instrument (it being understood, however, that while Borrower shall be obligated to appear in and defend itself in any such proceedings, Borrower need not defend Lender in any proceedings or actions that are excluded from Borrower's defense obligations under Section 8.4 of the Loan Agreement).

12. **Condemnation.**

(a) Borrower shall promptly notify Lender upon receipt of written notice of any action or proceeding relating to any condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Mortgaged Property, whether direct or indirect (a "**Condemnation**"). Borrower shall appear in and prosecute or defend any proceeding relating to any Condemnation unless otherwise directed by Lender in writing. Borrower authorizes and appoints Lender as attorney-in-fact for Borrower to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any Condemnation and to settle or compromise any claim in connection with any Condemnation; provided, however, if Borrower is appearing in and prosecuting a Condemnation proceeding under Section 4.6(b) of the Loan Agreement, then Borrower shall not settle any such proceeding without Lender's prior written consent, not to be unreasonably withheld. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section shall require Lender to incur any expense or take any action. Subject to Section 4.6 of the Loan Agreement, Borrower hereby transfers and assigns to Lender all right, title and interest of Borrower in and to any award or payment with respect to (i) any Condemnation, or any conveyance in lieu of Condemnation, and (ii) any damage to the Mortgaged Property caused by governmental action that does not result in a Condemnation.

(b) Lender shall apply such awards or proceeds, after the deduction of Lender's reasonable expenses incurred in the collection of such amounts, in accordance with the terms and provisions of the Loan Agreement. Unless Lender otherwise agrees in writing, any application of any awards or proceeds to the Indebtedness shall not extend or postpone the due date of any monthly installments referred to in the Note or this Security Instrument, or change the amount of such installments. Borrower agrees

to execute such further evidence of assignment of any awards or proceeds as Lender may reasonably require.

13. **Transfers Of The Mortgaged Property Or Beneficial Interests In Borrower.** Except for Permitted Transfers or Transfers that are expressly permitted under the Loan Documents (e.g., removal and disposition of portions of the Mortgaged Property that are being removed and replaced in accordance with the terms and provisions of the Loan Agreement or the removal and disposition of obsolete portions of the Mortgaged Property), no Transfer of any part of the Mortgaged Property or any direct or indirect ownership interest in Borrower shall be permitted without Lender's prior written consent which may be withheld in Lender's sole and absolute discretion. Any Transfer in violation of this section shall constitute an Event of Default as set forth in the Loan Agreement.

14. **Events Of Default.** The occurrence of an Event of Default under the Loan Agreement shall constitute an Event of Default under this Security Instrument.

15. **Remedies.**

(a) **Acceleration of Maturity.** If an Event of Default shall have occurred and be continuing, then the entire Indebtedness shall, at the option of Lender, immediately become due and payable without notice or demand, time being of the essence of this Security Instrument, and no omission on the part of Lender to exercise such option when entitled to do so shall be construed as a waiver of such right.

(b) **Uniform Commercial Code.** Lender shall have all of the rights and remedies of a secured party under the UCC. During the continuance of an Event of Default, (i) upon demand by Lender, Borrower shall assemble the UCC Collateral and make it available to Lender, at a place designated by Lender, and (ii) Lender or its agents may without notice from time to time enter upon Borrower's premises to take possession of the UCC Collateral, to remove it, to render it unusable, to process it or otherwise prepare it for sale, or to sell or otherwise dispose of it.

Any written notice of the sale, disposition or other intended action by Lender with respect to the UCC Collateral which is sent by regular mail, postage prepaid, to Borrower at the address of Borrower which may from time to time be shown on Lender's records, at least ten (10) days prior to such sale, disposition or other action, shall constitute commercially reasonable notice to Borrower. Lender may alternatively or additionally give such notice in any other commercially reasonable manner. Except as otherwise expressly set forth in this Security Instrument or the other Loan Documents, Lender shall not be required to give any notice that is not required by applicable laws.

If any consent, approval, or authorization of any state, municipal or other governmental department, agency or authority or of any person, or any person, corporation, partnership or

other entity having any interest therein, should be necessary to effectuate any sale or other disposition of the UCC Collateral, during the continuance of an Event of Default, Borrower agrees to execute all such applications and other instruments, and to take all other action, as may be required in connection with securing any such consent, approval or authorization.

Borrower recognizes that Lender may be unable to effect a public sale of all or a part of the UCC Collateral consisting of securities by reason of certain prohibitions contained in the Securities Act of 1933, as amended (the "**1933 Act**"), and other applicable federal and state laws. During the continuance of an Event of Default, Lender may, therefore, in its discretion, take such steps as it may deem appropriate to comply with such laws and may, for example, at any sale of the UCC Collateral consisting of securities restrict the prospective bidders or purchasers as to their number, nature of business and investment intention, including, without limitation, a requirement that the Persons making such purchases represent and agree to the satisfaction of Lender that they are purchasing such securities for their account, for investment, and not with a view to the distribution or resale of any thereof. Borrower covenants and agrees, during the continuance of an Event of Default, to do or cause to be done promptly all such acts and things as Lender may reasonably request from time to time and as may be necessary to offer and/or sell the securities or any part thereof in a manner which is valid and binding and in conformance with all applicable laws. Upon any such sale or disposition, Lender shall have the right to deliver, assign and transfer to the purchaser thereof the UCC Collateral consisting of securities so sold.

(c) Right to Enter and Take Possession.

(i) If an Event of Default shall have occurred and is continuing, Borrower, upon demand of Lender, shall forthwith surrender to Lender the actual possession of the Mortgaged Property and, if and to the extent permitted by law, Lender itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Mortgaged Property without the appointment of a receiver or an application therefor, and may exclude Borrower and its agents and employees wholly therefrom, and take possession of the books, papers and accounts of Borrower relating thereto;

(ii) If Borrower shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after such demand by Lender, Lender may obtain a judgment or decree conferring upon Lender the right to immediate possession or requiring Borrower to deliver immediate possession of the Mortgaged Property to Lender. Borrower will pay to Lender, upon demand, all expenses of obtaining such judgment or decree, including costs and expense incurred by Lender, its attorneys and agents, and all such expenses and costs shall, until paid, become part of the Indebtedness and shall be secured by this Security Instrument;

(iii) Upon every such entering or taking of possession, Lender may hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof in accordance with its then current use, and, from time to time (1) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional Fixtures, Personalty and Equipment; (2) insure or keep the Mortgaged Property insured; (3) manage and operate the Mortgaged Property and exercise all of the rights and powers of Borrower to the same extent as Borrower could in its own name; and/or (4) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Lender, all as Lender from time to time may determine to be in its best interest. Lender may collect and receive all the Rents, including those past due as well as those accruing thereafter, and, after deducting (A) all expenses of taking, holding, managing and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes); (B) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (C) the cost of such insurance deemed necessary by Lender; (D) such taxes, assessments and other similar charges as Lender may at its option pay; (E) other proper charges upon the Mortgaged Property or any part thereof; and (F) the actual fees, expenses and disbursements of the attorneys and agents of Lender, Lender shall apply the remainder of the monies and proceeds so received by Lender, first, to the payment of accrued interest; second, to the payment of Impositions and to other sums required to be paid hereunder; and third, to the payment of overdue installments of principal and any other unpaid Indebtedness then due. Anything in this Section to the contrary notwithstanding, Lender shall not incur any liability as a result of any exercise by Lender of its rights under this Security Instrument, and Lender shall be liable to account only for the Rents actually received by Lender;

(iv) If an Event of Default shall then exist, Lender may require that Borrower cause all of its Accounts to be paid to one or more deposit accounts with Lender, or at Lender's option, with another financial institution approved by Lender. Borrower assigns and grants to Lender a security interest in, pledge of and right of setoff against all moneys from time to time held in such deposit accounts, to the extent permitted by applicable law. Borrower agrees to promptly notify all of its account debtors, including the Medicaid and Medicare agencies and other account debtors pursuant to all Reimbursement Contracts, to the extent permitted under applicable law and to the extent Borrower maintains such Accounts, to make payments to one or more such deposit accounts upon Lender's request and as designated by Lender, and Borrower agrees to provide any necessary endorsements to checks, drafts and other forms of payment so that

such payments will be properly deposited in such accounts. Lender may require that the deposit accounts be established so as to comply with any requirements applicable to payments of any accounts receivable, including applicable Medicaid and Medicare requirements. Lender may cause moneys to be withdrawn from such deposit accounts and applied to the Indebtedness in such order as Lender may elect, whether or not then due. Borrower appoints Lender as Borrower's attorney-in-fact, which appointment is coupled with an interest and is irrevocable, to provide any notice, endorse any check, draft or other payment for deposit, or take any other action which Borrower agrees to undertake in accordance with this Section. Lender shall not be liable for failure to collect or to enforce any Accounts or for any action or omission on the part of Lender, its officers, agents and employees in collecting or enforcing such Accounts;

(v) Whenever all the Indebtedness shall have been paid and all Events of Default shall have been cured or waived in writing by Lender, Lender shall surrender possession of the Mortgaged Property to Borrower, its successors and/or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

(d) Performance by Lender. Upon the occurrence and during the continuance of an Event of Default, Lender may, at its sole option, pay, perform or observe the obligations of Borrower under the Loan Documents, and all payments made or costs or expenses incurred by Lender in connection therewith, with interest thereon at the Default Rate or at the maximum rate from time to time allowed by applicable law, whichever is less, shall be secured hereby and shall be, without demand, immediately repaid by Borrower to Lender. Notwithstanding anything to the contrary herein, Lender shall have no obligation, explicit or implied to pay, perform, or observe any term, covenant, or condition of Borrower under the Loan Documents.

(e) Receiver. If any Event of Default shall have occurred and be continuing, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice and without regard to the sufficiency or value of any security for the Indebtedness or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Mortgaged Property and the Facility and to collect and apply the Rents and to sell all or any part of the Mortgaged Property to the extent approved by the court appointing such receiver. The receiver shall have all the rights and powers permitted under the laws of the Property Jurisdiction including the right to sell the Mortgaged Property as aforesaid. Borrower will pay unto Lender upon demand all expenses, including receiver's fees, reasonable attorney's fees, costs and agent's compensation, incurred pursuant to the provisions of this Section, and upon any Borrower's failure to pay the same, any such

amounts shall be added to the Indebtedness and shall be secured by this Security Instrument.

(f) Enforcement Rights. If an Event of Default shall have occurred and be continuing, Lender may, in addition to an not in abrogation of any other rights set forth in this Security Instrument, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law in equity or any other appropriate proceeding or remedy (i) to enforce payment of the Note or the performance of any term thereof or any other right, (ii) to direct Trustee to foreclose this Security Instrument and to sell, as an entirety or in separate lots or parcels, the Mortgaged Property, as provided by applicable law, and (iii) to pursue any other remedy available to it, all as Lender shall deem most effectual for such purposes. Lender shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Lender may determine. In addition, if an Event of Default shall have occurred and be continuing, Lender may exercise any and all other remedies applicable and enforceable under the law of the Property Jurisdiction. In the event the Mortgaged Property is comprised of more than one parcel of real property, Borrower hereby waives any right to require Lender to direct Trustee to foreclose or exercise any of its other remedies before proceeding against all of the Mortgaged Property as a whole or to require Lender to direct Trustee to foreclose or exercise such remedies against one portion of the Mortgaged Property prior to the foreclosure or exercise of said remedies against other portions of the Mortgaged Property. Notwithstanding the foregoing, to the extent Lender's enforcement actions concern any portion of the Mortgaged Property that consists of real property located in Utah, such enforcement actions are subject to *Utah Code Annotated* § 70B-6-901 (the "**Utah One Action Rule**").

(g) Trustee's Powers and Duties Upon Event of Default. The procedure for exercise of the Trustee's power of sale shall be as follows:

(i) Upon written request therefor by Lender specifying the nature of the Event of Default, or the nature of the several Events of Default, and the amount or amounts then due and owing, and provided all prerequisite notices required by applicable law have been given, Trustee shall execute a written notice of breach and of its election to cause the Mortgaged Property to be sold to satisfy the obligation secured hereby, and shall cause such notice to be recorded and otherwise given according to law.

(ii) Notice of sale having been given as then required by law and not less than the time then required by law having elapsed after recordation of such notice of breach, Trustee, without demand on Borrower, shall sell the Mortgaged Property at the time and place of sale specified in the notice, as provided by statute, either as a whole or in separate parcels and in such order as it may determine, at public auction to the highest and best bidder for cash in lawful

money of the United States, payable at time of sale. Borrower agrees that such a sale (or a sheriff's sale pursuant to judicial foreclosure) of all the Mortgaged Property as real estate constitutes a commercially reasonable disposition thereof, but that with respect to all or any part of the Mortgaged Property that may be personal property, Trustee shall have and exercise, at the sole election of Lender, all rights and remedies of a secured party under the UCC. Whenever notice is permitted or required hereunder or under the UCC, ten (10) days shall be deemed reasonable. Trustee may postpone sale of all or any portion of the Mortgaged Property, and from time to time thereafter may postpone such sale, as provided by statute. Trustee shall deliver to the purchaser its deed and bill of sale conveying the Mortgaged Property so sold, but without any covenant or warranty, express or implied. The recitals in such deed and bill of sale of any matters or facts shall, to the extent permitted by applicable law, be conclusive proof of the truthfulness thereof. Any person other than Trustee, including Borrower or Lender, may purchase at such sale.

(h) Purchase by Lender. Upon any foreclosure sale, Lender may bid for and purchase the Mortgaged Property and shall be entitled to apply all or any part of the Indebtedness as a credit to the purchase price.

(i) Application of Proceeds of Sale. In the event of a foreclosure or other sale of all or any portion of the Mortgaged Property, the proceeds of said sale shall be applied, first, to the out-of-pocket expenses of such sale and of all proceedings in connection therewith, including the fees and expenses of Trustee as provided in Section 42 below and actual out-of-pocket attorney's fees and expenses (and out-of-pocket attorney's fees and expenses shall become absolutely due and payable whenever foreclosure is commenced); then to insurance premiums, liens, assessments, Impositions and charges, including utility charges and any other amounts advanced by Lender hereunder, and interest thereon; then to payment of the Indebtedness in such order of priority as Lender shall determine, in its sole discretion; and finally the remainder, if any, shall be paid to Borrower, or to the person or entity lawfully entitled thereto.

(j) Borrower as Tenant Holding Over. In the event of any such foreclosure sale, Borrower (if Borrower shall remain in possession) shall be deemed a tenant holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable thereto.

(k) Waiver of Appraisalment, Valuation, Etc. Borrower agrees, to the full extent permitted by law, that in case of an Event of Default on the part of Borrower hereunder, neither Borrower nor anyone claiming through or under Borrower will assert, claim or seek to take advantage of any appraisalment, post-foreclosure redemption, valuation, stay, homestead, extension, exemption or laws now or hereafter in force, in

order to prevent or hinder the enforcement of foreclosure of this Security Instrument, or the absolute sale of the Mortgaged Property, or the delivery of possession thereof immediately after such sale to the purchaser at such sale.

(l) Discontinuance of Proceedings. In case Lender shall have proceeded to enforce any right, power or remedy under this Security Instrument by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Lender, then in every such case, Borrower and Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceedings had occurred.

(m) Waiver.

(i) No delay or omission by Lender or by any holder of the Note to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein, and every right, power and remedy given by this Security Instrument to Lender may be exercised from time to time and as often as may be deemed expedient by Lender. No consent or waiver expressed or implied by Lender to or of any breach or default by Borrower in the performance of the obligations of Borrower hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of the same or any other obligations of Borrower hereunder. Failure on the part of Lender to complain of any act or failure to act or failure to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Lender of its rights hereunder or impair any rights, powers or remedies of Lender hereunder.

(ii) No act or omission by Lender shall release, discharge, modify, change or otherwise affect the original liability under the Note, this Security Instrument, other Loan Documents or any other obligation of Borrower or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor, nor preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then existing or of any subsequent Event of Default, nor alter the lien of this Security Instrument, except as expressly provided in an instrument or instruments executed by Lender. Without limiting the generality of the foregoing, Lender may (1) grant forbearance or an extension of time for the payment of all or any portion of the Indebtedness; (2) take other or additional security for the payment of any of the Indebtedness; (3) waive or fail to exercise any right granted herein, in the Note or in other Loan Documents; (4) release any part of the Mortgaged Property from the security interest or lien of this

Security Instrument or otherwise change any of the terms, covenants, conditions or agreements of the Note, this Security Instrument or other Loan Documents; (5) consent to the filing of any map, plat or replat affecting the Land; (6) consent to the granting of any easement or other right affecting the Mortgaged Property; (7) make or consent to any agreement subordinating the security title or lien hereof, or (8) take or omit to take any action whatsoever with respect to the Note, this Security Instrument, the other Loan Documents, the Mortgaged Property or any document or instrument evidencing, securing or in any way related to the Security Instrument, all, except to the extent expressly provided otherwise in any written modified agreement by Lender and Borrower, without releasing, discharging, modifying, changing or affecting any such liability, or precluding Lender from exercising any such right, power or privilege with respect to the lien of this Security Instrument. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, Lender, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with respect to the Mortgaged Property or the Indebtedness, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings of Borrower or any guarantor of the Indebtedness or others.

(iii) To the extent not prohibited by applicable Requirements of Law, Borrower waives and relinquishes any and all rights it may have, whether at law or equity, to require Lender or Trustee to proceed to enforce or exercise any rights, powers and remedies it may have under the Loan Documents in any particular manner, in any particular order, or in any particular state or other jurisdiction. Borrower expressly waives and relinquishes any and all rights and remedies that Borrower may have or be able to assert by reason of the laws of the state of jurisdiction pertaining to the rights and remedies of sureties.

Borrower makes these arrangements, waivers and relinquishments knowingly and as a material inducement to Lender in making the Loan, after consulting with and considering the advice of independent legal counsel selected by Borrower.

(n) Suits to Protect the Mortgaged Property. Lender shall have power to institute and maintain such suits and proceedings as it may reasonably deem expedient (i) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or constitute an Event of Default under this Security Instrument; (ii) to preserve or protect its interest in the Mortgaged Property and in the Rents arising therefrom; and (iii) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would materially impair the security hereunder or be prejudicial to the interest of Lender.

(o) Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Borrower, its creditors or its properties, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Lender allowed in such proceedings for the entire amount due and payable by Borrower under this Security Instrument at the date of the institution of such proceedings and for any additional amount which may become due and payable by Borrower hereunder after such date.

(p) Actions Without Borrower's Consent. Borrower (and each of them) agrees that Lender may do any one or all of the following without notice to or the consent of Borrower and without affecting Lender's rights or remedies against Borrower: (i) accept partial payment of, compromise, settle, renew, extend the time for payment or performance of, or refuse to enforce any of Borrower's Indebtedness to Lender under or in connection with this Security Instrument or any of the other Loan Documents; (ii) grant any indulgence or forbearance to a Borrower, a Guarantor or any other Person under or in connection with any or all of the Loan Documents; (iii) release, waive, substitute or add any or all collateral securing payment of any or all of the Indebtedness; (iv) release, substitute or add any one or more endorsers or guarantors of any or all of the Indebtedness; and (v) exercise any right or remedy with respect to the Indebtedness or any collateral securing the Indebtedness, notwithstanding any effect on or impairment of Borrower's subrogation, reimbursement or other rights against Guarantor or any other Person under or in connection with any or all of the Loan Documents.

16. Remedies Cumulative. Each right and remedy provided in this Security Instrument is distinct from all other rights or remedies under this Security Instrument or any other Loan Document or afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order.

17. Forbearance.

(a) Lender may agree with Borrower, from time to time, at Lender's option and without giving notice to, or obtaining the consent of, or having any effect upon the obligations of any guarantor or other third party obligor, extend the time for payment of all or any part of the Indebtedness, reduce the payments due under this Security Instrument, the Note, or any other Loan Document, release anyone liable for the payment of any amounts under this Security Instrument, the Note, or any other Loan Document, accept a renewal of the Note, modify the terms and time of payment of the Indebtedness, join in any extension or subordination agreement, release any Mortgaged Property, take or release other or additional security, modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable

under the Note, or otherwise modify this Security Instrument, the Note, or any other Loan Document.

(b) Any forbearance by Lender in exercising any right or remedy under the Note, this Security Instrument, the Guaranty Agreement, or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of all or any part of the Indebtedness after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments on account of the Indebtedness or to exercise any remedies for any failure to make prompt payment. Enforcement by Lender of any security for the Indebtedness shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right available to Lender. Lender's receipt of any insurance and/or condemnation proceeds shall not operate to cure or waive any Event of Default unless Lender otherwise agrees in writing.

18. **Loan Charges.** If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in any Loan Document, whether considered separately or together with other charges levied in connection with any other Loan Document, violates that law, and Borrower is entitled to the benefit of that law, that charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Lender in excess of the permitted amounts shall be applied by Lender to reduce the principal of the Indebtedness. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness which constitutes interest, as well as all other charges levied in connection with the Indebtedness which constitute interest, shall be deemed to be allocated and spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of the Note.

19. **Waiver Of Statute Of Limitations.** Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Security Instrument or to any action brought to enforce any Loan Document.

20. **Waiver Of Marshalling.** Notwithstanding the existence of any other security interests in the Mortgaged Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Mortgaged Property shall be subjected to the remedies provided in this Security Instrument, the Note, the Loan Agreement, any other Loan Document or under applicable law. Lender shall have the right to determine the order in which any or all portions of the Indebtedness are satisfied from the proceeds realized upon the exercise of such remedies. Borrower and any party who now or in the future acquires a security interest in the Mortgaged Property and who has actual or constructive notice of this Security Instrument waives any and all right to require the marshalling of assets or to require that any of

the Mortgaged Property be sold in the inverse order of alienation or that any of the Mortgaged Property be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by applicable law or provided in this Security Instrument.

21. **Further Assurances.** Borrower shall execute, acknowledge, and deliver, at its sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements, transfers and assurances as Lender may require from time to time in order to better assure, grant, and convey to Lender the rights intended to be granted, now or in the future, to Lender under this Security Instrument and the Loan Documents.

22. **Estoppel Certificate.** Within ten (10) business days after a request from Lender, Borrower shall deliver to Lender a written statement, signed and acknowledged by Borrower, certifying to Lender or any person designated by Lender, as of the date of such statement, (a) that the Loan Documents are unmodified and in full force and effect (or, if there have been modifications, that the Loan Documents are in full force and effect as modified and setting forth such modifications); (b) to Borrower's knowledge, the unpaid principal balance of the Note; (c) the date to which interest under the Note has been paid; (d) to Borrower's knowledge, that Borrower is not in default (beyond any applicable grace or notice and cure periods) in paying the Obligations or in performing or observing any of the covenants or agreements contained in this Security Instrument or any of the other Loan Documents (or, if Borrower is aware of any such default, describing such default in reasonable detail); (e) whether or not there are then existing any setoffs or defenses known to Borrower against the enforcement of any right or remedy of Lender under the Loan Documents; and (f) any additional facts reasonably requested by Lender.

23. **Governing Law; Consent To Jurisdiction And Venue.**

(a) THE PARTIES HERETO AGREE THAT THE VALIDITY, INTERPRETATION, ENFORCEMENT AND EFFECT OF THIS SECURITY INSTRUMENT, AND ANY LOAN DOCUMENT WHICH DOES NOT ITSELF EXPRESSLY IDENTIFY THE LAW THAT IS TO APPLY TO IT, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF GEORGIA, PROVIDED, THAT THE PARTIES AGREE THAT THE PROVISIONS FOR THE CREATION, PERFECTION, ENFORCEMENT AND FORECLOSURE OF THE LIENS ON AND SECURITY INTERESTS IN OR ASSIGNMENTS OF ANY OF THE MORTGAGED PROPERTY CREATED PURSUANT TO THIS SECURITY INSTRUMENT SHALL BE GOVERNED BY THE LAWS OF THE PROPERTY JURISDICTION. **NOTWITHSTANDING THE PARTIES' CHOICE OF THE PROPERTY JURISDICTION AS THE LAW THAT GOVERNS THE CREATION, PERFECTION, ENFORCEMENT AND FORECLOSURE OF THE LIENS ON AND SECURITY INTERESTS IN MORTGAGED PROPERTY, IF A COURT CONSTRUING THIS SECURITY INSTRUMENT NEVERTHELESS APPLIES GEORGIA LAW TO THE**

AVAILABILITY OF A DEFICIENCY JUDGMENT FOLLOWING A FORECLOSURE TO A JUDICIAL OR NON-JUDICIAL FORECLOSURE SALE, THEN NOTWITHSTANDING THE PROVISIONS OF SECTION 44-14-161 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED (AS THE SAME MAY BE AMENDED FROM TIME TO TIME), LENDER SHALL BE ENTITLED TO SEEK A DEFICIENCY JUDGMENT FROM BORROWER, ANY GUARANTOR OF THE SECURITY OBLIGATIONS (BUT ONLY TO THE EXTENT GUARANTOR EXPRESSLY HAS LIABILITY THEREFOR UNDER THE GUARANTY), AND ANY OTHER PARTY OBLIGATED ON THE NOTE EQUAL TO THE DIFFERENCE BETWEEN THE AMOUNT OWING ON THE NOTE AND THE AMOUNT FOR WHICH THE PROPERTY WAS SOLD PURSUANT TO JUDICIAL OR NON-JUDICIAL FORECLOSURE SALE. BORROWER EXPRESSLY RECOGNIZES THAT THIS SECTION CONSTITUTES A WAIVER OF THE ABOVE-CITED PROVISIONS OF THE OFFICIAL CODE OF GEORGIA ANNOTATED THAT WOULD OTHERWISE REQUIRE LENDER TO REPORT THE SALE TO THE JUDGE OF THE SUPERIOR COURT OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED FOR CONFIRMATION AND APPROVAL AND OBTAIN AN ORDER OF CONFIRMATION AND APPROVAL THEREON AS A CONDITION TO PURSUING A DEFICIENCY AGAINST BORROWER, ANY GUARANTOR (BUT ONLY TO THE EXTENT GUARANTOR EXPRESSLY HAS LIABILITY THEREFOR UNDER THE GUARANTY), AND OTHER PERSONS WHO ARE EXPRESSLY LIABLE FOR THE PAYMENT OF THE LOAN (EVEN ABSENT THE INITIATION OF DEFICIENCY PROCEEDINGS AGAINST THEM). BORROWER FURTHER RECOGNIZES AND AGREES THAT THIS WAIVER CREATES AN IRREBUTTABLE PRESUMPTION THAT THE FORECLOSURE SALE PRICE IS EQUAL TO THE FAIR MARKET VALUE OF THE PROPERTY FOR PURPOSES OF CALCULATING DEFICIENCIES OWED BY BORROWER, ANY GUARANTOR (BUT ONLY TO THE EXTENT GUARANTOR EXPRESSLY HAS LIABILITY THEREFOR UNDER THE GUARANTY), AND OTHERS EXPRESSLY LIABLE FOR THE LOAN AGAINST WHOM RECOVERY OF A DEFICIENCY IS SOUGHT.

(b) EACH OF BORROWER AND LENDER CONSENTS TO THE NONEXCLUSIVE JURISDICTION OF ANY AND ALL STATE AND FEDERAL COURTS WITH JURISDICTION IN THE PROPERTY JURISDICTION OVER BORROWER AND BORROWER'S ASSETS. BORROWER AGREES THAT ITS ASSETS SHALL BE USED FIRST TO SATISFY ALL CLAIMS OF CREDITORS ORGANIZED OR DOMICILED IN THE UNITED STATES AND THAT NO ASSETS OF BORROWER IN THE UNITED STATES SHALL BE CONSIDERED PART OF ANY FOREIGN BANKRUPTCY ESTATE.

(c) THE STATE AND FEDERAL COURTS AND AUTHORITIES WITH JURISDICTION IN THE PROPERTY JURISDICTION SHALL HAVE NONEXCLUSIVE JURISDICTION OVER ALL CONTROVERSIES WHICH SHALL ARISE UNDER OR IN RELATION TO THE NOTE, ANY SECURITY FOR THE INDEBTEDNESS, OR ANY OTHER LOAN DOCUMENT. BORROWER IRREVOCABLY CONSENTS TO SERVICE, JURISDICTION, AND VENUE OF SUCH COURTS FOR ANY SUCH LITIGATION AND WAIVES ANY OTHER VENUE TO WHICH IT MIGHT BE ENTITLED BY VIRTUE OF DOMICILE, HABITUAL RESIDENCE OR OTHERWISE.

24. **Notice.**

(a) All notices, demands and other communications (“Notice”) under or concerning this Security Instrument shall be in writing. Each Notice shall be addressed to the intended recipient at its address set forth in this Security Instrument, and shall be deemed given on the earliest to occur of (i) the date when the Notice is received by the addressee; (ii) the first Business Day after the Notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next Business Day delivery; or (iii) the third Business Day after the Notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested.

(b) Any party to this Security Instrument may change the address to which Notices intended for it are to be directed by means of Notice given to the other party in accordance with this Section. Each party agrees that it will not refuse or reject delivery of any Notice given in accordance with this Section, that it will acknowledge, in writing, the receipt of any Notice upon request by the other party and that any Notice rejected or refused by it shall be deemed for purposes of this Section to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service. Legal counsel to a party may deliver notices or communications on behalf of its client.

(c) Any Notice under the Note and any other Loan Document which does not specify how Notices are to be given shall be given in accordance with this Section.

(d) A copy of any Notice sent to Lender pursuant to this Section shall be sent to:

Synovus Financial Corporation
Seniors Housing & Healthcare Lending
800 Shades Creek Parkway, Suite 325
Birmingham, Alabama 35209
Attention: Donna Phillips and Rich Malloy

With a copy by electronic mail to:

Email: shhlnotices@synovus.com

With a copy to:

Jackson Walker LLP
2323 Routh Street, Suite 600
Dallas, Texas 75201
Attention: Michelle Vincent Parker

A copy of any Notice sent to Borrower pursuant to this Section shall be sent to:

c/o White Oak Healthcare REIT I, LLC
8000 Towers Crescent Drive, Suite 1425
Vienna, Virginia 22181
Attention: Jeffrey Erhardt

With a copy to:

Avista Senior Living
1930 N. Arboleda #215
Mesa, Arizona 85213
Attention: Kristopher L. Woolley

With a copy to:

Williams Mullen
200 South 10th Street, Suite 1600
Richmond, Virginia 23219
Attention: Robert C. Dewar

25. **Single-Purpose Entity.** Until the Indebtedness is paid in full, Borrower shall maintain its status as a Single-Purpose Entity and comply with all those covenants with respect to its status as a Single-Purpose Entity as set forth in the Loan Agreement.

26. **Subrogation.** If, and to the extent that, the proceeds of the Loan are used to pay, satisfy or discharge any obligation of Borrower for the payment of money that is secured by a pre-existing mortgage, deed of trust or other lien encumbering the Mortgaged Property (a "**Prior Lien**"), such loan proceeds shall be deemed to have been advanced by Lender at Borrower's request, and Lender shall automatically, and without further action on its part, be subrogated to the rights, including lien priority, of the owner or holder of the obligation secured by the Prior Lien, whether or not the Prior Lien is released.

27. **Lender Statement; Certain Charges.** With respect to (a) any statement, accounting, or similar information requested by Borrower or any other Person pursuant to applicable law; or (b) any other document furnished to Borrower or any other Person by Lender

at Borrower's request, Lender shall have the right to charge Lender's reasonable and customary charge for providing such statement, accounting, or other information. Borrower shall pay Lender its reasonable and customary charge for any other service rendered by Lender in connection with the Loan or the Mortgaged Property, including the issuance of a request for full or partial release of the lien of this Security Instrument, transmitting proceeds of the Loan to an escrow holder and changing Lender's records relating to the Indebtedness.

28. **Disclosure Of Information.** Lender may furnish financial information regarding Borrower or the Mortgaged Property to third parties with an existing or prospective interest in the enforcement, evaluation, performance, purchase or securitization of the Indebtedness, including but not limited to credit rating agencies, provided, however, Lender shall observe and comply with any and all confidentiality obligations under the Loan Agreement. Borrower irrevocably waives any and all rights it may have under applicable law to prohibit such disclosure, including but not limited to any right of privacy.

29. **Release; Reconveyance.** Upon Borrower's written request and provided that (i) all Indebtedness secured by this Security Instrument and the other Loan Documents has been paid or performed in full (other than contingent Indebtedness which by its terms survive the release hereof and as to which no event giving rise to the incurrence of any such Indebtedness shall have occurred), and (ii) all fees due Lender in connection with release of this Security Instrument have been paid, Lender shall release the Mortgaged Property from the lien of this Security Instrument. Upon the payment and performance in full of all Indebtedness (other than contingent obligations which survive the release hereof and as to which no event giving rise to the incurrence of any such obligation shall have occurred), and upon request of Borrower, Lender shall direct the Trustee to reconvey, without warranty, the Mortgaged Property then held hereunder. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto." The recitals in the release or reconveyance of any matters or facts shall be conclusive proof of their truthfulness. Such release and reconveyance shall operate as a reassignment of the Rents and profits assigned to Lender under the Assignment of Leases and Rents. Lender shall deliver this Security Instrument and the Note after release and reconveyance to the Person or Persons legally entitled thereto.

30. **Execution Of Documents By Lender.** Without notice to or affecting the liability of Borrower or any other Person for the payment or performance of the Indebtedness, without affecting the lien or priority of this Security Instrument or Lender's rights and remedies under the Loan Documents, and without liability to Borrower or any other Person, Lender shall have the right, at any time and from time to time, to do any one or more of the following: (a) release any part of the Mortgaged Property and (b) execute any extension agreement relating to any or all of the Indebtedness, any document subordinating the lien of this Security Instrument to any other lien or document, or any other document relating to the Mortgaged Property, Indebtedness, or Loan Documents.

31. **Joint And Several Liability.** If more than one Person or entity signs this Security Instrument as Borrower, the obligations of such Persons shall be joint and several.

32. **Relationship Of Parties; No Third Party Lender.** The relationship between Lender and Borrower shall be solely that of creditor and debtor, respectively, and nothing contained in this Security Instrument shall create any other relationship between Lender and Borrower. No creditor of any party to this Security Instrument and no other person shall be a third party Lender of this Security Instrument or any other Loan Document.

33. **Severability; Amendments.** The invalidity or unenforceability of any provision of this Security Instrument shall not affect the validity or enforceability of any other provision, and all other provisions shall remain in full force and effect. This Security Instrument and the other Loan Documents contain the entire agreement among the parties as to the rights granted and the obligations assumed in this Security Instrument. This Security Instrument may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

34. **Miscellaneous Provisions.** The captions and headings of the sections of this Security Instrument are for convenience only and shall be disregarded in construing this Security Instrument. Any reference in this Security Instrument to an “**Exhibit**” or a “**Section**” shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this Security Instrument or to a section of this Security Instrument. All Exhibits attached to or referred to in this Security Instrument are incorporated by reference into this Security Instrument. Any reference in this Security Instrument to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time. Use of the singular in this Security Instrument includes the plural and use of the plural includes the singular. As used in this Security Instrument, the term “including” means “including, but not limited to.”

35. **WAIVER OF TRIAL BY JURY.** TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, EACH OF BORROWER AND LENDER (1) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE THAT IS TRIABLE OF RIGHT BY A JURY AND (2) WAIVES ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY, INTENTIONALLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL, AND THIS WAIVER IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE EXIST. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, BORROWER AND LENDER ARE AUTHORIZED TO SUBMIT THIS SECURITY INSTRUMENT TO ANY COURT HAVING JURISDICTION OVER THE SUBJECT MATTER AND THE PARTIES TO ANY LOAN DOCUMENT, SO AS TO SERVE AS CONCLUSIVE EVIDENCE OF BORROWER’S AND LENDER’S WAIVER OF

THE RIGHT TO JURY TRIAL. FURTHER, EACH OF BORROWER AND LENDER CERTIFIES THAT NEITHER BORROWER'S NOR LENDER'S REPRESENTATIVES OR AGENTS HAVE REPRESENTED, EXPRESSLY OR OTHERWISE, THAT ENFORCEMENT OF THIS WAIVER WILL NOT BE SOUGHT.

36. **WAIVER OF AUTOMATIC STAY.** TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, BORROWER HEREBY AGREES THAT, IN CONSIDERATION OF LENDER'S AGREEMENT TO MAKE THE LOAN AND IN RECOGNITION THAT THE FOLLOWING COVENANT IS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOAN, IN THE EVENT THAT BORROWER SHALL (1) FILE WITH ANY BANKRUPTCY COURT OF COMPETENT JURISDICTION OR BE THE SUBJECT OF ANY PETITION UNDER ANY SECTION OR CHAPTER OF TITLE 11 OF THE UNITED STATES CODE, AS AMENDED ("BANKRUPTCY CODE"), OR SIMILAR LAW OR STATUTE; (2) BE THE SUBJECT OF ANY ORDER FOR RELIEF ISSUED UNDER THE BANKRUPTCY CODE OR SIMILAR LAW OR STATUTE; (3) FILE OR BE THE SUBJECT OF ANY PETITION SEEKING ANY REORGANIZATION, ARRANGEMENT, COMPOSITION, READJUSTMENT, LIQUIDATION, DISSOLUTION, OR SIMILAR RELIEF UNDER ANY PRESENT OR FUTURE FEDERAL OR STATE ACT OR LAW RELATING TO BANKRUPTCY, INSOLVENCY, OR OTHER RELIEF FOR DEBTORS; (4) HAVE SOUGHT OR CONSENTED TO OR ACQUIESCED IN THE APPOINTMENT OF ANY TRUSTEE, RECEIVER, CONSERVATOR, OR LIQUIDATOR; OR (5) BE THE SUBJECT OF AN ORDER, JUDGMENT OR DECREE ENTERED BY ANY COURT OF COMPETENT JURISDICTION APPROVING A PETITION FILED AGAINST BORROWER FOR ANY REORGANIZATION, ARRANGEMENT, COMPOSITION, READJUSTMENT, LIQUIDATION, DISSOLUTION, OR SIMILAR RELIEF UNDER ANY PRESENT OR FUTURE FEDERAL OR STATE ACT OR LAW RELATING TO BANKRUPTCY, INSOLVENCY OR RELIEF FOR DEBTORS, THEN, SUBJECT TO COURT APPROVAL, LENDER SHALL THEREUPON BE ENTITLED AND, TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, BORROWER HEREBY IRREVOCABLY CONSENTS TO, AND WILL NOT CONTEST, AND AGREES TO STIPULATE TO RELIEF FROM ANY AUTOMATIC STAY OR OTHER INJUNCTION IMPOSED BY SECTION 362 OF THE BANKRUPTCY CODE, OR SIMILAR LAW OR STATUTE (INCLUDING, WITHOUT LIMITATION, RELIEF FROM ANY EXCLUSIVE PERIOD SET FORTH IN SECTION 1121 OF THE BANKRUPTCY CODE) OR OTHERWISE, ON OR AGAINST THE EXERCISE OF THE RIGHTS AND REMEDIES OTHERWISE AVAILABLE TO LENDER AS PROVIDED IN THE LOAN DOCUMENTS, AND AS OTHERWISE PROVIDED BY LAW, AND, TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, BORROWER HEREBY IRREVOCABLY WAIVES ITS RIGHTS TO OBJECT TO SUCH RELIEF.

37. **Successors And Assigns Bound.** This Security Instrument shall bind, and the rights granted by this Security Instrument shall inure to, the respective substitutes, successors and assigns of Trustee, Lender and Borrower.

38. **Counterparts.** This Security Instrument may be executed in any number of counterparts, all of which when taken together shall constitute one and the same Security Instrument.

39. **Fixture Filing.** As to any of the personal property which is or which hereafter becomes a "fixture" under the UCC, this Security Instrument constitutes a financing statement filed as a fixture filing pursuant to the UCC, as amended or recodified from time to time, and this Security Instrument constitutes a fixture filing recorded in the real estate records.

40. **No Agricultural Use.** None of the Mortgaged Property is presently or will during the term of this Security Instrument be used principally or at all for agricultural purposes.

41. **Trustee Matters.**

(a) If, for any reason, Lender shall prefer to appoint a substitute trustee or multiple substitute trustees, or successive substitute trustees or successive multiple substitute trustees, to act instead of the aforementioned Trustee, subject to the qualifications of trustees under *Utah Code Annotated* § 57-1-21, Lender shall have full power to appoint a substitute trustee (or, if preferred, multiple substitute trustees) in succession who shall succeed (and if multiple substitute trustees are appointed, each of such multiple substitute trustees shall succeed) to all the estates, rights, powers, and duties of the aforementioned Trustee and no notice of such appointment need be given to Borrower or to any other person or filed for record in any public office unless required by *Utah Code Annotated* § 57-1-22. Such appointment may be executed by any authorized agent or officer of Lender, such appointment shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any organizational action. Borrower hereby ratifies and confirms any and all acts which the aforementioned Trustee, or Trustee's successor or successors in this trust, shall do lawfully by virtue hereof and in accordance with the terms of this Security Instrument. If multiple substitute Trustees are appointed, each of such multiple substitute Trustees is empowered and authorized to act alone without the necessity of the joinder of the other multiple substitute trustees, whenever any action or undertaking of such substitute trustees is requested or required under or pursuant to this Security Instrument or applicable law.

(b) **TRUSTEE WILL NOT BE LIABLE FOR ANY ERROR OF JUDGMENT OR ACT DONE BY TRUSTEE IN GOOD FAITH, OR BE OTHERWISE RESPONSIBLE OR ACCOUNTABLE UNDER ANY CIRCUMSTANCES WHATSOEVER (INCLUDING THE TRUSTEE'S**

NEGLIGENCE AND/OR STRICT LIABILITY), EXCEPT FOR TRUSTEE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. Trustee will have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by it hereunder, believed by it in good faith to be genuine. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law), and Trustee will be under no liability for interest on any moneys received by it hereunder. **BORROWER SHALL REIMBURSE TRUSTEE FOR, AND INDEMNIFY AND SAVE TRUSTEE HARMLESS AGAINST, ANY AND ALL LIABILITY AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES) WHICH MAY BE INCURRED BY TRUSTEE IN THE PERFORMANCE OF TRUSTEE'S DUTIES HEREUNDER (INCLUDING ANY LIABILITY AND EXPENSES RESULTING FROM TRUSTEE'S OWN NEGLIGENCE AND/OR STRICT LIABILITY), EXCEPT TO THE EXTENT CAUSED BY TRUSTEE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.** The foregoing indemnity will not terminate upon release, foreclosure or other termination of this Security Instrument.

(c) All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received. but need not be segregated in any manner from any other moneys (except to the extent required by law), and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder.

42. **Sale by Trustee Pursuant to Power of Sale.** After the lapse of such time as may then be required by *Utah Code Annotated* § 57-1-24 or other applicable law following the recordation of the notice of default, and notice of default and notice of sale having been given as then required by *Utah Code Annotated* § 57-1-25 and § 57-1-26 or other applicable law, Trustee, without demand on Borrower, shall sell the Mortgaged Property on the date and at the time and place designated in the notice of sale, in such order as Lender may determine (but subject to Borrower's statutory right under *Utah Code Annotated* § 57-1-27 to direct the order in which the Mortgaged Property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale or on such other terms as are set forth in the notice of sale. The person conducting the sale may, for any cause deemed expedient, postpone the sale from time to time until it shall be completed and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; *provided*, if the sale is postponed for longer than forty-five (45) days beyond the date designated in the notice of sale, notice of the time, date, and place of sale shall be given in the same manner as the original notice of sale as required by *Utah Code Annotated* § 57-1-27. Trustee shall execute and deliver to the purchaser a Trustee's Deed, in accordance with *Utah Code Annotated*

§ 57-1-28, conveying the Mortgaged Property so sold, but without any covenant of warranty, express or implied. The recitals in the Trustee's Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Lender, may bid at the sale. Trustee shall apply the proceeds of the sale as follows:

First: To the out-of-pocket costs and expenses of exercising the power of sale and of the sale, including the payment of Trustee's out-of-pocket attorneys' fees actually incurred not to exceed the amount which may be provided for in the trust deed.

Second: To payment of the obligations secured by this Security Instrument.

Third: The balance, if any, to the person or persons legally entitled to the proceeds, or Trustee, in the Trustee's discretion, may deposit the balance of the proceeds with the clerk of the district court of the county in which the sale took place, in accordance with Utah Code Annotated § 57-1-29.

Upon any sale made under or by virtue of this Section, 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, Lender may bid for and acquire the Mortgaged Property, whether by payment of cash or by credit bid in accordance with *Utah Code Annotated* § 57-1-28(1)(b). In the event of a successful credit bid, Lender shall make settlement for the purchase price by crediting upon the obligations of Borrower secured by this Security Instrument such credit bid amount. Lender, upon so acquiring the Mortgaged Property or any part thereof, shall be entitled to hold, lease, rent, operate, manage, and sell the same in any manner provided by applicable laws.

For purposes of *Utah Code Annotated* § 57-1-28, Borrower agrees that all default interest, late charges, any prepayment premiums, swap breakage fees and similar amounts, if any, owing from time to time under the Note, Loan Agreement or other Loan Documents shall constitute a part of and be entitled to the benefits of Lender's Security Instrument lien upon the Mortgaged Property, and (ii) Borrower may add all default interest, late charges, prepayment premiums, swap breakage fees and similar amounts owing from time to time under the Loan Documents to the principal balance of the Note in its sole discretion, and in either case Lender may include all such amounts in any credit which Lender may make against its bid at a foreclosure sale of the Mortgaged Property pursuant to this Security Instrument.

Borrower agrees to pay any deficiency arising from any cause, to which Lender may be entitled after applications of the proceeds of any trustee's sale, and Lender may commence suit to collect such deficiency in accordance with *Utah Code Annotated* § 57-1-32 or other applicable law. Borrower agrees for purposes of *Utah Code Annotated* § 57-1-32 that the value of the Mortgaged Property as determined and set forth in an appraisal of the Mortgaged Property as obtained by Lender on or about the date of the sale or the recording of a notice of default and election to sell shall constitute the "fair market value" of the Mortgaged Property for purposes of *Utah Code Annotated* § 57-1-32.

Borrower knowingly waives, to the fullest extent permitted by applicable law, the rights, protections and benefits afforded to Borrower under *Utah Code Annotated* §§78B-6-901 and 57-1-32 and any successor or replacement statute or any similar laws or benefits.

43. **In the event of any amendment to the provisions of Utah Code Annotated Title 57 or other provisions of Utah Code Annotated referenced in this Security Instrument, this Security Instrument shall, at the sole election of Lender, be deemed amended to be consistent with such amendments or Lender may elect not to give effect to such deemed amendments hereto if permitted by applicable law.**

44. Limitation on Obligations.

(a) Notwithstanding anything in this Security Instrument to the contrary, (a) amounts for which Borrower is liable under this Security Instrument shall specifically exclude consequential, indirect, speculative, or punitive damages except to the extent the same are required to be paid by Lender to any third party, and (b) no partner, member, manager, investor, owner, shareholder, director, officer, employee, or agent (except Guarantor, to the extent set forth in the Loan Documents to which Guarantor is a party) shall have any personal liability for any of Borrower's liabilities or obligations under the Loan Documents or in connection with the Loan; **PROVIDED HOWEVER, THE FOREGOING TERMS OF THIS CLAUSE (B) SHALL NOT ABSOLVE OR RELEASE (I) BORROWER FROM ANY OF BORROWER'S OBLIGATIONS OR LIABILITIES UNDER THE LOAN DOCUMENTS TO WHICH IT IS A PARTY, OR (II) GUARANTOR FROM ANY OF THE GUARANTOR'S OBLIGATIONS OR LIABILITIES UNDER THE LOAN DOCUMENTS TO WHICH IT IS A PARTY.** Nothing herein contained shall prevent or shall be construed to prevent Lender from exercising and enforcing any other right or remedy allowed at law or equity or by any statute or by the terms of the Loan Documents.

(b) **NO CLAIM MAY BE MADE BY BORROWER AGAINST LENDER FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES IN RESPECT OF ANY CLAIM ARISING FROM OR RELATING TO THIS SECURITY INSTRUMENT OR ANY OTHER LOAN DOCUMENT OR ANY STATEMENT, COURSE OF CONDUCT, ACT, OMISSION OR EVENT IN CONNECTION WITH ANY OF THE FOREGOING (WHETHER BASED ON BREACH OF CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY); AND BORROWER HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE UPON ANY CLAIM FOR ANY SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST.**

45. Ground Lease Provisions.

(a) **No Merger.** In the event of the acquisition by Borrower at any time of the fee estate or any part of the fee estate in the Land, there shall be no merger of such fee estate with the ground leasehold estate created and existing by virtue of the Ground Lease, and the Ground Lease shall remain in full force and effect in accordance with its terms as separate and distinct estates in the Mortgaged Property (unless all Persons, including Lender, having an interest in the Ground Lease after such acquisition shall consent thereto in writing), but the lien of this Security Instrument shall extend and attach to, and shall constitute an encumbrance upon, the fee simple estate in such Mortgaged Property so acquired by Borrower, and at Lender's request, Borrower shall execute a supplemental deed of trust, in form and substance satisfactory to Lender evidencing the lien on such fee simple estate and, at the reasonable request of Lender, Borrower shall supply Lender with a survey, appraisal, and a loan policy of title insurance covering any such fee simple estate.

(b) **Subrogation.** If Lender elects, pursuant to the terms of the Loan Documents, to make any payments or do any act or thing required to be paid or done by Borrower, Lender shall, in addition to all other remedies of Lender, be fully subrogated to any and all rights of the party to whom such payment is made or for which such performance is made.

(c) **Additional Assignment.** Borrower hereby assigns to Lender all of its rights, privileges and prerogatives under the Ground Lease to terminate, cancel, renew, extend, modify, change, supplement, alter or amend the Ground Lease, and any such termination, cancellation, renewal, extension, modification, change, supplement, alteration or amendment of the Ground Lease without the prior written consent of Lender shall be void and of no force and effect; provided, however, that Lender agrees that it will not exercise such rights except during the continuance of an Event of Default. Borrower hereby assigns to Lender a security interest in any and all prepaid rents and security deposits and all other security which Ground Lessor now or hereafter holds for the performance of Borrower's obligations thereunder.

(d) **Prohibition on Assignment.** Except the Operating Lease and Operating Sublease, Borrower shall not sublease or assign any of its rights under the Ground Lease without the prior written consent of Lender and Ground Lessor. Borrower shall not subordinate the Ground Lease or its leasehold estate to any deed to secure debt, mortgage, deed of trust or other encumbrance of, or lien on, the fee interest of any owner of the Mortgaged Property. Any such attempted subordination shall be void and of no force or effect. All subleases entered into by Borrower with respect to all or any portion of the Mortgaged Property after the date hereof shall provide that if Lender forecloses under this or any other Loan Document encumbering the Mortgaged Property or enters into a new lease with Ground Lessor pursuant to the provisions for a new lease contained in the Ground Lease or any agreement between Ground Lessor and Lender related thereto, the subtenant shall attorn to Lender or its assignee and the sublease shall remain

in full force and effect in accordance with its terms notwithstanding the termination of the Ground Lease.

(e) **No Waiver of Ground Lessor Obligations.** Borrower will not waive, excuse, condone or in any way release or discharge Ground Lessor of or from the obligations, covenants and agreements by Ground Lessor to be done and performed under or in relation to the Ground Lease. Borrower, at Borrower's expense, will enforce the performance by Ground Lessor of Ground Lessor's obligations under or related to the Ground Lease.

(f) **Estoppel Certificate.** Promptly upon demand by Lender, Borrower shall use reasonable efforts to obtain from Ground Lessor and furnish to Lender an estoppel certificate stating the date through which rent has been paid, whether or not there are any defaults under the Ground Lease, the specific nature of any claimed defaults, and such other matters as may be reasonably requested by Lender.

(g) **Notices.** Borrower shall notify Lender promptly in writing of any request made by either party to the Ground Lease for arbitration or appraisal proceedings relating to the Ground Lease and of the institution of any such arbitration or appraisal proceeding, as well as of all proceedings thereunder, and shall promptly deliver to Lender a copy of the determination of the arbitrators in any such proceeding. Lender shall have the right (but not the obligation), following delivery of written notice to Borrower, to participate in the appointment of any arbitrator or appraiser to be appointed by Borrower and (to the extent permitted under the Ground Lease) to participate in such arbitration or appraisal proceedings in association with Borrower or on its own behalf as an interested party. Borrower shall notify Lender of any legal proceedings involving obligations under the Ground Lease, and Lender may intervene in any such legal proceeding and may be a party. Borrower shall promptly provide Lender with a copy of any decision rendered in any such proceeding.

(h) **Purchase Option.** Without the prior written consent of Lender, Borrower will not exercise any purchase option under the Ground Lease, which consent will not be unreasonably withheld and if granted shall be subject to such terms and conditions as may reasonably be imposed by Lender.

(i) **Bankruptcy Provisions.** With respect to the Ground Lease, Borrower, to the fullest extent permitted by applicable law, hereby warrants, represents, covenants, and agrees that:

(i) The lien of this Security Instrument hereby attaches to any and all of Borrower's rights, interests, and remedies arising now or hereafter under or pursuant to Section 365(h) of the Federal Bankruptcy Code, including,

without limitation, all of Borrower's rights to remain in possession of the Mortgaged Property.

(ii) Borrower shall not, without first obtaining Lender's written consent, elect to terminate the Ground Lease under Section 365(a) or 365(d) of the Federal Bankruptcy Code or elect to treat the Ground Lease as terminated under Section 365(h)(1) of the Federal Bankruptcy Code, or any other similar provision of law. Any such election made without first obtaining Lender's prior written consent shall be void.

(iii) Borrower hereby unconditionally assigns, transfers and sets over to Lender as additional security for the Indebtedness all of Borrower's claims and rights to the payment of damages arising from any rejection by Ground Lessor under the Federal Bankruptcy Code. Lender shall have the right to proceed in its own name or in the name of Borrower in respect of any claim, suit, action or proceeding relating to the rejection of the Ground Lease, including, without limitation, the right to file and prosecute, to the exclusion of Borrower, any proofs of claim, complaints, motions, applications, notices and other documents, in any case relating to Ground Lessor under the Federal Bankruptcy Code. This assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the Indebtedness is satisfied and discharged in full. Any amount received by Lender as damages arising out of rejection or out of exercising or enforcing its rights or remedies under this Section shall be applied first to all costs and expenses of Lender (including, without limitation, reasonable attorneys' fees) and then applied to the payment of the Indebtedness in such order and manner as Lender, in its sole discretion, may elect.

(iv) If any action, proceeding, motion or notice is commenced or filed with respect to Ground Lessor or the Mortgaged Property in connection with any case under the Federal Bankruptcy Code, Lender shall have the option, to the exclusion of Borrower, exercisable upon written notice from Lender to Borrower, to conduct and control any such litigation with counsel of Lender's choice. Lender may proceed in its own name or in the name of Borrower in connection with any such litigation, and Borrower agrees to execute any and all powers, authorizations, consents or other documents required by Lender in connection therewith. Any expenditures or payments made or incurred by Lender in connection with the prosecution or conduct of such litigation shall be secured by the lien of this Security Interest, shall bear interest at the Default Rate from the date of such advance, and shall, at the option of Lender, be repayable immediately upon demand. In any such litigation, Borrower shall not seek to offset any damages caused by a lack of performance by Ground Lessor against

the rent payable under the Ground Lease without the prior written consent of Lender, which consent shall not be unreasonably withheld.

(v) If pursuant to subsection 365(h)(1)(B) of the Federal Bankruptcy Code, Borrower shall seek to offset against the rent reserved in the Ground Lease the amount of any damages caused by the nonperformance by Ground Lessor under the Ground Lease of any of Ground Lessor's obligations under the Ground Lease after the rejection by Ground Lessor of the Ground Lease under the Federal Bankruptcy Code, Borrower shall, prior to effecting such offset, notify Lender of its intent so to do, setting forth the amounts proposed to be so offset and the basis therefor. Lender shall have the right to object to all or any part of such offset, and, in the event of such objection, Borrower shall not effect any offset of the amounts so objected to by Lender. If Lender shall have failed to object as aforesaid within ten (10) Business Days after notice from Borrower in accordance with the first sentence of this paragraph, Borrower may proceed to effect such offset in the amounts set forth in Borrower's notice. Neither Lender's failure to object as aforesaid nor any objection or other communication between Lender and Borrower relating to such offset shall constitute an approval of any such offset by Lender. Borrower shall pay and protect Lender, and indemnify and save Lender harmless from and against any and all claims, demands, actions, suits, proceedings, damages, losses, costs and expenses of every nature whatsoever (including, without limitation, attorneys' fees) arising from or relating to any offset by Borrower against the rent reserved in the Ground Lease.

(vi) Borrower shall not commence any action, suit, proceeding or case, or file any application or make any motion, with respect to the Ground Lease in any such case under the Federal Bankruptcy Code without first obtaining the prior written consent of Lender, which consent shall not be unreasonably withheld.

(vii) Borrower shall promptly after obtaining actual knowledge thereof give written notice of any filing by or against Ground Lessor of a petition under the Federal Bankruptcy Code to Lender, setting forth any information available to Borrower as to the date of such filing, the court in which such petition was filed, and the relief sought therein. Borrower shall promptly deliver to Lender any and all notices, summonses, pleadings, applications and other documents received by Borrower in connection with any such petition and proceedings relating thereto.

(viii) If there is filed by or against Borrower a petition under the Federal Bankruptcy Code, and Borrower shall determine to reject the Ground Lease pursuant to Section 365(a) of the Federal Bankruptcy Code, Borrower

shall give Lender prior written notice of the date on which Borrower shall apply to the bankruptcy court for authority to reject the Ground Lease. Such date of application by Borrower shall not be less than ten (10) Business Days from the date of filing of the petition. Lender shall have the right, but not the obligation, to serve upon Borrower, within ten (10) Business Days after receipt of notice from Borrower, a written notice stating that Lender demands that Borrower assume and assign the Ground Lease to Lender pursuant to Section 365 of the Federal Bankruptcy Code, that Lender covenants to cure or provide adequate assurance of prompt cure of all defaults and provide adequate assurance of future performance under the Ground Lease. If Lender serves upon Borrower such written notice, Borrower shall not seek to reject the Ground Lease and shall comply with Lender's demand within thirty (30) days after such written notice has been given subject to the performance by Lender of Lender's covenant to cure or provide adequate assurance.

(ix) Effective upon the entry of any order for relief with respect to Borrower under the Federal Bankruptcy Code, Borrower hereby assigns and transfers to Lender a non-exclusive right to apply to the bankruptcy court for an order extending the period during which the Ground Lease may be rejected or assumed

46. Lender's and Trustee's Acceptance. By accepting this Security Instrument, each of Lender and Trustee acknowledges and agrees to the terms and provisions set forth in this Security Instrument.

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**SIGNATURE PAGE OF BORROWER TO
TRUST DEED, SECURITY AGREEMENT, FIXTURE FILING
AND ASSIGNMENT OF LEASES AND RENTS (LEASEHOLD)**

IN WITNESS WHEREOF, Borrower has executed and sealed this Trust Deed, Security Agreement, Fixture Filing, and Assignment of Leases and Rents (Leasehold) as of the date first set forth above.

Witnesses

John Brussard
Printed Name: John Brussard

MICHAEL TREBOR
Printed Name: MICHAEL TREBOR

WOJV HOLLADAY, LLC, a Delaware limited liability company

By: Paul Nevala [seal]
Name: Paul Nevala
Title: Senior Vice President and Treasurer

STATE OF VIRGINIA)
 ss.
COUNTY OF Fairfax)

The foregoing instrument was acknowledged before me this 4th day of June, 2022, by Paul Nevala, Senior Vice President and Treasurer of **WOJV HOLLADAY, LLC**, a Delaware limited liability company, for and on behalf of such limited liability company.

Nathan R. Grisius
NOTARY PUBLIC
Residing at: Fairfax, VA

My commission expires 10/31/25



TRUST DEED, SECURITY AGREEMENT, FIXTURE FILING AND ASSIGNMENT OF LEASES AND RENTS (LEASEHOLD) – Signature Page

SCHEDULE I

Borrower Parties

WOJV HEBER, LLC, a Delaware limited liability company
WOJV HOLLADAY, LLC, a Delaware limited liability company
WOJV MAPLETON, LLC, a Delaware limited liability company

**TRUST DEED, SECURITY AGREEMENT, FIXTURE FILING AND ASSIGNMENT OF
LEASES AND RENTS (LEASEHOLD)**

32954488v.4

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1: (Located in Holladay City, Salt Lake County, State of Utah)

The leasehold estate created by the Lease executed by Risen Life Properties, LLC, a Utah limited liability company, as Landlord, and Holladay Senior Living Group, LLC, a Utah limited liability company, as Tenant, dated October 28, 2015 as disclosed by a Memorandum of Ground Lease Agreement recorded October 29, 2015 as Entry No. 12160521 in Book 10374 at Page 7728 of Official Records, and an Assignment of Ground Lease and Memorandum of Ground Lease Agreement recorded December 26, 2019 as Entry No. 13156361 in Book 10877 at Page 6634 of Official Records, in and to the following described land:

Beginning at a point on the Southerly right of way line of 3900 South Street, said point being North 00°02'52" East along the monument line of 2700 East Street 1751.95 feet and South 89°54'00" East 42.01 feet from the Southwest corner of Section 35, Township 1 South, Range 1 East, Salt Lake Base and Meridian and running thence along said right of way line the following (2) courses: 1) South 89°54'00" East 228.87 feet, 2) South 88°46'00" East 31.11 feet; thence South 00°13'15" West 341.53 feet to a point on the Northerly line of Susan Jane Subdivision, as recorded with the office of the Salt Lake County Recorder; thence West along said Northerly line 267.96 feet to a point on the Easterly right of way line of said 2700 East Street; thence Northerly along said right of way line the following (2) courses: 1) North 00°02'52" East 333.05 feet, 2) North 43°22'53" East 13.13 feet to the point of beginning.

PARCEL 1A:

Non-exclusive easements for vehicular and pedestrian ingress and egress, and parking of vehicles, appurtenant to Parcel 1 described herein, as more particularly defined in that certain Declaration and Grant of Cross Access Easements & Cross Parking Easements with Agreement Regarding Construction of Certain Improvements recorded September 4, 2015 as Entry No. 12127343 in Book 10359 at Page 4192 of official records of Salt Lake County, Utah.

Tax Parcel: 16-35-307-018

TRUST DEED, SECURITY AGREEMENT, FIXTURE FILING AND ASSIGNMENT OF LEASES AND RENTS (LEASEHOLD)

32954488v.4