



201906170129

06/17/2019 01:19 PM Pages: 1 of 61 Fees: \$555.00
Skagit County Auditor

Prepared by, and after recording
return to:

Jeremy M. McLean, Esquire
Troutman Sanders LLP
Post Office Box 1122
Richmond, Virginia 23218-1122

CHICAGO TITLE
020037939

**COLLATERAL ASSIGNMENT OF
SECURITY, ASSIGNMENT AND SUBORDINATION AGREEMENT
FOR OPERATING LEASE AND ASSIGNMENT OF LEASES
AND RENTS AND FIXTURE FILING – SENIORS HOUSING**

Grantor(s)/Borrower(s): **KRE TIGER CREEKSIDE LLC**, a Delaware limited liability
company

Grantee/Beneficiary: **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a
national banking association

Legal Description
Abbreviated: **PORTIONS OF TRACT 79, BURLINGTON ACREAGE
PROPERTY**

Additional legal description is on page Exhibit A of this document.

Assessor's Tax Parcel ID #: P62822, 3867-000-079-0101, P116952, 3867-000-079-0600

Reference No. of Documents Released or Assigned: 201906170126

Freddie Mac Property-Specific Loan Number: 499523962
Creekside

**COLLATERAL ASSIGNMENT OF
SECURITY, ASSIGNMENT AND SUBORDINATION AGREEMENT
FOR OPERATING LEASE AND ASSIGNMENT OF LEASES
AND RENTS AND FIXTURE FILING – SENIORS HOUSING**

THIS COLLATERAL ASSIGNMENT OF SECURITY, ASSIGNMENT AND SUBORDINATION AGREEMENT FOR OPERATING LEASE AND ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING – SENIORS HOUSING (this “**Agreement**”) is made as of June 13, 2019 by **KRE TIGER CREEKSIDE LLC**, a Delaware limited liability company (“**Assignor**”) to **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association (“**Lender**”).

RECITALS

- A. Assignor (in such capacity, “**Borrower**”) is the owner of a senior housing project known as Creekside, and located in Burlington (Skagit County), Washington (the “**Mortgaged Property**”).
- B. Borrower has requested that Lender make a loan to Borrower and the other Individual Borrowers (as such term is defined in the “**Loan Agreement**” described below) in the amount of \$118,000,000.00 (the “**Loan**”). The Loan will be evidenced by a Master Multifamily Note from Borrower and the other Individual Borrowers to Lender effective as of the date of this Agreement (as it may be amended, the “**Note**”). The Note is secured by, among other things, a Master Multifamily Loan and Security Agreement from Borrower and the other Individual Borrowers (as it may be amended, the “**Loan Agreement**”) and a Multifamily Mortgage, Deed of Trust, or Deed to Secure Debt (as it may be amended, the “**Security Instrument**”) from Borrower, each dated as of the date of this Assignment, which grants Lender a lien on the Mortgaged Property.
- C. The Note, Loan Agreement, Security Instrument, this Agreement, and other documents evidencing, securing or executed and delivered in connection with the Loan are referred to as the “**Loan Documents**.”
- D. Pursuant to a Lease dated as of the date of this Agreement (the “**Master Lease**”), Assignor has leased the Mortgaged Property to **KRE-RENEW TENANT HOLDINGS II LLC**, a Delaware limited liability company (“**Master Operator**”), as a result of which Master Operator will derive substantial benefits.
- E. Master Operator has sub-leased the Mortgaged Property to **KRE TIGER CREEKSIDE OPERATIONS LLC**, a Delaware limited liability company (“**Sub-Operator**”) pursuant to a Lease dated as of the date of this Agreement (the “**Sub-Lease**”), as a result of which Sub-Operator will derive substantial benefits.
- F. Sub-Operator has sub-sub-leased the Mortgaged Property to **CASCADE LIVING GROUP – BURLINGTON, LLC**, a Washington limited liability company (“**Sub-Sub-Operator**,” and individually and collectively with Master Operator and Sub-Operator, “**Operator**”) pursuant to a Lease dated as of the date of this Agreement (the “**Sub-Sub-Lease**,” and individually and collectively with the Master Lease and the Sub-Lease, the

“Operating Lease”), as a result of which Sub-Sub-Operator will derive substantial benefits.

- G. As security for Operator’s obligations under the Operating Lease, Operator executed the Security, Assignment and Subordination Agreement for Operating Lease and Assignment of Leases and Rents and Fixture Filing – Seniors Housing, in favor of Assignor, dated as of the date of this Agreement (the “Security Agreement”), a copy of which is attached hereto as Exhibit B, pursuant to which Operator has assigned to and granted a security interest in favor of Assignor in all of Operator’s interests in leases and rents and certain collateral property with respect to the Mortgaged Property.
- H. As a condition precedent to Lender’s making the Loan to Borrower, Lender requires that Assignor assign to Lender, as additional collateral for the Loan, all of Assignor’s right, title and interest in and to the Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which each of the parties acknowledges, Assignor and Lender agree as follows:

1. **Defined Terms.** Unless otherwise defined in this Agreement, all capitalized terms utilized in this Agreement will have the meanings set forth in the Loan Agreement.
2. **Assignment of the Security Agreement.** As additional security for the Loan, Assignor hereby transfers, sets over and assigns to Lender, and hereby grants to Lender a security interest in, all of Assignor’s right, title and interest in and to the Security Agreement and the UCC Collateral (as defined in the Security Agreement).
3. **Assignor’s Covenants.** Assignor (a) will maintain the Security Agreement in full force and effect; (b) will fully perform all of its obligations under the Security Agreement; (c) will give prompt notice to Lender of any notice received by Assignor under the Security Agreement, together with a complete copy of any such notice, and (d) will not further assign the Security Agreement.
4. **Assignor’s Representations and Warranties.** Assignor hereby represents and warrants that the Security Agreement, a true and correct copy of which has been delivered to Lender, is in full force and effect and there has been no previous assignment of Assignor’s interest in the Security Agreement.
5. **Lender’s Right Upon Event of Default.** If an Event of Default exists under the Note, the Loan Agreement, the Security Instrument and/or any other Loan Document or the Security Agreement, Lender will have the right to exercise all the rights under the Security Agreement granted to the Assignor in the Security Agreement. Lender does not assume any obligations or duties of the Assignor concerning the Security Agreement unless Lender exercises its rights under this Paragraph 5.
6. **Attorney-in-Fact.** Assignor irrevocably constitutes and appoints Lender as Assignor’s attorney-in-fact to demand, receive and enforce Assignor’s rights with respect to the Security Agreement and to do any and all acts in Assignor’s name or in the name of Lender with the same force and effect as Assignor could do if this Agreement had not been made. This appointment will be deemed to be coupled with an interest and irrevocable.
7. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the jurisdiction in which the Mortgaged Property is located.

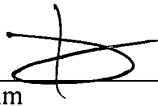
8. **Notice.** All notices, demands and other communications under or concerning this Agreement must be in writing and will be given in the manner set forth in the Loan Agreement for notices.
9. **Enforcement.** Lender may specifically enforce the terms and provisions of this Agreement. In the event Lender seeks to enforce its rights under this Agreement or under the Security Agreement, Lender will be entitled to recover from Assignor its reasonable actual costs of such enforcement, including, but not limited to, attorneys' fees, court costs, and costs of appeal.
10. **Severability.** The invalidity or unenforceability of any provision of this Agreement will not affect the validity of any other provision, and all other provisions will remain in full force and effect.
11. **Waiver; No Remedy Exclusive.** Any forbearance by Lender in exercising any right or remedy given under this Agreement or existing at law or in equity will not constitute a waiver of or preclude the exercise of that or any other right or remedy. Unless otherwise explicitly provided, no remedy under this Agreement is intended to be exclusive of any other available remedy, but each remedy will be cumulative and will be in addition to other remedies given under this Agreement or existing at law or in equity.
12. **No Oral Change.** This Agreement may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Assignor or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.
13. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will constitute an original as against any party whose signature appears on it, and all of which will together constitute a single instrument. This Agreement will become binding when one or more counterparts, individually or taken together, bear the signatures of all parties.
14. **Captions and Cross References.** The captions assigned to provisions of this Agreement are for convenience only and will be disregarded in construing this Agreement. Any reference in this Agreement to an "Exhibit" or a "Section" will, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this Agreement or a section of this Agreement. All Exhibits attached to or referred to in this Agreement are incorporated by reference into this Agreement.
15. **Attached Exhibits.** The following Exhibits, if marked with an "X" in the space provided, are attached to this Agreement:

<input checked="" type="checkbox"/>	Exhibit A	Description of the Land
<input checked="" type="checkbox"/>	Exhibit B	Copy of Security Agreement

IN WITNESS WHEREOF, Assignor and Lender have executed this Agreement as of the date first written above.

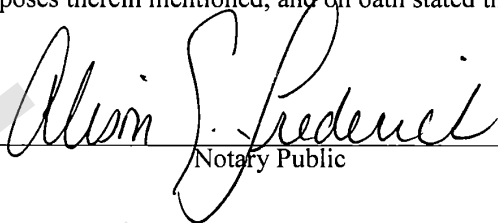
ASSIGNOR:

KRE TIGER CREEKSIDE LLC, a Delaware
limited liability company

By: 
Peter Sundheim
Vice President

STATE OF NY, NY County ss:

On this 7th day of June, 2019, before me, the undersigned, a Notary Public in and for the State of NY, duly commissioned and sworn, personally appeared Peter Sundheim, to me known to be Vice President of KRE Tiger Creekside LLC, a Delaware limited liability company, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.


Notary Public

My commission expires: 8/8/2020

ALISON E FREDERICK
NOTARY PUBLIC STATE OF NEW YORK
NEW YORK COUNTY
LIC. # 01FR6346159
COMM. EXP. 8/8/2020

LENDER:

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association

By:  _____ (SEAL)
Christian Adrian
Managing Director

STATE OF NEW YORK, NEWYORK County ss:

On this 6th day of June, 2019, before me, the undersigned, a Notary Public in and for the State of New York, duly commissioned and sworn, personally appeared Christian Adrian, to me known to be Managing Director of Wells Fargo Bank, National Association, a national banking association, the national banking association that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said national banking association, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.



Notary Public

GEETA SINGH LUDWICZAK
NOTARY PUBLIC STATE OF NEW YORK
NEW YORK COUNTY
LIC. #01LU6078059
COMM. EXP. 6/7/19

My commission expires: 6/7/2019

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Creekside

PARCEL A:

THAT PORTION OF THE NORTH HALF OF THE WEST HALF OF TRACT 79, PLAT OF THE BURLINGTON ACREAGE PROPERTY, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 49, RECORDS OF SKAGIT COUNTY, WASHINGTON, LYING WESTERLY OF THE GREAT NORTHERN RAILWAY COMPANY RIGHT OF WAY.

EXCEPT THAT PORTION CONVEYED TO THE CITY OF BURLINGTON UNDER AUDITORS FILE NO. 200103010083, RECORDS OF SKAGIT COUNTY.

SITUATE IN SKAGIT COUNTY, WASHINGTON.

PARCEL B:

LOT 3 OF CITY OF BURLINGTON SHORT PLAT NO. BURL-3-00, RECORDED JUNE 23, 2000, UNDER AUDITORS FILE NO. 200006230084, RECORDS OF SKAGIT COUNTY, WASHINGTON. BEING A PORTION OF TRACT 79, PLAT OF THE BURLINGTON ACREAGE PROPERTY, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 49, RECORDS OF SKAGIT COUNTY, WASHINGTON.

EXCEPT THAT PORTION CONVEYED TO THE CITY OF BURLINGTON UNDER AUDITORS FILE NO. 200103010083, RECORDS OF SKAGIT COUNTY.

SITUATE IN SKAGIT COUNTY, WASHINGTON.

EXHIBIT B

COPY OF

SECURITY, ASSIGNMENT AND SUBORDINATION AGREEMENT
FOR OPERATING LEASE AND ASSIGNMENT OF LEASES
AND RENTS AND FIXTURE FILING – SENIORS HOUSING

See Attached

**Collateral Assignment of Security, Assignment, and Subordination Agreement for
Operating Lease and Assignment of Leases and Rents
and Fixture Filing – Seniors Housing**

Exhibit B

Prepared by, and after recording
return to:

Jeremy M. McLean, Esquire
Troutman Sanders LLP
Post Office Box 1122
Richmond, Virginia 23218-1122

**SECURITY, ASSIGNMENT AND SUBORDINATION AGREEMENT
FOR OPERATING LEASE AND ASSIGNMENT OF LEASES
AND RENTS AND FIXTURE FILING – SENIORS HOUSING**

[FOR USE WITH THE SENIORS HOUSING MASTER LOAN AGREEMENT]

(Revised 4-2-2019)

Grantor(s)/Borrower(s): **KRE-RENEW TENANT HOLDINGS II LLC**, a Delaware limited liability company; **KRE TIGER CREEKSIDE OPERATIONS LLC**, a Delaware limited liability company; and **CASCADE LIVING GROUP – BURLINGTON, LLC**, a Washington limited liability company

Grantee/Beneficiary: **KRE TIGER CREEKSIDE LLC**, a Delaware limited liability company

Legal Description Abbreviated: **PORTIONS OF TRACT 79, BURLINGTON ACREAGE PROPERTY**

Additional legal description is on page Exhibit A of this document.

Assessor's Tax Parcel ID #: P62822, 3867-000-079-0101, P116952, 3867-000-079-0600

Reference No. of Documents Released or Assigned: _____

Freddie Mac Property-Specific Loan Number: 499523962
Creekside

**SECURITY, ASSIGNMENT AND SUBORDINATION AGREEMENT
FOR OPERATING LEASE AND ASSIGNMENT OF LEASES
AND RENTS AND FIXTURE FILING – SENIORS HOUSING**

[FOR USE WITH THE SENIORS HOUSING MASTER LOAN AGREEMENT]

(Revised 4-2-2019)

THIS SECURITY, ASSIGNMENT AND SUBORDINATION AGREEMENT FOR OPERATING LEASE AND ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (this “**Agreement**”) is made effective as of June 13, 2019 by and among **KRE-RENEW TENANT HOLDINGS II LLC**, a Delaware limited liability company, whose address is c/o KKR & Co. Inc., 9 West 57th Street, Suite 4200, New York, New York 10019, Attention: Peter Sundheim, as grantor (“**Master Operator**”); **KRE TIGER CREEKSIDE OPERATIONS LLC**, a Delaware limited liability company, whose address is c/o KKR & Co. Inc., 9 West 57th Street, Suite 4200, New York, New York 10019, Attention: Peter Sundheim, as grantor (“**Sub-Operator**”), **CASCADE LIVING GROUP – BURLINGTON, LLC**, a Washington limited liability company, whose address is 19119 North Creek Parkway, Suite 102, Bothell, Washington 98011, Attention: Tom Stanley, as grantor (“**Sub-Sub-Operator**,” and individually and collectively with Master Operator and Sub-Operator, “**Operator**”); and **KRE TIGER CREEKSIDE LLC**, a Delaware limited liability company, whose address is c/o KKR & Co. Inc., 9 West 57th Street, Suite 4200, New York, New York 10019, Attention: Peter Sundheim, as landowner (together with its successors and assigns, “**Landowner**”).

RECITALS

- A. Landowner is the owner of a senior housing project known as Creekside, located at located in Burlington (Skagit County), Washington.
- B. Landowner has leased the Premises to Master Operator pursuant to a Lease dated as of the date of this Agreement (the “**Master Lease**”), as a result of which Master Operator will derive substantial benefits.
- C. Master Operator has sub-leased the Premises to Sub-Operator pursuant to a Lease dated as of the date of this Agreement (the “**Sub-Lease**”), as a result of which Sub-Operator will derive substantial benefits.
- D. Sub-Operator has sub-sub-leased the Premises to Sub-Sub-Operator pursuant to a Lease dated as of the date of this Agreement (the “**Sub-Sub-Lease**,” and individually and collectively with the Master Lease and the Sub-Lease, the “**Operating Lease**”), as a result of which Sub-Sub-Operator will derive substantial benefits.
- E. As a condition to Landowner’s agreeing to master lease the Premises to Master Operator, Master Operator’s agreeing to sub-lease the Premises to Sub-Operator, and Sub-Operator’s agreeing to sub-sub-lease the Premises to Sub-Sub-Operator (such agreements constituting the “**Leasing Agreements**”), Landowner requires that Operator execute this

**Security, Assignment and Subordination Agreement
For Operating Lease and Assignment of Leases and Rents
and Fixture Filing – Seniors Housing**

Agreement encumbering certain of Operator's interests in the Collateral Property (as defined below).

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which each of the parties acknowledges, it is agreed as follows:

ARTICLE 1. DEFINITIONS

As used in this Agreement, the following terms will have the meaning set forth in this Article. Any capitalized term used in this Agreement and not otherwise defined in this Agreement will have the meaning given to that term in the ~~Loan Agreement~~ **Master Lease** (and if not defined in the ~~Loan Agreement~~ **Master Lease**, then as defined in the Code (as defined in Section 2.2 below)). All Section references will be to Sections of this Agreement unless otherwise noted.

"Accounts" means all of Operator's inventory, accounts (including health care insurance receivables), accounts receivable, contract rights, general intangibles and all proceeds thereof in each case to the extent, but only to the extent, they are used in connection with or arise from the operation of the Collateral Property.

"25% Equity Holder" means, for the purposes of this Agreement, any Person that will have a 25% or more direct or indirect ownership (or other economic) interest in the aggregate in (i) any Operator or (ii) the aggregate of all Operators (and any such interest means, for the purposes of this Agreement, a "25% Equity Interest").

"Affiliate" of any Person means any other individual or entity that is, directly or indirectly, one of the following:

- (i) In Control of the applicable Person.**
- (ii) Under the Control of the applicable Person.**
- (iii) Under common Control with the applicable Person.**

"AML Laws" means applicable federal anti-money laundering laws and regulations including 18 U.S.C. §§ 1956 and 1957, as amended.

"Awards" means all awards, payments and other compensation made or to be made by any municipal, state or federal authority with respect to the Land, the Improvements, the Fixtures, the Personalty or any other part of the Collateral Property, including any awards or settlements resulting from condemnation proceedings or the total or partial taking of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Collateral Property under the power of eminent domain or otherwise and including any conveyance in lieu of condemnation or taking.

"Capital Replacements" means the replacement of items listed on one or more exhibits to the Financing Documents.

“Collateral Property” means all property in which a security interest is granted under this Agreement as further defined below.

“Contracts” means all contracts, options and other agreements for the sale of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Collateral Property entered into by Operator now or in the future, including cash or securities deposited to secure performance by parties of their obligations; and all other contracts and agreements pertaining to the ownership, leasing, operation or management of the Premises, including management and similar agreements, utility contracts and agreements for the provision of goods or services (or payment therefor) at the Premises (whether to Landowner, Operator or the residents of the Premises), together with all modifications, extensions or renewals, including contracts with Governmental Authorities for the provision of services or goods, or pursuant to which Third Party Care Payments are to be made and contracts with private insurers pursuant to which Third Party Care Payments are to be made; provided, however Contracts will not include Leases or the Operating Lease.

“Control” means to possess, directly or indirectly, the power to manage an entity, including the authority to legally bind the entity, provided that an officer of an entity shall not be deemed, solely based on his/her role as such officer, to Control such entity.

“Controlled Property” means property of every kind and description in which Operator has or may acquire any interest arising with respect to or out of the operation of the Premises, now or hereafter at any time in the possession or control of Landowner for any reason and all dividends and distributions on or other rights in connection with such property.

“Corporate Lease” means a Lease for one or more residential units under which one entity will rent all such units from Landowner and will have the right to sublease such units to individual subtenants.

“Crowdfunding” means, for the purposes of this Agreement, the practice of funding a project or venture by raising capital by either of the following methods:

- (i) Via general solicitation (i.e., marketing directed to the public at large, whether via the internet or otherwise) that (A) names the Federal Home Loan Mortgage Corporation (Freddie Mac), or (B) names or contains any information about the Premises.**
- (ii) From unaccredited investors in a public offering (e.g., under the related exemptions of Title III or Title IV of the Jumpstart Our Business Startups (JOBS) Act).**

“Downgrade” as it applies to a License, means a License is modified so as to permit a less acute level of care (including elimination of skilled nursing or assisted living care or services included in the License) by the Governmental Authority responsible for issuing such License.

“Economic Sanctions Laws” means the foreign assets control regulations, 31 C.F.R. Chapter V, as amended, and any amending federal legislation or executive order relating thereto, as administered by OFAC.

“Environmental Permit” means any permit, license, or other authorization issued under any Hazardous Materials Law with respect to any activities or businesses conducted on or in relation to the Premises.

“Event of Default” means the occurrence of: (i) any Event of Default (as defined in the Loan Agreement), or (ii) a default by Landowner or Operator of any representation, warranty, obligation or covenant under this Agreement that is continuing after the delivery of written notice of default and a failure to cure within thirty (30) days after the date of delivery of such written notice, or (iii) a default an Event of Default by Operator under their respective Operating Lease that is not cured within the time periods provided in the respective Operating Lease.

“Facility” means the senior housing facility located on the Land, and including the Land and Improvements.

“Financing Agent” is defined in Section 8.4(a).

“Financing Documents” is defined in Section 8.4(a).

“Fixtures” means all property which is attached to the Land or the Improvements so as to constitute a fixture under applicable law, including: machinery, equipment, engines, boilers, incinerators and installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention or fire detection or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods; mirrors; cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; swimming pools; and exercise equipment.

“FHFA SCP List” means the Suspended Counterparty List maintained by the Federal Housing Finance Agency (FHFA) which is currently published at <https://www.fhfa.gov/SupervisionRegulation/LegalDocuments/suspendedcounterpartyprogram>.

“Foreclosure Event” means that Financing Agent or any other person or entity becomes the owner of the Premises by foreclosure or by conveyance in lieu of foreclosure or otherwise and exercises thereafter its rights in such capacity to terminate the Operating Lease (“Successor Landlord”) and assumes the Operating Lease such that the Operating Lease becomes a direct lease between Successor Landlord and Operator.

“Governmental Authority” means any board, commission, department, agency 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 Premises, or the use, operation or improvement of the Premises, or over Landowner or Operator including all applicable licensing or accreditation bodies or agencies (whether federal, state, county, district, municipal, city or otherwise, whether now or hereafter in existence, including applicable non-governmental organizations, such as the Joint Commission on the Accreditation of Healthcare Organizations) that have or acquire jurisdiction over Landowner or Operator.

the Premises or the use, operation, improvement, accreditation, licensing or permitting of the Premises or the operations of the Premises.

“Hazardous Materials” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (PCBs) and compounds containing them; lead and lead-based paint; asbestos or asbestos containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Premises is prohibited by any Governmental Authority; any medical products or devices, including those materials defined as “medical waste” or “biological waste” under relevant statutes, ordinances or regulations pertaining to Hazardous Materials Law; any substance that requires special handling and any other material or substance now or in the future that (i) is defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “contaminant,” or “pollutant” by or within the meaning of any Hazardous Materials Law, or (ii) is regulated in any way by or within the meaning of any Hazardous Materials Law. “Improvements” means the buildings, structures and improvements now constructed or at any time in the future constructed or placed upon the Land, including any future alterations, replacements and additions.

“Hazardous Materials Law” and “Hazardous Materials Laws” means any and all federal, state and local laws, ordinances, regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees in effect now or in the future, including all amendments, that relate to Hazardous Materials or the protection of human health or the environment and apply to Landowner or to the Premises. Hazardous Materials Laws include the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., and the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 et seq., and their state analogs.

“Individual Properties” is defined in that certain Master Multifamily Loan and Security Agreement – Seniors Housing, dated as of the date of this Agreement, among Financing Agent and the borrowers identified therein.

“Insurance Proceeds” means all proceeds paid or to be paid by any insurer of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Collateral Property, whether or not Operator obtained the insurance pursuant to Landowner’s requirement.

“Land” means the land described in Exhibit A.

“Leases” means all present and future leases, subleases, occupancy agreements pertaining to occupants of the Facility, including both residential and commercial agreements and patient admission or resident care agreements, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Premises, or any portion of the Premises (including proprietary leases or occupancy agreements if Landowner is a cooperative housing corporation), and all modifications, extensions or renewals.

“License” means any license, permit, regulatory agreement, certificate, approval, certificate of need or similar certificate, authorization, accreditation, approved provider status in any approved provider payment program, or approval issued by an applicable

state department of health (or any subdivision thereof) or state licensing agency, as applicable, in each instance whether issued by a Governmental Authority or otherwise, used in connection with, or necessary or specifically required to use, occupy or operate the Facility for its Intended Use, including the provision of all goods and services to be provided by Landowner or Operator to the residents of the Facility.

“Lien” means any mortgage, deed of trust, deed to secure debt, security interest or other lien or encumbrance on the Premises.

“Material Adverse Effect” means, for the purposes of this Agreement, a significant detrimental effect on: (i) the Premises, (ii) the business, prospects, profits, operations or condition (financial or otherwise) of any Operator or one or more Operators in the aggregate, (iii) the ability of any Operator or one or more Operators in the aggregate to perform any obligations under any Operating Lease, or (iv) any Operator’s interest in the Facility, including a Downgrade, termination, revocation or suspension of, or refusal to renew or reissue, any applicable License, or a ban on new resident admissions.

“Material Contract” means Contracts:

- (i) For preparing or serving food (but do not include food supply contracts), regardless of annual consideration or term.
- (ii) For medical services or healthcare provider agreements, regardless of annual consideration or term.
- (iii) The average annual consideration of which, directly or indirectly, is at least \$75,000.
- (iv) If the annual consideration of which is at least \$75,000, having a term of more than one year unless subject to termination by Landowner or if Landowner is not a party to the Contract, the Facility Operator, and their respective successors and assigns, upon not more than 60 days notice, without cause and without payment of any termination fee, penalty or extra charge.
- (v) Having a term of more than two years, unless subject to termination by Landowner or if Landowner is not a party to the Contract, the Operator, and their respective successors and assigns, upon not more than 60 days’ notice, without cause and without payment of any termination fee, penalty or extra charge.

“Material Contracts” will not include property management agreements or operating leases, which are subject to separate and specific provisions in the Financing Documents, or contracts for the provision of electricity, gas, or cable to the Premises,

“Names” means all names under or by which the senior housing facility located at the Premises may be operated or known, and all trademarks, trade names, and goodwill relating to such senior housing facility, including “Kohlberg Kravis Roberts,” “KKR,” “KRE,” and “Cascade” (and any derivations of the foregoing).

“New Non-Residential Lease” is any Non-Residential Lease not in existence as of the date of this Agreement.

“Non-Residential Lease” is a Lease of a portion of the Premises to be used for non-residential purposes.

“Non-U.S. Equity Holder” means, for the purposes of this Agreement, any Person with a collective equity interest (whether direct or indirect) of 10% or more in any Operator or in all the Operators in the aggregate, and which is either (a) an individual who is not a citizen of the United States, or (b) an entity formed outside the United States.

“O&M Program” means a written operations and maintenance program for the Premises, if any, with respect to certain Hazardous Materials.

“Obligations” means the full and punctual payment, when due (whether at stated maturity, upon acceleration or otherwise), of any and all present and future indebtedness, liabilities, guaranties, and obligations of every kind and nature of Operator to Landowner, its respective lessor and/or Landowner, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, joint or several, both now and hereafter existing, or due or to become due, arising under, out of, as a result of, or in connection with the Operating Lease, and the due and punctual performance of all of the other terms and provisions of the Operator under the Operating Lease.

“OFAC” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“OFAC Lists” means either one of the following:

(i) The OFAC Specially Designated Nationals and Blocked Persons List.

(ii) The OFAC Consolidated Sanctions List.

“Other Earnings” means all earnings, royalties, accounts receivable, issues and profits from the Land, the Improvements or any other part of the Collateral Property and, if Operator is a cooperative housing corporation, maintenance charges or assessments payable by shareholders or residents.

“Other Rights” means all current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights of way, strips and gores of land, streets, alleys, roads, sewer rights, waters, watercourses, and appurtenances related to or benefiting the Land or the Improvements, or both, and all rights-of-way, streets, alleys and roads related to the Premises which may have been or may in the future be vacated.

“Payments” means all payments due, or received, from occupants of the Premises, including rentals, entrance fees, second party charges added to base rental income, base and/or additional meal sales, fees and charges arising from commercial operations located on the Premises or provided as a service to the occupants of the Premises, rental from guest suites, seasonal lease charges, furniture leases, and laundry services/leases, if any, and any and all other goods and services provided to third parties in connection with the Premises, and all judgments and settlements of litigation or threatened litigation and rights to payments thereunder, arising from the ownership, leasing, management or operation of the Premises or the Collateral Property.

“Permitted Liens” means the Liens described in Exhibit B attached hereto and made a part hereof.

“Person” means any natural person, sole proprietorship, corporation, general partnership, limited partnership, limited liability company, limited liability limited partnership, joint venture, association, joint stock company, bank, trust, estate, unincorporated organization, any federal, state, county or municipal government (or any agency or political subdivision thereof), endowment fund or any other form of entity.

“Personalty” means all of the following:

- (i) Accounts (including deposit accounts) related to the Premises.
- (ii) Equipment and inventory, which are used now or in the future in connection with the ownership, management or operation of the Land or Improvements or are located on the Land or Improvements, including furniture, furnishings, machinery, building materials, goods, supplies, tools, books, records (whether in written or electronic form) and computer equipment (hardware and software).
- (iii) Other tangible personal property which is used now or in the future in connection with the ownership, management or operation of the Land or Improvements or is located on the Land or in the Improvements, including ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances (other than Fixtures).
- (iv) Any operating agreements relating to the Land or the Improvements.
- (v) Any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements.
- (vi) All other intangible property, general intangibles 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 and including subsidy or similar payments received from any sources, including a Governmental Authority.
- (vii) Any rights in or under any Letter of Credit.

“Premises” means all of Landowner’s present and future right, title and interest in and to all of the following:

- (i) The Land, or, if Landowner’s interest in the Land is pursuant to a Ground Lease, the Ground Lease and the Leasehold Estate.
- (ii) The Improvements (including, without limitation, the Facility).
- (iii) The Fixtures.
- (iv) The Personalty.
- (v) All current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights of way, strips and gores of land, streets, alleys, roads, sewer rights, waters, watercourses and appurtenances related to or benefiting the Land or the Improvements, or both,

and all rights-of-way, streets, alleys and roads which may have been or may in the future be vacated.

- (vi) All proceeds paid or to be paid by any insurer of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Premises, whether or not Landowner obtained the Insurance pursuant to Landowner's requirement.
- (vii) All awards, payments and other compensation made or to be made by any municipal, state or federal authority with respect to the Land or the Leasehold Estate, as applicable, the Improvements, the Fixtures, the Personalty or any other part of the Premises, including any awards or settlements resulting from Condemnation proceedings or the total or partial taking of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Premises under the power of eminent domain or otherwise and including any conveyance in lieu thereof.
- (viii) All contracts, options and other agreements for the sale of the Land, or the Leasehold Estate, as applicable, the Improvements, the Fixtures, the Personalty or any other part of the Premises entered into by Landowner now or in the future, including cash or securities deposited to secure performance by parties of their obligations.
- (ix) All proceeds from the conversion, voluntary or involuntary, of any of the items described in items (i) through (viii) of this definition, into cash or liquidated claims, and the right to collect such proceeds.
- (x) All Rents and Leases.
- (xi) All earnings, royalties, accounts receivable, issues and profits from the Land, the Improvements or any other part of the Premises, ~~and all undisbursed proceeds of the Loan.~~
- (xii) All Imposition Reserve Deposits.
- (xiii) All refunds or rebates of Impositions by any Governmental Authority or insurance company (other than refunds applicable to periods before the real property tax year in which this ~~Loan~~ Agreement is dated).
- (xiv) All tenant security deposits which have not been forfeited by any tenant under any Lease and any bond or other security in lieu of such deposits.
- (xv) All names under or by which any of the Premises may be operated or known, and all trademarks, trade names and goodwill relating to any of the Premises.
- (xvi) If required by the terms of Section 4.05 or elsewhere in the Financing Documents, all rights under the Letter of Credit and the Proceeds, as such Proceeds may increase or decrease from time to time.
- (xvii) If the Note provides for interest to accrue at a floating or variable rate and there is a Cap Agreement, the Cap Collateral.

- (xviii) All payments received and all rights to receive payments from any source, which payments or rights of payment arise from operation of or at the Facility, including, without limitation, entrance fees, application fees, processing fees, community fees and any other amounts or fees deposited or to be deposited by any resident or tenant, payments received and the right to receive payments of second party charges added to base rental income, base and additional meal sales, payments received and rights to receive payments from commercial operations located at or on the Facility or provided as a service to the occupants of the Facility, rental from guest suites, seasonal lease charges, rental payments under furniture leases, income from laundry service, and income and fees from any and all other services provided to residents of the Facility.
- (xix) All rights to payments from Medicare, Medicaid or TRICARE programs or similar federal, state or local programs or agencies and rights to payment from private insurers, arising from the operation of the Facility.
- (xx) All Licenses.
- (xxi) All Contracts, including without limitation, operating contracts, franchises, licensing agreements, healthcare services contracts, food service contracts and other contracts for services related to the operation of the Facility.
- (xxii) All utility deposits.
- (xxiii) ~~Reserved~~ Without duplication of the foregoing or the inclusions in Premises set forth elsewhere in the Loan Agreement, all of the real and personal property, both tangible and intangible, described on Exhibit L of the Loan Agreement.
- (xxiv) Reserved.
- (xxv) ~~Reserved~~ The Operating Lease.

“**Proceeds**” means all proceeds from the conversion, voluntary or involuntary, of any of the other Collateral Property into cash or liquidated claims, and the right to collect such proceeds.

“**Prohibited Activity or Condition**” means each of the following:

- (i) The presence, use, generation, release, treatment, processing, storage (including storage in above-ground and underground storage tanks), handling or disposal of any Hazardous Materials on or under the Premises.
- (ii) The transportation of any Hazardous Materials to, from or across the Premises.
- (iii) Any occurrence or condition on the Premises, which occurrence or condition is or may be in violation of Hazardous Materials Laws.
- (iv) Any violation of or noncompliance with the terms of any Environmental Permit with respect to the Premises.
- (v) Any violation or noncompliance with the terms of any O&M Program.

However, the term "Prohibited Activity or Condition" expressly excludes lawful conditions permitted by an O&M Program or the safe and lawful use and storage of quantities of: (i) medical products or devices or medical waste, (ii) pre-packaged supplies, cleaning materials and petroleum products customarily used in the operation and maintenance of comparable multifamily properties, (iii) cleaning materials, personal grooming items and other items sold in pre-packaged containers for consumer use and used by tenants and occupants of residential units in the Premises, and (iv) petroleum products used in the operation and maintenance of motor vehicles from time to time located on the Premises's parking areas, so long as all of the foregoing are used, stored, handled, transported and disposed of in compliance with Hazardous Materials Laws.

"Prohibited Parties List" means any one or more of the (i) OFAC Lists or (ii) FHFA SCP List.

"Property Jurisdiction" means the jurisdiction in which the Land is located.

"Refunds" means all refunds or rebates of ~~imposition taxes or insurance~~ with respect to the Collateral Property by any municipal, state or federal authority or insurance premiums.

"Rent(s)" means all rents (whether from residential or non-residential space), revenues and other income of the Land or the Improvements, parking fees, laundry and vending machine income and fees and charges for food, health care and other services provided at the Premises, whether now due, past due or to become due, and deposits forfeited by tenants, and, if Landowner is a cooperative housing corporation or association, maintenance fees, charges or assessments payable by shareholders or residents under proprietary leases or occupancy agreements, whether now due, past due or to become due.

"Repairs" means the repairs to be made to the Premises, as described in the Financing Documents.

"Subsidiary" means, individually and collectively, the lessees as of the date hereof under the Sub-Lease, including Sub-Operator, each of which is wholly owned by Master Operator.

"Tenant Security Deposits" means all tenant or occupant security deposits (in whatever form they may be) that have not been forfeited by any tenant or occupant under any Lease with respect to the Premises, together with any other escrows provided under or with respect to any Lease.

"Third Party Care Payments" means all payments and rights to payments from Medicare, Medicaid or TRICARE programs, or similar federal, state or local programs, boards, bureaus or agencies, if any, and rights to payment from residents or private insurers, if any, arising from the operation of the Premises as a senior housing project.

"Third Party Miscellaneous Payments" means all utility deposits, unearned premiums, accrued, accruing or to accrue under insurance policies now or hereafter obtained by Operator for the Collateral Property and all proceeds of any conversion of the Collateral Property or any part thereof including proceeds of hazard and title insurance and all awards and compensation for the taking by eminent domain, condemnation or otherwise, of all or any part of the Collateral Property.

ARTICLE 2. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT; FIXTURE FILING

2.1 As security for the payment, performance and observance of the covenants and agreements of Operator contained in this Agreement ~~and any other Loan Documents to which Operator is a party and of Landowner~~**Operator** under the ~~Loan Documents~~**Operating Lease**, including Landowner's ~~Operator's~~ repayment of the Loan in a timely manner and all interest and other charges under the ~~Loan Documents and the other Obligations~~ (collectively, "**Secured Obligations**"), Operator grants to Landowner a security interest in all of Operator's now owned or hereafter acquired or arising right, title and interest in and to all of the following property (collectively, "**Collateral Property**") provided that the Collateral Property is strictly limited in all cases (whether or not so specified below) to the extent, and only to the extent, it is a part of the Premises or attached to, used in connection with or arising from the ownership, leasing, management or operation of the Premises, including the operation of the Premises by Operator pursuant to the Operating Lease:

- (a) Accounts
- (b) Awards
- (c) Contracts
- (d) Fixtures
- (e) Imposition Reserve Deposits
- (f) Improvements
- (g) Insurance Proceeds
- (h) Land
- (i) Leases
- (j) Licenses
- (k) Names
- (l) Other Earnings
- (m) Other Rights
- (n) Payments
- (o) Personalty
- (p) Refunds
- (q) Rents
- (r) Tenant Security Deposits

- (s) Third Party Care Payments
- (t) Third Party Miscellaneous Payments
- (u) Products and Proceeds of all the foregoing

2.2 This Agreement is also a security agreement under the Uniform Commercial Code (“Code”) for any of the Collateral Property which, under applicable law, may be subjected to a security interest under the Code, whether such Collateral Property is owned now or acquired in the future, and all products and cash and non-cash proceeds thereof (collectively, “UCC Collateral”), and Operator grants to Landowner a security interest in the UCC Collateral to secure the timely payment and performance of the Secured Obligations of Operator and Landowner, respectively. Operator authorizes Landowner to prepare and file financing statements, continuation statements and financing statement amendments in such form as Landowner may require to perfect or continue the perfection of this security interest and Operator agrees, if Landowner so requests, to execute and deliver to Landowner such financing statements, continuation statements and amendments. Landowner will pay all filing costs and all costs and expenses of any record searches for financing statements and/or amendments that Landowner may require. Without the prior written consent of Landowner, Operator will not create or permit to exist any other Lien in any of the UCC Collateral or any of the other Collateral Property (except only Liens in favor of Landowner to secure the Secured Obligations and Permitted Liens).

2.3 Unless Operator gives Notice to Landowner within 10 days after the occurrence of any of the following, and executes and delivers to Landowner modifications or supplements of this Agreement (and any financing statement which may be filed in connection with this Agreement) as Landowner may require, Operator will not: (a) change its name, identity, structure or jurisdiction of organization, (b) change the location of its place of business (or chief executive office if more than one place of business), or (c) add to or change any location at which any of the Collateral Property is stored, held or located.

2.4 If an Event of Default has occurred and is continuing, Landowner will have the remedies of a secured party under the Code, in addition to all remedies provided by this Agreement or existing under applicable law or in equity. In exercising any remedies, Landowner may exercise its remedies against the UCC Collateral separately or together, and in any order, without in any way affecting the availability of Landowner’s other remedies.

2.5 This Agreement shall also constitute a “fixture filing” for the purposes of the Code against all of the Collateral Property which is or is to become fixtures, and the recording hereof in the official records of the county in which such Collateral Property is located shall operate from the time of filing as a fixture filing with respect to such Collateral Property. The information provided in this Section is provided so that this Agreement shall comply with the requirements of Section 9502(c) of the Code. Operator is the “Debtor” and its name and mailing address are set forth in the preamble of this Agreement preceding the Recitals. Landowner is the “Secured Party” and its name and mailing address from which information concerning the security interest granted herein may be obtained are also set forth in the preamble of this Agreement preceding the Recitals. A statement describing the portion of the Collateral Property comprising the fixtures hereby secured is set forth in the definition of “Fixtures” hereof.

**ARTICLE 3. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER;
LANDOWNER IN POSSESSION**

- 3.1 As part of the consideration for the ~~Loan-Leasing Agreements~~, Operator absolutely and unconditionally assigns, sells and transfers to Landowner all of Operator's right, title and interest in and to all Rents. It is the intention of Operator to establish a present, absolute and irrevocable transfer and assignment to Landowner of all Rents and to authorize and empower Landowner to collect and receive all Rents without the necessity of further action on the part of Operator. Promptly upon request by Landowner, Operator agrees to execute and deliver such further assignments as Landowner may from time to time require. Operator and Landowner intend this assignment of Rents to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. Solely for purposes of giving effect to this absolute assignment of Rents, and for no other purpose whatsoever, Rents will not be deemed to be a part of the Collateral Property. However, if this present, absolute and unconditional assignment of Rents is not enforceable by its terms under the laws of the Property Jurisdiction, then the Rents will be included as a part of the Collateral Property and it is the intention of Operator that in this circumstance this Agreement create and perfect a Lien on Rents in favor of Landowner, which Lien will be effective as of the date of this Agreement.
- 3.2 (a) After the occurrence of an Event of Default, Operator authorizes Landowner to collect, sue for and compromise Rents and directs each tenant of the Premises to pay all Rents to, or as directed by, Landowner. However, until the occurrence of an Event of Default, Landowner, subject to the provisions of any cash management agreement, grants to Operator a revocable license to collect and receive all Rents, to hold all Rents in trust for the benefit of Landowner ~~and to apply all Rents to pay the installments of interest and principal then due and payable under the Note and the other amounts then due and payable under the other Loan Documents, including~~ **and to apply all Rents as required pursuant to any Financing Documents (as defined in Section 8.4), including the payment of any monthly reserves for taxes or insurance payable to Financing Agent ("Imposition Reserve Deposits")**, and to pay the current costs and expenses of managing, operating and maintaining the Premises, including utilities, Taxes and insurance premiums (to the extent not included in Imposition Reserve Deposits), tenant improvements and other capital expenditures. So long as no Event of Default has occurred and is continuing, the Rents remaining after application pursuant to the preceding sentence may be retained by Operator free and clear of, and released from, Landowner's rights with respect to Rents under this Agreement.
- (b) From and after the occurrence of an Event of Default, and without the necessity of Landowner entering upon and taking and maintaining control of the Premises directly, or by a receiver, Operator's license to collect Rents will automatically terminate and Landowner will without Notice be entitled to all Rents as they become due and payable, including Rents then due and unpaid. Operator will pay to Landowner upon demand all Rents to which Landowner is entitled. Any Rents collected by Operator from and after the occurrence of an Event of Default will be held by Operator in trust for Landowner's benefit hereunder. At any time on or after the date of Landowner's demand for Rents, (a) Landowner may give, and Operator irrevocably authorizes Landowner to give, notice to all tenants of the Premises instructing them to pay all Rents to Landowner, (b) no tenant will be

obligated to inquire further as to the occurrence or continuance of an Event of Default, and (c) no tenant will be obligated to pay to Operator any amounts which are actually paid to Landowner in response to such a notice. Any such notice by Landowner will be delivered to each tenant personally, by mail or by delivering such demand to each rental unit. Operator will not interfere with, and will cooperate with, Landowner's collection of such Rents.

- 3.3 Operator represents and warrants to Landowner that Operator has not executed any prior assignment of Rents ~~(other than an assignment of Rents securing any indebtedness that has been paid off and discharged or which will be paid off and discharged with the proceeds of the Loan)~~, that Operator has not performed, and Operator covenants and agrees that it will not perform, any acts and has not executed, and will not execute, any instrument which would prevent Landowner from exercising its rights under this Article, and that at the time of execution of this Agreement there has been no anticipation or prepayment of any Rents for more than two months prior to the due dates of such Rents. Operator will not collect or accept payment of any Rents more than two months prior to the due dates of such Rents.
- 3.4 (a) If an Event of Default has occurred and is continuing, Landowner may, but will not be obligated to, regardless of the adequacy of Landowner's security or the solvency of Landowner or Operator and even in the absence of waste, enter upon and take and maintain full control of the Premises and the Collateral Property in order to perform all acts that Landowner in its discretion determines to be necessary or desirable for the operation, leasing and maintenance of the Premises, including the execution, cancellation or modification of Leases, the collection of all Rents, the making of repairs to the Premises and the execution or termination of contracts providing for the management, operation or maintenance of the Premises, for the purposes of enforcing the assignment of Rents pursuant to Section 3.1, protecting the Premises or the security of this Agreement, or for such other purposes as Landowner in its discretion may deem necessary or desirable.
- (b) Alternatively, if an Event of Default has occurred and is continuing, regardless of the adequacy of Landowner's security, without regard to Landowner's or Operator's solvency and without the necessity of giving prior notice (oral or written) to Operator, Landowner may apply to any court having jurisdiction for the appointment of a receiver for the Premises to take any or all of the actions set forth in the preceding sentence. If Landowner elects to seek the appointment of a receiver for the Premises at any time after an Event of Default has occurred and is continuing, Operator, by its execution of this Agreement, expressly consents to the appointment of such receiver, including the appointment of a receiver ex parte if permitted by applicable law. Landowner or the receiver, as the case may be, will be entitled to receive a reasonable fee for managing the Premises. Immediately upon appointment of a receiver or immediately upon Landowner's entering upon and taking possession and control of the Premises, Operator will surrender possession of the Premises to Landowner or the receiver, as the case may be, and will deliver to Landowner or the receiver, as the case may be, all documents, records (including records on electronic or magnetic media), accounts, surveys, plans, and specifications relating to the Premises and all Tenant Security Deposits and prepaid Rents. In the event Landowner takes possession and control of the Premises, Landowner may exclude Operator and its representatives from the Premises. Operator acknowledges and agrees that the exercise by Landowner of any of the rights conferred under this Section will not

be construed to make Landowner a mortgagee-in-possession of the Premises so long as Landowner has not itself entered into actual possession of the Land and Improvements.

- 3.5 If Landowner enters the Premises, Landowner will be liable to account only to Operator and only for those Rents actually received. Except to the extent of Landowner's gross negligence or willful misconduct, Landowner will not be liable to Landowner or Operator, or anyone claiming under or through Landowner or Operator or anyone having an interest in the Premises, by reason of any act or omission of Landowner under Section 3.4, and Landowner and Operator each release and discharge Landowner from any such liability to the fullest extent permitted by law.
- 3.6 If the Rents are not sufficient to meet the costs of taking control of and managing and operating the Premises and collecting the Rents, any funds expended by Landowner for such purposes will become an additional part of the ~~indebtedness as provided in the Security Instrument~~ **rent due under the Operating Lease**.
- 3.7 Any entering upon and taking of control of the Premises by Landowner or the receiver, as the case may be, and any application of Rents as provided in this Agreement will not cure or waive any Event of Default or invalidate any other right or remedy of Landowner under applicable law or provided for in this Agreement or in the ~~Security Instrument, the Loan Agreement or any other Loan Document~~ **Operating Lease**, or at law or in equity.

ARTICLE 4. ASSIGNMENT OF LEASES; LEASES AFFECTING THE PREMISES

- 4.1 As part of the consideration for the ~~Loan Leasing Agreements~~, Operator absolutely and unconditionally assigns, sells and transfers to Landowner all of Operator's right, title and interest in, to and under the Leases, including Operator's right, power and authority to modify the terms of any such Lease, or extend, amend or terminate any such Lease. It is the intention of Operator to establish a present, absolute and irrevocable transfer and assignment to Landowner of all of Operator's right, title and interest in, to and under the Leases. Operator and Landowner intend this assignment of the Leases to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. Solely for purposes of giving effect to this absolute assignment of the Leases, and for no other purpose whatsoever, the Leases will not be deemed to be a part of the Collateral Property. However, if this present, absolute and unconditional assignment of the Leases is not enforceable by its terms under the laws of the Property Jurisdiction, then the Leases will be included as a part of the Collateral Property and it is the intention of Operator that in this circumstance this Agreement create and perfect a Lien on the Leases in favor of Landowner, which Lien will be effective as of the date of this Agreement.
- 4.2 Until Landowner gives Notice to Operator of Landowner's exercise of its rights under this Section, Operator will have all rights, power and authority granted to Operator under any Lease (except as otherwise limited by this Article or any other provision of this Agreement), including the right, power and authority to modify the terms of any Lease or extend or terminate any Lease. Upon the occurrence of an Event of Default, the permission given to Operator pursuant to the preceding sentence to exercise all rights, power and authority under Leases will automatically terminate. Operator will comply with and observe Operator's obligations under all Leases, including Operator's obligations pertaining to the maintenance and disposition of Tenant Security Deposits. In

no event will Operator enter into, amend, extend or terminate a Lease which would constitute a breach of the ~~Loan~~this Agreement.

- 4.3 Operator acknowledges and agrees that the exercise by Landowner, either directly or by a receiver, of any of the rights conferred under this Section will not be construed to make Landowner a mortgagee-in-possession of the Premises so long as Landowner has not itself entered into actual possession of the Land and the Improvements. The acceptance by Landowner of the assignment of the Leases pursuant to Section 4.1 will not at any time or in any event obligate Landowner to take any action under this Agreement or to expend any money or to incur any expenses. Except to the extent of Landowner's gross negligence or willful misconduct, Landowner will not be liable in any way for any injury or damage to person or property sustained by any Person in or about the Premises. Prior to Landowner's actual entry into and taking possession of the Premises, Landowner will not (a) be obligated to perform any of the terms, covenants and conditions contained in any Lease (or otherwise have any obligation with respect to any Lease), (b) be obligated to appear in or defend any action or proceeding relating to the Lease or the Premises, or (c) be responsible for the operation, control, care, management or repair of the Premises or any portion of the Premises. The execution of this Agreement by Operator will constitute conclusive evidence that all responsibility for the operation, control, care, management and repair of the Premises is and will be that of Operator, prior to such actual entry and taking of possession by Landowner.
- 4.4 Upon delivery of Notice by Landowner to Operator of Landowner's exercise of Landowner's rights under this Article at any time after the occurrence of an Event of Default, and without the necessity of Landowner entering upon and taking and maintaining control of the Premises directly, by a receiver, or by any other manner or proceeding permitted by the laws of the Property Jurisdiction, Landowner immediately will have all rights, powers and authority granted to Operator under any Lease, including the right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease.
- 4.5 Operator will, promptly upon Landowner's request, deliver to Landowner an executed copy of each residential Lease then in effect. All residential Leases, including all resident care agreements and admission agreements, must be on forms approved by Landowner and must not include options to purchase.
- 4.6 Operator agrees as follows:
- (a) Operator will not enter into a Lease for any portion of the Premises for non-residential use without the prior written consent of Landowner, which may be conditioned upon Landowner receiving an assignment thereof in form acceptable to Landowner; **provided that Landowner's prior consent shall not be required for the execution, modification or termination of any non-residential lease if such non-residential lease (i) is for space of less than 2,000 square feet or the annual consideration of which applicable to or allocated to the Premises is not greater than \$50,000 with respect to the Premises, (ii) is with a tenant that is not an affiliate of Landowner, (iii) is on market terms and (iv) is not for space used in connection with the provision of home-health services.**
 - (b) Operator will not modify the terms of, or extend, renew or terminate, any Lease for non-residential use (including any Lease in existence on the date of this Agreement) without the prior written consent of Landowner; **provided that**

Landowner's prior consent shall not be required for the execution, modification or termination of any non-residential lease if such non-residential lease (i) is for space of less than 2,000 square feet or the annual consideration of which applicable to or allocated to the Premises is not greater than \$50,000 with respect to the Premises, (ii) with a tenant that is not an affiliate of Landowner, (iii) on market terms and (iv) is not for space used in connection with the provision of home-health services.

- (c) ~~Owner~~**Operator** will, without request by Landowner, deliver a fully executed copy of each non-residential Lease to Landowner promptly after such Lease is signed.
- (d) All non-residential Leases, ~~including~~ **entered into after the date of this Agreement and all** renewals or extensions of existing Leases, must specifically include the following provisions:
- (i) The Lease is subordinate to the Lien of the ~~Security Instrument~~**any security instrument in favor of any mortgagee of Landowner secured by the Premises**, with such subordination to be self-executing.
 - (ii) The tenant will attorn to Landowner and any purchaser at a foreclosure sale, such attornment to be self-executing and effective upon acquisition of title to the Premises by any purchaser at a foreclosure sale or by Landowner in any manner.
 - (iii) The tenant agrees to execute such further evidences of attornment as Landowner or any purchaser at a foreclosure sale may from time to time request.
 - (iv) The tenant will, upon receipt of a written request from Landowner following the occurrence of and during the continuance of an Event of Default, pay all Rents payable under the Lease to Landowner.
 - (v) If Landowner or a purchaser at a foreclosure sale so elects, the Lease shall not be terminated by foreclosure or any other transfer of the Premises.
 - (vi) After a foreclosure sale of the Premises, Landowner or any other purchaser at such foreclosure sale may, at Landowner's or such purchaser's option, accept or terminate such Lease without payment of any fee or penalty.
- 4.7 Operator will not receive or accept Rent under any Lease (whether residential or non-residential) for more than two months in advance.
- 4.8 Operator will send to Landowner copies of all notices, financial reports, survey results and other matters concurrently with providing such copies to Landowner under or pursuant to the Operating Lease.
- 4.9 Notwithstanding any provision of the Operating Lease to the contrary, in no event will Operator transfer any License or any right thereunder (or part thereof) to any other Person or location.

ARTICLE 5. REPRESENTATIONS AND WARRANTIES OF OPERATOR

5.1 Operator represents, warrants and agrees to the following:

- (a) Operator has good and marketable title to all of the Collateral Property (except fee simple title to the Premises is in Landowner and subject to the Operating Lease) and none of the Collateral Property is subject to any Lien except for Permitted Liens and the security interest created pursuant to this Agreement, ~~the Security Instrument, the Loan Agreement and any of the other Loan Documents~~ or any Financing Documents and any other liens in favor of Landowner and/or Financing Agent to secure the obligations under the Operating Lease.
- (b) During the term of this Agreement, Operator will not commence, or join with any other creditor in commencing any ~~Bankruptcy~~ bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings with respect to Landowner, without Landowner's prior written consent, and as of the date hereof, Operator has not filed and is not subject to any filing for ~~Bankruptcy~~ bankruptcy or reorganization under any applicable bankruptcy or insolvency laws. The Operating Lease is in full force and effect, Operator is not in default thereunder and Operator is not aware of any ongoing default thereunder by Landowner.

ARTICLE 6. COVENANTS OF THE OPERATOR

6.1 (a) Operator will:

- (i) Not commit waste or permit impairment or deterioration of the Collateral Property.
- (ii) Not abandon the Collateral Property.
- (iii) Restore or repair or cause to be restored or repaired promptly, in a good and workmanlike manner, any damaged part of the Collateral Property to the equivalent of its original condition, or such other condition as Landowner may approve in writing, whether or not Insurance Proceeds or condemnation awards are available to cover any costs of such restoration or repair; provided, however, that Operator will not be obligated to perform such restoration or repair if (A) no Event of Default has occurred and is continuing and (B) Financing Agent has elected under the Financing Documents, if applicable, to apply any available insurance Proceeds and/or condemnation Awards to the indebtedness of Landowner secured by the Financing Documents, pursuant to the terms and provisions of the Financing Documents.
- (iv) Keep or caused to be kept the Collateral Property in good repair, including the replacement of tangible Personalty and Fixtures with items of equal or better function and quality.
- (v) Give Notice to Landowner of and, unless otherwise directed in writing by Landowner, will appear in and defend any action or proceeding purporting to affect the Collateral Property, Landowner's security or Landowner's rights under this Agreement.

- (vi) Timely perform all of its obligations under each Material Contract to which Operator is a party.
- (vii) Will comply with all laws, ordinances, rules, regulations and requirements of any Governmental Authority having jurisdiction over the Premises and all licenses and permits and all recorded covenants and agreements relating to or affecting the Premises, including all laws, ordinances, regulations, requirements and covenants pertaining to health and safety, construction of improvements on the Premises, Repairs, Capital Replacements, fair housing, disability accommodation, zoning and land use, applicable building codes, special use permits and environmental regulations, Leases to which it is a party and the maintenance and disposition of tenant security deposits. Operator will take appropriate measures to prevent, and will not engage in or knowingly permit, any illegal activities at the Premises, including those that could endanger tenants or visitors, result in damage to the Premises, result in forfeiture of the Premises, or otherwise materially impair the Lien created by the Security Instrument or Lender's interest in the Premises. Operator will at all times maintain records sufficient to demonstrate compliance with the provisions of this Section 6.1(a)(vii).
- (b) Operator will not (and will not permit any tenant or other person to) remove, demolish or alter, other than in a commercially reasonable manner in the ordinary course of business, the Collateral Property or any part of the Collateral Property, except in connection with (i) any repairs or the replacements made in connection with the replacement of tangible Personalty, (ii) any repairs or replacements in connection with making an individual unit ready for a new occupant, (iii) any repairs or replacements in connection with keeping the Premises in good repair or in restoring any damaged part of the Premises to the equivalent of its original condition, and (iv) any "Property Improvement Alterations," as such term is used in the Financing Documents, provided that Landowner satisfies all of its conditions for such Property Improvement Alterations pursuant to the Financing Documents.
- (c) Operator will not enter into any New Non-Residential Lease, enter into any Modified Non-Residential Lease or terminate any Non-Residential Lease to which it is a party (including any Non-Residential Lease in existence on the date of this Agreement) without the prior written consent of Landowner provided that Landowner's prior consent shall not be required for the execution, modification or termination of any Non-Residential Lease if such Non-Residential Lease is (i) for any non-residential space that was non-residential space on the date hereof and is for a use relating or ancillary to, or otherwise consistent with, the Intended Use, (ii) for space of less than 2,000 square feet at the Premises or the annual consideration of which applicable to or allocated to the Premises is not greater than \$50,000 with respect to the Premises, (iii) with a tenant that is not an Affiliate of Landowner, (iv) on market terms, and (v) not for space used in connection with the provision of home health services.

- (d) Operator will, without request by Landowner, deliver a fully executed copy of each Non-Residential Lease to which Operator is a party to Landowner promptly after such Non-Residential Lease is signed.
- (e) All Non-Residential Leases entered into after the date of this Agreement, will specifically include the following provisions:
- (i) The tenant will attorn to Landowner or, after a Foreclosure Event, Financing Agent, and any purchaser at a foreclosure sale, such attornment to be self-executing and effective upon acquisition of title to the Premises by any purchaser at a foreclosure sale or by Financing Agent in any manner.
 - (ii) The tenant agrees to execute such further evidences of attornment to Landowner or, after a Foreclosure Event, Financing Agent, as applicable, or any purchaser at a foreclosure sale may from time to time request.
 - (iii) The tenant will, upon receipt of a written request from Landowner or, after a Foreclosure Event, Financing Agent, following the occurrence of and during the continuance of an Event of Default, pay all Rents payable under the Leases to Landowner or Financing Agent, as applicable.
 - (iv) If Landowner or, after a Foreclosure Event, Financing Agent or a purchaser at a foreclosure sale so elects, the Lease will not be terminated by foreclosure or any other transfer of the Premises.
 - (v) After a Foreclosure Event and a foreclosure sale of the Premises, Financing Agent or any other purchaser at such foreclosure sale may, at Financing Agent's or such purchaser's option, accept or terminate such Lease without payment of any fee or penalty.
- (f) Operator will not receive or accept Rent under any Lease (whether a residential Lease or a Non-Residential Lease) for more than 2 months in advance except that Operator may receive and accept Prepaid Rent for (i) not more than three percent (3%) of residential units in the aggregate amongst the Premises and the other Individual Properties and (ii) not more than ten percent (10%) of residential units at the Premises. In no event will Operator receive or collect Prepaid Rent for more than one year in advance. Every month in which Operator has received Prepaid Rent, Operator will provide Landlord with a monthly report showing any Lease as to which Operator has received Prepaid Rent.
- (g) Operator will keep and maintain at all times at the Premises, Landowner's main business office, or the Property Manager's or Facility Operator's office, and upon Lender's request will make available at the Premises (or, at Landowner's option, at the Property Manager's or Operator's office), complete and accurate books of account and records (including copies of supporting bills and invoices) adequate to reflect correctly the operation of the Premises and copies of all written contracts, Leases, and other instruments which affect the Premises. The books, records, contracts, Leases

and other instruments will be subject to examination and inspection by Landowner at any reasonable time.

- (h) Operator will furnish to Landowner within 90 days after the end of each fiscal year of Landowner an accounting of all security deposits held pursuant to all Leases to which Operator is a party, including the name of the institution (if any) and the names and identification numbers of the accounts (if any) in which such security deposits are held and the name of the person to contact at such financial institution, along with any authority or release necessary for Landowner to access information regarding such accounts.
- (i) Operator will take all commercially reasonable actions (including the inclusion of appropriate provisions in any Leases executed by Operator after the date of this Agreement) to prevent its employees, agents and contractors, and all tenants and other occupants from causing or permitting any Prohibited Activities or Conditions. Operator will not lease or allow the sublease or use of all or any portion of the Premises to any tenant or subtenant for nonresidential use by any user that, in the ordinary course of its business, would cause or permit any Prohibited Activity or Condition.
- (i) Operator will, promptly upon Landowner's request, deliver to Landowner an executed copy of each residential Lease then in effect to which Operator is a party.
- (k) All Leases for residential units will satisfy the following conditions:

 - (i) They will be on forms that are customary for similar seniors housing facilities in the Property Jurisdiction.
 - (ii) They will be for initial terms of at least 1 month and not more than 2 years (unless otherwise approved in writing by Landowner).
 - (iii) They will not include any Corporate Leases (unless otherwise approved in writing by Landowner).
 - (iv) They will not include options to purchase.
- (l) Economic Sanctions Laws; AML Laws.

 - (i) Operator will comply with the Economic Sanctions Laws and AML Laws, as applicable.
 - (ii) Operator will have in place commercially reasonable practices and procedures for the admission of investors which are designed to prevent the admission of:

 - (A) Any Non-U.S. Equity Holder, or any 25% Equity Holder, and that has been convicted of a violation of the AML Laws, or been the subject of a final enforcement action relating to the AML Laws.

- (B) Any 25% Equity Holder that is on the Prohibited Parties Lists.
- (C) Any Non-U.S. Equity Holder that is on the OFAC Lists.
- (m) Crowdfunding. Operator will not permit any 25% Equity Interest that has been marketed or sold to investors through any form of Crowdfunding.
- (n) Upon request from Landowner in connection with any "Conditionally Permitted Transfer" being made pursuant to the Financing Documents, each Operator will promptly certify in writing to Landowner and the Financing Agent that it:
- (i) Is not on any Prohibited Parties Lists.
 - (ii) Has not been convicted of a violation of the AML Laws.
 - (iii) Has not been the subject of a final enforcement action relating to the AML Laws.
- If Operator cannot provide such certification to Landowner and Financing Agent, Operator must promptly disclose to Landowner and Financing Agent the basis for why Operator cannot truthfully provide such certification. In such event, Landowner reserves all rights and remedies it has under this Agreement, including the right to immediately terminate or cause the termination of such Operating Lease without penalty.
- (o) (i) Operator will give prompt Notice to Landowner of any litigation or governmental proceedings pending or, to the best of Borrower's knowledge, threatened in writing against Operator which might have a Material Adverse Effect. As and when requested by Landowner, Operator will provide Landowner with written updates on the status of all litigation proceedings affecting Operator.
- (ii) Upon request from Landowner, Operator agrees to cooperate with all reasonable requests of Landowner and Financing Agent in providing updated information on all litigation proceedings affecting any Operator as required in the foregoing Section 6.1(o)(i).
- (p) After the occurrence of an event of default under the Financing Documents, and during the continuance of such event of default, following a Foreclosure Event, Operator authorizes Financing Agent to collect, sue for and compromise Rents to which Operator is entitled under the Leases and direct each tenant of the Premises to pay all such Rents to, or as directed by, Financing Agent. From and after the occurrence of such an event of default, and during the continuance of such event of default, and without the necessity of Financing Agent entering upon and taking and maintaining control of the Premises directly, or by a receiver, following a Foreclosure Event, Operator's license to collect Rents as provided herein will automatically terminate and Financing Agent will without Notice be entitled to all Rents of Operators right, title and interest in and to all Rents payable to Operator as they become due and payable, including such Rents then due

and unpaid. Operator will pay to Financing Agent upon demand all such Rents to which Financing Agent is entitled.

(g) At any time on or after the date of Financing Agent's demand for Rents to which it is entitled to hereunder, Financing Agent may give, and Operator hereby irrevocably authorizes Financing Agent to give, notice to all applicable tenants of the Premises instructing them to pay all Rents to which Operator would otherwise be entitled to Financing Agent. No tenant will be obligated to inquire further as to the occurrence or continuance of an event of default. No tenant will be obligated to pay to Operator any amounts which are actually paid to Financing Agent in response to such a notice. Any such notice by Financing Agent will be delivered to each tenant personally, by mail or by delivering such demand to each rental unit. Operator will not interfere with and will cooperate with Financing Agent's collection of such Rents to which Operator would otherwise be entitled.

- 6.2 All expenses of protecting, storing, warehousing, insuring, handling and shipping of the Collateral Property, all costs of keeping the Collateral Property free of any Liens prohibited by this Agreement and of removing the same if they should arise, and any and all excise, property, sales and use taxes imposed by any state, federal or local authority on any of the Collateral Property or in respect of the sale thereof, will be borne and paid by Operator and if Operator fails to promptly pay any thereof when due, Landowner may, at its option, but will not be required to, pay the same whereupon the same will constitute Obligations and will be secured by the security interests granted hereunder ~~and by the Security Instrument and the Loan Agreement.~~
- 6.3 Unless Operator gives Notice to Landowner within 10 days after the occurrence of any of the following, and executes and delivers to Landowner modifications or supplements of this Agreement (and any financing statement which may be filed in connection with this Agreement) as Landowner may require, Operator will not:
- (a) Change its name, identity, structure or jurisdiction of organization.
 - (b) Change the location of its place of business (or chief executive office if more than one place of business).
 - (c) Add to or change any location at which any of the Collateral Property is stored, held or located.
- 6.4 Operator will not use the Collateral Property, or knowingly permit the Collateral Property to be used, for any unlawful purpose or in violation of any federal, state or municipal law.
- 6.5 Operator will not without Landowner's express written consent, amend, extend (other than pursuant to an express option set forth in the Operating Lease), assign its interest under, or terminate the Operating Lease.
- 6.6 Operator will not take any action, or omit to take any action, if doing so would constitute a default of any provision of the ~~Security Instrument, the Loan Agreement or the other Loan Documents~~ **Operating Lease or any documents between Landowner and any mortgagee of Landowner secured by the Premises.**

- 6.7 Immediately upon Operator becoming aware of the existence of any Event of Default under and as defined in the Operating Lease, ~~or this Agreement or any other Loan Document~~, Operator will give Notice to Landowner that such Event of Default exists, stating the nature of the Event of Default to Operator's knowledge, the period of existence of the Event of Default, and what action Operator proposes to take with respect to the Event of Default.
- 6.8 Operator will execute and deliver to Landowner, from time to time, such financing statements, assignments, and other documents covering the Collateral Property as Landowner may request in order to create, evidence, perfect, maintain or continue its security interest in the Collateral Property (including any additional Collateral Property acquired by Operator after the date hereof) and will notify Landowner promptly upon acquiring any additional Collateral Property.
- 6.9 (a) Operator appoints Landowner, or any other Person, whom Landowner may from time to time designate, as Operator's attorney with power, after the occurrence and during the continuance of an Event of Default, to ask, demand, collect, receive, sue for, file claims for, waive, adjust or settle any and all Rents and/or other liabilities or obligations of parties to Leases or Material Contracts or otherwise arising under or with respect to the Collateral Property, including the power to endorse Operator's name on any checks, notes, acceptances, drafts, or other forms of payment or security that may come into Landowner's possession, to sign Operator's name on any invoice or bill of lading relating to any Collateral Property, on drafts against customers, on schedules and confirmatory assignments of Collateral Property, on notices of assignment, financing statements under the Code and other public records, on verifications of Collateral Property and on notices to customers, residents and other tenants at the Premises, to notify the post office authorities to change the address for delivery of Operator's mail to an address designated by Landowner, to receive and open all mail addressed to Operator, to send requests for verification of Collateral Property to customers residents and other tenants at the Premises and to do all things necessary to carry out this Agreement in each case to the extent, but only to the extent, such actions relate to the Collateral Property. Operator ratifies and approves all acts of the attorney taken within the scope of the authority granted. Neither Landowner nor the attorney will be liable for any acts of commission or omission nor for any error in judgment or mistake of fact or law. This power, being coupled with an interest, is irrevocable so long as any Indebtedness remains unpaid. Operator waives presentment and protest of all instruments and notice thereof, notice of default and dishonor and all other notices to which Operator may otherwise be entitled.
- (b) In connection with Landowner's mortgage financing relating to its ownership of the Premises, Landowner has assigned or will assign to Financing Agent, among other things, the powers of attorney granted in this Agreement and the Operating Lease. Operator acknowledges and consents to such assignments and agrees to recognize Financing Agent as Landowner's attorney-in-fact. Financing Agent's exercise of such power of attorney shall not cause Financing Agent to be construed as a mortgagee-in-possession, or constitute a waiver of any of Financing Agent's rights as a mortgagee, except as required by applicable law. Any and all action to be undertaken by Landowner hereunder (including those after an Event of Default) may be taken by Financing Agent in its stead.

6.10 (a) Within 10 days after a request from Landowner, Operator will deliver to Landowner a written statement, signed and acknowledged by Operator, certifying to Landowner or to any Person(s) designated by Landowner, as of the date of such statement: (a) that the Operating Lease and this Agreement are unmodified and in full force and effect (or if there have been any modifications thereof, that they are in full force and effect as modified, and setting forth such modifications), (b) that Operator is not in default under the Operating Lease or this Agreement (or if Operator is in default, setting forth the details thereof and the actions Operator is taking to cure such default), (c) that to its knowledge, Landowner is not in default under the Operating Lease or the Loan Documents, and (d) as to any additional factual matters Landowner may reasonably request.

(b) Operator agrees to execute an estoppel certifying to Financing Agent such facts regarding the Operating Lease as Financing Agent may reasonably require.

6.11 Until the Obligations under the Loan are paid in full ~~fully satisfied~~, **Master** Operator will remain a "Single Purpose Entity," which means, for the purposes of this Agreement, at all times since its formation and thereafter it will satisfy each of the following conditions:

- (i) It will not engage in any business or activity, other than **the ownership of Sub-Operator and other sub-operators under the Loan (as defined in the Financing Documents)** and the operation, leasing and maintenance of the Premises and activities incidental thereto.
- (ii) It will not acquire, own, hold, lease, operate, manage, maintain, develop or improve any assets other than the Premises and such Personalty as may be necessary for the operation of the Premises and will conduct and operate its business as presently conducted and operated or as otherwise permitted under the Operating Lease.
- (iii) It will preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its formation or organization and will do all things necessary to observe organizational formalities.
- (iv) It will not merge or consolidate with any other Person.
- (v) It will not take any action to dissolve, wind-up, terminate or liquidate in whole or in part; to sell, transfer or otherwise dispose of all or substantially all of its assets; change its legal structure; transfer or permit the direct or indirect transfer of any partnership, membership or other equity interests, as applicable, other than Transfers permitted under the ~~Loan Agreement~~ **Financing Documents**; issue additional partnership, issue membership or other equity interests, as applicable, or seek to accomplish any of the foregoing.
- (vi) It will not, without the prior unanimous written consent of all of Operator's members, partners, or shareholders, as applicable, and, if applicable, the prior unanimous written consent of 100% of the members of the board of directors or of the board of Managers of Operator, take any of the following actions:

- (A) File any insolvency, or reorganization case or proceeding, to institute proceedings to have Operator be adjudicated bankrupt or insolvent.
- (B) Institute proceedings under any applicable insolvency law.
- (C) Seek any relief under any law relating to relief from debts or the protection of debtors.
- (D) Consent to the filing or institution of ~~Bankruptcy~~ **bankruptcy or insolvency proceedings** against Operator.
- (E) File a petition seeking, or consent to, reorganization or relief with respect to Operator under any applicable federal or state law relating to bankruptcy or insolvency.
- (F) Seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian, or any similar official for Operator or a substantial part of its property.
- (G) Make any assignment for the benefit of creditors of Operator.
- (H) Admit in writing **in connection with any bankruptcy, insolvency or reorganization case or proceeding, irrespective of whether such case or proceeding is voluntary or involuntary.** Operator's inability to pay its debts generally as they become due.
- (I) Take action in furtherance of any of the foregoing.
- (vii) It will not amend or restate its organizational documents if such change would cause the provisions set forth in those organizational documents not to comply with the requirements set forth in this Section 6.11.
- (viii) It will not own any subsidiary or make any investment in, any other Person, **except for the Subsidiaries.**
- (ix) It will not commingle its assets with the assets of any other Person and will hold all of its assets in its own name.
- (x) It will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than:
- (A) ~~e~~ Customary unsecured trade payables incurred in the ordinary course of operating the Premises provided the same are not evidenced by a promissory note, do not exceed, in the aggregate, at any time a maximum amount of 2% of the original principal amount of the Indebtedness and are paid within 60 days of the date incurred.
- (B) **Financing of motor vehicles owned by Operator and used in the operation of the Premises, provided that the principal amount of such financing does not exceed, in the aggregate, at any time a maximum amount of \$150,000, and provided that all payments due under such financing are kept current.**

- (xi) It will maintain its records, books of account, bank accounts, financial statements, accounting records and other entity documents separate and apart from those of any other Person and will not list its assets as assets on the financial statement of any other Person; provided, however, that Operator's assets may be included in a consolidated financial statement of its Affiliate provided that (A) appropriate notation will be made on such consolidated financial statements to indicate the separateness of Operator from such Affiliate and to indicate that Operator's assets and credit are not available to satisfy the debts and other obligations of such Affiliate or any other Person, and (B) such assets will also be listed on Operator's own separate balance sheet.
- (xii) Except for capital contributions or capital distributions permitted under the terms and conditions of its organizational documents, it will only enter into any contract or agreement with any general partner, member, shareholder, principal or Affiliate of Operator, or any general partner, member, principal or Affiliate thereof, upon terms and conditions that are commercially reasonable and substantially similar to those that would be available on an arm's-length basis with third parties.
- (xiii) It will not maintain its assets in such a manner that will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person.
- (xiv) Other than as directed or authorized by this Agreement, it will not assume or guaranty the debts or obligations of any other Person, hold itself out to be responsible for the debts of another Person, pledge its assets to secure the obligations of any other Person or otherwise pledge its assets for the benefit of any other Person, or hold out its credit as being available to satisfy the obligations of any other Person **(except with respect to the Subsidiaries)**.
- (xv) It will not make or permit to remain outstanding any loans or advances to any other Person except for ordinary business purposes related to operations.
- (xvi) It will file its own tax returns separate from those of any other Person, except to the extent that (A) Operator is treated as a "disregarded entity" for tax purposes and is not required to file tax returns under applicable law **or (B) Operator is required by applicable law to file consolidated tax returns**, and will pay any taxes required to be paid under applicable law.
- (xvii) It will hold itself out to the public as a legal entity separate and distinct from any other Person and conduct its business solely in its own name, will correct any known misunderstanding regarding its separate identity and will not identify itself or any of its Affiliates as a division or department of any other Person **except for (i) business conducted under the Master Lease on behalf of the Master Operator by a Subsidiary (in its capacity as agent for the Master Operator pursuant to the Sub-Lease), (ii) business conducted under the Sub-Lease on behalf of the Master Operator by a Subsidiary (in its capacity as agent for the Company pursuant to the Sub-Lease) and (iii) for marketing purposes a trade name or trade reference common to Affiliates may also, from time to time, be used (but not for the purpose of obtaining credit)**.

- (xviii) It will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations and will pay its debts and liabilities from its own assets as the same become due; **provided, however, nothing in this Section will require any member or partner of Operator to make any equity contribution to the Operator.**
- (xix) It will allocate fairly and reasonably shared expenses with Affiliates (including shared office space) and use separate stationery, invoices and checks bearing its own name.
- (xx) It will pay **(or cause the Sub-Operator to pay on behalf of the Operator from Operator's funds)** its own liabilities (including salaries of its own employees, if any) from its own funds; **provided, however, nothing in this Section will require any member or partner of Operator to make any equity contribution to Operator.**
- (xxi) It will not acquire obligations or securities of its partners, members, shareholders, or Affiliates, as applicable, **except for the Subsidiaries.**
- (xxii) Except as contemplated or permitted by the Lease **or any property management agreement entered into with any Property Manager,** it will not permit any Affiliate or constituent party independent access to its bank accounts.
- (xxiii) It will maintain a sufficient number of employees (if any) in light of its contemplated business operations and pay the salaries of its own employees, if any, only from its own funds; **provided, however, nothing in this Section will require any member or partner of Operator to make any equity contribution to Operator.**
- (xxiv) If such entity is a single member limited liability company, such entity will satisfy each of the following conditions:
- (A) Be formed and organized under Delaware law.
 - (B) Have either one springing member that is a corporation or two springing members who are natural persons. If there is more than one springing member, only one springing member will be the sole member of Operator at any one time, and the second springing member will become the sole member only upon the first springing member ceasing to be a member.
 - (C) Otherwise comply with all Rating Agencies' criteria for single member limited liability companies (including the delivery of Delaware single member limited liability company opinions acceptable in all respects to Landowner).
 - (D) At all times Operator will have one and only one member.
- (xxv) If such entity is a single member limited liability company that is board-managed, such entity will have a board of Managers separate from that of any other Person and will cause its board of Managers to keep minutes of board meetings and

actions and observe all other Delaware limited liability company required formalities.

6.12 Until the Obligations under the Loan are paid in fullfully satisfied, Sub-Operator will remain a "Single Purpose Entity," which means, for the purposes of this AgreementSection 6.12, at all times since its formation and thereafter it will satisfy each of the following conditions:

- (i) It will not engage in any business or activity, other than the operation, leasing and maintenance of the Premises and activities incidental thereto.
- (ii) It will not acquire, own, hold, lease, operate, manage, maintain, develop or improve any assets other than the Premises and such Personalty as may be necessary for the operation of the Premises and will conduct and operate its business as presently conducted and operated or as otherwise permitted under the Operating Lease.
- (iii) It will preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its formation or organization and will do all things necessary to observe organizational formalities.
- (iv) It will not merge or consolidate with any other Person.
- (v) It will not take any action to dissolve, wind-up, terminate or liquidate in whole or in part; to sell, transfer or otherwise dispose of all or substantially all of its assets; change its legal structure; transfer or permit the direct or indirect transfer of any partnership, membership or other equity interests, as applicable, other than Transfersales, transfers or other dispositions permitted under the Loan AgreementSASA; issue additional partnership, issue membership or other equity interests, as applicable, or seek to accomplish any of the foregoing.
- (vi) It will not, without the prior unanimous written consent of all of Sub-Operator's members, partners, or shareholders, as applicable, and, if applicable, the prior unanimous written consent of 100% of the members of the board of directors or of the board of Managers of Sub-Operator, take any of the following actions:
 - (A) File any insolvency, or reorganization case or proceeding, to institute proceedings to have Sub-Operator be adjudicated bankrupt or insolvent.
 - (B) Institute proceedings under any applicable insolvency law.
 - (C) Seek any relief under any law relating to relief from debts or the protection of debtors.
 - (D) Consent to the filing or institution of bankruptcy or insolvency proceedings against Sub-Operator.

- (E) File a petition seeking, or consent to, reorganization or relief with respect to Sub-Operator under any applicable federal or state law relating to bankruptcy or insolvency.
- (F) Seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian, or any similar official for Sub-Operator or a substantial part of its property.
- (G) Make any assignment for the benefit of creditors of Sub-Operator.
- (H) Admit in writing in connection with any bankruptcy, insolvency or reorganization case or proceeding, irrespective of whether such case or proceeding is voluntary or involuntary, Sub-Operator's inability to pay its debts generally as they become due.
- (I) Take action in furtherance of any of the foregoing.
- (vii) It will not amend or restate its organizational documents if such change would cause the provisions set forth in those organizational documents not to comply with the requirements set forth in this Section 6.12.
- (viii) It will not own any subsidiary or make any investment in, any other Person.
- (ix) It will not commingle its assets with the assets of any other Person and will hold all of its assets in its own name.
- (x) It will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than:
- (A) Customary unsecured trade payables incurred in the ordinary course of operating the Premises, provided the same are not evidenced by a promissory note, do not exceed, in the aggregate, at any time a maximum amount of 2% of the original principal amount of the Indebtedness and are paid within 60 days of the date incurred.
- (B) Financing of motor vehicles owned by Sub-Operator and used in the operation of the Premises, provided that the principal amount of such financing does not exceed, in the aggregate, at any time a maximum amount of \$150,000, and provided that all payments due under such financing are kept current.
- (xi) It will maintain its records, books of account, bank accounts, financial statements, accounting records and other entity documents separate and apart from those of any other Person and will not list its assets as assets on the financial statement of any other Person; provided, however, that Sub-Operator's assets may be included in a consolidated financial statement of its Affiliate provided that (A) appropriate notation will be made on such consolidated financial statements to indicate the separateness of Sub-Operator from such Affiliate and to indicate that Sub-Operator's assets and credit are not available to satisfy the debts and other obligations of such Affiliate or any other Person, and (B) such assets will also be listed on Sub-Operator's own separate balance sheet.

- (xii) Except for capital contributions or capital distributions permitted under the terms and conditions of its organizational documents, it will only enter into any contract or agreement with any general partner, member, shareholder, principal or Affiliate of Sub-Operator, or any general partner, member, principal or Affiliate thereof, upon terms and conditions that are commercially reasonable and substantially similar to those that would be available on an arm's-length basis with third parties.
- (xiii) It will not maintain its assets in such a manner that will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person.
- (xiv) Other than as directed or authorized by this Agreement, it will not assume or guaranty the debts or obligations of any other Person, hold itself out to be responsible for the debts of another Person, pledge its assets to secure the obligations of any other Person or otherwise pledge its assets for the benefit of any other Person, or hold out its credit as being available to satisfy the obligations of any other Person.
- (xv) It will not make or permit to remain outstanding any loans or advances to any other Person except for ordinary business purposes related to operations.
- (xvi) It will file its own tax returns separate from those of any other Person, except to the extent that (A) Sub-Operator is treated as a "disregarded entity" for tax purposes and is not required to file tax returns under applicable law or (B) Sub-Operator is required by applicable law to file consolidated tax returns, and will pay any taxes required to be paid under applicable law.
- (xvii) It will hold itself out to the public as a legal entity separate and distinct from any other Person and conduct its business solely in its own name, will correct any known misunderstanding regarding its separate identity and will not identify itself or any of its Affiliates as a division or department of any other Person except for business conducted on behalf of Landowner by Sub-Operator (in its capacity as agent for Landowner).
- (xviii) It will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations and will pay its debts and liabilities from its own assets as the same become due; provided, however, nothing in this Section will require any member or partner of Sub-Operator to make any equity contribution to Sub-Operator.
- (xix) It will allocate fairly and reasonably shared expenses with Affiliates (including shared office space) and use separate stationery, invoices and checks bearing its own name.
- (xx) It will pay its own liabilities (including salaries of its own employees, if any) from its own fund; provided, however, nothing in this Section will require any member or partner of Sub-Operator to make any equity contribution to Sub-Operator.

- (xxi) It will not acquire obligations or securities of its partners, members, shareholders, or Affiliates, as applicable.
- (xxii) Except as contemplated or permitted by the Operating Lease or the property management agreement entered into by Sub-Operator, it will not permit any Affiliate or constituent party independent access to its bank accounts.
- (xxiii) It will maintain a sufficient number of employees (if any) in light of its contemplated business operations and pay the salaries of its own employees, if any, only from its own funds; provided, however, nothing in this Section will require any member or partner of Sub-Operator to make any equity contribution to Sub-Operator.
- (xxiv) If such entity is a single member limited liability company, such entity will satisfy each of the following conditions:
- (A) Be formed and organized under Delaware law.
- (B) Have either one springing member that is a corporation or two springing members who are natural persons. If there is more than one springing member, only one springing member will be the sole member of Sub-Operator at any one time, and the second springing member will become the sole member only upon the first springing member ceasing to be a member.
- (C) Otherwise comply with all Rating Agencies' criteria for single member limited liability companies (including the delivery of Delaware single member limited liability company opinions acceptable in all respects to Landowner).
- (D) At all times Sub-Operator will have one and only one member.
- (xxv) If such entity is a single member limited liability company that is board-managed, such entity will have a board of Managers separate from that of any other Person and will cause its board of Managers to keep minutes of board meetings and actions and observe all other Delaware limited liability company required formalities.

ARTICLE 7. COLLECTIONS

- 7.1 Except as otherwise provided in this Agreement, Operator will continue to collect at its own expense, all amounts due or to become due to Operator with respect to the Collateral Property. In connection with such collections, Operator may take (and, at Landowner's direction, will take) such action as Operator or Landowner may deem necessary or advisable to enforce collection of any Awards, Proceeds, Rents, Other Earnings, Refunds, Payments, Third Party Care Payments, Third Party Miscellaneous Payments or Accounts; provided, however, that Landowner will have the right, at any time upon the occurrence of an Event of Default to notify the debtors and/or payors of any Awards, Proceeds, Rents, Other Earnings, Refunds, Payments, Third Party Care Payments, Third Party Miscellaneous Payments or Accounts of the assignment of such amounts to Landowner and to direct such debtors and/or payors to make payment of all amounts due or to

become due to Operator thereunder directly to Landowner. Upon such notification and at the expense of Operator, Landowner will have the right to enforce collection of such Awards, Proceeds, Rents, Other Earnings, Refunds, Payments, Third Party Care Payments, Third Party Miscellaneous Payments or Accounts and to adjust, settle, or compromise the amount or payment thereof in the same manner and to the same extent as Operator might have done.

- 7.2 (a) If no cash management agreement is in effect, then upon an Event of Default and during the continuation thereof, Operator will deposit into a collection account ("**Collection Account**") maintained with Landowner ~~or Loan Servicer~~ immediately upon receipt all payments and receipts of Collateral Property as described in Section 7.1 in the original form such payments are received, except for endorsement where necessary. Landowner is authorized and directed to apply all such collected funds to the payment of ~~the~~**Landowner's obligations, including its indebtedness/indebtedness under the Financing Documents, and to all Secured Obligations** in the manner and in the priority determined by Landowner in the exercise of its sole discretion.
- (b) If a cash management agreement is in effect, then Operator will deposit into a collection account ("**Collection Account**") maintained with Landowner ~~or Loan Servicer~~ immediately upon receipt all payments and receipts of Collateral Property as described in Section 7.1 in the original form such payments are received, except for endorsement where necessary. Landowner is authorized and directed to apply all such collected funds to the payment of ~~the~~**Landowner's obligations, including its indebtedness/indebtedness under the Financing Documents, and to all Secured Obligations** in the manner and in the priority determined by Landowner in the exercise of its sole discretion.
- 7.3 Upon an Event of Default and during the continuation thereof, Operator will pay to Landowner all Rent and other charges, fees and reserves due and payable under the Operating Lease without abatement, set off, counterclaim or reduction. ~~Operator will not be obligated to pay Landowner any such amounts paid to Landowner.~~
- 7.4 All amounts received by Landowner pursuant to this Article 7 will be applied, at Landowner's election, to the operation, preservation, improvement and maintenance of the Premises and the Collateral Property and/or to the repayment of the ~~Indebtedness~~**obligations of Landowner, including under the Financing Documents,** and/or any amounts due from Operator to Landowner hereunder ~~or under any other Loan Document~~, all in such manner and order as Landowner may determine.

ARTICLE 8. ASSIGNMENT

- 8.1 If Landowner gives Notice to Operator that Landowner is exercising its rights under this Agreement and/or that an Event of Default has occurred, Operator will continue, at Landowner's direction (but on behalf of and as agent for Landowner), to perform all of Operator's obligations under the Operating Lease in accordance with the Operating Lease (but subject to the other provisions of this Agreement, including Section 7.3). Any rent payments or fees due to Landowner or Operator which become due and payable after the date Landowner gives Operator Notice under this Section will continue to be paid in accordance with the terms of the Operating Lease, subject to the terms of Section 7.3, notwithstanding any contrary direction from Landowner. However, Landowner neither assumes nor has any obligation to Operator to exercise its rights under this Agreement or

to declare a default under the ~~Loan Documents~~ **Operating Lease**. Landowner will have no obligation to pay for services performed by Operator as required by this Section.

8.2 Upon Notice to do so from Landowner or its successors or assigns or designee holding title to the Premises (as applicable, "New Owner") (which Notice may be given at New Owner's sole discretion), **(i) Master Operator will recognize the New Owner as the owner of the Premises for purposes of the Operating Master Lease and the Operating Master Lease will continue in full force and effect as a direct Operating Lease between Master Operator and Landowner or New Owner, (ii) Sub-Operator and Sub-Sub-Operator will each recognize the New Owner as the owner of the Premises for purposes of the respective Sub-Lease and Sub-Sub-Lease, and (iii) if New Owner terminates the Master Lease and enters into a new primary operating lease with a new operator, Sub-Operator and Sub-Sub-Operator each agrees to recognize such new primary operator and enter into a new sub-operating lease or sub-sub-operating lease, as applicable on substantially the same terms and conditions as the respective Sub-Lease or Sub-Sub-Lease, in each case** subject to the following terms and conditions:

- (a) Neither Landowner nor New Owner will **not** be:
- (i) Liable for any act or omission or misrepresentation, breach of warranty or any other default or negligence of Landowner, ~~or~~ any previous owner of the Premises, **or any previous lessor of the Premises.**
 - (ii) Subject to any offset claim, counterclaim, recoupment, credit or setoff, estoppel or defense of any nature which Operator might be entitled to assert against Landowner, ~~or~~ any previous owner of the Premises, **or any previous lessor of the Premises.**
 - (iii) Bound by any payment made by Operator to Landowner **(unless paid to New Owner)** or any previous owner of the Premises **or any previous lessor of the Premises** for more than one (1) month in advance of the date such payment or payments are due.
 - (iv) Bound by any modification or amendment of the Operating Lease made without the prior written consent of Landowner ~~or~~ New Owner.
 - (v) Bound by any of Landowner's liabilities or obligations under the Operating Lease which were to be paid or performed (or which arose or accrued) before New Owner became the owner of the Premises **or landlord under any Operating Lease.**
 - (vi) Bound by any obligation of Landowner, ~~or~~ any previous owner of the Premises **or any previous lessor of the Premises** to construct, maintain, repair or rebuild the Premises under the Operating Lease, or to reimburse Operator or otherwise pay for any such work.
 - (vii) Bound by any obligation to indemnify Operator under the Operating Lease.
 - (viii) Bound by any obligation of Landowner to apply or return any security deposit under the Operating Lease, or any reserve held thereunder, except

and to the extent such security deposit and/or reserves were received by ~~Landowner~~New Owner (and ~~Landowner~~New Owner was not obligated in a ~~Bankruptcy~~bankruptcy proceeding or otherwise to return them to Landowner).

- (ix) Bound by any abatements or reductions of rent or of other amounts payable under the Operating Lease, except to the extent expressly set forth in the Operating Lease.
- (x) Liable to Operator hereunder or under the Operating Lease beyond its interest in the Premises.

8.3 Operator agrees as follows:

- (a) After the date of this Agreement, no extension (other than pursuant to an express option set forth in the Operating Lease), amendment or termination of the Operating Lease will be valid as against Landowner unless Landowner has approved such extension, amendment or termination in writing.
- (b) Operator will not terminate the Operating Lease or cease to perform its obligations under the Operating Lease for any reason, including but not limited to Landowner's failure to make any payments to Operator, without giving Landowner thirty (30) days' prior Notice of such intention, in order that Landowner may, at its election, cure Landowner's default and/or exercise its rights under this Agreement.
- (c) Upon the occurrence of an Event of Default hereunder, ~~under the other Loan Documents~~ or under the Operating Lease, Operator may be removed and the Operating Lease terminated by Landowner or New Owner, without payment of any cancellation or termination fee, penalty or other liability, at any time upon Notice to Operator by Landowner or New Owner of such Event of Default and termination.
- (d) Upon the termination of the Operating Lease for any reason or upon the occurrence of an Event of Default, at Landowner's request, Operator will cooperate with Landowner and Landowner in all respects to facilitate and effect a transition and licensing of the operation of the Premises to a new operator. Such cooperation will include: (i) furnishing to any prospective operator designated by Landowner complete and accurate books, records, files, documents and information in Operator's possession, control or custody with respect to the operation, leasing, maintenance and construction of the Premises (including, but subject to Privacy Laws, (x) copies of all resident care agreements, resident admission agreements and all other Leases, and (y) copies of all other records pertaining to the residents at the Premises), (ii) entering into an operations transfer agreement (in customary form and acceptable to Landowner) with the new operator to permit continued operation of the Premises without interruption while Licenses and agreements with Governmental Authorities (including provider agreements) are obtained by the new operator, (iii) assigning such Material Contracts and other agreements to such new operator as it may request (and which may be assigned by Operator), including all residential Leases, and (iv) cooperating with such new operator as to the filing of required notices or applications for Licenses with applicable Governmental Authorities (to the extent

Operator's signature may be required or information in Operator's possession, control or custody may be required).

8.4 Subordination of Operating Lease.

- (a) Operator acknowledges that Landowner has entered into mortgage financing related to its ownership of the Premises and as part of such financing, Landowner has pledged, or may in the future pledge, its rights, title and interest in this Agreement, the Operating Lease, the rent due under the Operating Lease, any assignment of property management agreement, the Leases and any other Rents and has executed or delivered, or may in the future execute or deliver, such other documents and instruments as Landowner or the provider of such financing (together with its successors and assigns, the "Financing Agent") deems necessary or appropriate to consummate such transaction. Notwithstanding anything in the Operating Lease to the contrary, the Operating Lease and all estates, rights, options, liens and charges therein contained or created thereunder are and shall be subject and subordinate to any and all fee mortgages, deeds of trusts or other similar instruments (the "Security Instrument"), and any other documents executed and delivered in connection therewith as the same may be amended, restated or modified from time to time (together with the Security Instrument, the "Financing Documents"), and to all terms, covenants and conditions thereof, and all liens created thereunder, and all renewals, modifications, consolidations, severances, replacements, increases and extensions thereof and to any and all advances made or to be made thereunder, to the full extent of amounts secured thereby, it being understood and agreed that (1) Operator shall have no responsibility under such financing arrangements or any such Security Instrument, and (2) the Financing Agent shall have, in its sole and absolute discretion, among other rights with respect to the Premises, either (A) the right to terminate the Operating Lease upon completion of a foreclosure by Financing Agent under the Security Instrument or the granting by Landowner of a deed-in-lieu of foreclosure, and (B) the right to elect to recognize the Operating Lease and the interest of Operator thereunder, and not to disturb Operator's occupancy of the Premises during the term of the Operating Lease or any extensions or renewals thereof. If the Financing Agent or its designee has so elected to recognize the Operating Lease and not disturb Operator's occupancy of the Premises, Operator shall be bound to such entity under all of the terms, covenants and conditions of the Operating Lease with the same force and effect as if the Financing Agent or its designee were the landlord under such Operating Lease and Operator shall attorn to the Financing Agent or its designee if such Financing Agent or designee succeeds to the interest of Landowner under the Operating Lease. Operator further agrees that any fees payable to Operator pursuant to the applicable Operating Lease shall be subordinated in right to the prior payment in full of the indebtedness evidenced by and secured by the Financing Documents.
- (b) Notwithstanding anything contained in the Operating Lease, neither the Financing Agent nor its designee shall be:
- (i) liable for any act or omission or negligence of, or for the performance of any of the obligations of, Landowner or of any prior landlord

which shall have occurred or accrued prior to the date on which the Financing Agent or its designee succeeds to Landowner's interest in the Operating Lease;

- (ii) bound by any offset right or defense that Operator may have against Landowner;
 - (iii) bound by any payment of rent due under the Operating Lease that Operator may have made to Landowner before the date such rent due under the Operating Lease was first due and payable hereunder unless such sums are paid to Financing Agent;
 - (iv) bound by any amendment or modification of the Operating Lease that would reduce or shorten any economic obligations of Operator under the Operating Lease or materially impair Landowner's rights under the Operating Lease without the prior written consent of Financing Agent;
 - (v) liable for any security deposit paid by Operator to Landowner unless such deposit is delivered to Financing Agent;
 - (vi) obligated to complete any construction work required to be done by Operator pursuant to the provisions of the Operating Lease or to reimburse Operator for any construction work done by Operator;
 - (vii) liable for or obligated to pay for repairs, replacements, damages or allowances, including the result of a casualty or condemnation, not made, performed or paid by Landowner if such performance or payment was due prior to the date on which the Financing Agent or its designee succeeds to Landowner's interest in the Operating Lease;
 - (viii) required to make any capital improvements which the Landowner may have agreed to make, but had not completed, or to perform or provide any services not related to possession or quiet enjoyment under the Operating Lease;
 - (ix) liable for the payment of any leasing commissions, the triggering event for which arose or occurred prior to the date on which the Financing Agent or its designee succeeds to Landowner's interest in the Operating Lease, except to the extent that Financing Agent receives the benefit thereof; or
 - (x) liable under any indemnity provision of whatever nature contained in the Operating Lease, including any environmental indemnification which arose or occurred prior to the date on which the Financing Agent or its designee succeeds to Landowner's interest in the Operating Lease.
- (ac) Operator subordinates all contractual and statutory Liens (whether choate or inchoate) which Operator may be (or may become) entitled to assert against the Premises or any other property of Landowner which is subject to a Lien in favor of Landowner to all of the assignments and Liens securing the ~~Loan~~ any loan

~~from Financing Agent contemplated by the Loan Documents (including any future amendments), and Operator fully and completely waives any and all rights that Operator may have, now or in the future (and to the extent permitted by law, the rights that Operator's suppliers, and laborers may have now or in the future), to claim, directly or indirectly, a priority of Lien, in whole or in part, against or in the Premises or any other property of Landowner which is subject to a Lien in favor of Landowner over any assignments or Liens that Landowner may claim against the Premises or any other such property of Landowner under the Loan Documents (including any future amendments). This subordination will be self-operative and no further instrument of subordination will be required. However, in further confirmation of such subordination, Operator and Landowner will, promptly upon the request of Landowner execute, acknowledge and deliver to Landowner such instruments as Landowner reasonably requires.~~

- (bd) Operator agrees that (i) any amounts payable to Operator by Landowner pursuant to the Operating Lease are and will be subordinated in right of payment to the prior payment in full of the ~~indebtedness~~**indebtedness of any loan from Financing Agent encumbering the Premises**, and (ii) the Operating Lease is and will be subject and subordinate in all respects to the Lien, terms, covenants and conditions of the Security Instrument and the other ~~Loan~~**Financing** Documents and to all advances heretofore made or which may hereafter be made pursuant to the Note, the Loan Agreement, the Security Instrument (including all sums advanced for the purposes of (x) protecting or further securing the Lien of the Security Instrument or the Loan Agreement, curing defaults by Landowner under the Security Instrument or the Loan Agreement or for any other purposes expressly permitted by the Security Instrument or the Loan Agreement, or (y) constructing, renovating, repairing, furnishing, fixturing or equipping the Premises) or the other Loan Documents.
- (ee) Without limiting the subordination or other provisions of this Agreement in any way, in the event of any conflict between the Operating Lease and the ~~Loan~~**Financing** Documents as to the rights to and/or disposition of any Awards or Insurance Proceeds, the provisions of the ~~Loan~~**Financing** Documents will be controlling.
- (df) This Agreement satisfies any requirement in the Operating Lease that Landowner provide Operator with a subordination, non-disturbance and attornment agreement (or similar agreement); and Operator waives any such requirement, condition or covenant provided in the Operating Lease.
- (eg) ~~Reserved~~**Reserved** Notwithstanding any of the prior provisions of this Section to the contrary, Landowner may elect to subordinate the Security Instrument to the Operating Lease; provided such election is in writing in a Notice to Operator; and provided further that in such event the rights and Liens of Landowner in and to Awards and Insurance Proceeds will continue to be superior to Operator's rights or Liens under the Operating Lease or otherwise.

ARTICLE 9. RIGHTS AND REMEDIES ON DEFAULT

- 9.1 Upon the occurrence of an Event of Default, and at any time thereafter, and in addition to the rights granted to Landowner under this Agreement ~~or under any other Loan Document, including any collateral agreement or other instrument evidencing, securing~~

Security, Assignment and Subordination Agreement
For Operating Lease and Assignment of Leases and Rents
and Fixture Filing – Seniors Housing

~~or otherwise relating to any of the Indebtedness~~, Landowner may exercise any one or more of the following rights and remedies:

- (a) ~~Reserved~~ ~~Declare any and all Indebtedness to be immediately due and payable, and the same will thereupon become immediately due and payable without further notice or demand.~~
- (b) In the name of Operator or otherwise, demand, collect, receive and receipt for, compound, compromise, settle and give acquittance for and prosecute and discontinue any suits or proceedings in respect of any or all of the Collateral Property.
- (c) Take any action that Landowner may deem necessary or desirable in order to realize on the Collateral Property, including the power to perform any contract, to endorse in the name of Operator any checks, drafts, notes, or other instruments or documents received in payment of or on account of the Collateral Property.
- (d) Enter upon and into and take possession of all or such part or parts of the Collateral Property as may be necessary or appropriate in the judgment of Landowner, to permit or enable Landowner to store, lease, sell or otherwise dispose of or collect all or any part of the Collateral Property, and use and operate said property for such purposes and for such length of time as Landowner may deem necessary or appropriate for said purposes without the payment of any compensation to Operator therefor. Operator will provide Landowner with all information and assistance requested by Landowner to facilitate the storage, leasing, sale or other disposition or collection of the Collateral Property after an Event of Default.
- (e) Exercise any and all other rights and remedies available to Landowner by law, in equity or by agreement, including rights and remedies under the law of the Property Jurisdiction or any other applicable law as they relate to the Collateral Property and including all remedies available to Landowner under Article 9 of the Code of the Property Jurisdiction, and, in connection therewith, Landowner may require Operator to assemble the Collateral Property and make it available to Landowner at a place to be designated by Landowner, and any Notice of intended disposition of any of the Collateral Property required by law will be deemed reasonable if such Notice is mailed or delivered to Operator pursuant to this Agreement at least 10 days before the date of such disposition. Landowner may sell or otherwise dispose of any or all of the Collateral Property in a single unit or in multiple units and Landowner may be the purchaser at such sale or other disposition.
- (f) Terminate the Operating Lease or exercise any other rights of Landowner under the Operating Lease as though a default of Operator had occurred under (and as defined in) the Operating Lease entitling Landowner to terminate the Operating Lease pursuant to the term thereof and applicable law.
- (g) ~~Reserved~~ ~~All proceeds of sale or disposition of the Collateral Property will be applied toward the Indebtedness of Landowner in such manner and order as Landowner may elect.~~

ARTICLE 10. MISCELLANEOUS

10.1 Security Agreement. This Agreement is also a security agreement under the Uniform Commercial Code for the Operating Lease. Operator and Landowner hereby authorizes Landowner to prepare and file financing statements, continuation statements and financing statement amendments in such form as Landowner may require to perfect or continue the perfection of this security interest.

10.2 Attorney-in-Fact. Operator irrevocably constitutes and appoints Landowner as Operator's attorney-in-fact to demand, receive and enforce Operator's rights with respect to the Operating Lease and to do any and all acts in Operator's name or in the name of Landowner with the same force and effect as Operator could do if this Agreement had not been made. This appointment will be deemed to be coupled with an interest and irrevocable.

10.3 Termination. ~~Following payment of the Loan in full and the release or assignment of the Security Instrument, this~~ **This Agreement or a Release of the Premises in accordance with the terms and conditions set forth in Section 7.11 of the Loan Agreement, this Agreement and all of Landowner's right, title and interest under this Agreement will terminate upon the termination of the Operating Lease.**

10.4 Notice.

- (a) All notices under or concerning this Agreement ("**Notice**") will be in writing. Each Notice will 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. Addresses for Notice are as follows:

If to Landowner:	c/o KKR & Co. Inc. 9 West 57th Street, Suite 4200 New York, New York 10019 Attention: Peter Sundheim
If to Master Operator:	c/o KKR & Co. Inc. 9 West 57th Street, Suite 4200 New York, New York 10019 Attention: Peter Sundheim
If to Sub -Operator:	c/o KKR & Co. Inc. 9 West 57th Street, Suite 4200 New York, New York 10019 Attention: Peter Sundheim
If to Sub-Sub -Operator:	c/o Cascade Living Group, Inc. 19119 North Creek Parkway, Suite 102 Bothell, Washington 98011 Attention: Tom Stanley

- (b) Any party to this Agreement 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 10.4. Each party agrees that it will not refuse or reject delivery of any Notice given in accordance with this Section 10.4, 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 will be deemed for purposes of this Section 10.4 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.

10.5 Governing Law; Consent to Jurisdiction and Venue.

- (a) This Agreement will be construed in accordance with and governed by the laws of the Property Jurisdiction.
- (b) Operator and Landowner agree that any controversy arising under or in relation to this Agreement may be litigated in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction will have jurisdiction over all controversies that may arise under or in relation to this Agreement. Operator and Landowner irrevocably consent to service, jurisdiction and venue of such courts for any such litigation and waive any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing in this Section 10 is intended to limit Landowner's right to bring any suit, action or proceeding relating to matters under this Agreement in any court of any other jurisdiction.

10.6 Captions, Cross References and Exhibits. The captions assigned to provisions of this Agreement are for convenience only and will be disregarded in construing this Agreement. Any reference in this Agreement to an "Exhibit" or a "Section", unless otherwise explicitly provided, will be construed as referring, respectively, to an Exhibit attached to this Agreement or to a section of this Agreement. All Exhibits attached to or referred to in this Agreement are incorporated by reference into this Agreement.

10.7 Number and Gender. Use of the singular in this Agreement includes the plural, use of the plural includes the singular, and use of one gender includes all other genders, as the context may require.

10.8 No Partnership. This Agreement is not intended to, and will not, create a partnership or joint venture among the parties, and no party to this Agreement will have the power or authority to bind any other party except as explicitly provided in this Agreement.

10.9 Severability. The invalidity or unenforceability of any provision of this Agreement will not affect the validity of any other provision, and all other provisions will remain in full force and effect.

10.10 Entire Agreement. This Agreement contains the entire agreement among the parties as to the rights granted and the obligations assumed in this Agreement.

10.11 Waiver; No Remedy Exclusive. Any forbearance by a party to this Agreement in exercising any right or remedy given under this Agreement or existing at law or in equity will not constitute a waiver of or preclude the exercise of that or any other right or

remedy. Unless otherwise explicitly provided, no remedy under this Agreement is intended to be exclusive of any other available remedy, but each remedy will be cumulative and will be in addition to other remedies given under this Agreement or existing at law or in equity.

- 10.12 Third Party Beneficiaries.** Neither any creditor of any party to this Agreement, nor any other Person, is intended to be a third party beneficiary of this Agreement.
- 10.13 Further Assurances and Corrective Instruments.** To the extent permitted by law, the parties will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements to this Agreement and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance of this Agreement.
- 10.14 Counterparts.** This Agreement may be executed in multiple counterparts, each of which will constitute an original document and all of which together will constitute one agreement.
- 10.15 Indemnity.** By executing this Agreement, Operator agrees to indemnify and hold harmless Landowner and its successors and assigns from and against any and all losses, claims, damages, liabilities and expenses including ~~Attorneys' Fees and Costs~~ attorneys' fees, expenses and costs, which may be imposed or incurred in connection with this Agreement.
- 10.16 Costs and Expenses.** Wherever pursuant to this Agreement it is provided that Operator will pay any costs and expenses, such costs and expenses will include Landowner's ~~Attorneys' Fees and Costs~~ attorneys' fees, expenses and costs.
- 10.17 Determinations by Landowner.** In any instance where the consent or approval of Landowner may be given or is required, or where any determination, judgment or decision is to be rendered by Landowner under this Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision will be made or exercised by Landowner (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion and will be final and conclusive, except as may be otherwise expressly and specifically provided in this Agreement.
- 10.18 Successors and Assigns.** This Agreement will be binding upon and inure to the benefit of Operator, Landowner and Landowner and their respective successors and assigns forever.
- 10.19 Secondary Market.** Financing Agent may sell, transfer and deliver the Security Instrument, this Agreement and the other Financing Documents to one or more investors in the secondary mortgage market ("**Investors**"). In connection with such sale, Financing Agent may retain or assign responsibility for servicing the loan evidenced by the Financing Documents or may delegate some or all of such responsibility and/or obligations to a servicer including any subservicer or master servicer, on behalf of the Investors. All references to Financing Agent in this Agreement will refer to and include any such servicer to the extent applicable.
- 10.20 No Liability on Collateral.** Neither this Agreement nor any action or inaction on the part of Landowner will constitute an assumption on the part of Landowner of any obligations

under the Operating Lease and Operator will continue to be liable for all obligations under the Operating Lease.

- 10.21 Rejection of Operating Lease.** If any ~~Bankruptcy~~ **bankruptcy proceedings** hereafter commence with respect to Landowner, and if the Operating Lease is rejected by the trustee pursuant to Section 365 of the United States Bankruptcy Code, Operator agrees with Landowner (a) not to treat such lease as terminated, and (b) to remain in possession of the Premises pursuant to the terms of the Operating Lease and this Agreement.
- 10.22 Waiver of Statute of Limitations.** Landowner and Operator each waive the right to assert any statute of limitations as a bar to the enforcement of the Lien of this Agreement or to any action brought to enforce this Agreement ~~or any other Loan Document~~.
- 10.23 Waiver of Marshalling.** Notwithstanding the existence of any other security interest in the Premises and Collateral Property held by Landowner, Landowner will have the right to determine the order in which any or all of the Premises and Collateral Property will be subjected to the remedies provided in this Agreement ~~or in the Security Instrument, the Loan Agreement, the Note, any other Loan Document~~ or applicable law. Landowner will have the right to determine the order in which any or all portions of the Secured Obligations are satisfied from the proceeds realized upon the exercise of such remedies. Landowner, Operator and any party who now or in the future acquires a security interest in the Premises or the Collateral Property and who has actual or constructive notice of this Agreement waive any and all right to require the marshalling of assets or to require that any of the Premises or the Collateral Property be sold in the inverse order of alienation or that any of the Premises or the Collateral 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 Agreement.
- 10.24 Waiver of Certain Damages.** To the fullest extent permitted by applicable law, Landowner and Operator each agree not to assert, and each waives, any claim against ~~Landowner~~ **the other party** and its **respective** successors and assigns (together with their respective agents, employees, directors and officers), on any theory of liability, for special, indirect, consequential or punitive damages arising out of, incurred in connection with or resulting from this Agreement ~~or any other Loan Documents~~ or any **of their** actions or omissions ~~of Landowner~~ pursuant to this Agreement ~~or any other Loan Document~~.
- 10.25 State Specific Provisions.** N/A.
- 10.26 Attached Exhibits.** The following Exhibits, if marked with an "X" in the space provided, are attached to this Agreement:
- | | | |
|-------------------------------------|-----------|----------------------------|
| <input checked="" type="checkbox"/> | Exhibit A | Description of the Land |
| <input checked="" type="checkbox"/> | Exhibit B | Permitted Liens |
| <input checked="" type="checkbox"/> | Exhibit C | Modifications to Agreement |

IN WITNESS WHEREOF, Operator, ~~Landowner~~ and Landowner have caused the execution of this Agreement by their respective duly authorized representatives as of the date and year first above written.

[SIGNATURES ON FOLLOWING PAGE]

LANDOWNER:

KRE TIGER CREEKSIDE LLC, a Delaware
limited liability company

By: _____ (SEAL)
Peter Sundheim
Vice President

STATE OF _____, _____ County ss:

On this _____ day of _____, _____, before me, the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared Peter Sundheim, to me known to be Vice President of KRE Tiger Creekside LLC, a Delaware limited liability company, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

Notary Public

My commission expires: _____

MASTER OPERATOR:

**KRE-RENEW TENANT HOLDINGS II LLC, a
Delaware limited liability company**

By: _____ (SEAL)
Peter Sundheim
Vice President

STATE OF _____, _____ County ss:

On this _____ day of _____, _____, before me, the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared Peter Sundheim, to me known to be Vice President of KRE-Renew Tenant Holdings II LLC, a Delaware limited liability company, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

Notary Public

My commission expires: _____

SUB-OPERATOR:

**KRE TIGER CREEKSIDE OPERATIONS
LLC, a Delaware limited liability company**

By: _____
Peter Sundheim
Vice President

STATE OF _____, _____ County ss:

On this _____ day of _____, _____, before me, the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared Peter Sundheim, to me known to be Vice President of KRE Tiger Creekside Operations LLC, a Delaware limited liability company, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

Notary Public

My commission expires: _____

SUB-SUB-OPERATOR:

**CASCADE LIVING GROUP – BURLINGTON,
LLC, a Washington limited liability company**

By: _____
William M. Shorten
Manager

STATE OF _____, _____ County ss:

On this _____ day of _____, _____, before me, the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared William M. Shorten, to me known to be Manager of Cascade Living Group – Burlington, LLC, a Washington limited liability company, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

Notary Public

My commission expires: _____

EXHIBIT A
LEGAL DESCRIPTION OF LAND

Creekside

PARCEL A:

THAT PORTION OF THE NORTH HALF OF THE WEST HALF OF TRACT 79, PLAT OF THE BURLINGTON ACREAGE PROPERTY, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 49, RECORDS OF SKAGIT COUNTY, WASHINGTON, LYING WESTERLY OF THE GREAT NORTHERN RAILWAY COMPANY RIGHT OF WAY.

EXCEPT THAT PORTION CONVEYED TO THE CITY OF BURLINGTON UNDER AUDITORS FILE NO. 200103010083, RECORDS OF SKAGIT COUNTY.

SITUATE IN SKAGIT COUNTY, WASHINGTON.

PARCEL B;

LOT 3 OF CITY OF BURLINGTON SHORT PLAT NO. BURL-3-00, RECORDED JUNE 23, 2000, UNDER AUDITORS FILE NO. 200006230084, RECORDS OF SKAGIT COUNTY, WASHINGTON. BEING A PORTION OF TRACT 79, PLAT OF THE BURLINGTON ACREAGE PROPERTY, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 49, RECORDS OF SKAGIT COUNTY, WASHINGTON.

EXCEPT THAT PORTION CONVEYED TO THE CITY OF BURLINGTON UNDER AUDITORS FILE NO. 200103010083, RECORDS OF SKAGIT COUNTY.

SITUATE IN SKAGIT COUNTY, WASHINGTON.

EXHIBIT B
PERMITTED LIENS

None

**Security, Assignment and Subordination Agreement
For Operating Lease and Assignment of Leases and Rents
and Fixture Filing – Seniors Housing**

Exhibit B

EXHIBIT C
MODIFICATIONS TO AGREEMENT

None

**Security, Assignment and Subordination Agreement
For Operating Lease and Assignment of Leases and Rents
and Fixture Filing – Seniors Housing**

Exhibit C