

**Water's Edge Care and Rehab Center LLC**  
**512 Union Street**  
**Trenton, New Jersey 08611**

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APPLICATION SUMMARY FOR PUBLICATION

**Date application filed:** December 26, 2023

**Current Name of facility:** **Waters Edge Healthcare and Rehab**

**License number:** 061113

**Address:** 512 Union Street  
Trenton, New Jersey 08611

**County:** Mercer County

**Project Description:** This project involves a Transfer of Ownership of the operations and real estate of Waters Edge Healthcare and Rehab from L.L.M.D. Associates LLC to Water's Edge Care and Rehab Center LLC. The new owner will operate the facility through a lease agreement.

**Licensed capacity:** 215 long term care beds

**Current Licensed Owner:** L.L.M.D. Associates LLC

**Proposed Licensed Owner:** Water's Edge Care and Rehab Center LLC

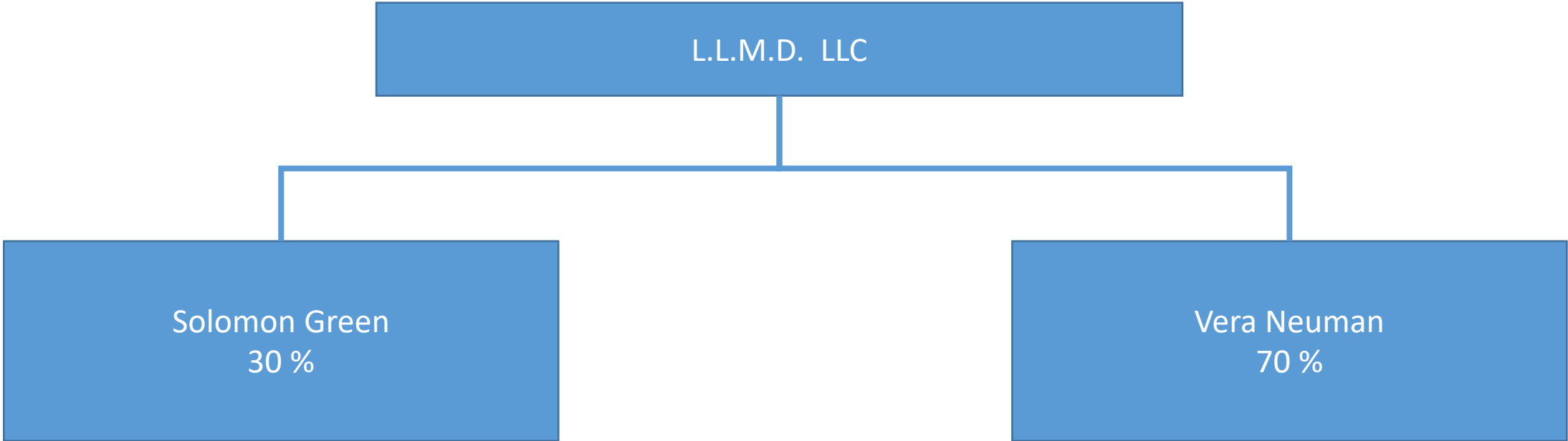
**Proposed Name of Facility:** **Trenton Gardens Rehabilitation and Nursing Center**

**Proposed Management Company** None

**Owner of Real Estate:** Water's Edge Propco LLC

All medical records, both active and inactive, will continue to be stored securely at the facility at 512 Union Street, Trenton, NJ 08611. The contact person will be Naftoli Abramczyk at telephone number 609-393-8622 or by email at [tuliabramczyk@gmail.com](mailto:tuliabramczyk@gmail.com)

**L.L.M.D LLC**  
**Pre-Closing Organizational Chart**



**POST-CLOSING OWNERSHIP  
TRENTON GARDENS REHABILITATION AND NURSING CENTER  
512 Union Street  
Trenton, NJ 08611**

Jacob Abramczyk- 24.5%  
Naftoli Abramczyk – 24.5%  
Sima Shapiro – 24.5%  
Joseph Abramczyk – 24.5%  
Solomon Abramczyk – 1.0%  
Machla Abramczyk – 1.0%

TTY, LLC  
53%

Jacob Abramczyk- 35%  
Naftoli Abramczyk – 5%  
Bradley Shapiro – 5%  
Joseph Abramczyk – 2%

Jacob Abramczyk- 48.25%  
Naftoli Abramczyk –18.25%  
Bradley Shapiro – 18.25%  
Joseph Abramczyk –  
15.25%

WATER'S EDGE PROPCO LLC, DBA  
TRENTON GARDENS REALTY  
Landlord

← lease →

WATER'S EDGE CARE AND REHAB CENTER LLC  
DBA TRENTON GARDENS REHABILITATION AND NURSING CENTER  
Tenant

HEALTH CARE CENTER FACILITY LEASE

between

WATER'S EDGE PROPCO LLC, DBA TRENTON GARDENS REALTY

(Landlord)

and

WATER'S EDGE CARE AND REHAB CENTER LLC

DBA TRENTON GARDENS REHABILITATION AND NURSING CENTER

(Tenant)

dated as of

\_\_\_\_, 202\_

HEALTH CARE CENTER FACILITY LEASE

THIS LEASE (“**Lease**”) made as of \_\_\_\_\_, 2023, by and between WATER’S EDGE PROPCO LLC, DBA TRENTON GARDENS REALTY, a New Jersey limited liability company (“**Landlord**”) and WATER’S EDGE CARE AND REHAB CENTER LLC DBA TRENTON GARDENS REHABILITATION AND NURSING CENTER, a New Jersey limited liability company (the “**Tenant**”).

RECITALS

WHEREAS, concurrently herewith, Landlord is purchasing that certain real property, which is more particularly described on Exhibit A attached hereto and made a part hereof (the “**Real Property**”); and

WHEREAS, Tenant desires to operate a skilled nursing facility (the “**Facility**”) upon the Real Property; and

WHEREAS, Landlord desires to lease the Leased Premises (as hereinafter defined) to Tenant and Tenant desires to lease the Leased Premises from Landlord pursuant to the terms, conditions and covenants set forth herein; and

NOW, THEREFORE, in consideration of the mutual covenants, agreements, promises, representations and warranties set forth herein and for TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I  
INCORPORATION OF RECITALS

1.1 Incorporation of Recitals. The aforesaid Recitals are hereby incorporated into this Lease as if fully set forth herein. The Landlord and Tenant are hereinafter sometimes individually referred to as a “**Party**” and collectively referred to as “**Parties.**”

ARTICLE II  
LEASED PREMISES

2.1 Leased Premises. Effective upon the date hereof (herein, the “**Commencement Date**”), Landlord hereby leases to Tenant, and Tenant leases from Landlord, on the terms and conditions set forth in this Lease, the following assets:

(A) All of the Landlord’s right, title, and interest in and to the Real Property and the Facility, including, without limitation, all buildings, structures, erections, improvements, appurtenances, easements and fixtures, including fixed machinery and fixed equipment situated thereon or forming a part thereof; and

(B) All machinery, equipment, fixtures, furniture, furnishings owned by Landlord and used in the operation of the Facility.

All of the items listed in Sections 2.1(A) and 2.1(B) herein are hereinafter collectively referred to as the “**Leased Premises.**” Landlord and Tenant acknowledge and understand that all of the items which comprise the Leased Premises, as repaired, rebuilt, replaced, restored, altered or added to as permitted or required by provisions of this Lease, shall be transferred back to Landlord upon expiration or earlier termination of this Lease.

ARTICLE III  
TERM AND RENT

3.1 Term of Lease and Rent.

(A) Initial Term. The initial term of this Lease shall be for a period of thirty (30) years commencing at 12:00:01 A.M. on the Commencement Date, and ending at 11:59:59 P.M. on the thirtieth (30<sup>th</sup>) anniversary of the Commencement Date (the “**Initial Term**”). As used herein with respect to the Term and the periods for payment of rent (unless the context otherwise requires) the term “year” or “lease year” shall mean a 365 day period (or 366 day period in the case of a leap year), first commencing on the Commencement Date and thereafter on successive anniversaries thereof, and ending on the day prior to the next succeeding anniversary of the Commencement Date.

(B) Extension Term. Tenant shall have the option to extend the term of this Lease, upon the same terms and conditions set forth herein (except that there shall be no additional option to extend the term hereof) and for the applicable annual Rent described in Section 3.2, for two (2) extension terms of ten (10) years (each, an “**Extension Term**”) (the Initial Term and the Extension Term(s), if exercised, are hereinafter collectively referred to as the “**Term**”); provided, however, that the foregoing option shall be effective only if (i) Tenant has not assigned the Lease or sublet all or substantially all of the Leased Premises, nor has any third party succeeded to the rights of Tenant hereunder, (ii) Tenant has fully and timely performed all of its obligations under this Lease, including, without limitation, payment of Rent and other charges, and (iii) Tenant is not in default of any of its obligations under this Lease at the time the option is exercised or at the time of commencement of the Extension Term, and upon the failure of any of the foregoing conditions, the option shall be null and void. If Tenant desires to exercise the foregoing option to extend the term of this Lease, then, unless waived by Landlord, Tenant must do so by delivering written notice thereof to Landlord no later than one (1) year prior to the end of the Initial Term or any Extension Term. If Tenant fails to exercise the option herein provided for the first Extension Term, the option shall be terminated and tenant shall have no right to exercise the option for the second Extension Term.

(C) Rent. Beginning in the first (1<sup>st</sup>) year of the Term and for each succeeding year thereafter, Tenant shall pay Landlord rent as set forth on Exhibit B attached hereto and all other charges, fees, costs and expenses due hereunder (the “**Rent**”) during the Term, without deduction or setoff and without demand. Rent shall be due and payable in advance in equal monthly installments during each year on the first (1<sup>st</sup>) day of each calendar month thereof throughout the Term, except as otherwise provided herein. Rent for any period which is less than a full calendar month or full year, as the case may be, during the Term, shall be prorated on a daily basis. Rent shall be paid to Landlord at Landlord’s address set forth in Section 13.1 hereof or at such other place as Landlord designates from time to time by written notice to Tenant.

3.2 Dispute. If a dispute arises between Landlord and Tenant (each acting reasonably and in good faith) regarding the calculation of the amount of Rent due during any time period under this

Lease, Tenant shall nonetheless pay to Landlord the full amount of Rent that Landlord asserts is due and by the date when due hereunder.

3.3 Net Lease Provisions. Landlord and Tenant intend that the Rent herein specified shall be net to Landlord in each year during the Term, and that all costs, expenses and obligations of every kind relating to the Leased Premises (except Landlord's income taxes and except as otherwise specifically provided in this Lease) which may arise or become due during the Term shall be timely paid by Tenant and that Landlord shall be indemnified by Tenant against such costs, expenses and obligations. Tenant's obligation to pay Rent is independent of all, and is in no manner conditioned upon any, other covenants, conditions and obligations of Landlord or Tenant under this Lease.

3.4 Rent Tax. If any governmental taxing authority levies, assesses, or imposes any tax, excise or assessment (other than income or franchise taxes) upon or against the rentals payable by Tenant to Landlord, including without limitation sales tax on rents, either by way of substitution for or in addition to any existing tax on land and buildings or otherwise, then Tenant shall be responsible for and shall pay such tax, excise or assessment, or, if Landlord pays same, Tenant shall reimburse Landlord for the amount thereof within thirty (30) days after demand by Landlord.

#### ARTICLE IV UTILITIES AND TAXES

4.1 Utilities. From and after the Commencement Date, Tenant shall pay or cause to be paid all charges next coming due and payable for electricity, telephone, cable, gas, oil, water, sewer and all other such services or utilities used on or related to the Leased Premises (the "**Utilities**") during the Term. Tenant covenants to place all Utilities in Tenant's name as of the Commencement Date. Adjustment shall be made for Utilities applicable to any period prior to the Commencement Date. In the event Landlord is billed directly by any utility company for any Utilities or services supplied to Tenant during the Term, Landlord shall send Tenant the bill and Tenant shall promptly pay the same. Landlord shall have no obligation or liability with respect to any interruption or failure in the supply of any such Utilities.

4.2 Taxes. Tenant shall be solely responsible for the payment, prior to delinquency, of all general and special real estate taxes, assessments, fire district taxes, liens, impositions, personal property taxes and any and all other taxes attributable to the Leased Premises (the "**Impositions**") that accrue from the Commencement Date through the expiration of the Term. Adjustment shall be made for Impositions applicable to any period prior to the Commencement Date. Tenant shall pay all of the Impositions directly to the applicable taxing authorities in order to receive the maximum allowable discount, if any, and Tenant shall promptly forward proof of payment to Landlord in such form as shall be reasonably acceptable to Landlord unless Landlord elects to require escrow deposits in accordance with Section 4.3 hereof. Landlord shall promptly forward any tax bills which it may receive to the Tenant. Landlord shall only bill Tenant for any of the Impositions if Tenant does not pay any of the Impositions before delinquency and Landlord is obligated or elects (in Landlord's sole and absolute discretion) to pay any of the Impositions directly to remain current with all taxing authorities. Tenant shall pay the full amount of any increases in any of the Impositions resulting from alterations or improvements made by or for the benefit of Tenant. After the expiration or termination of this Lease, Tenant shall pay all bills for any of the Impositions which become due and payable after the expiration or termination of the Lease covering any period through the expiration or earlier termination of the Lease. If any governmental taxing authority acting under any present or

future, ordinance or regulation, shall levy, assess or impose a tax, excise and/or assessment (other than an income or franchise tax) upon Landlord or Tenant for rental payable by Tenant to Landlord, either by way of substitution for or in addition to any existing tax on land, buildings or otherwise, then Tenant shall be responsible for and shall pay such tax, excise and/or assessment or shall reimburse Landlord for the cost and expense thereof, as the case may be. Tenant shall be responsible for any and all late payment fees or penalties, including interest, imposed by applicable taxing authorities for late payment of Impositions.

#### 4.3 Escrow Deposits.

(A) Escrow. At the option of Landlord, which may be exercised at any time by Landlord if required to do so by the terms of any mortgage encumbering the Real Property, Tenant shall, on the first day of the first calendar month commencing after notice from Landlord, and on the first day of each calendar month thereafter during the Term (each of which dates is referred to as a “**Monthly Deposit Date**”), pay to and deposit with Landlord or mortgagee a sum equal to one-twelfth (1/12th) of the Impositions to be levied, charged, filed, assessed or imposed upon or against the Leased Premises within one (1) year after said Monthly Deposit Date, and a sum equal to one-twelfth (1/12th) of the premiums for the insurance policies required pursuant to Article VI which are payable within one (1) year after said Monthly Deposit Date. If the amount of the Impositions to be levied, charged, assessed or imposed or insurance premiums to be paid within the ensuing one (1) year period shall not be fixed upon any Monthly Deposit Date, such amount for the purpose of computing the deposit to be made by Tenant hereunder shall be estimated by Landlord with an appropriate adjustment to be promptly made between Landlord and Tenant as soon as such amount becomes determinable. In addition, Landlord may, at its option, from time to time require that any particular deposit be greater than one-twelfth (1/12th) of the estimated amount payable within one (1) year after said Monthly Deposit Date, if such additional deposit is required in order to provide to Landlord or mortgagee a sufficient fund from which to make payment of all Impositions on or before the next due date of any installment thereof, or to make payment of any required insurance premiums not later than the due date thereof.

(B) Use of Deposits. The sums deposited by Tenant under this Section 4.3 shall be held by Landlord or Landlord’s mortgagee and shall be applied in payment of the Impositions or insurance premiums, as the case may be, when due. Any such deposits may be commingled with other assets of Landlord or such mortgagee, and shall be deposited by Landlord or such mortgagee at such federally insured banking institutions(s) in such federally insured account(s) as Landlord or the mortgagee may, from time to time select, and Landlord shall not be liable to Tenant or any other person (a) based on Landlord’s or the mortgagee’s (or such bank’s) choice of investment vehicles, (b) for any consequent loss of principal or interest or (c) for any unavailability of funds based on such choice of investment. Furthermore, subject to the foregoing regarding the use of federally insured institutions and accounts, Landlord and its mortgagee shall bear no responsibility for the financial condition of, nor any act or omission by, the depository bank. The income from such investment or interest on such deposits shall be paid to Landlord. Tenant shall give not less than thirty (30) days prior written notice to Landlord in each instance when an Imposition or insurance premium is due, specifying the Imposition or premium to be paid and the amount thereof, the place of payment, and the last day on which the same may be paid in order to comply with the requirements of this Lease. If Landlord or mortgagee, as applicable, in violation of its obligations under this Lease, does not pay any Imposition or insurance premium when due, for which a



sufficient deposit exists, Tenant shall not be in default hereunder by virtue of the failure to pay such Imposition or such insurance premium.

(C) Deficits. If for any reason any deposit held by Landlord or mortgagee under this Section 4.3 shall not be sufficient to pay any Imposition or insurance premium within the time specified therefor in this Lease, then, within ten (10) days after demand by Landlord, Tenant shall deposit an additional amount with Landlord or mortgagee, increasing the deposit held by Landlord or mortgagee so that Landlord or mortgagee holds sufficient funds to pay such Imposition or premium in full (or in installments as otherwise provided for herein), together with any penalty or interest thereon. Landlord may change its estimate or any Imposition or insurance premium for any period on the basis of a change in an assessment or tax rate or on the basis of a prior miscalculation or for any other good faith reason; in which event, within ten (10) days after demand by Landlord, Tenant shall deposit with Landlord or mortgagee the amount in excess of the sums previously deposited with Landlord or mortgagee for the applicable period which would theretofore have been payable under the revised estimate.

(D) Other Properties. If any Imposition shall be levied, charged, filed, assessed, or imposed upon or against the Leased Premises, and if such Imposition shall also be a levy, charge, assessment, or imposition upon or for any other real or personal property that does not constitute a part of the Leased Premises, then the computation of the amounts to be deposited under this Section 4.3 shall be based upon the entire amount of such Imposition and Tenant shall not have the right to apportion any deposit with respect to such Imposition.

(E) Transfers. In connection with any assignment of the Landlord's interest under this Lease, the original Landlord named herein and each successor in interest shall have the right to transfer all amounts deposited pursuant to the provisions of this Section 4.3 and still in its possession to such assignee (as the subsequent holder of Landlord's interest in this Lease) and upon such transfer, the original Landlord named herein or the applicable successor in interest transferring the deposits shall thereupon be completely released from all liability with respect to such deposits so transferred and Tenant shall look solely to said assignee, as the subsequent holder of Landlord's interest under this Lease, in reference thereto.

(F) Security. All amounts deposited with Landlord pursuant to the provisions of this Section 4.3 shall be held by Landlord as additional security for the payment and performance of the Tenant's obligations under this Lease and, upon the occurrence of any Lease Default, Landlord may, in its sole and absolute discretion, apply said amounts towards payment or performance of such obligations.

(G) Return. Upon the expiration or earlier termination of this Lease, provided, that, all of the Rent and any other obligation due under this Lease have been fully paid and performed, any sums then held by Landlord under this Section 4.3 shall be refunded to Tenant; unless a default under this Lease has occurred in which event such sums may be applied towards any amounts owed to Landlord pursuant to this Lease.

(H) Receipts. Tenant shall deliver to Landlord copies of all notices, demands, claims, bills and receipts in relation to the Impositions and insurance premiums promptly upon receipt thereof by Tenant.

ARTICLE V  
MAINTENANCE AND REPAIR; IMPROVEMENTS

5.1 Maintenance and Repair. Tenant, at Tenant's sole cost and expense, shall keep the Leased Premises, including all buildings, fixtures, equipment and other personal property leased to Tenant pursuant to this Lease, including, without limitation, the roof, foundation, all outer walls, plumbing, sprinklers, electrical, heating, ventilation, utility service, air conditioning and all other systems of the Leased Premises in good condition and repair and in a manner reasonably consistent with other similar facilities in the same market area, and in compliance with this Lease and all applicable federal, state and local laws, statutes, ordinances, codes and regulations. Landlord shall not be responsible to make any improvements, repairs, maintenance or replacements whether occasioned by the act or negligence of Tenant and/or its agents, employees, invitees or licensees or otherwise, and Tenant shall pay for all improvements, repairs, replacements, maintenance and expenditures relating to the Leased Premises, whether interior or exterior, structural or non-structural, ordinary or extraordinary, foreseen or unforeseen or arising by reason of a condition existing prior to the commencement of the Lease. The Leased Premises and its appurtenances shall at all times be kept clean, safe and sanitary and in good order, condition, replacement and repair by Tenant, at Tenant's sole cost and expense, except for ordinary wear and tear (provided, however, that, without limiting the generality of this Section 5.1, Tenant shall be obligated to replace any portion of the Leased Premises upon any obsolescence or uselessness thereof or if proper repair is impractical). All replacements made by Tenant hereunder shall be made in a good and workmanlike manner using the same or better quality of materials as being replaced.

5.2 Improvements, Renovation, Alterations and Additions. Tenant shall have the right during the Term to make such non-structural interior alterations, changes and improvements ("**Tenant Improvements**") to the Leased Premises as may be proper and necessary for the conduct of Tenant's business, to cause the Leased Premises to conform to any legal or regulatory requirements, for resident comfort and safety, or for the full beneficial use of the Leased Premises. Tenant shall pay all costs and expenses of such permitted alterations, changes, and improvements, shall make the same in a good and workmanlike manner, and in accordance with all applicable laws, codes, and regulations, and shall assure Landlord, in form reasonably satisfactory to Landlord, that payment for the same will be made by Tenant. Tenant hereby completely and fully indemnifies Landlord against any mechanic's liens or other liens or claims in connection with the making of such alterations, changes, and/or improvements. Any liens arising out of such alterations, changes, and/or improvements shall be discharged of record by Tenant within thirty (30) days after the same have been filed by payment, bonding or otherwise, as permitted by law, or within five (5) Business Days after commencement of a foreclosure. Nothing herein contained shall be construed to diminish or amend Tenant's obligation to comply with other provisions in this Lease concerning improvements. All Tenant Improvements shall at all times be the sole property of the Landlord and included in the Leased Premises.

5.3 Signage. Tenant shall not erect or install any ground, building, or roof signs except as consented to by Landlord, which consent shall not be unreasonably withheld or delayed. All signs installed by Tenant shall comply with all requirements of appropriate governmental authority, and all necessary permits or licenses shall be obtained by Tenant. Tenant shall maintain all signs in good condition and repair at all times. Upon vacating the Leased Premises, Tenant shall remove all signs so installed by Tenant, but only if Landlord shall request such removal, and Tenant shall repair all damage caused by such removal.

5.4 Surrender. Tenant shall deliver up and surrender to Landlord possession of the Leased Premises and all improvements and replacements thereof, including all of Tenant's work (and all replacements thereof) and all fixtures attached to the Leased Premises by Tenant during the Term, upon the expiration of this Lease or its termination in any manner whatsoever, in as good condition and repair and in substantially similar form, character and manner as the same shall be on the Commencement Date (without compensation to Tenant) with permitted changes, improvements and additions during the Term as authorized herein, subject to no liens, encumbrances, charges, restrictions, conditions, limitations or claims whatsoever, and deliver the keys to the Leased Premises to the Landlord or Landlord's agent. Upon expiration or termination of this Lease and only upon written instruction by Landlord, Tenant shall, at Tenant's sole cost and expense, remove any signs, equipment, improvements, additions, alterations so installed by Tenant, and Tenant shall repair all damage caused by such removal. In addition, upon any such expiration or termination of this Lease, Tenant covenants and agrees to do such things and to take such action as may, from time to time, be necessary or appropriate to permanently surrender and withdraw from possession and operation (including but not limited to licensure and certification) of the Leased Premises, and shall thereafter be fully and permanently relieved of all powers, duties, responsibilities and obligations that are conferred or imposed upon Tenant under this Lease (except those obligations, including, but not limited to, the obligation to pay all Rent due and owing under this Lease, and the obligation to pay all amounts owed by Tenant to the governmental, regulatory and third party payor programs for the period of the Term, which survive the termination hereof as provided herein) and to place Landlord in possession and operation (including but not limited to licensure and certification) of the Leased Premises, and Tenant covenants and agrees to execute, implement and deliver to Landlord all assignments, documents and other instruments, to the reasonable satisfaction of Landlord in order to effectuate the provisions hereof, including, but not limited to, an Exit Operations Transfer Agreement, in such form and having such terms as shall be required by Landlord or its designee and acceptable to Tenant, which addresses the surrender of the operations and transfer of the Facility operations to Landlord or an operating entity designated by Landlord. Tenant acknowledges and covenants that, upon expiration of the Term, whether by acceleration or otherwise, Tenant shall not operate, transfer or assign the right to operate the Facility, in each case, other than as directed by Landlord. Tenant hereby irrevocably appoints Landlord, as agent of Tenant for the express purpose of signing, acknowledging and/or delivering any and all agreements, documents, instruments or other writings which are or may become necessary, proper and/or advisable to cause possession and operation (including but not limited to licensure and certification) of the Leased Premises, or any portion thereof, to be restored and returned to Landlord or an operating entity designated by Landlord in the manner and condition required hereunder. This power is coupled with the ownership interest of Landlord in and to the Leased Premises, and all unilateral and incidental rights attendant thereto. The parties acknowledge that the foregoing rights of Landlord are subject to any and all regulatory approvals relating to the transfer of a nursing facility and/or its license.

5.5 Condition of Leased Premises. Tenant is taking the Leased Premises in their "AS IS", "WHERE IS" condition, and acceptance of possession of the Leased Premises on the Commencement Date shall be deemed an acknowledgment by Tenant of Tenant's acceptance of the condition of the Leased Premises. Tenant acknowledges and agrees that Landlord is not making any representation, warranty or covenant whatsoever with respect to the condition of the Leased Premises, or any portion thereof, or their suitability for any particular purpose, and Tenant is relying solely on its inspection of the Leased Premises and due diligence investigations with respect thereto.

## ARTICLE VI INSURANCE

6.1 General Insurance Requirements. Throughout the Term, Tenant shall maintain with respect to the Leased Premises, general liability insurance, standard “all risk” insurance, healthcare professional malpractice insurance, business interruption insurance, flood insurance (if applicable), worker’s compensation/employer’s liability insurance, boiler and machinery insurance, terrorism insurance, umbrella policies of insurance, environmental impairment liability insurance and insurance for any other risks Landlord or its mortgagee may reasonably require (collectively, the “Policies”). Such insurance coverages shall be carried with insurance companies, selected by Tenant and reasonably approved by Landlord, authorized to do business in the state in which the Leased Premises are located and which have a Standard & Poor’s claims paying ability rating and/or a Best’s Rating as Landlord shall reasonably require. Tenant shall deliver to Landlord a certificate of any Policies maintained by Tenant and, upon request, copies of such Policies. All of Tenant’s Policies shall contain a provision that the same cannot be modified, reduced in coverage, nor cancelled, without thirty (30) days’ prior written notice to Landlord and, if requested, any mortgagee. All of Tenant’s Policies (including all umbrella coverage with respect thereto but excluding worker’s compensation/employer’s liability insurance) shall (i) name Landlord, its successors and assigns and its mortgagee, its successors and assigns (and any other third party identified by Landlord) as an additional insured, (ii) contain a standard noncontributory mortgagee clause and a mortgagee’s Loss Payable Endorsement or mortgagee’s endorsement, or their equivalents naming the mortgagee (and/or such other party as may be designated by Landlord or mortgagee) as the party to which all payments made by such insurance company shall be paid, (iii) provide that neither Landlord nor mortgagee nor any other party shall be a co-insurer under the policy, (iv) provide that mortgagee may, but is not obligated to, make premium payments to prevent any cancellation, endorsement, alteration or re-issuance and such payments will be accepted by such insurer, (v) be for a term of not less than one (1) year, (vi) contain a waiver of subrogation, (vii) have deductibles as may be reasonably required by Landlord or mortgagee, and (viii) provide for coverage limits that meet or exceed any coverage amounts that may be required for state licensure and governmental or regulatory certification. Tenant shall not be permitted to use a fronting arrangement without prior written approval of Landlord, which approval may be withheld in Landlord’s sole and absolute discretion.

6.2 Workers’ Compensation. Tenant, at its sole cost and expense, shall at all times comply with the provisions of all applicable laws with respect to workers’ compensation and with the applicable requirements set forth in Section 6.1 and shall insure its liability thereunder. Tenant acknowledges and agrees that Landlord is under no obligation to indemnify, defend or hold Tenant harmless for any change or increase in Tenant’s workers’ compensation or unemployment compensation rates or experience as a result of this Lease and Tenant shall assume all liability with respect to the same.

6.3 Certificates of Insurance, Binders of Coverage and Policies. Tenant shall, upon request, furnish Landlord and other third parties which Landlord shall designate with appropriate certificates of insurance on the customary ACORD form, together with an additional insurance endorsement showing that each type of insurance required under this Article VI is in full force and effect and not cancelable or modifiable without thirty (30) days prior written notice to the Landlord. Tenant will provide Landlord with ACORD certificates of insurance pursuant to this Section evidencing the renewal of such Policies prior to the Policies’ expiration date. Tenant

acknowledges that all such certificates shall name Landlord, its successors and assigns, and mortgagee, its successors and assigns, as an additional insured on the general liability and umbrella policies and as a loss payee/mortgagee as their interests may appear on the property and boiler and machinery policies. Within three (3) business days of a request by Landlord, Tenant shall provide Landlord with any additional documents reasonably requested by Landlord, including but not limited to copies of Tenant's binders of coverage and Policies, related to Tenant's insurance coverage.

6.4 Waiver of Subrogation. Landlord and Tenant hereby waive all rights of recovery for causes of action which either has, may have or which may arise hereafter against the other for any damage to the Leased Premises or the property or business of either of them or of anyone claiming through either of them, by way of subrogation or otherwise, caused by any of the perils covered by a special form policy of property insurance or contents insurance or by any other insurance for damage to property carried by the party whose property was damaged; provided, however, that the foregoing waiver shall apply only if and to the extent that a waiver of subrogation for property damage is not prohibited in the state in which the Leased Premises are located, has been consented to by the applicable insurance carrier, and only to the extent of such insurance coverage.

6.5 Tail Insurance. If, during the Term of the Lease, Tenant is covered by general liability, professional liability, residential healthcare professional malpractice or other liability insurance on a "claims made" basis, Tenant shall procure and maintain, at Tenant's sole cost and expense, "tail" insurance coverage, with such coverage limits and such deductible amounts as shall be reasonably acceptable to Landlord for general liability, professional liability, residential healthcare professional malpractice or other liability claims reported after the termination of this Lease or expiration of the claims made policy, but concerning services provided during the Term of this Lease or the claims made policy. Tenant shall provide Landlord with a certificate evidencing such coverage no later than ninety (90) days prior to termination of this Lease and, in the event that Tenant fails to procure and maintain tail insurance upon termination of this Lease, Landlord shall have the right to apply any portion of the Security Deposit to procure and maintain the tail insurance required under this Section.

## ARTICLE VII SECURITY, ACCESS AND REPORTING OBLIGATIONS

7.1 Security Deposit. At Landlord's request at any time following a breach by Tenant of its obligations under this Lease, Tenant shall deposit with Landlord a sum equal to the amount of the Rent payable with respect to a period of one and one-half calendar months, said sum to be held by Landlord as a security deposit ("**Security Deposit**") to secure the full and timely payment and performance of Tenant's obligations under this Lease. The amount of the Security Deposit required shall increase each year, commensurate with the increase in Rent. At each anniversary of the Commencement Date, Tenant shall promptly deposit with Landlord an amount to restore the Security Deposit to the full amount required hereunder. The Security Deposit shall be held by Landlord in an interest bearing account with interest to be accrued to the benefit of Landlord and may be commingled with other Landlord funds. Upon any default by Tenant under this Lease, or the occurrence of any event that with notice or the expiration of any applicable cure period would constitute an event of default, Landlord shall have the right, but not the obligation, in Landlord's sole and absolute discretion, to apply some or all of the Security Deposit to remedy such default or occurrence and to compensate Landlord for any loss or damage resulting therefrom, without

prejudice to any other rights or remedies of Landlord under this Lease or at law or in equity. Upon any such application by Landlord, Tenant shall promptly deposit with Landlord an amount sufficient to fully restore the Security Deposit to the full amount required hereunder. Upon the termination or expiration of this Lease, the remaining amount of the Security Deposit shall be refunded to Tenant, subject in all events to Landlord's right to apply the Security Deposit as provided herein. If Tenant has not satisfied all of its obligations under this Lease in a manner satisfactory to Landlord in its sole and absolute discretion or if Tenant has otherwise defaulted under this Lease, such default gives Landlord the right to retain the Security Deposit.

7.2 Access to Leased Premises. Tenant shall permit Landlord and its agents to enter upon the Leased Premises at all reasonable times to conduct physical plant inspections and/or to inspect and examine the Leased Premises, and to inspect and copy any resident or patient records, medical records, operating manuals, procedures manuals, training manuals, and other books and records concerning unemployment, workers' compensation, insurance, tax, and any other business issues pertaining to the Leased Premises (subject to applicable laws and regulations governing resident or patient confidentiality and privacy and the confidentiality of medical records) and any information necessary for audit relating to cost reimbursement, collections, general financial matters, litigation, inquiries and related activities (as may be necessary in connection with the lease of the Leased Premises). Landlord shall make reasonable efforts not to materially interfere with or materially disrupt Tenant's business and use and enjoyment of the Leased Premises during any such inspection or examination. If Landlord determines based on any such inspection that the Facility, or any portion of the Facility, requires repairs or maintenance so that the condition of the Facility is in compliance with the Lease or state and federal regulatory and physical plant requirements, within three (3) days of notification by Landlord, Tenant shall pay to Landlord a deposit of funds in an amount equal to one-hundred-twenty (120) percent of Landlord's estimate of the costs of such repairs or maintenance, which funds shall be returned to Tenant upon Tenant's satisfactory completion of such repairs.

7.3 Changes in Licensure and Certification Status. Tenant shall not change the licensure or certification status or the number of licensed or certified beds of the Facility without the prior written consent of the Landlord (which consent may be withheld in Landlord's sole and absolute discretion) and agrees to return to Landlord upon the expiration of the Lease, the Leased Premises, including all licensed and certified beds. To the extent that Tenant has or will extend any right, title, or claim of right whatsoever in and to the right to operate said nursing home beds, all such right, title, or claim of right is hereby assigned, conveyed and transferred to the Landlord or to Landlord's designee upon termination of the Lease. Landlord and Tenant acknowledge that the Leased Premises was, and at all times under the terms of the Lease are, the sole and absolute property of Landlord. Upon any termination of this Lease or any breach or default by Tenant hereunder (which breach or default is not cured within any applicable grace period), Landlord shall have the sole, complete, unilateral, absolute and unfettered right to cause the Facility's license to be reissued in Landlord's name or in the name of Landlord's designee upon application therefor, and to further have the right to have any and all governmental, regulatory and any other provider and/or third party payor agreements issued in Landlord's name or in the name of Landlord's designee. The parties acknowledge that the foregoing rights of Landlord are subject to any and all regulatory approvals relating to the transfer of a nursing facility and/or its license. Notwithstanding the foregoing, Tenant is permitted, from time to time, to take beds out of service and/or to convert one type or category of licensed bed to another type or category of licensed bed, without notice to or consent of Landlord.

7.4 Reporting Obligations. During the Term, Tenant shall provide Landlord with the such reports, statements and inspections as Landlord or mortgagee may reasonably require, including an annual budget, statement of capital expenditures, operating budget, monthly, quarterly and annual financial statements, including balance sheet, income statement, statement of retained earnings, statement of cash flows, occupancy and census reports, survey inspection reports, insurance appraisals, environmental reports, and further including annual audited financial statements prepared by a nationally recognized certified public accounting firm or other independent certified public accounting firm acceptable to the Landlord, prepared in accordance with generally accepted accounting principles. Tenant shall immediately notify Landlord in writing of any notice, action or other proceeding or inquiry of any governmental agency, bureau or other authority whether Federal, state, or local, of any kind, nature or description, which could adversely affect the license or governmental- or regulatory-certification status of the Facility, or the ability of Tenant to maintain its status as the licensed operator and governmental- and regulatory-certified provider hereunder or which alleges noncompliance with any law. Tenant shall immediately upon Tenant's receipt, furnish Landlord with a copy of any and all such notices and Tenant shall not contest Landlord's right to intervene, attend and/or participate, in Landlord's sole and absolute discretion in any such actions or proceedings. Tenant shall act diligently to correct any deficiency or deal effectively with any "adverse action" or other proceedings, inquiry or other governmental action, so as to maintain the licensure and governmental- and regulatory-certification status stated herein in good standing at all times. Tenant shall not agree to any settlement or other action with respect to such proceedings or inquiry which affects the use of the Leased Premises or any portion thereof as provided herein without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. Tenant hereby irrevocably appoints Landlord, as agent of Tenant for the express purpose of signing, acknowledging and/or delivering any and all documents, instruments or other writings which are or may become necessary, proper and/or advisable to cause any and all licenses, provider agreements and other payor agreements, to be obtained in the name of Landlord or the name of Landlord's designee in the event that Landlord reasonably determines in good faith that (irrespective of any claim, dispute or other contention or challenge of Tenant) there is any breach, default or other lapse in any representation, warranty, covenant or other delegation of duty to Tenant (beyond any applicable grace or cure period) and the issuing government agency has threatened or asserted that such license or provider agreement will terminate or has lapsed or that Tenant's license or certification status is in jeopardy. This power is coupled with the ownership interest of Landlord in and to the Facility, and all collateral and incidental rights attendant to any and all of the foregoing rights. Without limitation of the foregoing, within three (3) business days of receipt or execution thereof, Tenant shall provide Landlord with copies, of all surveys, examinations, compliance certificates, inspections and reports, statements of deficiencies and plans of correction in connection with the Facility issued by any governmental authority or accreditation body during the most recent licensing period. Within three (3) business days of receipt, filing, or submission thereof, Tenant shall deliver to Landlord, notice of any rate appeal brought before any governmental authority or any administrator of any third party payor program or referral source; any reimbursement audits or appeals or recoupment claims made or contests pending or threatened as a result of any audits by any third party payor; any claim, requirement or demand (excluding all claims, requirements, and demands, if any, that have been waived) of any governmental authority or accreditation body, third party payor or insurance body having or claiming any licensing, certifying, supervising, evaluating or accrediting authority over the Leased Premises to rework or redesign the Leased Premises, its professional staff or its professional services, procedures or practices in any material respect or to make any of the Leased Premises conform to or comply with a legal requirement. The parties

acknowledge that the foregoing rights of Landlord are subject to any and all regulatory approvals relating to the transfer of a nursing facility and/or its license.

7.5 Payment in the Ordinary Course. Tenant shall pay in full all obligations due under this Lease and under applicable state and federal law and third party contracts, including but not limited to: (a) prior in each case to the date when penalties would attach, all taxes, assessments and governmental charges and levies (except only those so long as and to the extent that the same shall be contested in good faith by appropriate and timely proceedings and for which adequate reserves have been established in accordance with generally accepted accounting principles) for which Tenant may be or become liable or to which any or all of Tenant's properties may be or become subject; (b) all of Tenant's wage obligations to Tenant's employees in compliance with the Fair Labor Standards Act (29 U.S.C. 206-207) or any comparable provisions; (c) all obligations owed in connection with any claim, demand or notice of any overpayment received from governmental, regulatory or other third party payor; and (d) all of Tenant's obligations calling for the payment of money (except only those so long as and to the extent that the same shall be contested in good faith and for which adequate reserves have been established in accordance with generally accepted accounting principles) before such payment becomes overdue.

7.6 [reserved]

## ARTICLE VIII PERSONAL PROPERTY

8.1 Landlord's Personal Property. Upon the expiration or termination of this Lease, Tenant shall leave all the personal property leased to Tenant under Section 2.1(B) hereof as repaired, rebuilt, replaced, restored, altered or added to as permitted or required by provisions of this Lease in or on the Leased Premises, except for ordinary wear and tear. Any and all restorations, alterations or replacements of, or repairs, reconstructions or additions to, the personal property at the Facility made by Tenant shall become part of Landlord's personal property, and any and all security interests (except in favor of Landlord) in Landlord's personal property and financing statements shall be cleared to the satisfaction of Landlord at Tenant's expense. Tenant shall leave its operating policies and procedures at the Facility upon expiration or termination of this Lease.

## ARTICLE IX INDEMNIFICATION

9.1 Tenant's Indemnification. During the Term of this Lease and after the surrender of the Leased Premises in accordance with Section 5.4 of this Lease, Tenant shall protect, defend (at Landlord's request), indemnify and hold harmless Landlord, Landlord's shareholders, members, managers, officers, owners, directors, employees, agents and representatives, and their respective agents, executors, heirs, representatives and assigns, and any entity providing financing which is secured by the Leased Premises including, but not limited to, mortgagee (collectively the "Landlord's Indemnitees"), from and against any claims, losses, costs, penalties, damages, charges or expenses (including reasonable attorney's fees) imposed or resulting from, arising out of or attributable in whole or in part to any of the following: (a) any violation of any law (whether statutory, regulatory, judicially created or constitutional), order of governmental agency or ordinance, whether occasioned by the intentional act, omission, or negligence of Tenant or those holding under Tenant, (b) any accident or other occurrence on or about the Leased Premises on or after the Commencement Date causing injury to any person or property whomsoever or whatsoever,



(c) any failure of Tenant in any respect to comply with or perform any requirements and provisions of this Lease, and/or (d) in any way relating to Tenant's operation of the Facility or its possession of the Leased Premises.

## ARTICLE X USE OF LEASED PREMISES

10.1 Compliance with Laws and Regulations. Tenant shall use the Leased Premises solely as a licensed skilled nursing facility and/or assisted living facility and ancillary health care or other services provided in connection therewith, and for no other purpose. Without limitation of the foregoing, Tenant shall comply with all restrictions, including all deed restrictions, to which the Real Property may be subject. Tenant shall exert its best efforts to acquire and shall maintain all licenses, certifications, certificates, approvals, permits, variances, waivers, provider agreements and other authorizations needed to operate the Leased Premises. Tenant hereby covenants, warrants and represents to Landlord that as of the Commencement Date and throughout the Term, Tenant shall be, and shall continue to be in substantial compliance with all state and federal laws, rules, regulations and procedures with regard to the operation of the Facility.

10.2 No Waste. Tenant shall not commit or suffer to be committed any waste on the Leased Premises nor shall Tenant cause or permit any nuisance thereon.

### 10.3 Hazardous Materials and Hazardous Waste.

(A) Tenant shall not place or hold any Hazardous Materials (hereinafter defined) on or at the Leased Premises, except as is necessary for the ordinary course of its business. If Tenant's business requires the use of any Hazardous Materials, other than such cleaning materials as are typically found in similar facilities, Tenant shall notify Landlord in writing and shall comply with hazard communication and notification requirements of the Occupational Safety and Health Act and any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree which requires notification of employees, the community or any governmental agency of the hazardous properties of such Hazardous Materials. For purposes of this Lease, "Hazardous Materials" means and includes any hazardous substance defined as such in (the Occupational Safety & Health Act, Comprehensive Environmental Response, Compensation, and Liability Act, the Toxic Substances Control Act, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous substance or material, as now or at any time hereafter in effect.

(B) Tenant shall not cause or allow any asbestos to be incorporated into any improvements or alterations which it makes or causes to be made on or to the Leased Premises.

(C) Tenant shall not place, hold or dispose of any Hazardous Waste (hereinafter defined) on, under or at the Leased Premises except as specifically allowed in this Section 10.3. Tenant further agrees that it shall not use the Leased Premises as a treatment, storage, or disposal (whether permanent or temporary) facility for Hazardous Waste. If Tenant, in the ordinary course of its business, generates Hazardous Waste, then Tenant shall comply with all applicable federal, state and local laws, statutes, ordinances, codes, rules, regulations, orders or decrees relating to the appropriate use, storage, transportation and disposal of Hazardous Waste. For the purposes of this Lease, "Hazardous Waste" means and includes any hazardous material that has entered the waste stream or any contaminant or pollutant as defined as such in the Resource Conservation and

Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, any so-called "Superfund" or "Superlien" law, the Toxic Substances Control Act, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste. Tenant further agrees that it shall properly dispose of all "infectious waste" such as laboratory waste, pathological waste, blood specimens or products, resident or patient waste including, without limitation, bandages and disposable gowns, sharp waste and any material generated by the production or testing of biological agents. Immediately upon receipt of any Notice (as hereinafter defined) from any person or entity, Tenant shall deliver to Landlord a true, correct and complete copy of any written Notice. "Notice" shall mean any note, notice, or report of any suit, proceeding, investigation, order, consent order, injunction, writ, award, or action related to or affecting or indicating the treatment, storage, handling, disposal, generation, spill, release or discharge of any Hazardous Waste or Hazardous Materials in or affecting the Leased Premises. All of the terms, covenants, warranties and indemnifications contained in this Section shall survive the expiration or termination of this Lease.

(D) Without in any way limiting Tenant's obligation to indemnify Landlord and the Landlord's Indemnitees under Section 9.1 of this Lease, Tenant shall indemnify, defend (at Landlord's request) and hold harmless Landlord and the Landlord's Indemnitees from and against any claims, losses, costs, damages or expenses of any and every kind whatsoever (including reasonable attorney's fees and consultant's and expert's fees) which at any time or from time to time may be paid, incurred or suffered by, or asserted against Landlord and/or the Landlord's Indemnitees for, with respect to, or as a direct or indirect result of: (a) a breach by Tenant of the covenants set forth in Section 10.3(C) or, (b) to the extent caused, permitted or allowed by Tenant or any agent, employee, invitee, or licensee of Tenant, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, or release from, onto, or into the Leased Premises, the atmosphere, or any watercourse, body of water, or groundwater, of any Hazardous Material (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under the Comprehensive Environmental Response Compensation and Liability Act, as amended, any so-called "Superfund" or "Superlien" law, or any other federal, state, local or other statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning, any Hazardous Material) occurring after the Commencement Date; and the provisions of and undertakings and indemnification set out in this Section shall survive the termination of this Lease, and shall continue to be the personal liability, obligation and indemnification of Tenant, binding upon Tenant, forever.

(E) If Tenant or its employees, agents, or contractors shall ever violate the provisions of this Section 10.3, then, in addition to any other duty or obligation of Tenant hereunder, at law or in equity, Tenant shall clean up, remove and dispose of the material causing the violation, in compliance with all applicable environmental laws and repair any damage to the Leased Premises within such period of time as may be reasonable under the circumstances after written notice by Landlord, provided that such work shall commence not later than thirty (30) days from such notice and be diligently and continuously carried to completion by Tenant or Tenant's designated contractors. Tenant shall notify Landlord of its method, time and procedure for any clean-up or removal of material causing the violation under this provision, and Landlord shall have the right to require reasonable changes in such method, time or procedure or to require the same to be done after normal business hours.

(F) Landlord reserves the right from time to time, but not more than once a year, except in the event of an emergency or a breach of this Lease by Tenant, during the Term hereof, at Landlord's cost and expense (except that, in the event of breach, at Tenant's sole cost and expense), to have the Leased Premises inspected by environmental engineers and/or specialists for the purpose of determining compliance by Tenant with any environmental laws, rules and regulations applicable to Tenant's operations in or about the Leased Premises and with the terms and conditions of this Lease dealing with environmental matters, including without limitation, the provisions of this Section 10.3. If the environmental assessment or report resulting from such inspection discloses any non-compliance, Tenant shall immediately, following receipt of the environmental assessment, take all such steps as are necessary to put the Leased Premises into compliance, including without limitation, cleaning up any spills or other emissions of hazardous and/or toxic substances or wastes.

(G) Upon the expiration of the Term, or the earlier termination thereof, whichever shall be the first to occur, Tenant shall forthwith remove all Hazardous Materials and Hazardous Waste from the Leased Premises or any portion thereof in accordance with applicable law. Landlord shall have the right to inspect the Leased Premises with regard to the management and disposal of Hazardous Materials and Hazardous Waste at all reasonable times during the Term.

## ARTICLE XI DAMAGE OR DESTRUCTION

### 11.1 Damage or Destruction.

(A) If the Leased Premises shall be destroyed or so injured by any cause as to be unfit, in whole or in part, for occupancy or use, as intended herein, with the same number of beds and in substantially the same condition as just prior to the incident, Landlord, in its reasonable discretion, may decide whether to repair or reconstruct the Leased Premises with the proceeds of the property casualty insurance carried by Tenant as required hereunder.

(B) If Landlord decides to repair or reconstruct the Leased Premises, this Lease shall continue in full force and effect, Tenant shall not be entitled to surrender possession of the Leased Premises, and Tenant's liability to pay Rent and all other charges under this Lease shall not cease. Rent and all other charges hereunder shall continue, without abatement, during the period of repair or reconstruction. If Landlord elects to repair or reconstruct the Leased Premises, Landlord shall proceed with reasonable diligence to so repair or reconstruct the Leased Premises and Tenant shall be liable for any costs of repair or replacement to the Leased Premises, to the extent that such damage was caused by Tenant or to the extent that such damage or the costs of repairing such damage are not covered by Tenant's insurance.

(C) If Landlord decides not to repair or replace the Leased Premises, or if there are insufficient insurance proceeds available therefor (whether by reason of the provisions of any mortgage encumbering the Leased Premises or otherwise), Landlord shall notify Tenant within ninety (90) days after the happening of such destruction or injury or its determination thereof. In such event, (i) Landlord shall have the right at any time to terminate this Lease upon written notice to Tenant; and (ii) Tenant shall have the option to terminate this Lease upon written notice from Tenant to Landlord within sixty (60) days after Tenant received notice from Landlord that it does not elect to repair or reconstruct the Leased Premises. During such ninety (90) or sixty (60) day period, the terms of this Lease shall remain in full force and effect.

ARTICLE XII  
EMINENT DOMAIN

12.1 Eminent Domain.

(A) In the event the entire Leased Premises shall be taken by condemnation or right of eminent domain, this Lease shall terminate as of the day possession shall be taken by the taking authority, and Landlord and Tenant shall be released from any further liability hereunder thereafter accruing, except as otherwise expressly provided in this Lease. In the event only a portion of the Leased Premises shall be taken by condemnation or right of eminent domain and the portion so taken does not render the balance unsuitable for the purpose of this Lease, as determined by Landlord, this Lease shall not terminate, Landlord may, in its sole and absolute discretion, decide to restore the Leased Premises with reasonable diligence with the proceeds of any award (“Award”) from the applicable public or quasi-public authority, or private corporation or individual having the power of condemnation to an architectural unit as nearly like its condition prior to such taking as shall be practicable. Landlord shall not be obligated to restore any of the Leased Premises if Landlord determines, in its sole and absolute discretion, that the Award is insufficient to pay all of the costs associated with such restoration. Notwithstanding anything to the contrary herein, this Section 12.1(A) is subject to the requirements of all mortgages and loan documents of record as of the date of the Lease.

(B) Notwithstanding anything to the contrary contained in Section 12.1(A), Landlord may cancel this Lease with no further liability to Tenant, in the event that following a total taking by condemnation or right of eminent domain, Landlord elects or Landlord’s lender elects to require Landlord to make payments to extinguish or repay the mortgage on the Leased Premises.

(C) Tenant shall not be entitled to any part of any award or settlement of damages representing the value of land and buildings appropriated, the value of this Lease or any estate therein, or damage to the residue of the Leased Premises or other property of Landlord; it being agreed as between Landlord and Tenant any such award shall be the sole property of Landlord. No appropriation of part or all of the Leased Premises or cancellation of this Lease pursuant to this Article XII shall be deemed an eviction of Tenant, or a breach of any covenants of Landlord hereunder.

ARTICLE XIII  
NOTICES

13.1 Notices. Any notice, demand or communication required, permitted or desired to be given hereunder shall be in writing and shall be deemed effectively given when personally delivered or mailed by prepaid certified mail, return receipt requested, or when sent by nationally-recognized overnight carrier addressed to such address, and to the attention of such person as either party may designate by written notice given in accordance with this Section. The effective date of such notices shall be as follows: (a) upon delivery or refusal of delivery if sent by personal delivery, (b) two (2) business days after mailing (or upon actual receipt, if earlier), if sent by certified mail, (c) one (1) business day after deposit with the courier for next day delivery, if sent by overnight courier.

ARTICLE XIV  
QUIET ENJOYMENT

14.1 Quiet Enjoyment. Landlord covenants, warrants and represents to Tenant that, so long as Tenant shall not be in default in the performance of any of its obligations under this Lease, Tenant shall at all times during the Term peaceably and quietly have, hold, occupy and enjoy the Leased Premises without any hindrance, interference or molestation by Landlord or by, under or through Landlord for reasons other than acts of omission of Tenant, and Landlord shall defend Tenant in such peaceful and quiet use against the lawful claims of all such persons, subject to the Lease and to all liens, mortgages and encumbrances of record to which this Lease is subordinate.

ARTICLE XV  
SUBLETTING AND ASSIGNMENT

15.1 Subletting and Assignment.(A) Tenant shall not, without the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion, assign this Lease or sublease all or any part of the Leased Premises. Landlord has the right to sell the Leased Premises, subject to the terms of this Lease, without the consent of Tenant. Tenant shall not at any time, without the prior written consent of Landlord, which consent may be withheld or given in the sole and absolute discretion of Landlord, pledge, mortgage, or hypothecate the leasehold estate hereby created or any interest of Tenant therein. Notwithstanding any assignment of this Lease or subletting of the Leased Premises, Tenant shall remain fully liable for the obligations of Tenant hereunder, including, without limitation, the obligation to pay Rent and other amounts provided for under this Lease, and shall not be released from performing any of the terms, covenants or conditions hereof. Further, and without in any way limiting or otherwise affecting the provisions of this Lease, Landlord shall be permitted to assign this Lease and all agreements, duties, obligations and rights incidental thereto to any entity, without any consent from Tenant.

(B) If Tenant assigns the Tenant's interest under this Lease in violation of the terms of this Lease, then such assignment shall be void and of no force and effect against Landlord; provided, however, that Landlord (a) may collect an amount equal to the then current Rent from the assignee as a fee for such assignee's use and occupancy, and (b) shall apply the net amount collected to the Rent due under this Lease. If the Premises or any part thereof are sublet to, occupied by, or used by any Person other than Tenant (regardless of whether such subletting, occupancy or use violates this Lease, then Landlord (a) after the occurrence of a Lease Default, may collect amounts from the subtenant, user or occupant as a fee for its use and occupancy, and (b) shall apply the net amount collected to the Rent due under this Lease. No such assignment, subletting, occupancy or use, with or without Landlord's prior consent, nor any such collection or application of fees for use and occupancy, shall (i) be deemed a waiver by Landlord of any term, covenant or condition of this Lease, (ii) be deemed the acceptance by Landlord of such assignee, subtenant, occupant or user as tenant hereunder, or (iii) relieve Tenant of the obligations of the tenant under this Lease.

(C) The parties agree that Tenant shall have the right to sublease the Leased Premises to Complete Care at Whiting LLC ("Current Operator") in accordance with the terms and provisions of that certain Operations Transfer Agreement between Tenant and Current Operator and the form of Sublease approved by Landlord.

ARTICLE XVI  
MEMORANDUM OF LEASE

16.1 Memorandum of Lease. This Lease shall not be recorded, but Landlord may record a memorandum of lease in which shall be described the Parties to the Lease, the Leased Premises and the Term. Tenant agrees to execute at any and all times such instruments as may be reasonably required for such recording.

ARTICLE XVII  
DEFAULT

17.1 Default by Tenant and Remedies of Landlord.

(A) Tenant shall be in default under this Lease (a “Lease Default”):

(i) if Tenant fails to pay any installment of Rent or fails to pay any other charges, costs or expenses payable by Tenant within five (5) business days after the same becomes due;

(ii) if Tenant defaults in the prompt and full performance of any other of Tenant’s covenants, obligations or agreements hereunder, and fails to correct such failure within fifteen (15) days of receipt of written notice from Landlord of such default (unless such default cannot reasonably be cured within fifteen (15) days, in which event such period shall be extended for an additional fifteen (15) days, provided, however, that Tenant shall have commenced in good faith to cure such default within the first such fifteen (15) day period and shall proceed with all due diligence to correct such default thereafter and there shall be no further extension);

(iii) if the leasehold interest of Tenant be levied upon under execution or be liened or attached and such levy, lien or attachment is not removed within thirty (30) days of the date Tenant receives notice of it;

(iv) in the event of a filing by or against Tenant of a petition under federal or state law pertaining to bankruptcy or insolvency or for a reorganization or other relief, and the same is not withdrawn within sixty (60) days of the filing thereof;

(v) if Tenant makes an assignment for the benefit of creditors;

(vi) if a receiver be appointed for any property of Tenant; or

(vii) if Tenant abandons the Leased Premises or if, except as a result of damage, destruction or a partial or complete condemnation, Tenant voluntarily ceases operations on the Leased Premises.

Upon Lease Default, Landlord, may, if Landlord so elects, without notice of such election and without any demand whatsoever, forthwith terminate this Lease and Tenant’s right to possession of the Leased Premises and, at Landlord’s sole and absolute discretion, accelerate the payment of all Rent for the balance of the Term and declare the same presently due and payable in full. In the event of such Lease termination, Tenant shall immediately pay Landlord the full amount of all such

accelerated Rent. Landlord, in addition to all other remedies given to Landlord at law or in equity, may by written notice to Tenant, without terminating this Lease, install a manager, administrator and/or management consultant of its choice at Tenant's sole expense or reenter the Leased Premises by summary proceedings or otherwise. In any event, upon Lease Default, Tenant hereby consents to a so-called Change of Ownership for licensure and certification and acknowledges and agrees that Landlord or its designees have a possessory interest in the Facility for the purpose of pursuing the Change of Ownership and Landlord may dispossess Tenant upon approval of the Change of Ownership, it being the understanding that under no circumstances is this Lease to be an asset for Tenant's creditors by operation of law or otherwise; and in no event shall Tenant contest or otherwise interfere with Landlord's pursuit of a Change of Ownership, it being the understanding that, upon a Lease Default, after any applicable grace or cure period, Landlord shall have the right to take all reasonable and necessary action to protect the Leased Premises and its operation as a licensed Facility. In the event of such reentry, Landlord may relet the Leased Premises without being obligated so to do, and in the event of a reletting may apply the Rent therefrom first to the payment of Landlord's cost and expenses, including attorneys' fees incurred by reason of Tenant's default, and the cost and expense of reletting including, but not limited to, repairs, renovation, or alteration of the Leased Premises and then to the amount of Rent and all other sums due from or payable by Tenant hereunder, Tenant remaining liable for all other sums due from or payable by Tenant hereunder and for any deficiency. The parties acknowledge that the foregoing rights of Landlord are subject to any and all regulatory approvals relating to the transfer of a nursing facility and/or its license.

(B) Except as provided in this Lease to the contrary, Rent and other sums not paid when due (unless paid within any applicable grace period) shall bear interest from the date when the same are first payable under the terms of this Lease until the same shall be paid at an annual rate of interest equal to the rate of interest announced from time to time by Citibank, N.A., New York, New York as its Base Rate, plus four percent (4%), unless such rate shall not be permitted by law, in which event the maximum rate permitted by law shall be charged (hereinafter referred to as the "Leased Interest Rate"). The term "Base Rate" means the commercial prime rate of interest announced by Citibank, N.A. automatically and simultaneously with each change in the Base Rate made by Citibank, N.A. from time to time. Any publication issued or published by Citibank, N.A. from time to time or a certificate signed by an officer of Citibank, N.A. stating its Base Rate as of a date shall be conclusive evidence of the Base Rate on that date. Tenant further acknowledges that its late payment of any Rent or other sums shall cause Landlord to incur certain costs and expenses not contemplated under this Lease, the exact amount of which is extremely difficult or impracticable to fix. Such costs and expenses shall include, without limitation, loss of use of money, administrative and collection costs and processing and accounting expenses. Therefore, if any installment of Rent is not received by Landlord when due or within any applicable grace period, except as provided in this Lease to the contrary, or any other sum due herein is not paid when due, Tenant shall immediately pay to Landlord a late charge equal to five percent (5%) of the unpaid amount. Such late charge is in addition to any interest due pursuant to the first sentence of this Section 17.1(B). Landlord and Tenant agree that the late charge represents a reasonable estimate of costs and expenses incurred by Landlord from, and is fair compensation to Landlord for, any loss suffered by such non-payment by Tenant. Acceptance of the late charge shall not constitute a waiver of Tenant's default with respect to such non-payment by Tenant or prevent Landlord from exercising any other rights and remedies available to Landlord under this Lease. Any late charge accepted by Landlord shall be first applied to unpaid Rent, and then to costs and expenses of Landlord.

(C) Upon the filing of a petition by or against Tenant under the Bankruptcy Code, Tenant, as debtor and as debtor-in-possession, and any trustee who may be appointed shall: (1) timely perform each and every obligation of Tenant under this Lease until such time as this Lease is either rejected or assumed by order of the United States Bankruptcy Court; (2) pay monthly in advance on the first day of each month as reasonable compensation for use and occupancy of the Leased Premises an amount equal to the Rent and other charges otherwise due pursuant to this Lease; and (3) reject or assume this Lease within sixty (60) days after the filing of such petition under the Bankruptcy Code or within such time period as the Bankruptcy Code may allow. Tenant, as debtor and as debtor-in-possession, and any trustee shall be deemed to have rejected this Lease in the event of the failure to comply with any of the above. Included within and in addition to any other conditions or obligations imposed upon Tenant or its successor in the event of assumption and/or assignment is the prior written consent of any mortgagee to which this Lease has been assigned as collateral security.

(D) In the event of termination of this Lease by reason of any Lease Default by Tenant, or upon the expiration of the Term, then, and in any of such events, Tenant, upon Landlord's written request, shall to the greatest extent permitted by law, transfer to Landlord or its designees or assigns, the following: (i) all federal, state or municipal licenses, certifications, certificates, approvals, permits, variances, waivers, provider agreements and other authorizations certificates which relate to the operation of the Facility; and (ii) the name of the Facility as then known to the general public. Tenant shall also prepare and file all notices required by applicable law in connection with such termination. In the event Tenant fails or refuses to transfer any such license, certification, certificate, approval, permit, variance, waiver, provider agreement, other authorization or trade name, then this provision shall constitute an act of assignment by Tenant to Landlord or its assigns without the necessity of any further written instrument. The parties acknowledge that the foregoing rights of Landlord are subject to any and all regulatory approvals relating to the transfer of a nursing facility and/or its license.

(E) No failure of Landlord to enforce any rights or remedies upon default of Tenant shall prejudice or affect the rights of Landlord upon any subsequent or similar default.

(F) In the event of a Lease Default by Tenant of any of the terms, covenants, conditions or provisions of this Lease, which Lease Default is not cured within any applicable grace or cure period, Landlord shall have the right to invoke any remedy permitted to Landlord in law or in equity. All remedies available to Landlord are declared to be cumulative and concurrent and the exercise of one shall not preclude or waive the right to exercise any other. No termination of this Lease and no taking or recovering of possession of the Leased Premises shall deprive Landlord of any of its remedies or actions against Tenant and Tenant shall remain liable for all past or future Rent, including all taxes, insurance premiums and all other charges and Rent payable by Tenant under this Lease, during and for the balance of the Term hereof. The bringing of any action for Rent or other default shall not be construed as a waiver of the right to obtain possession of the Premises.

(G) If suit shall be brought for recovery of possession of the Leased Premises, for the recovery of Rent, or any other amount due under the provisions of this Lease, or because of the breach of any other covenant herein contained on the part of Tenant to be kept or performed, and breach shall be established, Tenant shall pay to Landlord all expenses, including reasonable attorney fees, incurred therefor.



(H) Notwithstanding anything in this Lease to the contrary, in the event of any Lease Default by Tenant, Tenant agrees that Landlord has no duty or obligation to mitigate Tenant's damages pursuant to this Lease and that nothing herein contained shall be construed as imposing upon Landlord any duty or obligation to mitigate Landlord's damages. Without limiting the generality of the foregoing, Tenant agrees that the failure of Landlord to attempt to relet, to relet, or if relet, to collect rent or other charges under such reletting shall not release, reduce or otherwise affect Tenant's liability for Landlord's damages pursuant to this Lease.

(I) Notwithstanding anything in this Lease to the contrary, in the event of any Lease Default or termination of this Lease, Tenant waives, to the extent permitted by applicable law, (a) any right of redemption, re-entry or repossession; (b) any right to any notice to quit or to a trial by jury in the event of any proceedings to enforce the remedies set forth in this Lease; and (c) the benefit of any laws now or hereafter in force exempting property from liability for rent or for debt.

(J) Consent to Jurisdiction. Tenant hereby consents to the jurisdiction of any state or federal court located within the State in which the Facility is located and irrevocably agrees that, subject to Landlord's election, all actions or proceedings arising out of or relating to this Lease may be litigated in such courts. Tenant expressly submits and consents to the jurisdiction of the aforesaid courts and waives any defense of forum non conveniens. Tenant hereby waives personal service of any and all process and agrees that all such service of process may be made upon Tenant by certified or registered mail, return receipt requested, addressed to Tenant, at the address set forth in this agreement and service so made shall be complete ten (10) days after the same has been posted. This subsection shall not limit Landlord's right to sue Tenant in any other jurisdiction or serve Tenant in any other manner.

## ARTICLE XVIII ENTRY AND REIMBURSEMENT RIGHTS OF LANDLORD

18.1 Entry and Reimbursement Rights of Landlord. In addition to those rights set forth in Section 7.3 of this Lease, Landlord reserves the right at all reasonable times to go upon and inspect the Facility and every part thereof (subject to applicable laws and regulations pertaining to patient or resident confidentiality and privacy and the confidentiality of medical records). If Landlord shall make any payments or perform any repairs on behalf of Tenant which are Tenant's obligation and which Tenant is in default thereof, then any reasonable amounts so paid by Landlord are agreed and declared to be Rent, and shall be due and payable to Landlord by Tenant upon submission to Tenant of an invoice, bill, or statement therefor, together with interest charged at the Lease Interest Rate commencing thirty (30) days after the date of such invoice, bill, or statement.

## ARTICLE XIX REPRESENTATIONS AND WARRANTIES

19.1 Tenant's Representations and Warranties. Tenant represents and warrants to Landlord and agrees as follows:

(A) Corporate. Tenant is a limited liability company duly formed and validly existing under the laws of the state of its formation, and has the limited liability company power and authority to own its property and assets and to carry on its business as now being conducted or as will be conducted on and after the Commencement Date;

(B) No Breach of Statute or Contract. The execution, delivery and performance of this Lease by Tenant will not breach any statute or regulation of any governmental authority, and will not as of the Commencement Date conflict with or result in a breach of or default under any of the terms, conditions or provisions of Tenant's Certificate of Formation, Operating Agreement, other material agreements, or any order, writ, injunction, decree, agreement or instrument to which Tenant is a party, or by which it or its property, may be bound; and

(C) Authorization of Lease. The execution, delivery and performance of this Lease has been duly authorized by all necessary individual, shareholder, member, officer, director, manager and/or owner action of Tenant and this Lease constitutes the valid and binding obligation of Tenant, fully enforceable in accordance with its terms.

## ARTICLE XX MISCELLANEOUS

20.1 Governing Law. This Lease has been executed and delivered in, and shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State in which the Leased Premises are located. All duties and obligations of the Parties to this Lease created hereunder are performable in said State, which shall be the sole and exclusive venue for any litigation, special proceeding, or other proceeding between the Parties that may be brought, arise out of or in connection with or by reason of this Lease.

20.2 Waiver of Breach. The waiver by either party of a breach or violation of any provision of this Lease shall not operate as, or be construed to be a waiver of, any subsequent breach of the same or other provision hereof. No waiver shall be effective unless set forth in writing and signed by the party against whom such waiver is asserted.

20.3 Legal Fees. Tenant shall pay all costs, including, without limitation, reasonable attorneys' fees, incurred by Landlord in connection with the enforcement of this Lease.

20.4 Gender and Number. Whenever the context hereof requires, the gender of all words shall include the masculine, feminine, and neuter, and the number of all shall include the singular and plural.

20.5 Force Majeure. Neither party shall be liable nor deemed to be in default for any delay or failure in performance under this Lease or other interruption of service or employment deemed resulting, directly or indirectly, from acts of God, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, strikes or other work interruptions by either Parties' employees, or any similar or dissimilar cause beyond the reasonable control of either party.

20.6 Severability. In the event any provision of this Lease is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of this Lease, which shall remain in full force and effect and enforceable in accordance with its terms.

20.7 Entire Agreement; Amendments. This instrument contains the entire agreement between the Parties hereto with respect to the subject matter hereof. All representations, promises and prior or contemporaneous undertakings between such Parties are merged into and expressed in

this instrument, and any and all prior agreements between such Parties hereby are canceled. The agreements contained in this instrument shall not be amended, modified, or supplemented except by a written agreement duly executed by both Landlord and Tenant.

20.8 Counterpart Execution; Facsimile Execution. This Lease may be executed in any number of counterparts with the same effect as if the Parties hereto had signed the same document. All counterparts will be construed together and shall constitute one lease. Signatures transmitted by pdf or facsimile shall have the same effect as original signatures.

20.9 Survival of Representations and Warranties. Except as specifically provided otherwise in this Lease, all representations and warranties of Landlord and Tenant shall survive the Term of this Lease.

20.10 Use of Brokers. Landlord and Tenant each represent and warrant to the other that no broker, finder or other person has been involved in regard to this Lease.

20.11 No Partnership. By virtue of entering into this Lease or the calculation or receipt of any Rent hereunder, Landlord does not, in any way or for any purpose, become a partner of Tenant in the conduct of Tenant's business or otherwise, or joint venturer, or a member of a joint enterprise with Tenant. By virtue of entering into this Lease or the calculation or payment of any Rent hereunder, Tenant does not, in any way or for any purpose, become a partner of Landlord in the conduct of Landlord's business or otherwise, or joint venturer, or a member of a joint enterprise with Landlord.

20.12 Estoppel Certificates. Tenant shall, without charge, at any time and from time to time, within ten (10) days after written request by Landlord, deliver a written instrument to Landlord or any other person specified by Landlord, duly executed and acknowledged, certifying the following and such other matters as may be reasonably required by Landlord, including without limitation, current financial information relating to Tenant:

(A) That Tenant has accepted and is in possession of the Leased Premises;

(B) That this Lease is unmodified and in full force and effect or, if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification;

(C) Whether or not there are then existing any setoffs or defenses in favor of Tenant against the enforcement of any of the terms, covenants, and conditions of this Lease by Landlord and, if so, specifying the same, and also whether or not Landlord has observed and performed all of the terms, covenants, and conditions on the part of Landlord to be observed and performed and, if not, specifying same;

(D) That no Lease Defaults exist or are continuing; and

(E) The dates to which Rent and all other charges hereunder have been paid.

20.13 Holdover. If, at the expiration of the Term or earlier termination of this Lease, Tenant continues to occupy the Leased Premises without Landlord's written consent, such holding over shall not constitute a renewal of this Lease, but Tenant shall be a Tenant from month-to-month

at three (3) times the Rent payable by Tenant immediately prior to the holdover period, at Landlord's sufferance, and under the same terms and conditions as were in force and effect at the expiration of the Term (except only as to the Term), and except that in the event Tenant shall continue to occupy the Leased Premises after the expiration of the Term, without a duly executed extension agreement in writing having been entered into by and between Landlord and Tenant, then if Landlord shall suffer any damage, loss, cost or expense as a result of such holdover, then Tenant, in addition to such increased Rent, shall pay the amount thereof to Landlord immediately on demand.

#### 20.14 Tenant's Waiver of Claim for Physical Injury.

(A) Landlord and the Landlord's Indemnitees shall not be liable for, and Tenant waives and indemnifies Landlord and Landlord's Indemnitees against all claims for, damage or injury to person or property sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in, about, or upon the Leased Premises and further including any claim by any person or party for personal injury, malpractice, negligence, fraud, property damage or any environmental claim or remedial claim or claim relating to any failure to provide quality care, receipt of overpayments from a governmental authority, nonpayment of fines or penalties imposed by a governmental authority, or negligence in the provision of care or services, all of the foregoing to be the sole and absolute responsibility of Tenant under any and all circumstances, however arising.

(B) Without limiting the foregoing, Tenant shall be responsible for, and shall indemnify Landlord against, claims for damage resulting from: (i) any equipment or appurtenances becoming out of repair or any other capital improvement, replacement, repair or maintenance; (ii) injury done or occasioned by wind; (iii) any defect in or failure of plumbing, heating, or air conditioning equipment, electric wiring, gas, water and steam pipes, stairs, rail or walks; (iv) broken glass; (v) the backing up of any sewer pipe or washstand, water closet, waste pipe, drain or any other pipe or tank in, upon or about the Leased Premises; (vi) the escape of steam or hot water; (vii) water, snow or ice being upon or coming through the roof, skylight, trap door, stairs, walks or any other place upon or near the Leased Premises; (viii) the falling of any fixture, plaster, drywall or stucco; and (ix) any act, omission or negligence of trespassers.

20.15 Priority. This Lease is subject and subordinate to all ground or underlying leases and to all mortgages which may now or hereafter affect this Lease or the Leased Premises and to all renewals, modifications, consolidations, replacements and extensions of any such ground or underlying leases and mortgages. This clause shall be self-operative and no further instrument shall be required by any ground or underlying landlord or by any mortgagee, affecting this Lease or the Leased Premises. Tenant shall execute any document in this respect reasonably requested by Landlord or mortgagee.

20.16 Default by Landlord. Landlord shall in no event be charged with default in the performance of any of its obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days (or such additional time as is reasonably required to correct any such default) after written notice to Landlord by Tenant properly specifying wherein Landlord has failed to perform any such obligations. Tenant agrees to give to the holder of record of any mortgage covering the Leased Premises notice simultaneously with any notice given to Landlord to correct any default of Landlord as hereinabove provided and agrees that the holder of

record of any mortgage shall have the right, after receipt of notice of such default, within sixty (60) days after the expiration of Tenant's applicable cure period with respect thereto, to correct or remedy such default before Tenant may take any action under this Lease by reason of such default. Landlord shall also give to the holder of any mortgage copies of any notices of default which it may give or send to Tenant.

20.17 Liens. Tenant shall not do or suffer anything to be done whereby the Leased Premises, or any portion thereof, or any interest therein, may be encumbered by any liens of mechanics, laborers, or materialmen, chattel mortgages or any other liens, other than in favor of Landlord's mortgagee. Tenant shall, whenever and as often as any such liens are filed against the Leased Premises, or any portion thereof, purporting to be for labor or material furnished or to be furnished to Tenant, discharge the same of record within fifteen (15) days after the date of filing by payment, bonding or otherwise, as provided by law. In the event of the default of Tenant in procuring the discharge, as aforesaid, of any such lien, Landlord may, with ten (10) days prior notice, procure such discharge and the expenses incurred by Landlord in obtaining such discharge shall be paid by Tenant as Rent within ten (10) days after notice from Landlord of the amount thereof.

20.18 Construction and Interpretation. The Parties have each negotiated the terms and conditions hereof and reviewed this Lease carefully. It is the intent of the Parties that each word, phrase, sentence and other part hereof shall be given its plain meaning, and that rules of interpretation or construction of contracts that would construe any ambiguity of any part hereof against the draftsman, by virtue of being the draftsman, shall not apply.

20.19 Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than shall be due hereunder, shall be deemed to be other than a payment on account nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be given any effect or be deemed an accord and satisfaction, and Landlord may accept such checks without prejudice to any other rights or remedies which the Landlord may have.

20.20 Captions and Headings. The captions and headings set forth in this Lease are included for convenience and reference only, and the words obtained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of, or the scope or intent of, this Lease, or any parts hereof.

20.21 Time is of the Essence. Time is of the essence of each and every term, condition, covenant and warranty set forth herein.

20.22 Successors and Assigns. This Lease shall (A) be binding upon Tenant and Tenant's permitted successors and assigns, and (B) inure to the benefit of Landlord and any other person or entity who may now or hereafter hold the interest of Landlord under this Lease and their respective successors and assigns.

20.23 No Third Party Beneficiaries. This Lease is solely for the benefit of Landlord, Senior Lender, their successors and assigns, and Tenant, and nothing contained herein shall confer upon any person other than Tenant, Landlord or Senior Lender or their respective successors and assigns, any right to insist upon or to enforce the performance or observance of any of the obligations contained herein, except only as may be otherwise specifically provided for in this Lease. All conditions to the obligations of Landlord to advance or make available proceeds of insurance or

condemnation, are imposed solely and exclusively for the benefit of Landlord, its successors and assigns. No other person or entity shall have standing to require satisfaction of such conditions in accordance with their terms, and no other person or entity shall, under any circumstances, be a beneficiary of such conditions, any or all of which may be freely waived in whole or in part by Landlord at any time, if in Landlord's sole and absolute discretion, Landlord deems it advisable or desirable to do so.

ARTICLE XXI  
REMEDIES CUMULATIVE

21.1 Cumulative Remedies. The rights and remedies set forth under this Lease are in addition to all other rights and remedies afforded to Landlord under any of the other documents contemplated under this Lease or at law or in equity, all of which are hereby reserved by Landlord, and this Lease is made and accepted without prejudice to any such rights and remedies. All of the rights and remedies of Landlord shall be separate and cumulative and may be exercised concurrently or successively in Landlord's sole and absolute discretion.

ARTICLE XXII  
LIMITATION OF LIABILITY

22.1 Liability. No member, manager, officer, shareholder, employee or agent of Landlord or its respective affiliates shall be held to any personal liability, jointly, or severally, for any obligation of, or claim against Landlord under this Lease. All persons dealing with Landlord, in any way, shall look only to the assets of Landlord for the payment of any sum or the performance of any obligations.

22.2 Consequential Damages. Under no circumstances shall Landlord be liable to Tenant for any consequential damages.

22.3 Liability Limited to Interest in Premises. Tenant shall look solely to Landlord's interest in the Leased Premises to satisfy any liability arising under this Lease.

[next page is signature page]

IN WITNESS WHEREOF the parties hereto have duly executed this Lease as of the date first above written, which date shall be deemed to be and shall be referred to as the date of this Lease.

WATER'S EDGE PROPCO LLC, DBA  
TRENTON GARDENS REALTY

By: \_\_\_\_\_

Name:

Title: Manager

WATER'S EDGE CARE AND REHAB CENTER  
LLC DBA TRENTON GARDENS  
REHABILITATION AND NURSING CENTER

By: \_\_\_\_\_

Name:

Title: Manager

**EXHIBIT A**  
LEGAL DESCRIPTION

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Trenton, County of Mercer, State of New Jersey.

BEGINNING at a point, said point being formed by the intersection of the westerly right of way line of Union Street, 50 feet width, with the southerly right of way line of Federal Street, 60 feet in width, said beginning point also having New Jersey Plane Coordinates of X-1973300.96 (East), Y-500534.27 (North) and from said beginning point running; thence

- 1) Along said southerly right of way line of Federal Street, North 74 degrees 38 minutes 30 seconds East 193.43 feet to a point and corner of lands of City of Trenton; thence
- 2) Along the westerly line of the last mentioned lands and along the westerly line of various lots of Rayline Realty and along the westerly line of lands of Lillian S. Settler, South 00 degrees 30 minutes 30 seconds East 448.91 feet to a point and corner to lands of New Jersey Department of Transportation (Parcel 129-B); thence
- 3) Along the last mentioned lands the following seven (7) courses; North 51 degrees 14 minutes 58 seconds West 48.92 feet to a point; thence
  1. North 52 degrees 36 minutes 00 seconds West 66.11 feet to a point; thence
  2. South 36 degrees 52 minutes 5 seconds West 55.00 feet to a point; thence
  3. North 52 degrees 1 minute 47 seconds West 40.08 feet to a point; thence
  4. North 36 degrees 12 minutes 47 seconds East 59.00 feet to a point; thence
  5. North 54 degrees 6 minutes 51 seconds West 40.74 feet to a point; thence
  6. North 34 degrees 35 minutes 47 seconds West 53.31 feet to a point in the aforementioned westerly right of way line of Union Street; thence
  7. Along the last mentioned line, North 1 degree 41 minutes 34 seconds West 230.96 feet to the point and place of BEGINNING.

NOTE FOR INFORMATION: Being the following lot(s), Tax Map of the City of Trenton, County of Mercer: Lot 3, Block 11203



## EXHIBIT B

Monthly Rent hereunder shall equal the monthly payment payable by Landlord under any and all loans (the "Loan") secured in whole or in part by any mortgage upon the Leased Premises, including all principal, sinking fund payments, interest, taxes, insurance, replacement reserve, capex reserve and other amounts then due and payable each month (collectively, the "Monthly Mortgage Loan Payments"), pro rated for any partial month, as applicable. The foregoing Rent shall automatically adjust, without any requirement of notice or demand, upon any change in the Monthly Mortgage Loan Payments. Tenant's obligation to pay taxes and insurance set forth in this Lease shall be included in the Rent as set forth herein. The parties shall mutually agree from time to time upon the allocation of said Rent to the personal property included in the Leased Premises. Landlord reserves the right to increase the Monthly Rent hereunder to the extent required by any lender having a mortgage upon the Leased Premises.