

When recorded return to:

**U.S. Department of Housing & Urban Development
Denver Multifamily HUB
Region VIII, Denver
1670 Broadway, 25th Floor
Denver, CO 80202-4801**

Attn: Office of Counsel

**ENT 69412:2008 PG 1 of 32
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2008 Jun 16 10:51 am FEE 73.00 BY JL
RECORDED FOR FIDELITY LAND & TITLE**

Regulatory Agreement - Nursing Homes

**Regulatory Agreement
Nursing Homes**

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

Project Number 105-43054		Mortgagee Prudential Huntoon Paige Associates, Ltd.	
Amount of Mortgage Note \$7,443,900.00		Date June 1, 2008	
Mortgage Recorded Concurrently herewith (State) Utah	County Utah	Date	
Book	Page		

This Agreement entered into this **first** day of **June, 2008**, between **Park Way Health, LLC, a Utah limited liability company**, whose address is **855 S. Skylake Drive, Woodland Hills, UT 84653** (jointly and severally, hereinafter referred to as Lessee) and the undersigned **Federal Housing Commissioner**, (hereinafter called Commissioner).

In consideration of the consent of the Commissioner to the leasing of the aforesaid project, as described in the attached **Exhibit "A"**, by Mortgagor, **B D & E Properties, L.C., a Utah limited liability company**, and in order to comply with the requirements of the National Housing Act and the Regulations adopted by the Commissioner pursuant thereto, Lessees agree for themselves, their successors, heirs and assigns, that in connection with the mortgaged property and the project operated thereon and so long as the Contract of Mortgage Insurance continues in effect, and during such further period of time as the Commissioner shall be the owner, holder or reinsurer of the mortgage, or during any time the Commissioner is obligated to insure a mortgage on the mortgaged property:

- (1) The lease shall be subject and subordinate to the mortgage securing the note or other obligation endorsed for insurance by the commissioner;
- (2) Lessee shall make payments under lease when due;
- (3) Payments by the Lessee to the Lessor shall be sufficient to pay all mortgage payments including payments to reserves for taxes, insurance, etc., payments to the Reserve for Replacements, and to take care of necessary maintenance. If at the end of any calendar year, or any fiscal year if the project operates on the basis of a fiscal year, payments under the lease have not been sufficient to take care of the above items, the Lessor and Lessee upon request in writing from the Commissioner shall renegotiate the amounts due under the lease so that such amounts shall be sufficient to take care of such items; the Commissioner shall be furnished by the Lessee, within thirty days after being called upon to do so, with a financial report in form satisfactory to the Commissioner covering the operations of the mortgaged property and of the project;
- (4) The Lessee shall not sublease the project or any part thereof without the consent of the Commissioner;
- (5) The Lessee shall at all times maintain in full force and effect a license from the State or other licensing authority to operate the project as a nursing home, but the owner shall not be required to maintain such a license;
- (6) Lessee shall maintain in good repair and condition any parts of the project for the maintenance of which Lessee is responsible under the terms of the lease;
- (7) Lessee shall not remodel, reconstruct, add to, or demolish any part of the mortgaged property or subtract from any real or personal property of the project;
- (8) Lessee shall not use the project for any purpose except the operation of a nursing home;

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- (9) If a default is declared by the Commissioner under the provisions of Paragraph 10 of the Regulatory Agreement entered into by the Lessor-mortgagor and the Commissioner on **June 1, 2008**, copy of notice of default having been given to the Lessee, the Lessee will thereafter make all future payments under the lease to the Commissioner;
- (10) The lease may be cancelled upon thirty days written notice by the Commissioner given to the Lessor and the Lessee for a violation of any of the above provisions unless the violation is corrected to the satisfaction of the Commissioner within said thirty day period.
- (11) The Commissioner must approve any change in or transfer of ownership of the Lessee entity, and any change in or transfer of the management operation, or control of the project.
- (12) The Lessee shall not reduce or expand, allow to be reduced or expanded, or cause the expansion or reduction of the bed capacity of the project without the consent of the Commissioner.* Any change in the bed capacity shall violate this Regulatory Agreement.
- (13) The Lessee shall not enter into any management contract involving the project, unless such shall contain a provision that, in the event of default under the Regulatory Agreement as recited in paragraph 10 (above) of this Agreement, the management agreement shall be subject to termination without penalty upon written request of the Commissioner. Upon such request the Lessee shall immediately arrange to terminate the contract within a period of not more than thirty (30) days and shall make arrangements satisfactory to the Commissioner for continuing proper management of the project.
- (14) The mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and subject to examination and inspection at any reasonable time by the Commissioner or his duly authorized agents. Lessee shall keep copies of all written contracts or other instruments, which affect the mortgaged property, all or any of which may be subject to inspection and examination by the Commissioner or his/her duly authorized agents. The books and accounts of the operations of the mortgaged property and of the project shall be kept in accordance with the requirements of the Secretary. Within sixty (60) days following the end of each fiscal year the Secretary shall be furnished with a complete annual financial report based upon an examination of the books and records of Lessee prepared in accordance with the requirements of the Secretary, prepared and certified to by an officer or responsible Lessee and, when required by the Secretary, prepared and certified by a Certified Public Accountant, or other person acceptable to the Secretary. At request of the Secretary, his agents, employees, or attorneys, the Lessee shall furnish monthly occupancy reports and shall give specific answers to questions upon which information is desired from time to time relative to income, assets, liabilities, contracts, operation, and condition of the property and the status of the insured mortgage.
- (15) There shall be full compliance with the provisions of (1) any State or local laws prohibiting discrimination in housing on the basis of race, color, creed, or national origin; and (2) with the Regulations of the Federal Housing Administration providing for non-discrimination and equal opportunity in housing. It is understood and agreed that failure or refusal to comply with any such provisions shall be a proper basis for the Commissioner to take any corrective action he may deem necessary including, but not limited to, the refusal to comply with any such provisions shall be a proper basis for the Commissioner to take any corrective action he may deem necessary including, but not limited to, the refusal to consent to a further renewal of the lease between the mortgagor-Lessor and the Lessee, the rejection of applications for FHA mortgage insurance and the refusal to enter into future contracts of any kind with which the Lessee is identified; and further, if the Lessee is a corporation or any other type of business association or organization which may fail or refuse to comply with the aforementioned provisions, the Commissioner shall have a similar right of corrective action (1) with respect to any individuals who are officers, directors, trustees, managers, partners, associates or principal stockholders of the Lessee; and

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- (2) with respect to any other type of business association, or organization with which the officers, directors, trustees, managers, partners, associates or principal stockholders of the Lessee may be identified.
- (16) Any successor or assign of Lessee shall enter into a Regulatory Agreement – Nursing Homes with the Commissioner prior to its becoming Lessee of the Project. Furthermore, any successor or assign of manager shall enter into a new or co-sign an existing Regulatory Agreement – Nursing Home. The Lessee is required to submit audited financial statements in compliance with General Accepted Auditing Standards (GAAS) and Government Auditing Standards (GAS) to HUD within 60 days of the close of the project's fiscal year.
- (17) For the purposes of this Agreement, all references herein to "Nursing Home" shall be amended to read "Health Center."
- (18) A copy of the Commissioner-approved lease shall be attached to this Regulatory Agreement and be recorded in the County Recorder's Office.
- (19) The Mortgagor and/or Lessee and/or Operator and/or Management Agent, as applicable, shall maintain the requisite level of professional liability insurance, as determined by the Commissioner. Annually, the mortgagor shall ensure that the Lessee/Operator/Management Agency, as applicable, provides to HUD a certification of compliance with HUD's professional liability insurance requirements.

{Signatures to follow on next page.}

LEESEE:

**Park Way Health, LLC,
A Utah limited liability company**

By: *Bryan Einton*
Its: Manager

By: *Carol Ann*
Its: Manager

COMMISSIONER:

**Secretary of Housing and Urban
Development, acting by and through the
Federal Housing Commissioner**

By: *Marie J. Forte*
(Authorized Agent)

STATE OF UTAH)

COUNTY OF SALT LAKE)

On this 9 day of JUNE, 2008, before me, Karen E. Kelly, notary public, personally appeared Bryan Erickson & C. Todd Bramall, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of ~~California~~ ^{Utah} that the foregoing is true and correct.

WITNESS my hand and official seal.

Karen E. Kelly
(Signature)

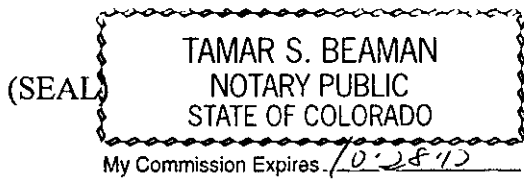


[Seal]

STATE OF COLORADO)
) SS.
CITY AND COUNTY OF DENVER)

Before me, Tamar S. Beaman, a Notary Public in and for the said State, on this 11th day of June, 2008, personally appeared Marcie LaPorte, who is well known to me to be the _____ Director, Denver Multifamily Hub, and the person who executed the foregoing instrument by virtue of the authority vested in ~~him~~ ^{her} by Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C.A. §3535(d), as amended, and Section 207(b) of the National Housing Act, 12 U.S.C.A. § 1713(b), as amended, and I having first made known to ~~him~~ ^{her} the contents thereof, ~~he~~ ^{she} did acknowledge the signing thereof to be ~~his~~ ^{her} free and voluntary act and done on behalf of Steven C. Preston, the Secretary of Housing and Urban Development, for the uses, purposes and considerations therein set forth.

Witness my hand and official seal the 11th day of June, 2008.



Tamar S. Beaman
Notary Public

My Commission expires 10/28/2010.

EXHIBIT "A"

LEASE

BASIC LEASE INFORMATION:

LEASE DATE: *April 10 2008*

LANDLORD: B D & E Properties L.C., A Utah limited liability company
 ADDRESS OF LANDLORD: 855 S. Skylake Dr. Woodland Hills, Utah 84653

TENANT: Park Way Health, LLC, A Utah limited liability company
 ADDRESS OF TENANT: 58 S. Professional Way, Payson, Utah

CONTACT: Bryan Erickson
 TELEPHONE:

PREMISES: Approximately 34,000 square feet

LEASE TERM: 40 years

BASE RENT: \$60,000 per month

ANNUAL BASE RENT ESCALATION: 0% per year

BASIC OPERATING COSTS: All operating costs paid by tenant

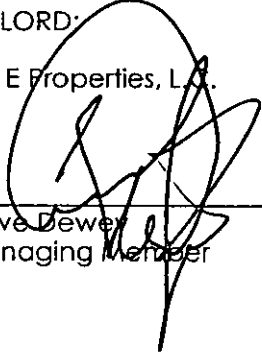
TOTAL RENT: \$ 60,000 per month

TENANT'S PERCENTAGE SHARE OF OPERATING COSTS: 100 %

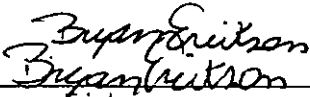
LANDLORD'S WORK- : Landlord shall build the premises according to the attached plan (Exhibit B)

The foregoing Basic Lease Information is hereby incorporated into and made a part of this Lease. In the event of any conflict between any Basic Lease Information and the Lease, the latter shall control.

LANDLORD:
 B D & E Properties, L.C.

By: 
 Steve Dewey
 Managing Member

TENANT:
 Park Way Health, LLC

By: 
 Bryan Erickson
 Managing Member

LEASE AGREEMENT

THIS LEASE ("Lease") made as of this 10 day of April, 2008 Between B D & E PROPERTIES L.C. ("Landlord") and Park Way Health LLC ("Tenant").

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord those Premises ("Premises") as shown on Exhibit A attached hereto and made a part hereof, specified in the Basic Lease Information attached hereto.

1. **Occupancy.** Tenant shall use and occupy the Premises for a skilled nursing center, support office, physical therapy, and other medically related purposes and for no other use or purpose without the prior written consent of Landlord.

2. **Term and Possession.**

a. The term of this Lease ("Lease Term") shall be for the period specified in the Basic Lease Information commencing on the Commencement Date, and ending thereafter as specified in the Basic Lease Information (or until sooner terminated as herein provided). Landlord and Tenant agree and recognize that the Commencement Date specified in the Basic Lease Information is an estimate of the completion date of the Building and the Landlord Work within the Tenant's Premises. Upon receipt of final working drawing for Landlord's Work, Landlord shall notify Tenant of the actual Commencement Date. If by the Commencement Date, the Landlord's Work has not been substantially completed, and such failure to substantially complete renders the Premises unsuitable for the commencement of Tenant's business, then the Commencement Date shall be postponed until the Landlord's Work is substantially completed. Such postponement shall extend the scheduled expiration of the Term for a number of days equal to the postponement.

b. Landlord agrees to complete the building now under construction and shall perform the "Landlord's Work" and any other tenant improvements designated and paid for by Tenant and agreed to Landlord ("Tenant Nonstandard Work"), (collectively the "Tenant Buildout") in the demised Premises as provided in Exhibit B attached hereto and made a part hereof, with diligence, subject to events and delays due to causes beyond its reasonable control.

c. The Premises shall be deemed completed and possession delivered when Landlord has substantially completed the work to be constructed or installed pursuant to the provisions of Exhibit B, subject only to the completion of items on Landlord's punch list (and exclusive of any work not being performed by Landlord or Landlord's agents). Tenant's obligation to pay rent hereunder shall commence on the earlier to occur of: (i) the date on which said work has been so substantially completed, or (ii) the date on which Tenant takes possession of, or commences the operation of its business in the Premises.

3. **Rent.**

a. Tenant shall pay to Landlord throughout the term of this Lease rent as specified in the Basic Lease Information, payable in monthly installments in advance on the first day of each month during every year of the term, without deduction or offset whatsoever, to Landlord at the address specified in the Basic Lease Information, or to such other firm or to such other place as Landlord may from time to time designate in writing. Said rental is subject to adjustment as provided in Paragraph 27 hereof. If this Lease commences on a day other than the first day of a calendar month or ends on a day other than the last day of a calendar month, the monthly rental for the fractional month shall be appropriately prorated.

b. Tenant agrees that if rent or any other payment due hereunder from Tenant to Landlord remains unpaid ten (10) days after said amount is due, the amount of such unpaid rent or other payment shall be increased by a late charge to be paid Landlord by Tenant in an amount equal to five percent (5%) of the amount of the delinquent rent or other payment.

4. **Restrictions on Use.** Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of the building or injure or annoy them. Tenant shall not do nor permit anything to be done on or about the Premises or bring or keep anything therein which will in any way increase the rate of any insurance upon the building in which the Premises are situated or any of its contents or cause a cancellation of said insurance.

5. **Compliance with Laws.** Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, or governmental rule now in force or which may hereafter be enacted. Tenant shall at its sole cost promptly comply with all laws, and governmental rules, now in force or which may hereafter be in force excluding structural changes not related to alterations made by or for Tenant.

6. **Alterations.** Tenant shall not make or suffer to be made any alterations, to the Premises without the prior written consent of Landlord. Upon the expiration or sooner termination of the term herein provided, Tenant shall upon demand by Landlord, at Tenant's sole cost remove all alterations, made by Tenant, designated by Landlord to be removed, and Tenant shall repair and restore the Premises to their original condition.

7. **Repair.** By taking possession of the Premises, Tenant accepts the Premises as being in the condition in which Landlord is obligated to deliver them. Tenant shall, during the term hereof at Tenant's sole cost, keep the Premises in good condition.

8. **Liens.** Tenant shall keep the Premises free from any liens arising out of any work performed, material furnished, or obligations incurred by Tenant. In the event that Tenant shall not, within twenty (20) days following the imposition of any such lien, cause the same to be released of record by payment or posting of a property bond, Landlord shall have, in addition to all other remedies provided herein and by law, the right, but no obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith shall be considered additional rent and shall be payable to it by Tenant on demand with interest at the rate payable of eighteen percent (12%) per annum or two percent (2%) above the prime rate of U. S. Bank, whichever is more. Tenant shall give Landlord at least five (5) business days' prior notice of commencement of any material construction on the Premises.

9. **Assignment and Subletting.**

a. Tenant shall not assign, encumber, or otherwise transfer this Lease or any interest herein, sublet the Premises or any part thereof without the prior written consent of Landlord which consent shall not be unreasonably withheld. A transfer by the present majority shareholders of ownership and control of the voting stock of a corporate tenant, or a transfer of a controlling interest in a partnership or proprietorship, as applicable, shall be deemed an assignment for the purposes of this Paragraph.

b. Any subletting hereunder by Tenant shall not result in Tenant being released or discharged from any liability under this Lease.

c. Landlord's consent to any assignment, encumbrances, subletting, occupation, lien or other transfer shall not release Tenant from any of Tenant's obligations hereunder or be deemed to be a consent to any subsequent occurrence.

10. **Insurance and Indemnification.**

a. Landlord shall not be liable to Tenant and Tenant hereby waives all claims against Landlord for any injury or damage to any person or property in or about the Premises by any cause, other than Landlord's negligence or willful acts.

b. Except for claims or liability resulting from the negligence of Landlord, Tenant shall hold Landlord harmless from and defend Landlord against any and all claims or liability for any injury or damage to any person or property whatsoever: (i) occurring in, on, or

about the Premises, (ii) occurring in, on, or about any facilities (including, without prejudice to the generality of the term "facilities," elevators, stairways, passageways, or hallways), the use of which Tenant may have in conjunction with other tenants of the Building, when such injury or damage shall be caused in part or in whole by the act, negligence, fault of, or omission of any duty with respect to the same by Tenant, its agents, servants, employees, or invitees, and in such case any action or proceeding brought against Landlord by reason of any such claims or liability, Tenant agrees to defend such action or proceeding at Tenant's sole expense by counsel reasonably satisfactory to Landlord. The provisions of this Paragraph 10 shall survive the expiration or termination of this Lease with respect to any claims or liability occurring prior to such expiration or termination.

c. Tenant agrees to purchase at its own expense and to keep in force during the term of this Lease a policy or policies of worker's compensation and comprehensive liability insurance, including personal injury and property damage, in the amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) for property damage and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) per person and ONE MILLION DOLLARS (\$1,000,000) per occurrence for personal injuries or deaths of person occurring in or about the Premises, or such other amount as Landlord shall deem necessary, based on periodic insurance reviews in respect to injury or damage to persons or property. Said policies shall: (i) name Landlord as an additional insured and insure Landlord's contingent liability under this Lease; (ii) be issued by an insurance company which is acceptable to Landlord and licensed to do business in the state of Utah; and (iii) provide that such insurance shall not be canceled unless thirty (30) days' prior written notice shall have been given to Landlord. Said policy or policies or certificates thereof shall be delivered to Landlord by Tenant upon commencement of the term of the Lease and upon each renewal of said insurance.

11. **Waiver of Subrogation.** Landlord and Tenant hereby waive any right that each may have against the other on account of any loss or damage arising in any manner which is covered by policies of insurance for fire and extended coverage, theft, public liability, worker's compensation, or other insurance now or hereafter existing during the term hereof, provided, however, the parties each shall first have their respective insurance companies waive any rights of subrogation that such companies may have against Landlord or Tenant, as the case may be.

12. **Services and Utilities.**

a. Landlord shall maintain the Building structure itself, in reasonably good order and condition except for damage occasioned by the act of the Tenant, which damage shall be repaired by Landlord at Tenant's expense.

b. Provided the Tenant shall not be in default hereunder, Landlord agrees to furnish to the Premises, at Tenant's expense, water and electricity suitable for the intended use of the Premises, heat and air conditioning required for the comfortable use of the Premises. Tenant agrees at all times to cooperate fully with Landlord and to abide by all the regulations and requirements which Landlord may prescribe for the proper functioning and protection of said heating, ventilating, and air-conditioning system. Landlord shall in no event be liable for any interruption or failure of utility services on the Premises for conditions beyond its control.

c. Tenant shall provide at its own expense:

(i) All maintenance, janitorial, and service agreements for the Building and the equipment therein, including without limitation, alarm services, garbage and waste disposal, security service, water treatment, facade maintenance, roof maintenance, landscaping, window cleaning, and elevator maintenance.

(ii) Legal expenses, accounting expenses, and the cost of audits by certified public accountants.

- (iii) All insurance premiums and costs including, but not limited to, the premiums and cost of fire, casualty and liability coverage and rental abatement and earthquake insurance applicable to the Building and Landlord's personal property used in connection therewith.
- (iv) All maintenance and capital replacement to the windows, doors, carpets, wallcoverings, the mechanical, plumbing and electrical systems and all other aspects of the building except the structure itself.
- (v) Repairs, replacements, and general maintenance (excluding repairs and general maintenance paid by proceeds of insurance).
- (vi) All maintenance costs relating to public and service areas of the Building including (but without limitation) sidewalks, landscaping, service areas, mechanical rooms, and Building exteriors.
- (vii) All taxes and assessments and governmental charges, whether federal, state, county, or municipal, and whether by taxing districts or authorities presently taxing the Building or by others, whether subsequently created or otherwise.
- (viii) All costs of capital improvements made to the Building subsequent to the Term Commencement Date which will improve the operating efficiency of the Building or which may be required to comply with laws, ordinances, rules or regulations promulgated, adopted, or enforced after completion of the initial construction of the Building and improvements of the Premises.
- (ix) All costs of contesting any law applicable to the Building or the amount of any taxes affecting the Building.
- (x) All wages of all employees engaged directly in the operation, management, maintenance, engineering, and security of the Building.
- (xi) Supplies, materials, tools, and rental of equipment used in the operation, management, and maintenance of the Building.
- (xii) Utilities, including water and power, gas, sewer, heating, lighting, air conditioning and ventilating servicing the Building.

d. Any sums payable under this Paragraph 12 shall be considered additional rent and may be added to any installment or rent thereafter becoming due, and Landlord shall have the same remedies for a default in payment of such sum as for a default in the payment of rent.

13. **Estoppel Certificate.**

a. Within ten (10) days following any written request which Landlord may make from time to time, Tenant shall execute and deliver to Landlord a certificate substantially in the form attached hereto as Exhibit C and made a part hereof, indicating thereon any exceptions thereto which may exist at that time. Failure of the Tenant to execute and deliver such certificate shall constitute an acceptance of the Premises and acknowledgment by Tenant that the statements included in Exhibit C are true and correct without exception.

14. **Holding Over.**

a. Any holding over after the expiration of the term of this Lease with the written consent of Landlord shall be a tenancy from month to month. The terms, covenants, and conditions of such tenancy shall be the same as provided herein, and the monthly rental shall be the current rate plus 10%. Acceptance by Landlord of rent after such expiration shall not result in any tenancy or any renewal of the term of this Lease, and the provisions of this Paragraph are in addition to and do not affect Landlord's right of reentry or other rights provided under this Lease or by applicable law.

b. If Tenant shall retain possession of the Premises or any part thereof without Landlord's consent following the expiration or sooner termination of this Lease for any reason, then Tenant shall pay to Landlord for each day of such retention one-hundred and fifty percent (150%) of the daily rental for the last period prior to the date of such expiration or termination, subject to adjustment as provided in Paragraph 27. Tenant shall also indemnify and hold Landlord harmless from any loss or liability resulting from delay by Tenant in surrendering the Premises including, without limitation, any claims made by any succeeding tenant founded on such delay. Acceptance of rent by Landlord following expiration or termination shall not constitute a renewal of this Lease, and nothing contained in this Paragraph shall waive Landlord's right of reentry or any other right.

15. **Subordination.** Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, this Lease shall be subject and subordinate at all times to the lien of any mortgage or deed of trust which may now exist or hereafter be executed in any amount for which said Building, land, or Landlord's interest or estate in any of said items, is specified as security. Notwithstanding the foregoing, Landlord shall have the right to subordinate or cause to be subordinated any such ground leases or underlying leases to this Lease. In the event that any ground lease or underlying lease terminates for any reason or any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant shall, notwithstanding any subordination, attorn to and become the Tenant of the successor in interest to Landlord at the option of such successor in interest. Tenant covenants and agrees to execute and deliver, upon demand by Landlord and in the form reasonably requested by Landlord, any additional documents evidencing the priority or subordination of this Lease with respect to any such ground leases or the lien of any such mortgage or deed of trust.

16. **Rules and Regulations.** Tenant shall faithfully observe and comply with the rules and regulations printed on or annexed to this Lease and all reasonable modifications thereof and additions thereto from time to time put into effect by Landlord. Landlord shall not be responsible for the nonperformance by any other tenant or occupant of the Building of any said rules and regulations.

17. **Reentry by Landlord.** Landlord reserves and shall at all times have the right to reenter the Premises to inspect the same, to supply janitor service and any other service to be provided by Landlord to Tenant hereunder. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon, and about the Premises, excluding Tenant's vaults and safes, or special security areas (designated in advance), and Landlord shall have the right to use any and all means which Landlord may deem necessary or proper to open said doors in an emergency, in order to obtain entry to any portion of the Premises, and any entry to the Premises, or portions thereof obtained by Landlord by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction, actual or constructive, of Tenant from the Premises or any portions thereof. After reasonable notice to Tenant, Landlord shall also have the right, and without incurring any liability to Tenant therefor, to change the arrangement and/or location of passageways, corridors, stairs, toilets, or other public parts of the Building and to change the name, by which the Building is commonly known.

18. **Insolvency or Bankruptcy.** The appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or an assignment of Tenant for the benefit of creditors,

or any action taken or suffered by Tenant under any insolvency, bankruptcy, or reorganization act, shall at Landlord's option constitute a breach of this Lease by Tenant. Upon the happening of any such event or at any time thereafter, this Lease shall terminate five (5) days after written notice of termination from Landlord to Tenant. In no event shall this Lease be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency, or reorganization proceedings.

19.1 Default by Tenant.

The failure to perform or honor any covenant, condition, or representation made under this Lease shall constitute a default hereunder by Tenant. Except as provided in Paragraph 3 above, Tenant shall not have any grace period within which to cure any default in the payment of rental or adjustment thereto, and Landlord shall not be required to give any notice to Tenant of any such default before exercising any remedies available to Landlord. Tenant shall have a reasonable time from the date of written notice from Landlord within which to cure any default under this Lease other than a default in the payment of rental or adjustments thereto. Upon a default under this Lease by Tenant, and failure to cure the default by Tenant within the permissible time period, if any, Landlord shall have the following rights and remedies in addition to, or as an alternative to, any other rights or remedies available to Landlord at law or in equity:

a. Re-enter the Premises, take possession thereof, eject all persons therefrom, and with or without re-entry, declare this Lease terminated, in which event Tenant shall immediately pay Landlord a sum of money equal to the amount, if any, by which the then discounted value of the rent reserved under this Lease for the balance of the Lease Term exceeds the then discounted reasonable rental value of the Premises for the balance of the Lease Term (discounted to the date of termination at the rate of six percent (6%) per annum) plus costs, expenses and reasonable attorney's fees.

b. Re-enter the Premises, take possession thereof, eject all persons therefrom, and with or without terminating this Lease, relet the Premises or any part thereof, for the account of Tenant upon such terms and conditions as Landlord deems advisable, in which event the rents received from such reletting shall be applied first to the expenses of such reletting and collection, including clean-up, repair, and renovation or alteration of the Premises, reasonable attorneys' fees, and real estate commissions paid, and thereafter to payment of all sums due or to become due Landlord under this Lease. Tenant shall pay Landlord monthly, on or before the first day of each month, any deficiency between the rent due under this Lease and the rent received from such reletting less Landlord's expenses as set forth above in subparagraph (a).

c. After terminating or without terminating this Lease, Landlord may re-enter the Premises and take possession of any and all property whatsoever found there and place such property in a public warehouse or elsewhere for the account and at the expense of Tenant. In the event of default Tenant hereby grants Landlord a lien upon all of Tenant's property in the Premises. Landlord may thereafter sell any or all of such property at public or private sale in such manner and at such times and places as Landlord in its sole discretion may deem proper, and shall apply the proceeds of such sale; first, to the cost and expenses of such sale, including reasonable attorneys' fees; second, to the payment of the costs of or charges for storing any such property; third, to the payment of any other sums of money which may then or thereafter be due to Landlord from Tenant under any of the provisions of this Lease; and fourth, the balance, if any, to Tenant. Tenant hereby waives all claims for damages that may be caused by Landlord's reentering and taking possession of the Premises and/or removing, storing and disposing of any property therein, and will hold Landlord harmless from all loss, costs and/or damages occasioned thereby.

d. All of Landlord's rights and remedies are cumulative and not exclusive, and the exercise of any right or remedy at any one time shall not preclude the exercise of the same or any other right or remedy at any other time. No re-entry or taking possession of the Premises or any property therein shall be construed as an election on Landlord's part to terminate this Lease. Termination of this Lease may only be by written notice of termination

given by Landlord to Tenant. Landlord may, in its sole discretion, sue periodically to recover damages, and no action for damages shall bar a later action for damages or any other remedy. Unless and until this Lease is terminated as provided in subparagraph (a) above, Tenant shall continue to be liable to Landlord for rent and all other amounts owing under this Lease when and as they become due, whether or not Tenant's possessions of the Premises has been terminated, and whether or not the Premises are sublet by Landlord.

19.2 Default by Landlord

Landlord shall not be in default unless Landlord fails to perform obligations of Landlord required under this Lease within a reasonable time, but not less than thirty (30) days after written notice by Tenant to Landlord and to the holder of any mortgage or deed of trust covering the Premise or building in which the Premises is located whose name and address shall have been furnished to Tenant. Such notice must specify wherein Landlord has failed to perform such obligation. Notwithstanding the foregoing or any thing herein to the contrary, if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

19.3 Consent to Notice Being Given to Principal of Tenant Affiliated With Landlord

Tenant hereby consents that Landlord may, but shall not be obligated to, give any notice required or permitted to be given to Tenant pursuant to this Lease to any principal of Tenant who is also affiliated, directly or indirectly, in any way with Landlord, including Guarantors of this Lease, and Members of Coral Desert Health Center, LLC, and Tenant hereby releases Landlord, and agrees to hold Landlord harmless from, any and all liability of any kind or nature in any way arising out of or connected with giving such notice.

20. Damage by Fire, Etc.

a. If the Premises or the Building are damaged by fire or other casualty, Landlord shall forthwith repair the same as speedily as possible at the expense of Landlord, unless Landlord shall elect not to rebuild, as hereinafter provided and an equitable part of the rent shall be abated until so repaired, based upon the time and to the extent the leased premises are untenable.

b. In case the Premises or the Building shall be destroyed or so damaged by fire or other casualty, as to render more than twenty five percent (25%) thereof untenable, or in the event of any uninsured loss, or if the unexpired term of this Lease is one and one-half (1-1/2) years or less on the date of any destruction or damage, then either party may, if it so elects, by notice in writing to the other party, within thirty (30) days after such destruction or damage, terminate this Lease.

c. Landlord's obligation to repair or rebuild shall be limited to basic building and the replacement of any original installations as Landlord's Work. In no event, in the case of any such destruction, shall Landlord be required to repair or replace Tenant's inventory or Tenant Nonstandard Work. Tenant covenants to make such repairs and replacements and to furnish Landlord, on demand, evidence of insurance assuring its ability to do so.

21. Eminent Domain.

a. If the whole of the Premises shall be taken under the power of eminent domain, then the term of this Lease shall cease as of the day possession shall be taken and the rent shall be paid up to that date.

b. In the event more than forty percent (40%) of the Premises shall be so taken, either party shall have the right to terminate this Lease effective at the time provided in Subsection A above upon giving the other party written notice of termination within sixty (60) days after the taking of possession by such authority.

c. If any of the floor area of the Premises shall be so taken, then Tenant shall have the right either to terminate this Lease or, subject to Landlord's right to termination as set forth in Subsection B above, to continue in possession of the remainder of the Premises upon notice in writing to landlord of Tenant's intention given within thirty (30) days after such taking of possession, and if Landlord does not terminate, all of the terms herein provided shall continue in effect except that the rent shall be equitably abated as to any portion of the Premises so taken and Landlord shall restore the Premises to a complete architectural unit but shall not be required to expend any amounts in excess of its award nor be obligated for any work excluded pursuant to this Lease.

d. All damages awarded for such taking under the power of eminent domain, whether for the whole or part of the Premises, shall be the property of Landlord, whether such damages shall be awarded as compensation for diminution in value of the leasehold or to the fee of the Premises; provided, however, that Landlord shall not be entitled to any separate award made to Tenant for loss of business, depreciation to and cost of removal of inventory, or to other separate awards payable to Tenant.

22. **Sale by Landlord.** In the event of a sale or conveyance by Landlord of the Building, the same shall operate to release Landlord from any future liability upon any of the covenants or conditions, express or implied, herein contained in favor of Tenant, and in such event Tenant agrees to look solely to the responsibility of the successor in interest of Landlord in and to this Lease. This Lease shall not be affected by any such sale, and Tenant agrees to attorn to the purchaser or assignee.

23. **Right of Landlord to Perform.** If Tenant shall fail to pay any sum of money, other than rent, required to be paid by it thereunder or shall fail to perform any other act on its part to be performed hereunder, and such failure shall continue for thirty (30) days after notice thereof by Landlord, Landlord may, without thereby waiving or curing such failure and without waiving or releasing Tenant from any obligation of Tenant, make any such payment or perform any such act for the account of Tenant.

24. **Surrender of Premises.**

a. Tenant shall, at least thirty (30) days before the last day of the term hereof, give to Landlord a written notice of intention to surrender the Premises on that date, but nothing contained herein shall be construed as an extension of the term hereof or as consent of Landlord to a holding over by Tenant.

b. At the end of the term or any renewal thereof, or upon termination of Tenant's right to possession, Tenant will deliver up to Landlord possession of the Premises in good condition reasonable wear and tear excepted. Tenant shall, prior to the termination of this Lease or termination of Tenant's right to possession, remove all movable furniture and equipment belonging to Tenant, at Tenant's sole cost, title to which shall be in Tenant until such termination, repairing any damage caused by such removal. Property not so removed upon the termination of this Lease or upon termination of Tenant's right to possession shall be deemed abandoned by Tenant, and title to the same shall thereupon pass to Landlord. Upon request by Landlord, unless otherwise agreed to in writing by Landlord, Tenant shall remove, at Tenant's sole cost, any or all permanent improvements or additions to the Premises installed by or at the expense of Tenant.

25. **Waiver.** If either Landlord or Tenant waives the performance of any term, covenant, or condition contained in this Lease, such waiver shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein. Furthermore, the acceptance of rent by Landlord shall not constitute a waiver of any preceding breach by Tenant of any term, covenant, or condition of this Lease, regardless of Landlord's knowledge of such preceding breach at the time Landlord accepted such rent. Failure by Landlord to enforce any of the terms, covenants, or conditions of this Lease for any length of time shall not be deemed to waive or to decrease the right of Landlord to insist thereafter upon strict performance by Tenant. Waiver by Landlord of any term, covenant, or condition contained in this Lease may only be made by a written document signed by Landlord.

26. **Notices.** All notices and demands which may be or are required to be given by either party to the other hereunder shall be in writing. All notices and demands by Landlord to Tenant shall be sent by United States certified or registered mail, postage prepaid, addressed to Tenant at the Premises, or to such other place as Tenant may from time to time designate in a notice to Landlord. All notices and demands by Tenant to Landlord shall be sent by United States certified or registered mail, postage prepaid, addressed to Landlord at the address specified in the Basic Lease Information, or to such other firm or to such other place as Landlord may from time to time designate in a notice to Tenant. All notices and demands shall be deemed given on the date personally delivered to the address designated above or on the date mailed as provided above.

27. **Rental Adjustments.** In addition to Basic Rent provided to be paid hereunder, Tenant shall pay, as Rent, Tenant's Proportionate Share of Basic Operating Cost in the manner set forth below.

a. **Definition:** For purposes hereof, the terms used in this Paragraph 27 shall have the following meanings:

(1) "Basic Operating Cost" shall mean all expenses and costs of every kind and nature which Landlord shall pay or become obligated to pay because of or in connection with the operation of the Building. Notwithstanding anything to the contrary herein contained, Basic Operating Cost shall not include (aa) the initial construction cost of the Building; (bb) depreciation on the initial construction of the Building; (cc) the cost of providing Tenant improvements to Tenant or any other tenant; (dd) debt service (including, but without limitation, interest, principal, and any impound payments) required to be made on any mortgage or deed of trust recorded with respect to the Building and/or the real property on which the Building is located other than debt service and financing charges imposed pursuant to Paragraph 27 a.(1)(xi) above.

(2) "Estimated Basic Operating Cost" for any particular year shall mean Landlord's estimate of the Basic Operating Cost for such fiscal year as hereinafter provided.

(3) "Basic Operating Cost Adjustment" shall mean the difference between Basic Operating Cost and Estimated Basic Operating Cost for any calendar year determined as hereinafter provided.

(4) "Building" shall mean the Building described in the Basic Lease Information, plus all land on which it is located or which is used in connection with the Building.

b. **Payment of Estimated Basic Operating Cost.** During the last month of each fiscal year during the Term, or as soon thereafter as practicable, Landlord shall give Tenant written notice of the Estimated Basic Operating cost for the ensuing fiscal year. The fiscal year is as specified in the Basic Lease Information. The Estimated Basic Operating Cost for the fiscal year in which the Scheduled Term Commencement Date falls is set forth in the Basic Lease Information sheet. Tenant shall pay Tenant's Proportionate Share of the Estimated Basic Operating Costs with installments of Basic Rent required to be paid pursuant to Paragraph 3 above for the fiscal year to which the estimate applies in monthly installments on the first day of each calendar month during such year, in advance. Such payment shall be construed to be Rent for all purposes hereof.

c. **Computation of Basic Operating Cost Adjustment.** After the end of each fiscal year, Landlord shall deliver to Tenant a statement of Basic Operating Cost for the fiscal year just ended, accompanied by a computation of Basic Operating Cost Adjustment. If such statement shows that Tenant's payment based upon Estimated Basic Operating Costs is less than Tenant's Proportionate Share of Basic Operating Cost, then Tenant shall pay the difference within twenty (20) days after receipt of such statement, such payment to constitute additional rent hereunder. If such statement shows that Tenant's payments of Estimated Basic Operating Cost exceed Tenant's Proportionate Share of Basic Operating Costs, then (provided that Tenant is not

in default under this Lease) Tenant shall receive a credit for the amount of such payment against Tenant's obligation for payment of Tenant's Proportionate Share of Estimated Basic Operating Cost next becoming due hereunder. If this Lease has been terminated or the Term hereof has expired prior to the date of such statement, then the Basic Operating Cost Adjustment shall be paid by the appropriate party within twenty (20) days after the date of delivery of the statement.

d. **Triple Net Lease.** This shall be a triple net lease and Base Rent shall be paid to Landlord absolutely net of all costs and expenses. The provisions for payment of Basic Operating Cost by means of periodic payments of Tenant's Proportionate Share of estimated Basic Operating Cost and the Basic Operating Cost Adjustment are intended to pass on to Tenant and reimburse Landlord for all cost and expenses of the nature described in Paragraph 27 a.(1) above incurred in connection with operation of the Building.

e. **Tenant Audit.** Tenant shall have the right, at Tenant's expense and upon not less than forty-eight (48) hours' prior written notice to Landlord, to review at reasonable times Landlord's books and records for any fiscal year a portion of which falls within the Term for purposes of verifying Landlord's calculation of Basic Operating Cost and Basic Operating Cost Adjustment.

28. **Taxes Payable by Tenant.** Tenant shall pay before delinquency all taxes levied or assessed during the term of this Lease (excluding, however, state and federal personal or corporate income taxes measured by the income of Landlord from all sources, capital stock taxes, and estate and inheritance taxes), whether by or otherwise calculated with respect to: (a) the gross or net payable under this Lease including, without limitation, any gross receipts tax levied by any taxing authority, or any other gross income tax or excise tax levied by any taxing authority with respect to the receipt of the rental hereunder; (b) the value of Tenant's equipment, furniture, fixtures, or other personal property located in the Premises; or (c) the value of any leasehold improvements, alterations or additions made in or to the Premises, regardless of whether title to such improvements, alterations, or additions shall be in Tenant or Landlord.

29. **Abandonment.** Tenant shall not vacate or abandon the Premises at any time during the term, and any such vacation or abandonment shall be a breach of this Lease. If Tenant shall abandon, vacate, or surrender said Premises or be dispossessed by process of law, or otherwise, any personal property belonging to Tenant and left on the Premises shall, at the option of Landlord, be deemed to be abandoned and title thereto shall pass to Landlord.

30. **Successors and Assigns.** Subject to the provisions of Paragraph 9 hereof, the terms, covenants, and conditions contained herein shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators, and assigns of the parties hereto.

31. **Attorneys' Fees.** In the event that any action must be taken to enforce any term, covenant, or condition of this Lease, Landlord shall be entitled to payment by Tenant of all reasonable costs incurred in connection with such enforcement, whether or not litigation is commenced including, without limitation, reasonable attorneys' fees.

32. **Lease Consideration.** Upon occupancy in the Premises, Tenant has paid the sum of \$100.00 as lease consideration. Landlord may apply the lease consideration to pay the cost of performing any obligation which Tenant fails to perform within the time required by this Lease, but such application by Landlord shall not be the exclusive remedy for Tenant's default. If the lease consideration is applied by Landlord, Tenant shall on demand pay the sum necessary to replenish the lease consideration to its original amount.

33. [Intentionally Deleted]

34. **Corporate Authority.** If Tenant signs as a corporation, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing corporation, that Tenant has and is qualified to do business in Utah, that the corporation has full right and authority to enter into this Lease, and that each and both of the persons signing on behalf of the corporation were authorized to do so. Upon Landlord's

request, Tenant shall provide Landlord with evidence reasonably satisfactory to Landlord confirming the foregoing covenants and warranties.

35. **Lease Effective Date.** Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for lease, and it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant.

36. **Brokerage.** Tenant represents and warrants that it has dealt with no broker, agent or other person in connection with this transaction and/or that no broker, agent or other person brought about this transaction. Tenant agrees to indemnify and hold Landlord harmless from and against any claims by any other broker, agent or other person claiming a commission or other form of compensation by virtue of having dealt with Tenant with regard to this leasing transaction.

37. **Force Majeure.** Except in the case of the payment of Rent by Tenant, whenever a period of time is herein prescribed for action to be taken by Landlord or Tenant, Landlord or Tenant as the case may be shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to strikes, riots, Acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the control of Landlord or Tenant as the case may be.

38. **Certain Rights Reserved by Landlord.** Landlord shall have the following rights, exercisable without notice and without liability to Tenant for damage or injury to property, persons or business and without effecting an eviction, constructive or actual, or disturbance of Tenant's use or possession or giving rise to any claim for setoff or abatement of rent:

a. To decorate and make repairs, alterations, or improvements, whether structural or otherwise, in and about the Building, and to change the arrangement and location of entrances, doors, corridors, elevators, stairs, toilets, or other public parts of the Building, without affecting any of Tenant's obligations hereunder, so long as the leased Premises are reasonably accessible.

b. To have and retain a paramount title to the leased Premises free and clear of any act of Tenant purporting to burden the encumber them.

c. To change the name of which the Building is designated.

d. To grant to anyone the exclusive right to conduct any business or render any service in or to the Building, provided such exclusive right shall not operate to exclude Tenant from the use expressly permitted herein.

e. [Intentionally Deleted]

f. To have access for Landlord and other tenants of the Building to any mail chutes located on the leased Premises according to the rules of the United States Postal Service.

g. To take all such reasonable measures as Landlord may deem advisable for the security of the Building and its occupants including, without limitation, the search of all persons entering or leaving the Building, the evacuation of the Building for cause, suspected cause, or for drill purposes, the temporary denial of access to the Building, and the closing of the Building after normal business hours and on Saturdays, Sundays, and holidays subject, however, to Tenant's right to admittance when the Building is closed after normal business hours under such reasonable regulations as Landlord may prescribe from time to time.

39. **HUD Provisions** For so long as the Secretary of Housing and Urban Development ("HUD") is the holder or insurer of any indebtedness secured by the Premises (a "HUD Mortgage"), the following provisions shall apply to this Lease, notwithstanding anything herein to the contrary. This Section 39 shall not be amended without the prior written consent of HUD and

the Mortgagee.

a. This Lease shall not be assigned, in whole or in part (including any transfer of title or right to possession and control of the Premises, or of any right to collect fees or rents), without the prior approval of HUD. Landlord and Tenant acknowledge that any proposed assignee will be required to execute a Regulatory Agreement Nursing Homes (Form HUD-92466-NHL) with HUD as a prerequisite to any such approval.

b. In the event of any conflict between the terms and provisions of this Lease and the requirements of Section 232 of the National Housing Act, as amended, and all rules and regulations promulgated thereunder, the requirements of Section 232 of the National Housing Act, as amended, and all rules and regulations promulgated thereunder shall control in all respects. In the event of any conflict between the terms and provisions of this Lease and the terms and provisions of (a) the Regulatory Agreement Multifamily Housing Projects between Landlord and HUD or (b) the Regulatory Agreement Nursing Homes between Tenant and HUD (collectively, the "Regulatory Agreements"), the terms and provisions of the Regulatory Agreements, as applicable, shall control in all respects. Landlord and Tenant agree that no provision of this Lease shall modify any obligation of Landlord or Tenant under the HUD Mortgage and the Regulatory Agreements. Landlord and Tenant acknowledge that HUD's acceptance of this Lease in connection with the closing of the HUD-insured mortgage loan secured by the Premises shall in no way constitute HUD's consent to arrangements which are inconsistent with the rules, regulations and requirements of Section 232 of the National Housing Act, as amended. This Lease is subordinate and subject to the HUD Mortgage, all loan documents executed in connection therewith, and all rules, regulations and requirements of Section 232 of the National Housing Act, as amended.

Tenant agrees to comply with all HUD regulations and requirements that are applicable to the Premises. Tenant agrees that it will not take any action that would violate any applicable provision of the HUD Mortgage, Regulatory Agreements, Security Agreement or other documents executed by Landlord in connection with the HUD Mortgage.

c. Landlord hereby represents and warrants that the Rent payable by Tenant under the Lease (including Net Rent, additional rent and all other sums payable under the Lease) is sufficient to properly maintain the Premises, to enable the Landlord to meet its debt service obligations and related expenses in connection with the HUD Mortgage and the Premises. Landlord further represents and warrants that the terms and provisions of the Lease are comparable to the terms and provisions of leases of comparable facilities in the market.

d. Landlord and Tenant agree not to undertake or acquiesce to any modification to the nursing home license with respect to the Premises or to any "bed authority" related thereto without the prior written approval of HUD.

e. Tenant shall furnish HUD copies of its annual financial statements within sixty days after the close of Tenant's fiscal year.

f. Tenant shall be responsible for obtaining and maintaining all necessary licensure and provider agreements for Medicaid and Medicare residents in the event the Premises has a dual certification. Tenant shall furnish HUD with copies of all such provider agreements.

g. Landlord shall ensure that the Premises meets all state licensure requirements and standards at all times.

h. Landlord and Tenant certify that to the best of their knowledge, information and belief, the Lease complies with applicable requirements of Section 3.9.G of the Multifamily Accelerated Processing Guide dated May 17, 2000, as revised March 15, 2002 and promulgated by the Office of the Assistant Secretary for Housing – FHA Commissioner.

i. HUD can terminate this Lease: (A) for any violation of the Lease that is not cured within any applicable notice and cure period given in the Lease, or (B) for any violation of Regulatory Agreement-Nursing Homes or other HUD Program Obligations or Health Care

Requirements (both as defined below) that is not cured within thirty (30) days after receipt by Lessee of written notice of such violation; provided, however, that if such cure reasonably requires more than thirty (30) days to cure, HUD may not terminate the Lease if the Lessee commences such cure within such thirty (30) day period and thereafter diligently pursues such cure to completion. HUD can terminate this Lease if HUD becomes Mortgagee, Mortgagee in Possession, or Owner, and in such capacity, is required to advance funds for the operation of the Premises located on the Property.

The definitions of program obligations and health care requirements are:

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

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

40. **Miscellaneous.**

a. The term "Premises" wherever it appears herein includes and shall be deemed or taken to include the office space demised and improvements now or at any time hereinafter comprising or built in the space hereby demised. The term "Landlord" shall include the Landlord, its successors, and assigns. In any case where this Lease is signed by more than one person, the obligations hereunder shall be joint and several. The term "Tenant" or any pronoun used in place thereof shall indicated and include the masculine or feminine, the singular or plural number, individuals, firms or corporations, and their and each of their respective successors, executors, administrators, and permitted assigns, according to the context hereof.

b. Time is of the essence of this Lease and all its provisions. This Lease, in all respects, shall be governed by the laws of the state of Utah. The Lease, together with its exhibits, contains all the agreements of the parties hereto and supersedes any previous negotiations. There have been no representations made by the Landlord or understandings made between the parties other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument by the parties hereto.

c. If, for any reason whatsoever, any of the provisions hereof shall be unenforceable or ineffective, all of the other provisions shall be and remain in full force and effect.

d. Exhibits A through C attached hereto are hereby incorporated into this Lease.

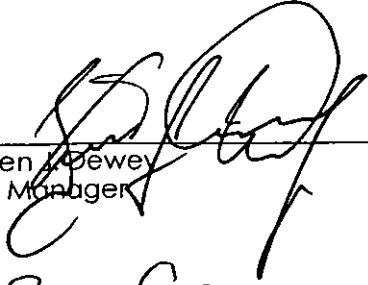
IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.


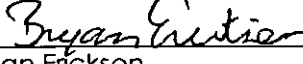
LANDLORD:



TENANT:

B D & E Properties, L.C.

Park Way Health, LLC

By: 
Steven Dewey
Its: Manager


By: 
Bryan Erickson
Its: Manager

By: 
Bryan Erickson
Its: Manager



By: 
Charles Todd Bramail
Its: Manger

EXHIBIT A
Legal Description of Premises

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL A:

A PARCEL OF LAND LYING IN THE SOUTHWEST 1/4 OF SECTION 10, AND THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 9 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE BRASS CAP MONUMENTING THE SOUTHWEST CORNER OF SAID SECTION 10, THENCE N. 89°31'31" E. A DISTANCE OF 401.83 FEET ALONG THE SECTION LINE; THENCE NORTH A DISTANCE OF 499.67 FEET TO THE REAL POINT OF BEGINNING.

THENCE N. 89°39'14" W. A DISTANCE OF 353.98 FEET TO A POINT OF CURVATURE OF A 18.00-FOOT RADIUS NON-TANGENT CURVE TO THE LEFT; THENCE NORTHEASTERLY A DISTANCE OF 13.30 FEET ALONG THE ARC OF SAID CURVE HAVING A CENTRAL ANGLE OF 42°20'42" AND A CHORD THAT BEARS N.20°59'49" E. A DISTANCE OF 13.00 FEET; THENCE N. 00°00'01" W. A DISTANCE OF 177.22 FEET TO A POINT OF CURVATURE OF A 5.00-FOOT RADIUS TANGENT CURVE TO THE LEFT; THENCE NORTHWESTERLY A DISTANCE OF 7.85 FEET ALONG THE ARC OF SAID CURVE HAVING A CENTRAL ANGLE OF 89°58'58" AND A CHORD THAT BEARS N. 44°59'36" W. A DISTANCE OF 7.07 FEET; THENCE N.89°59'57" W. A DISTANCE OF 321.45 FEET; THENCE N. 00°01'56" W. A DISTANCE OF 31.00 FEET; THENCE S. 89°59'57" E. A DISTANCE OF 321.29 FEET TO A POINT OF CURVATURE OF A 5.00-FOOT RADIUS TANGENT CURVE TO THE LEFT; THENCE NORTHEASTERLY A DISTANCE OF 7.85 FEET ALONG THE ARC OF SAID CURVE HAVING A CENTRAL ANGLE OF 89°58'58" AND A CHORD THAT BEARS N. 44°59'57" E. A DISTANCE OF 7.07 FEET; THENCE N. 00°00'00" E. A DISTANCE OF 179.69 FEET; THENCE S. 89°42'47" E. A DISTANCE OF 185.00 FEET; THENCE N. 45°00'00" E. A DISTANCE OF 236.73 FEET; THENCE S. 00°17'13" W. A DISTANCE OF 578.66 FEET TO THE REAL POINT OF BEGINNING.

PARCEL B:

RIGHTS TO CONNECT AND USE FACILITIES OF MOUNTAIN VIEW HOUSING LIFT STATION CONTAINED IN THAT CERTAIN JOINT USE AGREEMENT DATED 19 SEPTEMBER 2007, AS AMENDED, BY AND BETWEEN MOUNTAIN VIEW HOSPITAL, INC., A UTAH CORPORATION, GRANTOR, AND BAR K. DEVELOPMENT, LLC, A UTAH LIMITED LIABILITY COMPANY AND B D & E PROPERTIES, L.C., A UTAH LIMITED LIABILITY COMPANY, WHICH JOINT USE AGREEMENT, AS AMENDED, WAS RECORDED ON 16 MAY 2008, AS INSTRUMENT NO. 58332:2008, IN THE OFFICES OF THE UTAH COUNTY RECORDER.

Landlord shall build the Premises according to the attached plans and specifications.

Parkway Health Center Plans

Sheet Number	Sheet Title	Issue Date	Revision Date
G001	COVER SHEET	8/27/2007	11/15/2007
CIVIL			
1	COVER & NOTES	8/27/2007	10/24/2007
2	SITE UTILITY PLAN	8/27/2007	10/25/2007
3	GRADING & DRAINAGE PLAN	8/27/2007	9/24/2007
4	SITE STORM WATER RET. & OFFSITE STORM DRAIN	8/27/2007	9/24/2007
5	SEWER PLAN AND PROFILE	8/27/2007	9/24/2007
6	STREET PLAN AND PROFILE	8/27/2007	9/24/2007
7	STREET PLAN AND PROFILE	8/27/2007	9/24/2007
8	PHASING PLAN	8/27/2007	9/24/2007
9	DETAILS	8/27/2007	9/24/2007
10	DETAILS	8/27/2007	9/24/2007
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Exhibit C
LEASE ESTOPPEL CERTIFICATE

Landlord: B D & E Properties LC

Tenant: _____

Premises: _____

Area: _____ Rentable Sq. Ft. Lease Date: _____

The undersigned Landlord and Tenant of the above-referenced Lease (the "Lease") hereby ratify the Lease and certify to Lender as mortgagee of the Real Property of which the premises demised under the Lease (the "Premises") is a part, as follows:

1. That the term of the Lease commenced on _____, 20____ and the Tenant is in full and complete possession of the premises demised under the Lease and has commenced full occupancy and use of the Premises, such possession having been delivered by the original landlord and having been accepted by the Tenant.

2. That the Lease presently calls for monthly rent installments of \$_____ to date and that the Tenant is paying monthly installments of rent of \$_____ which commenced (or will commence) to accrue on the _____ day of _____, 20_____.

3. That no advance rental or other payment has been made in connection with the Lease, except rental for the current month, and that: (initial one)
 - () there is no "free rent" or other concession under the remaining term of the lease and the rent has been paid to and including _____, 20_____.

 - () there is "free rent" which extends through _____, 20____, that the first month following the free rent period has been paid in advance, and no further free rent or prepaid rent exists throughout the remaining term of the lease, per the attached lease documents.

4. That Lease Consideration in the amount of \$_____ is being held by Landlord, which amount is not subject to any set-off or reduction or to any increase for interest or other credit due to Tenant.

5. That all obligations and conditions under said Lease to be performed to date by Landlord or Tenant have been satisfied, free of defenses and set-offs including construction work in the Premises, unless as otherwise noted in Paragraph 3 above.

6. That the Lease is a valid lease and in full force and effect and represents the entire agreement between the parties; that there is no existing default on the part of the Landlord or the Tenant in any of the terms and conditions thereof and no event has occurred which, with the passing of time or giving of notice or both, would constitute an event of default except as noted in Paragraph 3 above; and that said Lease has: (initial one)
 - () not been amended, modified, supplemented, extended, renewed or assigned.

 - () been amended, modified, supplemented, extended, renewed or assigned as

follows by the following described agreements:_____

- 7. That the Lease provides for a primary term of _____ months; the term of the Lease expires on the _____ day of _____, 20____; and that: (initial one)
 - () neither the Lease nor any of the documents listed above in Paragraph 6. (if any), contain an option for any additional term or terms.
 - () the Lease and/or the documents listed above in Paragraph 6 contain an option for _____ additional term(s) of _____ year(s) and _____ month(s) (each) at a rent to be determined as follows:_____
- 8. That Landlord has not rebated, reduced or waived any amounts due from Tenant under the lease, either orally or in writing, nor has a Landlord provided financing for, made loans or advances to, or invested in the business of Tenant.
- 9. That, to the best of Tenant's knowledge, there is no apparent or likely contamination of the Real Property or the Premises by Hazardous Materials, and Tenant does not use, nor has Tenant disposed of, Hazardous Materials in violation of Environmental Laws on the Real Property or the Premises.
- 10. That there are no actions, voluntary or involuntary, pending against the Tenant under the bankruptcy laws of the United States or any state thereof.
- 11. That this certification is made knowing that Lender is relying upon the representations herein made.

Tenant: Park Way Health LLC

Date:_____

By:_____

Typed Name:

Title:

Attest:_____

Typed Name:

Title:

Landlord: B D & E Properties, L.C.

Date:_____

By:_____

Typed Name:

Title:

Attest:_____

Typed Name:

Title: