Cedar Grove Rehabilitation and Nursing
(License # 306000)

Date Notice Filed:	May 1, 2026
Name of Facility:	Alaris Health at Cedar Grove
License No.	306000
Address:	110 Grove Avenue Cedar Grove, NJ 07009
County:	Essex
Project Description:	This project involves the transfer of Ownership of the licensed operations to Cedar Grove Nursing and Rehabilitation, LLC
Post Closing Name:	Cedar Grove Rehabilitation and Nursing
Licensed Capacity:	230 long term care beds
Proposed Owner of Operations	Cedar Grove Nursing and Rehabilitation, LLC
Owner of Real Estate:	Cedar Hill Realty Associates, LLC

<u>Pre-Closing Ownership</u>

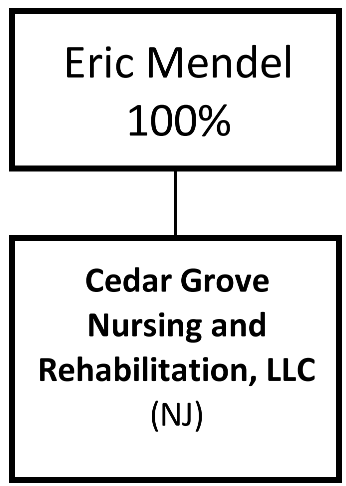
The current ownership of Alaris Health at Cedar Grove is CG Healthcare, LLC, which consists of the following:

Avery Eisenreich		99%
Toby Eisenreich		1%

<u>Post-Closing Ownership</u>

After completion of the transaction, the facility will be owned by Cedar Grove Nursing and Rehabilitation, LLC consists of the following Members:

Eric Mendel	100%



Cedar Grove Nursing and Rehabilitation, LLC
Related Ownership

New Jersey Related:

Optima Care Secaucus, LLC- SNF at 505 County Avenue, Secaucus, NJ 07094; CCN # 315476

Optima Care Castle Hill, LLC- SNF at 615 23rd Street, Union City, NJ 07087, CCN # 315344

Optima Care Harborview, LLC-SNF at 178-198 Ogden Avenue, NJ 07306, CCN # 315310

New York State Related:

Optima Care Smithtown, LLC – SNF at 7 NY-25A, Smithtown, NY 11787

Optima Care Little Neck, LLC- SNF at 260-19 Nassau Blvd., Little Neck, NY 11362

Optima Care White Plains, LLC- SNF at 220 West Post Road, White Plains, NY 10606

Optima Care Brentwood, LLC- SNF- at 1725 Brentwood Road, Brentwood, NY 11717

ASSIGNMENT AND ASSUMPTION OF LEASE (CEDAR GROVE)

This ASSIGNMENT AND ASSUMPTION OF LEASE (CEDAR GROVE) (this "Assignment") is made and entered into as of this ___ day of April, 2026 (the "Effective Date") by and between CG Healthcare, LLC, a New Jersey limited liability company ("Assignor") and Cedar Grove Nursing and Rehabilitation, LLC, a New Jersey limited liability company ("Assignee").

WHEREAS, Assignor wishes to assign to Assignee all of Assignor's right, title and interest in and to that certain Amended and Restated Lease Agreement, dated as of July 11, 2025, by and between Cedar Hill Realty Associates, LLC, a New Jersey limited liability company, as landlord, and Assignor, as tenant (as the same may have been amended, modified or supplemented from time to time, the "Lease").

NOW, THEREFORE, effective as of the Effective Date, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby assigns, sells, transfers, sets over and delivers unto the Assignee as of the Effective Date, all of Assignor's right, title and interest in and to the Lease. Assignee hereby assumes from and after the Effective Date the performance of all of the terms, covenants and conditions of the Lease on Assignor's part to be performed thereunder.

This Assignment shall be binding upon, and inure to the benefit of, Assignor and Assignee and their respective successors and assigns.

This Assignment shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of New Jersey.

This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute one and the same instrument. This Assignment may be executed by facsimile or PDF signatures delivered via email, which shall be deemed an original. Scanned and electronic signatures shall have the same legal effect as original signatures.

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This Assignment and Assumption of Lease (Cedar Grove) has been duly executed by Assignor and Assignee as of the Effective Date.

ASSIGNOR:

CG HEALTHCARE, LLC,
a New Jersey limited liability company

By: ______________________________
Name:
Title:

ASSIGNEE:

CEDAR GROVE NURSING AND REHABILITATION, LLC, a New Jersey limited liability company

By: ______________________________
Name:
Title:

Acknowledged, agreed and consented to:

LANDLORD:

CEDAR HILL REALTY ASSOCIATES, LLC,
a New Jersey limited liability company

By: ______________________________
Name:
Title:

AMENDED AND RESTATED LEASE AGREEMENT

by and between

CEDAR HILL REALTY ASSOCIATES, LLC
a New Jersey limited liability company,
as Landlord

and

CG HEALTHCARE, LLC
a New Jersey limited liability company,
as Tenant

July 11, 2025

AMENDED AND RESTATED LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT (this "**Lease**") is effective as of the 11th day of July, 2025 (the "**Effective Date**") by and between **CEDAR HILL REALTY ASSOCIATES, LLC,** a New Jersey limited liability company ("**Landlord**"), and **CG HEALTHCARE, LLC**, a New Jersey limited liability company ("**Tenant**").

RECITALS:

A. Landlord owns fee simple title in and to that certain tract of land which is improved with 190 bed skilled nursing facility, including 134 long term care beds and 56 behavioral care beds, commonly known as Alaris Health at Cedar Grove and located at 110 Grove Avenue, Cedar Grove, New Jersey 17009 ("**Nursing Home**"), as more particularly described in **Exhibit A** attached hereto and made a part hereof (collectively, the "**Demised Premises**"), and the furnishings, furniture, equipment and fixtures used in or about the Demised Premises ("**Personal Property**").

B. Landlord has leased the Demised Premises and Personal Property to Tenant and Tenant has leased the Demised Premises and Personal Property from Landlord pursuant to that certain lease agreement dated September 10, 2004, as amended to date (the "**Prior Lease**") effective as of the Effective Date.

C. The parties hereto have agreed to amend and restate the Prior Lease pursuant to the terms hereof; provided, however, that nothing in this Lease amends that certain HUD Addendum to Operating Lease, dated as of July 30, 2012 and attached hereto as **Exhibit B**, which remains in full force and effect (other than with respect to the amount of the base rent set forth therein) and is incorporated herein. In the event of any conflict between the terms of this Lease and the terms of **Exhibit B** (other than with respect to the amount of the base rent set forth therein), the terms of **Exhibit B** shall govern and control.

AGREEMENT

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

ARTICLE I. INCORPORATION OF RECITALS; AMENDMENT AND RESTATEMENT OF PRIOR LEASE; DEFINITIONS

1.1 The foregoing Recitals are hereby incorporated as if fully re-written.

1.2 The Prior Lease is hereby amended and restated in its entirety as set forth herein.

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

(a) "**Beds**" shall mean collectively, the 134 long term care beds and 56 behavioral care beds, as set forth above.

(b) "**Business Days**" shall mean all calendar days except Saturday, Sunday and federal holidays.

(c) "**Facility**" shall mean the 190 bed skilled nursing facility commonly known as "Alaris Health at Cedar Grove" and located at 110 Grove Avenue, Cedar Grove, New Jersey.

(d) "**Lender**" shall mean the company or institution that provides Landlord with a loan under the Loan Documents.

(e) "**Loan Documents**" shall mean any and all documents by and between Landlord and Lender which secures an indebtedness on the Demised Premises.

(f) All other initially capitalized terms used herein shall be as defined in other sections of this Lease.

ARTICLE II. DEMISED PREMISES AND PERSONAL PROPERTY

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

2.2 The Demised Premises is provided "AS IS" and, except as provided herein, Landlord makes no representations, warranties or assurances relating thereto, or as to the completeness, condition, fitness for a particular purpose, operation, suitability or merchantability of the Demised Premises. Except as provided herein, Tenant hereby waives all statutory warranties and assumes all risks resulting from any defects (known or unknown, patent or latent) in the Demised Premises or from any failure of the same to comply with any applicable law or the uses or purposes for which the same may be occupied and assumes all responsibility for repair of any defect (known or unknown, patent or latent) in the Demised Premises and affirmatively is obligated to keep the Demised Premises fit for its permitted Use. Any listing provided by Landlord to Tenant is for the benefit of Landlord only, to identify such property as owned by Landlord and does not constitute a representation or warranty as to existence or completeness of any item of the Demised Premises. In the event of any deficiency in the Demised Premises, this Lease shall continue in full force and effect and there shall be no reduction of Rent or other obligations of Tenant hereunder. If any portion or item of personal property comprising the Demised Premises requires replacement, maintenance, or upgrading, for any reason whatsoever, Tenant shall be obligated to provide for the same at its own cost and expense and Landlord shall have no obligations therefor, and such replacement shall immediately become part of the Demised Premises.

ARTICLE III. TERM OF LEASE

3.1 The term of this Lease shall commence on the Effective Date, and shall continue for a period of twenty (20) years, unless sooner terminated as hereinafter provided (the "**Initial Term**"). Notwithstanding the foregoing, Tenant shall have one (1) option to renew the Lease (the "**Renewal**

Option") for twenty (20) years (the "**Renewal Term**", and together with the Initial Term, the "**Term**"). To exercise the Renewal Option the Tenant shall deliver a written notice to Landlord at least twelve (12) months prior to expiration of the Initial Term. Tenant may exercise the Renewal Option provided that there are no uncured Events of Default (hereinafter defined) or any event which with the passage of time or giving of notice would constitute an Event of Default at the time the Tenant exercises the Renewal Option or on the date the Renewal Term is to commence.

ARTICLE IV. RENT

4.1 From and after the Effective Date, Tenant shall pay to Landlord, or as Landlord shall direct, without demand, deduction or offset for any reason whatsoever except as herein specifically provided, as annual base rent (the "**Base Rent**") for the Demised Premises and the Personal Property, an amount as set forth on Schedule 4.1, which annual Base Rent shall be paid in equal monthly installments.

4.2 For purposes of this section, the first year of the Term shall be deemed to begin on the Effective Date, with each year of this Lease thereafter beginning on the anniversary of the Effective Date of the following year. All payments of Base Rent provided for in this Lease shall be paid on or prior to the 1st day of each calendar month. Unless otherwise notified in writing all checks shall be made payable as directed by Landlord and shall be sent to Landlord as directed by Landlord. At Landlord's election, Tenant shall pay any amounts due hereunder by wire transfer to Landlord (which may include an ACH transfer).

4.3 This Lease is and shall be deemed and construed to be a triple net lease and, except as otherwise provided in this Lease, the Base Rent specified herein shall be net to Landlord in each year during the Term of this Lease. The Tenant shall pay all costs, expenses and obligations (ordinary and extraordinary) of every kind whatsoever relating to the Demised Premises which may arise or become due during the Term of this Lease (the "**Additional Rent**"), including, but not limited to, the payment of property taxes as provided in Articles VI and VII of this Lease, the maintenance of insurance policies as provided in Article IX of this Lease, maintenance and repairs to the Demised Premises and the Facility to maintain the same in the same condition as of the commencement of the Lease excepting reasonable wear and tear as provided in Article XI of this Lease, and funding any monthly tax, repairs, capital improvements and insurance reserves, to the extent provided for herein and/or required by Lender. Tenant does hereby agree to indemnify, defend and hold harmless Landlord against any such costs, expenses and obligations. All sums of any type or kind, other than Basic Rent, required to be paid by Tenant to Landlord hereunder shall be deemed to be Additional Rent whether or not the same may be designated as such herein. As used in this Lease, the terms Base Rent and Additional Rent are collectively referred to as "**Rent**."

4.4 The Tenant shall pay a late charge of Three Percent (3%) of the amount of any installment of Base Rent or Additional Rent which is not paid within five (5) days of its due date.

ARTICLE V. SECURITY DEPOSIT

5.1 Tenant shall deposit with Landlord prior to the Effective Date, and as a condition to the commencement of the Term of this Lease, the sum equal to one (1) month of Base Rent (the "**Security Deposit**") as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this Lease. The Security Deposit shall be held by Landlord without liability for interest and as security for the performance by Tenant of Tenant's covenants and obligations under this Lease, it being expressly understood that the Security Deposit shall not be considered an advance payment of Base Rent or Additional Rent or a measure of Landlord's damages in case of default by Tenant. Unless otherwise provided by mandatory non-waivable law or regulation, Landlord may commingle the Security Deposit with Landlord's other funds. It is agreed that upon the occurrence of an Event of Default, Landlord may use, apply or retain the whole or any part of the Security Deposit to the extent required for the payment of any Base Rent, Additional Rent, or any other sum as to which Tenant is in default, or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants and conditions of this Lease, including but not limited to, any damages or deficiency in the re-letting of the Demised Premises, whether such damages or deficiency accrued before or after summary proceedings or other re-entry by Landlord. If this Lease has not been terminated by Landlord, in the case of every such use, application or retention, Tenant shall, within five (5) Business Days after demand and specific itemization from Landlord of its use of any portion of the Security Deposit, pay to Landlord the sum so used, applied or retained which shall be added to the Security Deposit so that the same shall be replenished to its former amount. The unapplied portion of the Security Deposit shall be returned to Tenant within thirty (30) days after the date fixed as the Expiration Date and after delivery of entire possession of the Demised Premises to Landlord as provided herein. In the event of a sale of the Demised Premises, Landlord shall transfer the Security Deposit to the vendee of Landlord, and Landlord shall thereupon be released by Tenant from all liability for the return of the Security Deposit, and Tenant agrees to look solely to the new landlord for the return of the Security Deposit. It is agreed that the provisions hereof shall apply to every transfer or assignment made of the Security Deposit to a new landlord. Tenant further covenants that it will not assign or encumber, or attempt to assign or encumber, the monies deposited herein as the Security Deposit, and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

ARTICLE VI. PAYMENT OF TAXES AND ASSESSMENTS

6.1 Tenant will pay as Additional Rent before any fine, penalty, interest or cost may be added thereto for the nonpayment thereof, all taxes (except taxes for which Tenant shall make deposits with Landlord in accordance with the provisions of Article VII of this Lease), assessments, license and permit fees and other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which during the Term of this Lease may have been, or may be assessed, levied, confirmed, imposed upon or become due and payable out of or in respect of, or become a lien on the Demised Premises and/or Personal Property or any part thereof (collectively, "**Taxes and Assessments**"). Except for taxes for which Tenant shall make deposits with Landlord or Lender in accordance with the provisions of Article VII, not later than five (5) days following its receipt thereof, Landlord shall provide to Tenant copies of any bills received by it for Taxes and Assessments. At the request of Landlord, within five (5) days of any payment by Tenant of the Taxes and Assessments, a copy of the paid stamped bill or other evidence of payment shall be delivered to Landlord. The payment of any sum, other than Base Rent, due from Tenant to Landlord under this Lease shall be deemed to be Additional Rent. Except as otherwise provided herein, all expenses and charges whether capital or to be expensed, whether for upkeep, maintenance, repair, refurnishing, restoration, replacement, insurance premiums, taxes, utilities, and other operating or other charges of a like nature or otherwise, shall be paid by Tenant.

6.2 Any Taxes and Assessments relating to a fiscal period of any authority, a part of which is included within the Term of this Lease and a part of which is included in a period of time before or after the Term of this Lease, shall be adjusted pro rata between Landlord and Tenant as of the Effective Date and termination of the Term and each party shall be responsible for its pro rata share of any such Taxes and Assessments.

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

6.4 Tenant shall have the right to contest the amount or validity, in whole or in part, of any Taxes and Assessments by appropriate proceedings diligently conducted in good faith, but only after payment of such Taxes and Assessments, unless such payment would operate as a bar to such contest or interfere materially with the prosecution thereof, in which event, Tenant may postpone or defer such payment only if all of the following conditions are met:

(a) Neither the Demised Premises, the Personal Property, any material license or certification nor any part thereof would by reason of such postponement or deferment be in danger of being forfeited or lost, and

(b) Tenant shall have deposited with Landlord, to be held in trust, cash or securities in an amount (against which Tenant shall receive a credit equal to the amount pertaining to the period such Taxes and Assessments are being contested held by Landlord pursuant to the terms of Section 7.1 hereof) reasonably satisfactory to Landlord but in no event less than one hundred ten percent (110%) of the amount of such Taxes and Assessments, including the amount of any interest thereon and penalties in connection with the nonpayment thereof.

If held by Landlord, the cash so deposited shall be deposited by Landlord in a non-interest bearing account and the cash or securities so deposited shall be held by Landlord until the final resolution of such contest, the payment of such Taxes and Assessments or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings and any lien filed against the Demised Premises shall have been released and discharged, and shall thereupon be returned to the Tenant, less the amount of any loss, cost, damage and reasonable expense (including, without limitation, attorneys' fees and investment expenses) that Lender or Landlord may sustain in connection with the Taxes and Assessments so contested.

6.5 Landlord shall not be required to join in any proceedings referred to in this Article VI, unless the provisions of any law, rule or regulation at the time in effect shall require that such proceedings be brought by or in the name of Landlord in which event Landlord shall join in such proceedings or permit the same to be brought in its name and Tenant shall pay for all reasonable costs in connection therewith. Landlord shall not ultimately be subjected to any liability for the payment of any costs or expenses in connection with any such proceedings, and Tenant will indemnify, defend and save harmless Landlord from any such costs and expenses, including, without limitation, reasonable attorneys' fees, as a result of such proceedings. Tenant shall be entitled to any refund of any real estate taxes and penalties or interest thereon received by Landlord but previously paid or reimbursed in full by Tenant. Landlord agrees that it will reasonably assist Tenant to provide any necessary information and execute any necessary documents in connection with proceedings referred to in this Article.

6.6 In the event that Landlord determines in its reasonable judgment, that it is not being adequately represented by Tenant's counsel in any proceedings referred to in this Article, Landlord may upon ten (10) days prior written notice to Tenant, obtain separate counsel to represent it in such action at Landlord's sole cost and expense.

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

ARTICLE VII. TAX AND INSURANCE RESERVE DEPOSITS

7.1 If required by Lender, Tenant shall pay monthly real estate tax deposits with Landlord or Lender, in an amount equal to one-twelfth ($1/12^{th}$) of the annual real estate taxes levied against the Demised Premises or in such other amount as required by Lender. Said deposits shall be due and payable on the first (1^{st}) day of each month (or on such other day as Lender may require) as Additional Rent. If such deposits are held by Lender, said deposits shall not bear interest, unless interest on the deposits is paid to Landlord by Lender. If made, the deposits shall be held by the Lender to pay the real estate taxes as they become due and payable. Said deposits shall not be kept separate and apart from any other funds of Landlord. If the amount of Tenant's payments as made under this Article shall be less than the total amount due of the real estate taxes, then Tenant shall pay Landlord the amount necessary to make up the deficiency within thirty (30) days after receiving notice of such deficiency and thereafter shall pay the full deficiency no later than ten (10) days prior to the due date of such tax bill. If the amounts deposited are in excess of the actual obligations for which they were deposited, provided Lender returns such excess to the Landlord, Landlord shall refund such excess amount, or at Tenant's option, credited against the next payment of Rent. In the event that Tenant has paid all sums due under this Section 7.1 and Landlord or Lender fail to pay the real estate taxes when due, Landlord or Lender shall be solely responsible for any late charges or loss which is a result of their failure to make timely payment hereunder. Not later than five (5) Business Days following its receipt thereof, Tenant shall provide to Landlord copies of any bills received by it for Taxes and Assessments. Within five (5) Business Days of any direct payment by Tenant of the Taxes and Assessments, a copy of the paid tax bill shall be delivered to Landlord.

7.2 Notwithstanding anything to the contrary contained herein, if Landlord is required under a Loan Document to make, with Lender thereunder, monthly deposits for insurance premiums and, except for this Lease, Landlord would actually be making such payments, then Tenant will make monthly deposits for insurance premiums with Landlord, in an amount equal to the amount Landlord is required to make under its Loan Documents with respect to its mortgage loan on the Facility. Provided that Tenant at all times complies with the immediately preceding sentence, Tenant shall suffer no liability hereunder in the event that the insurance premiums are not timely paid to the insurance company. The deposits, if applicable, for insurance deposits, shall be due and payable on the first (1^{st}) day of each month (or on such other day as Lender may require) as Additional Rent. At the request of Tenant, within five (5) days of any payment by Landlord of insurance premiums, a copy of the paid insurance bill or evidence of payment of the insurance premiums shall be delivered to Tenant.

ARTICLE VIII. OCCUPANCY

8.1 During the Term of this Lease, the Demised Premises shall be used and occupied by Tenant for and as a skilled nursing facility of not less than the current number of Beds and for no other purpose. Subject to the terms of Article XX hereof, Tenant shall at all times during the Term maintain in good standing and full force the License issued by the New Jersey Department of Health ("**DOH**") and any other governmental agencies permitting the operation on the Demised Premises of a skilled nursing facilities of not less than the current number of Beds.

8.2 Tenant agrees that, notwithstanding any other provision of this Lease, it will at all times operate the Demised Premises as a skilled nursing facility of not less than the current number of Beds, and shall not (i) relocate any Beds from the Facility; or (ii) reduce the number of Beds licensed to be operated at the Facility, unless mandated by any applicable law or governmental authority; provided, however, that with respect to any such reduction in the number of Beds (a) Tenant shall not have requested any reduction in the number of Beds, (b) Tenant shall have objected to, contested or challenged, to the fullest extent of applicable law, such reduction, and (c) Tenant shall have afforded Landlord the opportunity to participate in such objection, contest or challenge.

8.3 Tenant will not suffer any act to be done or any condition to exist on the Demised Premises which may be dangerous or which may, in law, constitute a public or private nuisance or which may void or make voidable any insurance then in force on the Demised Premises.

8.4 Upon termination of this Lease for any reason, including but not limited to, the expiration of the Term of the Lease, Tenant will return to Landlord or its designee the Demised Premises, all Beds, the License to operate the Facility and all other required licenses and provider agreement and numbers in the same condition as existed on the Effective Date, reasonable wear and tear excepted, and licensed by the State of New Jersey and by any governmental agencies having jurisdiction over the Demised Premises as a skilled nursing facility of not less than the current number of Beds with an unrestricted license in full force and good standing for no less than the current number of Beds. At the end of the Term of this Lease, or upon any default by Tenant beyond applicable notice and cure period resulting in a termination of this Lease, all nursing home Bed operating rights, any state and federal licenses (including the License) and/or Certificate of Need or exemptions therefrom, necessary to operate the Facility, including, without limiting the generality of the foregoing, all right, title and interest in any certification to participate in any state or federal reimbursement program such as Medicare or Medicaid under Title XVIII or XIX of the Social Security Act of 1935, as now or hereafter amended (the "**Social Security Act**"), shall revert in their entirety to Landlord, as agreed to by the parties hereto in Section 8.4 of this Lease.

8.5 During the Term of this Lease, Tenant shall only use the Demised Premises in accordance with Environmental Laws (as hereinafter defined) and shall not use nor permit the Demised Premises to be used for the treatment, storage or disposal of any Hazardous Substances (as hereinafter defined) nor for any purpose involving the use of the Hazardous Substances; provided, however, that Tenant may use in and store at the Facility such materials and substances as are customarily used in nursing homes but only in such quantities as are in compliance with Environmental Laws. For purposes hereof "**Hazardous Substances**" shall mean any toxic or hazardous waste or pollutants, or substances, including, without limitation, asbestos, PCB's, petroleum products and by products, substances defined or listed as: "Hazardous Substances" or "Toxic Substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*, "Hazardous Materials" in the Hazardous Materials Transportation Act, 49 U.S.C. § 1802, *et seq.*, "Hazardous Waste" in The Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. § 2061, *et. seq.*, any "Toxic Pollutant" under the Clean Water Act, 33 U.S.C. § 1251, *et seq.*, as amended, any "Hazardous Air Pollutant" under the Clean Air Act, 42 U.S.C. § 7401, *et seq.*, and any hazardous or toxic substance or pollutant regulated under any other applicable federal, state or local Environmental Laws. "**Environmental Laws**" as used in this Lease means all federal, state and local environmental, health, or safety laws or regulations applicable to the Demised Premises or the Facility, now or hereafter enacted. Tenant hereby agrees to indemnify, defend and hold Landlord harmless from and against, and shall reimburse Landlord for, any loss, claim, liability, damages, injunctive relief, injuries to persons, property or natural resources, costs, expense, action and causes of action in connection with the use, generation, treatment, storage, release or disposal of Hazardous Substances at or from the Demised Premises during the Term hereof, including, without limitation, the cost of any required or necessary repair, cleanup or detoxification and the preparation of any closure or other required work to be performed, to the full extent that such action is attributable, directly or indirectly, to the use, generation, treatment, storage, release or disposal of Hazardous Substances on the Demised Premises during the Term hereof. Notwithstanding the foregoing or anything to the contrary set forth in this Lease, Tenant shall have no liability for any Hazardous Substances for any environmental condition that existed prior to the Commencement Date of this Lease, provided Tenant can prove such environmental condition existed prior to the Commencement Date.

8.6 Upon Lender's request, Landlord and Tenant each agree to provide estoppel certificates to Lender containing such reasonable information as Lender requests or as is contained or required in the Loan Documents.

ARTICLE IX. INSURANCE

9.1 Tenant shall, at its sole cost and expense, as of the Effective Date and during the Term, maintain fire, and casualty insurance with extended coverage endorsement, which includes coverage for malicious mischief and vandalism both on the Demised Premises and the Personal Property on the New Jersey standard form with a responsible company or companies reasonably approved by Landlord and/or Lender, which approval will not be unreasonably withheld. Such insurance shall, at all times, be maintained (without any co-insurance clause, if possible) in an amount equal to the full replacement value of the Demised Premises and Personal Property, but not less than that required by Lender, but in any event in an amount sufficient to prevent Landlord and Tenant from becoming co-insurers under applicable provisions of the insurance policies. Such insurance shall at all times be payable to Lender, Landlord and Tenant, as their interests may appear and shall contain a loss-payable clause to the Lender, as its interest may appear. Upon the reasonable request of Landlord, provided however no less frequently than such time as required by Tenant's insurance carrier, Tenant shall furnish, at its sole cost and expense, to Landlord and such insurance carrier, insurance appraisals in form and substance as are regularly and ordinarily made by insurance companies, in order to determine the then replacement value of the Demised Premises and Personal Property, and if such appraisal shows that the amount of casualty insurance maintained by Tenant hereunder is insufficient, the amount of insurance required by this Section 9.1 shall be adjusted accordingly. Tenant agrees to pay, as Additional Rent, when due all premiums for liability insurance and full coverage property insurance on the Demised Premises.

9.2 Tenant shall also, at Tenant's sole cost and expense, cause to be issued and shall maintain during the Term of this Lease, insurance from an insurance company with a "A-" rating or higher from A.M. Best Company, in no event with coverage less than:

(a) A public liability policy naming Landlord, Lender, Tenant, as insured, and insuring them against claims for bodily injury, or property damage occurring upon, in or about the Demised

Premises, or in or upon the adjoining streets, sidewalks, passageways and areas, and including professional malpractice insurance covering employees of the Facility, such insurance to afford protection to the limits reasonably established by Tenant in the operation of its business, but not less than $1,000,000 per each occurrence and $3,000,000 in the aggregate and $500,000 for loss or damage to the property of any person or any greater amount required by the Loan Documents.

(a) If there is a boiler, air conditioner or water heater located on the Demised Premises, boiler explosion insurance, in the amount of not less than $100,000, under the terms of which Landlord and Tenant will be indemnified, as their interests may appear, against any loss or damage which may result from any accident or casualty in connection with any boiler used in the Demised Premises, whereby any person or persons may be injured or killed or property damaged in or about the Demised Premises.

(b) During any construction or renovation, Tenant shall cause to be provided appropriate builder's risk insurance and owner's contingent or protective liability insurance, covering claims not covered by or under the terms of the above-mentioned comprehensive general liability insurance, written on an occurrence basis, with completed operations coverage and with combined single limits of $1,000,000, or such higher amount as Landlord may from time to time reasonably require, provided such amounts are comparable to similarly situated landlords. If Tenant shall contract with any independent contractor for the furnishing of labor, materials or services to Tenant, Tenant shall require such independent contractor to maintain Workers' Compensation Insurance covering all persons working on the job site or in connection with such construction. Tenant agrees to furnish Landlord with certificates evidencing all such insurance prior to the commencement of any such construction or renovations.

(c) Workers' Compensation Insurance covering all employees as required by law.

(d) Business Interruption Insurance. Tenant shall maintain, with respect to the Demised Premises, business interruption and extra expense insurance insuring against loss of rental value for the benefit of Tenant for a period of not less than one (1) year.

9.3 All policies of insurance shall provide, to the extent available at a commercially reasonable price, so long as not otherwise required by the Lender:

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

(b) They shall not be canceled, terminated, reduced or materially modified without prior notice to Landlord and/or Lender in accordance with policy requirements; and

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

(c) Tenant agrees that the insurance policies to be obtained hereunder shall provide that the insurance carriers shall waive all rights of subrogation against Landlord and that such policies shall not be invalidated should the insured waive in writing prior to a loss any or all right of recovery against any party for losses covered by such policies. Tenant hereby waives and releases any and all right of recovery which it might otherwise have against Landlord, its agents and employees, and all liability or responsibility of Landlord, its agents and employees, for all injury and for loss or damage to its business, contents, furniture, furnishings, fixtures and other property of Tenant, notwithstanding that such injury, loss or damage may result from the negligence or fault of Landlord, or any of its agents or employees.

(d) Tenant will not do or omit to do or keep anything in, upon or about the Demised Premises or any adjacent areas which may (i) prevent the obtaining of any fire, liability or other insurance upon or written in connection with the Demised Premises, and Tenant's Personal Property or such adjacent areas, or (ii) make any such insurance void or voidable or otherwise invalidate the obligations of the insurer contained therein.

9.4 Certificates of insurance policies required by this Article shall be delivered to Landlord and Lender prior to or on the Effective Date. Upon written request from Landlord, Tenant shall deliver copies of the actual policies to Landlord. Renewal Certificates shall be delivered not less than ten (10) days prior to the expiration date thereof.

9.5 Tenant shall at all times keep in effect business interruption insurance with loss of rents endorsement naming Landlord as an insured in an amount at least sufficient to cover:

(a) The aggregate of the cost of all Taxes and Assessments due during the period of the next succeeding twelve (12) months following the occurrence of the business interruption; and

(b) The cost of all insurance premiums for insurance required to be carried by Tenant for such twelve (12) month period; and

(c) The aggregate of the amount of the monthly Base Rent for the next succeeding twelve (12) month period.

All proceeds of any business interruption insurance or loss of rents coverage shall be applied, first, to the payment of any Base Rent payments for the next succeeding twelve (12) months to the extent that such payments are due and owing; second, to the payment of any Taxes and Assessments and insurance deposits required for the next succeeding twelve (12) months to the extent that such payments are due and owing; and, thereafter, after all necessary repairing, rebuilding, restoring or replacing has been completed as required by the pertinent Articles of this Lease and the pertinent sections of the Loan Documents, any remaining balance of such proceeds shall be paid over to the Tenant.

9.6 The Lender's insurance requirements, the repair of any damage covered by insurance, and the use of insurance proceeds shall be governed by the provisions of the Loan Documents attached hereto as Schedule 9.6 and shall supersede the requirements set forth herein unless the requirements contained here require additional coverages or are more restrictive.

9.7 Except as provided below and in accordance with all terms of the Loan Documents, and except in the event of an emergency situation, no sums shall be paid from such proceeds toward such repairing, rebuilding, restoring or replacing unless there shall not be in existence any uncured Event of Default or any event which with the passage of time or giving of notice would constitute an Event of Default and it shall be first demonstrated to the reasonable satisfaction of Landlord that the amount of money necessary to provide for any such repairing, rebuilding, restoring or replacing (according to any plans or specifications which may be adopted therefor) in excess of the amount received from any such insurance policies, has been expended or provided by Tenant for such repairing, rebuilding, restoring or replacing, or that Tenant has provided cash for such amount and that the amount received from such insurance policies is sufficient to complete such work. In the event there is any amount required from Tenant in excess of the amount received from such insurance policies, Tenant shall furnish such excess funds so that the funds will be sufficient to complete such repairing, rebuilding, restoring or replacing in accordance with the provisions of this Lease, the Loan Documents and any plans and specifications submitted in connection therewith, free from any liens or encumbrances of any kind whatsoever. Funds held by Landlord shall not be unreasonably withheld, conditioned or delayed, but shall be disbursed only upon the presentment of architect's or general contractor's certificates, waivers of lien, contractor's sworn statements, owner's sworn statements and other evidence of cost and payments as may be reasonably required.

9.8 Prior to making any such repairs due to a casualty costing in excess of Two Hundred Thousand Dollars ($200,000), if so requested by Landlord, Tenant shall do the following or provide to Landlord the following documentation, as Landlord may reasonably require to protect its interest in the Demised Premises and Personal Property: (a) submit complete plans and specifications for such repairs prepared by an architect or general contractor whose qualifications shall be reasonably satisfactory to Landlord; (b) submit a stipulated sum construction contract made with a reputable and responsible builder or contractor, providing for the completion and payment for all work, labor and materials necessary to complete such repairs; (c) disburse such funds as may be required to complete said repairs by a national title insurance company or other responsible escrowee at Tenant's sole cost and expense to the contractor or contractors making such repairs in installments as such work progresses and upon presentment of such certificates, waivers of lien, sworn statements and other documents as may be required by such escrowee; and (d) take such other actions or provide such other documentation to Landlord as Landlord may reasonably require to protect its interest in the Demised Premises and Personal Property.

9.9 Notwithstanding anything to the contrary contained herein, Tenant shall maintain insurance in an amount at least equal to and that satisfies the conditions contained on Schedule 9.6 annexed hereto.

ARTICLE X. LANDLORD'S RIGHT TO PERFORM

10.1 Should Tenant fail to perform any of its covenants herein agreed to be performed, after any applicable notice and cure period set forth in this Lease, Landlord may, but shall not be required to, make such payment or perform such covenants, and all sums so expended by Landlord thereon shall upon notice of payment by Landlord be paid by Tenant to Landlord within thirty (30) days after written demand therefor accompanied by reasonably detailed invoice for such costs, and in addition Tenant shall reimburse Landlord for Landlord's reasonable expenses in enforcing or performing such covenants, including reasonable attorneys' fees. Any such costs or expenses incurred or payments made by Landlord shall be deemed to be Additional Rent payable by Tenant and collectible as such by Landlord.

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

ARTICLE XI. REPAIRS AND MAINTENANCE

11.1 Throughout the Term of this Lease, Tenant, at its sole cost and expense, will keep and maintain, or cause to be kept and maintained, the Demised Premises (including the grounds, sidewalks, roof, parking lots and curbs abutting the same) and the Personal Property in good order and condition without waste and in a suitable state of repair at least comparable to that which existed immediately prior to the Effective Date (ordinary wear and tear excepted), and will make or cause to be made, as and when the same shall become necessary, all structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, exterior and interior, replacing, repairing and restoring necessary to that end. All replacing, repairing and restoring required of Tenant shall be (in the reasonable opinion of Landlord) of comparable quality equal to the original work and shall be in compliance with all standards and requirements of law, licenses and municipal ordinances necessary to operate the Demised Premises as skilled nursing facility. Landlord shall not be required to furnish any service or facilities or to make any repairs or alterations in or to the Demised Premises, Tenant hereby assuming the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Demised Premises, including making any repairs required by any Lender.

11.2 In the event that any part of the improvements located on the Demised Premises or the Personal Property shall be damaged or destroyed by fire or other casualty (any such event, being called a "**Casualty**"), Tenant shall promptly replace, repair and restore the same as nearly as possible to the condition it was in immediately prior to such Casualty, in accordance with all the terms, covenants and conditions and other requirements of this Lease and the Loan Documents applicable in the event of such Casualty, which are set forth in Schedule 9.6 annexed hereto and shall be entitled to use the available insurance proceeds for such restoration provided that Lender makes such proceeds available for such restoration. The Demised Premises and the Personal Property shall be so replaced, repaired and restored as to be of at least equal value and substantially the same character as on the Effective Date. If the estimated cost of any such restoring, replacing or repairing is Three Hundred Fifty Thousand Dollars ($350,000) or more, the plans and specifications for same shall be first submitted to and approved by Landlord in writing, which approval shall not be unreasonably withheld, conditioned or delayed, and Tenant shall select an independent architect or engineer approved by Landlord (which approval shall not be unreasonably withheld, conditioned or delayed) who shall be in charge of such repairing, restoring or replacing. Notwithstanding anything provided herein, in the event the Lender requires payment of the indebtedness thereunder and does not allow repair and rebuilding of the Demised Premises and Landlord does not provide to Tenant an amount equal to the insurance proceeds used by the Lender to pay down indebtedness, Tenant may terminate this Lease upon written notice to Landlord delivered prior to the date Tenant commences any restoration of the Demised Premises. Tenant covenants that it will give to Landlord prompt written notice of any Casualty affecting the Demised Premises in excess of Fifty Thousand Dollars ($50,000).

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

11.4 Standard for Repairs. The necessity for and adequacy of repairs to any Improvements on the Demised Premises pursuant to this Article shall be measured by the standard which is appropriate for improvements of similar construction, use and class.

ARTICLE XII. ALTERATIONS AND DEMOLITION

12.1 Tenant shall have the right, without obtaining Landlord's consent, during the Term to make such non-structural interior alterations, changes and improvements to the Demised Premises as may be proper and necessary for the conduct of Tenant's business, to cause the Demised Premises to conform to any legal or regulatory requirements, for resident comfort and safety, or for the full beneficial use of the Demised Premises, so long as such improvements do not (i) exceed Three Hundred Fifty Thousand Dollars ($350,000) in any given calendar year or (ii) interfere with any of the purposes for which the Facility was leased; provided, however, that Tenant shall make no (A) structural alterations, changes, or improvements, or (B) improvements that exceed Three Hundred Fifty Thousand Dollars ($350,000) in any given calendar year without express written approval in each instance by Landlord and Lender, which consent shall not be unreasonably withheld, conditioned or delayed by Landlord and subject to Lender's sole and absolute discretion. Notwithstanding the foregoing to the contrary, Tenant shall be permitted to make all alterations that are required by (x) any Governmental Authority or (y) regulatory agency having jurisdiction over the use and operation of the Facility. 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 Tenant receives notice of the same having been filed by payment, bonding or otherwise, as permitted by law, or within five (5) Business Days after commencement of a foreclosure. Notwithstanding any provision of this Lease to the contrary, Tenant shall not undertake any alterations, renovations, or improvements to the Facility or otherwise commence any project or activity with respect to the Facility, which may result in any Bed being taken out of service for more than seven (7) days without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Tenant shall not employ or retain any general contractor, contractor, subcontractor or other construction, building or other trade professional (a "**Contractor**") to perform or conduct any work, repairs, maintenance, alterations or improvements at or upon the Demised Premises, unless and until (1) Landlord approves the Contractor, such approval not to be unreasonably withheld, conditioned or delayed with respect to alterations costing in excess of Three Hundred Fifty Thousand Dollars ($350,000), and (2) the Contractor shall have provided Landlord with adequate evidence of general contractor liability and other insurance coverage, with Landlord named as an additional insured, in such amounts, as Landlord may require from time to time. Depending upon the nature of the alterations or improvements, Landlord reserves the right to require any Contractor to be fully bonded and/or to provide such other surety as Landlord may deem reasonably necessary. Notwithstanding the foregoing, alterations, changes and improvements to the Demised Premises shall conform at all times to and may only be carried out in full conformance with the Loan Document provisions set forth in Schedule 12.1 annexed hereto.

ARTICLE XIII. COMPLIANCE WITH LAWS AND ORDINANCES

13.1 Throughout the Term of this Lease, Tenant, at its sole cost and expense, will obey, observe and promptly comply with all present and future laws, ordinances, orders, rules, regulations and requirements of any federal, state and municipal governmental agency or authority having jurisdiction over the Demised Premises and the operation thereof as a skilled care nursing facility, which may be applicable to the Demised Premises, the Personal Property and the nursing home located therein, and pay any and all civil monetary penalties imposed by the Office of the Inspector General associated with any non-compliance therewith, and including, but not limited to, the sidewalks, alleyways, passageways, vacant land, parking spaces, curb cuts, curbs adjoining the Demised Premises, whether or not such law, ordinance, order, rules, regulation or requirement shall necessitate structural changes or improvements.

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

13.3 Prior to the Effective Date, Tenant shall obtain, at its sole cost and expense, all necessary approvals, certifications and licenses from all appropriate governmental agencies necessary to permit Tenant to operate the Facility as a skilled nursing facility, including, without limitation, the receipt of the License permitting Tenant to operate the Facility with not less than the number of licensed Beds set forth above. Tenant shall, subject to the terms of Article XX hereof, keep in good standing and in full force and effect all necessary licenses, permits and certifications required by any governmental authority for the purpose of maintaining and operating on the Demised Premises skilled nursing facilities of not less than the current number of Beds and the Facility shall at all times continue to be qualified to and shall participate in the Medicare and Medicaid reimbursement programs.

ARTICLE XIV. DISCHARGE OF LIENS

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

14.2 If any mechanic's, laborer's or materialman's lien caused or charged to Tenant shall at any time be filed against any portion of the Demised Premises or Personal Property, if allowed by the terms of the Loan Documents and the Lender, Tenant shall have the right to contest such lien or charge, provided Tenant, within thirty (30) days after notice of the filing thereof (or such lesser period as may be required by the Loan Documents), will cause the same to be discharged of record or in lieu thereof to secure Landlord against said lien by deposit with Landlord or Lender of such security (not to exceed one hundred ten percent (110%) of the amount thereof plus any interest, cost and penalty thereon) as may be reasonably demanded by Landlord or Lender to protect against such lien. If Tenant shall fail to cause such lien to be discharged within the period aforesaid, or to otherwise secure Landlord as aforesaid, then in addition to any other right or remedy, Landlord may, upon ten (10) days' prior notice, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by processing the discharge of such lien by deposit, title endorsement or by bonding proceedings. Any amount so paid by Landlord and all costs and expenses incurred by Landlord in connection therewith shall constitute Additional Rent payable by Tenant under this Lease and shall be paid by Tenant to Landlord on demand. Except as herein provided, nothing contained herein shall in any way empower Tenant to do or suffer any act which can, may or shall cloud or encumber Landlord's or Lender's interest in the Demised Premises.

14.3 In the event that Landlord determines in its reasonable judgment, that it is not being adequately represented by counsel for Tenant in any contest referred to in Section 14.2 hereof, Landlord may, upon ten (10) days prior written notice to Tenant, obtain separate counsel to represent it in such contest. In such event, the cost of such counsel shall be paid by Landlord.

ARTICLE XV. INSPECTION OF PREMISES AND RECORDS BY LANDLORD

15.1 At any time, during reasonable business hours and upon prior notice, when accompanied by a representative of Tenant which Tenant must provide, unless the requirement to be accompanied is waived by the Tenant, Landlord, Lender or their authorized representatives shall have the right to enter and inspect the Demised Premises and Personal Property.

15.2 At any time, during reasonable business hours and upon reasonable notice to Tenant, when accompanied by a representative of Tenant which Tenant must provide, unless the requirement to be accompanied is waived by the Tenant, Landlord or its authorized representatives shall have the right to inspect, and, at Landlord's expense, make copies of, the books and records relating to the Demised Premises and the Facility, including, without limitation, to the extent permitted by applicable law all patient records, employment records, surveys and inspections reasonably required by Landlord.

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

15.4 One time per calendar year (unless required more frequently by Lender), during reasonable business hours and upon prior notice, Landlord, Lender or their authorized representatives shall have the right to enter and inspect the Demised Premises and Personal Property to ensure compliance with DOH requirements and compliance with the Loan Documents. In the event that Demised Premises or the Personal Property does not comply with either DOH requirements or the Loan Documents, in addition to any other rights hereunder, including, without limitation, the right to declare an Event of Default, the Landlord shall have the rights set forth in Article X to take such actions, at the Tenant's expense to cause the Demised Premises or the Personal Property to comply with either DOH requirements or the Loan Documents, as the case may be.

15.5 Notwithstanding the foregoing, in the absence of an emergency or Event of Default, Landlord shall not unreasonably interfere with Tenant's use or operation of the Demised Premises when accessing the Demised Premises. Landlord acknowledges that Tenant shall be creating, using, storing, and maintaining Protected Health Information ("**PHI**"), as that term is defined under The Health Insurance Portability Act of 1996 and all amendments thereto ("**HIPAA**"), in the Demised Premises and that federal law requires Tenant to keep all PHI strictly confidential and to protect the privacy of all PHI at all times. Landlord and Tenant agree that neither Landlord nor its employees, subcontractors and agents shall need access to, nor shall they use or disclose, any PHI that Tenant has located in the Demised Premises. Landlord agrees that it shall notify its employees, subcontractors and agents who need to enter the Demised Premises about the presence of PHI and Tenant's obligation under federal law to protect the privacy of its PHI. Tenant has advised Landlord that in order to comply with HIPAA, Tenant is required to limit Landlord's general access and that of Landlord's employees, subcontractors and agents to those areas in which PHI is not located. Landlord agrees for itself and its employees, subcontractors and agents that it shall enter the Demised Premises or cause the Demised Premises to be entered only during normal office hours or by appointment. Landlord agrees that if entry is required at other times because of an emergency situation, Tenant shall be notified immediately and neither Landlord nor its employees, subcontractors or agents shall enter any locked cabinet or closet, in which Tenant stores PHI, that is labeled "PHI Storage" on its door without having Tenant's representative present. Landlord, its employees, subcontractors and agents agree to comply with HIPAA at all times and to notify Tenant if any of them should become aware of a breach of HIPAA in the Demised Premises. Specifically, in the event that PHI is disclosed (whether inadvertently or otherwise) to Landlord or its employees, subcontractors or agents, the party discovering such disclosure shall promptly notify the other party and Landlord agrees immediately to take reasonable measures, as required under HIPAA, to prevent any subsequent dissemination by Landlord or its employees, subcontractors or agents of such PHI to third parties. In that event, Landlord agrees to provide Tenant with detailed written information about such measures taken by Landlord. However, in the event PHI is disclosed by Tenant or its employees or agents to Landlord or its employees, subcontractors, or agents, regardless as to whether the disclosure is inadvertent or otherwise, Landlord agrees to cooperate with Tenant to take reasonable steps to maintain the privacy and confidentiality of such PHI. Landlord and Tenant further agree that the foregoing does not create, and is not intended to create, a "business associate" relationship between the parties.

ARTICLE XVI. CONDEMNATION

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

16.2 If less than all of the Demised Premises are taken by the exercise of the power of eminent domain or sold under eminent domain proceedings and the Facility can no longer be operated in materially the same manner as prior to the exercise of eminent domain and such belief is consistent with reasonable business practices, then Tenant may either (a) terminate this Lease or (b) subject to the consent and approval of Landlord and Lender, with reasonable diligence, restore or rebuild to the extent reasonably practicable any improvements upon the Demised Premises affected by the taking with the proceeds from the condemnation award. In such case, in the event the amount awarded shall be insufficient to repair and restore the Demised Premises, Tenant shall contribute the amount of any such deficiency.

16.3 In the event that all or less than all of the Demised Premises are taken or so sold, and this Lease shall terminate as provided herein. Tenant shall be entitled to any award that it can prove for damage to its leasehold interest, provided that such award is separately allocated to Tenant by the condemning authorities.

ARTICLE XVII. MANAGEMENT

17.1 If the Facility is to be managed by a third party or an affiliate of Tenant (the "**Property Manager**") the Property Manager and any replacement Property Manager must be reasonably acceptable to Landlord and, if consent is required under the Loan Documents, Lender in its discretion in accordance with the terms of the Loan Documents, who will be entitled to receive a market management fee not to exceed market rates on the Facility. The Property Manager will subordinate all of its rights under its management agreement (including, without limitation, its right to receive payment) to Landlord's rights with respect to the Facility but will be entitled to receive and retain payment of its management fee until an Event of Default occurs under the Lease. The property management agreement(s) must provide that the Landlord may terminate and replace the Property Manager with an independent third party property manager if the Tenant fails, within a reasonable period of time, to do so after (a) the Property Manager becomes insolvent or bankrupt; or (b) the Property Manager commits fraud, gross negligence, willful misconduct or misappropriation of fund. In addition, where the Property Manager is affiliated with the Tenant, Lender may terminate and replace the Property Manager with an independent third party property manager if the Tenant fails to do so after (i) any material Event of Default on the Lease occurs that remains uncured beyond any applicable grace period; or (ii) the Property Manager is in default beyond applicable notice and cure periods of any material obligations under the property management agreement(s).

ARTICLE XVIII. ASSIGNMENT AND SUBLETTING

18.1 During the Term of this Lease, Tenant shall not assign this Lease or in any manner whatsoever sublet or transfer any interest in the Demised Premises (whether by management agreement, or otherwise) or any interest in this Lease (an "**Assignment**") without the prior written consent of Landlord in Landlord's sole and unreviewable discretion. Prior to any transfer of possession of the Demised Premises to such transferee, any proposed transferee shall assume all the obligations of Tenant transferred hereunder. In the event any transferee commits an Event of Default, such act or omission shall be deemed an Event of Default hereunder on behalf of the Tenant. Any violation or breach or attempted violation or breach of the provisions of this Article by Tenant, or any acts inconsistent herewith shall vest no right, title or interest herein or hereunder or in the Demised Premises in any such transferee or assignee; and Landlord may, at its exclusive option, invoke the provisions of this Lease relating to default. For purposes of this Article:

(a) Any transfer or transfers of the managerial duties or membership interests in Tenant or its direct or indirect parent (or stock in a corporate Tenant, partnership interests in a partnership Tenant or stock or membership interests in a corporate or limited liability company general partner of a partnership Tenant, or membership interest in any limited liability company direct or indirect owner of the Tenant, as the case may be, or the corporate, partnership or limited liability company direct or indirect owner of the Tenant or such direct or indirect owner) however accomplished, whether in a single transaction or in a series of related or unrelated transactions, which result in a change in ownership in fifty percent (50%) or more in the aggregate of such membership interests in Tenant (or stock in a corporate Tenant, partnership interests in a partnership Tenant or stock or membership interest in a corporate or limited liability company general partner of a partnership Tenant, or the corporate, partnership or limited liability company direct or indirect owner of the Tenant or such direct or indirect owner, as the case may be) shall be deemed an assignment of this Lease. The purpose of this section is to provide that any change in the beneficial ownership of fifty percent (50%) or more of the Tenant, whether direct or indirect or remote, shall require the consent of the Landlord.

(b) Any person, corporation, limited liability company or other entity to whom Tenant's interest under this Lease passes by operation of law, or otherwise, shall be bound by the provisions of this entire Lease and this Article, and except for subsequent subleases, assignments or transfers permitted by this Article, shall obtain the consent of Landlord to any subsequent sublease, assignment, encumbrance or transfer or such event shall be deemed an Event of Default hereunder.

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

ARTICLE XIX. EVENTS OF DEFAULT

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

(a) The failure of Tenant to pay when due any Rent payment, or any part thereof, or any other sum or sums of money due or payable to Landlord under the provisions of this Lease within two (2) days of such payment being due;

(b) The failure of Tenant to perform, or the violation by Tenant of, any material covenants, terms, conditions or provisions of this Lease, if such failure or violation shall not be cured within thirty (30) days, following Tenant's receipt of written notice from Landlord; provided that if such failure cannot be cured within thirty (30) days and is being diligently pursued, then such cure period shall be extended for an additional thirty (30) days;

(c) The making by Tenant of an assignment for the benefit of creditors, or the admission by the Tenant in writing of the Tenant's inability to pay its debts generally as they become due;

(d) The levying of a material writ of execution or attachment on or against the property of Tenant which is not discharged, bonded over or stayed by action of Tenant contesting same, within thirty (30) days after Tenant has actual knowledge of such levy or attachment (provided if the stay is vacated or ended, this section shall again apply);

(e) If proceedings are instituted in a court of competent jurisdiction for the reorganization, liquidation or involuntary dissolution of the Tenant for its adjudication as a bankrupt or insolvent, or for the appointment of a receiver of the property of Tenant, and said proceedings are not dismissed and any receiver, trustee or liquidator appointed therein discharged within one hundred twenty (120) days after the institution of said proceedings;

(f) if Tenant shall be declared bankrupt or insolvent according to law;

(g) if, as a result of any failure by Tenant to perform or observe any of the terms, obligations, covenants or conditions to be performed or observed by it under this Lease, a breach or default shall have occurred and be continuing after any applicable notice and cure periods under the Loan Documents for which breach or default Landlord provided Tenant with at least five (5) Business Days' notice;

(h) The sale of the interest of Tenant in the Demised Premises under execution or other legal process, except to a Foreclosing Party (as hereinafter defined);

(i) Any conveyance or transfer in violation of Article XVIII hereof, except to a Foreclosing Party;

(j) The institution of any proceedings against Tenant by any governmental authority: (i) to revoke any license granted to Tenant for the operation of the Facility as a skilled care nursing home facility; or (ii) to decertify the Facility from participation in the Medicare or Medicaid reimbursement programs; or (iii) for the exclusion, suspension, debarment or disqualification of Tenant or any of its principals from being a health care provider, government contractor, holder of any Health Care License (hereinafter defined) or from or under Medicare or Medicaid;

(k) Any state or governmental deficiencies that Tenant has not, in good faith, attempted to clear up or contest within the required timeframes set forth under any applicable law;

(l) Any material suspension placed upon Tenant, the Health Care Licenses, the Facility, the operations at the Facility or Tenant's ability to admit residents or patients at the Facility (e.g., an admissions ban, which is not appealed or cured within any applicable timeframe or grace period of the applicable governmental authority;

(m) The failure to keep the insurance policies in full force and effect, or the failure to deliver a certificate of insurance with respect to the insurance policies within five (5) Business Days after written request by Landlord or its Lender;

(n) If (1) a final judgment, including any judgment or other final determination of any contest, is entered against Tenant, its shareholder or any other entity in which Tenant has an ownership interest in the amount of One Million Dollars ($1,000,000) or more (to the extent not covered by independent third party insurance as to which insurer does not dispute coverage), or (2) execution or other final process issues thereon with respect to the Tenant's property, and in either case, Tenant does not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereon, within sixty (60) days from entry, or does not, within such period or such longer period during which execution on such judgment shall have been stayed, appeal therefrom or from the order, decree or process upon or pursuant to which such judgment shall have been entered, and cause its execution to be stayed during such appeal, or if on appeal such order, decree or process shall be affirmed and Tenant shall not discharge such judgment or provide for its discharge in accordance with its terms within sixty (60) days after the entry of such order or decree or affirmance, or if any stay of execution on appeal is released or otherwise discharged;

(o) To the extent such cannot be cured by paying applicable registrations fees, if Tenant (i) is a corporation (or partnership or limited liability company) and shall cease to exist as a corporation (or partnership or limited liability company) in the state of its incorporation (or formation) (unless Tenant simultaneously becomes incorporated (or formed) and in good standing in another state and qualified to do business in New Jersey) or (ii) if Tenant is a partnership or limited liability company or other entity and Tenant shall be dissolved or otherwise liquidated, then if Tenant does not completely remedy such default immediately (or if Tenant's only knowledge of such default is by receipt of written notice of such default, then within the thirty (30) day period following receipt of such written notice). A change of name by the Tenant shall not constitute a Default under this Section, but can only be done with approval of any Lender in its sole discretion (if such approval is necessary in accordance with the Loan Documents), and with approval of the Landlord, which approval shall not be unreasonably withheld;

(p) Tenant fails or refuses to execute any certificate or agreement that Lender may request confirming the subordination required pursuant to Loan Documents or estoppel certificate within ten (10) days after Tenant's receipt thereof;

(q) If any material representation or warranty made by Tenant herein or in any report, certificate, financial statement or other instrument, agreement or document furnished to Landlord shall have been materially false or misleading in any material respect as of the date such representation or warranty was made and if susceptible to cure is not cured within thirty (30) days of the date of delivery, which thirty (30) day period shall be extended so long as Tenant is diligently pursuing such cure; or

(r) If Tenant has a Material Healthcare Laws Breach (as defined below);

(s) Tenant shall be in violation of Section 8.2; or

(t) Tenant shall be in violation of Section 28.2.

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

19.2 The occurrence of any of the following acts or events shall be deemed to be a default on the part of Landlord ("**Landlord Default**"):

(a) Except as permitted herein, Landlord's material interference with Tenant's quiet enjoyment of the Demised Premises and Personal Property (provided, however, such quiet enjoyment shall not extend to rights of Lender derived through Landlord); or

(b) The failure of Landlord to perform, or the violation by Landlord of, any of the other covenants, terms, conditions or provisions of this Lease, if such failure or violation shall not be cured within thirty (30) days after written notice thereof by Tenant to Landlord.

The phrase "**Material Healthcare Laws Breach**" as used in subsection (s) of Section 19.1 shall mean any violation or violations of any State or Federal laws or regulations, or applicable accreditation standards, relating to the operation of the Facility if the existence of such violation or violations results in: (i) the commencement of a proceeding by any applicable governmental authority to curtail admissions, or otherwise suspend or revoke any of the material permits or licenses required to operate the Facility provided such proceeding is not dismissed or otherwise settled without such curtailment, suspension or revocation within ninety (90) days after the commencement of such proceeding; or (ii) the Tenant's receipt, with respect to the Facility, of specific survey deficiencies at level I, J, K, L or worse (or similar level deficiencies under any amendments to and/or replacements of the current deficiency grading system which may come into effect) with respect to which (a) Tenant has not, within sixty (60) days after Tenant receives notification of such deficiency, submitted an appropriate Plan of Correction, or (b) Tenant has not received, within one hundred twenty (120) days after the date the Facility was found not in compliance, written confirmation from the applicable governmental authority that the Facility is back in substantial compliance, a copy of which is delivered to Landlord, and requested a re-inspection; or (iii) Tenant's, or any managing members of Tenant's, conviction, plea of guilty, nolo contendere or similar disposition of an alleged felony or any crime involving fraud, theft, embezzlement, illegal drugs, controlled substances, the delivery of healthcare goods or services, or (iv) the commencement of a proceeding by any governmental authority to impose sanctions in the form of a suspension or termination of the Facility's participation in any state or federal health care programs, provided such proceeding is not dismissed or otherwise settled within sixty (60) days after its commencement without such suspension or termination; or (v) the Facility at any time becomes a CMS "Special Focus Facility" or receives any such similar designation as may be instituted from time to time. Notwithstanding the foregoing time frames set forth in (i), (ii)(a) and (b) and (v) above, in the event that the applicable governmental authority mandates a different time frame, such time frame mandated by such governmental authority shall prevail hereunder.

ARTICLE XX. RIGHT TO CONTEST/CURE

20.1 Except for an Event of Default of Tenant in the payment of Rent or any additional payment required hereunder, in any case where Landlord shall have given to Tenant a written notice specifying a situation which, as hereinbefore provided, must be remedied by Tenant within a certain time period, and, if for causes beyond Tenant's control, it would not reasonably be possible for Tenant to remedy such situation within such period, then, provided Tenant, immediately upon receipt of such notice, shall advise Landlord in writing of Tenant's intention to institute, and shall, as soon as reasonably possible thereafter, duly institute, and thereafter diligently prosecute to completion, all steps necessary to remedy such situation and shall remedy the same. During the period necessary to remedy such situation, (but not exceeding a total of ninety (90) days following the initial delivery by Landlord to Tenant of the written notice of default), notwithstanding anything to the contrary contained herein, although such situation shall be deemed an Event of Default hereunder, Landlord shall not pursue and shall not be entitled to pursue any remedies arising solely from the occurrence of such Event of Default hereunder; provided, however, that: (a) no civil or criminal liability would thereby be incurred by Landlord and no lien or charge would thereby be imposed upon or satisfied out of all or any part of the Demised Premises; and (b) there continues during such remedy authority to continue to operate the Facility as a nursing home (which may be temporary or provisional), and (c) such Event of Default does not jeopardize the License or the provider agreements, or the operations, certifications or value of the Demised Premises and the Personal Property.

20.2 Tenant shall promptly provide Landlord with a copy of any notice from any governmental authority or agency threatening or requesting a reduction in the number of licensed Beds at the Facility. Tenant shall have the right to contest any such reduction and shall notify Landlord within ten (10) days following the date of such notice (or such shorter period as required to provide notice to Landlord not later than ten (10) days prior to the cutoff date for any such contest) whether or not Tenant shall undertake such contest. If Tenant fails to contest any such reduction, Landlord may, contest any such reduction. Landlord shall additionally have the right to intervene in any such contest dealing with a reduction in the number of Beds at the Facility.

20.3 The cost for any contest permitted under this Article XX shall be borne by the Tenant. Landlord, at any time during any contest, may participate in the same, provided, that in the event Landlord determines in its reasonable discretion that Tenant is not adequately pursuing such contest to its conclusion, Tenant shall reimburse Landlord for any reasonable costs incurred in connection with such contest, which shall be deemed Rent hereunder.

20.4 Landlord shall cooperate with Tenant, at no cost to Landlord, by providing Tenant with any information or documents in Landlord's control or possession which may be necessary to respond to requests from any governmental authority or to cure any violations related to the operation or use of the Property. In addition, Landlord shall execute any documents as landlord which are required or desired by Tenant in connection with any permits or other documents for the operation and use of the Property.

ARTICLE XXI. LANDLORD'S REMEDIES UPON DEFAULT

21.1 In the event of the occurrence of any Event of Default by Tenant, Landlord shall deliver a second written notice to Tenant indicating in bold-faced type that Tenant's failure to cure such default may result in a termination of the Lease. If Tenant fails to cure such default within ten (10) Business Days after receipt of such second notice, Landlord may, if it so elects, and with notice of such election to Tenant, and upon demand upon Tenant, forthwith terminate this Lease and Tenant's right to possession of the Demised Premises, or, at the option of Landlord, terminate Tenant's right to possession of the Demised Premises without terminating this Lease. Upon any such termination of this Lease, or upon any such termination of Tenant's right to possession without termination of this Lease, Tenant shall vacate the Demised Premises immediately, and shall quietly and peaceably deliver possession thereof to Landlord, and Tenant hereby grants to Landlord full and free license to enter into and upon the Demised Premises in such event with process of law and to repossess the Demised Premises and Personal Property as Landlord's former estate. In the event of any such termination of this Lease, Landlord shall again have possession and enjoyment of the Demised Premises and Personal Property to the extent as if this Lease had not been made, and thereupon this Lease and everything herein contained on the part of Tenant to be done and performed shall cease and terminate, all, however, without prejudice to and without relinquishing the rights of Landlord to Rent or any other right given to Landlord hereunder or by operation of law. In addition to, and not in limitation of, any other rights specified herein, in the event of the occurrence of any Event of Default by Tenant, (a) if the Landlord elects to terminate Tenant's right to possession of the Demised Premises without terminating this Lease, the Landlord may collect the Rent as each installment of Rent comes due from time to time, or (b) declare the entire balance of all Rent due under the Lease for the remainder of the Term less the then reasonably determined fair market base rental rate of the Facility for the same period, to be immediately due and payable discounted to present value calculated using a discount rate equal to seven percent (7.0%).

The exercise by Landlord of any right granted hereunder shall not relieve Tenant from the obligation to make all payments of Rent and to fulfill all other obligations and covenants required by this Lease, at the time and in the manner provided herein. Further, notwithstanding any repossession or termination of the Lease, Tenant shall (a) remain liable for all Rent accruing up to the date of such repossession or termination; (b) be liable to Landlord for all reasonable costs and expenses incurred in connection with repossession (including attorney's fees), entering into a new lease with another tenant, and preparing the Demised Premises for reletting (including repairing, improving, altering and remodeling the Demised Premises), regardless of whether Landlord relets the Demised Premises or any part thereof for a term less or more than the balance of the Term or grants concessions, allowances or free rent or other inducements to a new tenant; and (c) for each month which would have otherwise constituted the balance of the unexpired Term, pay the deficiency between the Rent that would have been payable, less the net amount of rents actually collected by Landlord from a new tenant, if any. Tenant shall not be entitled to any surplus rents. Landlord may at its option, but shall not be required to, attempt to relet the Demised Premises and, if it so elects, shall not be required to use any greater efforts than Landlord uses to lease other properties Landlord owns, to relet the Demised Premises in preference to any other space the Landlord may own; or to accept rent in an amount less than fair market rent for the Demised Premises. Landlord's failure to relet the Demised Premises shall not release or affect Tenant's liability hereunder and Landlord shall not be liable for failure to relet, or failure to collect rent under any reletting, if any. No re-entry or taking possession of the Demised Premises by Landlord will be construed as an election to terminate unless Landlord notifies Tenant in writing of Landlord's election to terminate the Lease.

In the event of an Event of Default and Landlord elects either to terminate this Lease or to terminate Tenant's right to possession of the Demised Premises, then all licenses, certifications, permits and authorizations issued by any governmental agency, body or authority in connection with or relating to the Demised Premises or the Facility thereon shall be deemed as being assigned to Landlord to the extent the same are legally assignable. Landlord shall also have the right to continue to utilize the telephone numbers, internet domain and name used by Tenant in connection with the operation of the Facility. In connection with the foregoing clauses of this Section 21, this Lease shall be deemed and construed as an assignment for purposes of vesting in Landlord all right, title and interest in and to (a) all licenses, certifications, permits and authorizations obtained in connection with the operation of the Facility and (b) the names and telephone numbers used in connection with the operation of the Facility. Tenant hereby agrees to take such other action and execute such other documents as may be reasonably necessary in order to vest in Landlord all right, title and interest to the items specified herein. Landlord and Tenant acknowledge and agree that the Demised Premises, including any certificate of need, the licensed nursing facility Beds and the certification of such nursing facility Beds under Titles XVIII and XIX of the Social Security Act and any and all provider agreements, was, and at all times under the terms of the Lease are, the sole and absolute property of Landlord, and Tenant shall have absolutely no right, title or claim of right whatsoever in and to any of the foregoing and/or the right to operate said nursing facility Beds; provided, however, that Landlord has permitted Tenant as a term of this Lease, to maintain licensure of the Demised Premises as the nominal licensed nursing facility operator and all nursing facility Beds located at the Demised Premises to be in Tenant's name as the licensed nursing facility operator, but only during the Term and provided only as long as Tenant is not in material default or otherwise in material breach of this Lease, both beyond any applicable notice and cure period. Upon any termination of this Lease or any material breach or material 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 certificate of need, nursing home license and any and all provider agreements to be reissued in Landlord's or Landlord's designee's name upon application therefore to New Jersey Department of Health, and to further have the right to have any and all Medicare, Medicaid and any other provider and/or third party payor agreements issued in Landlord or Landlord's designee's name. Tenant shall upon request of Landlord, cooperate with Landlord to effect any such right and shall execute any documents reasonably required to do so.

21.2 If Tenant abandons the Demised Premises or otherwise entitles Landlord so to elect, and Landlord elects to terminate Tenant's right to possession only, without terminating this Lease, Landlord may, at its option, enter into the Demised Premises, remove Tenant's signs and other evidences of tenancy and take and hold possession thereof as in the foregoing Section 21.1 of this Article provided, without such entry and possession terminating this Lease or releasing Tenant, in whole or in part, from Tenant's obligation to pay the Rent hereunder for the full remaining term of this Lease. Upon and after entry into possession without termination of this Lease, Landlord may attempt to relet the Demised Premises or any part thereof for the account of Tenant for such Rent, or may operate the Facility for such time and upon such terms as Landlord in its sole discretion shall determine. In any such case, Landlord may make repairs, alterations and additions in or to the Demised Premises, to the extent reasonably deemed by Landlord desirable, and Tenant shall, upon demand, pay the reasonable cost thereof, together with Landlord's expenses of reletting. If the consideration collected by Landlord upon any such reletting is not sufficient to pay monthly the full amount of Rent reserved in this Lease, together with the costs of repairs, alterations, additions and Landlord's expenses, Tenant shall pay to Landlord the amount of each monthly deficiency upon demand. For purposes thereof, Tenant hereby appoints Landlord its attorney in fact, with power and authority to take any and all acts required to cause the CON, nursing home license, and all other applicable permits, provider and/or third party payor agreements, certifications and licenses, to be reissued in the name of Landlord or Landlord's designee. Such power is coupled with an interest and is irrevocable.

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

21.4 Upon the occurrence of an Event of Default and during the continuation of the Event of Default, the Landlord, at its option, may charge interest on any unpaid Base Rent or Additional Rent at the annual rate of twelve percent (12%).

ARTICLE XXII. LIABILITY OF LANDLORD

22.1 It is expressly agreed by the parties that, except as otherwise provided for in this Lease, Landlord shall not be liable for any damages whatsoever to Tenant beyond the actual damages incurred by Tenant accruing after or upon any act or breach hereunder on the part of Landlord and for which damages may be sought or recovered by Landlord and Tenant's recourse shall be limited to the Landlord's estate in the Demised Premises and the rents and proceeds therefrom.

ARTICLE XXIII. CUMULATIVE REMEDIES OF LANDLORD

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

ARTICLE XXIV. SECURITY FOR RENT

24.1 Landlord shall have a first lien paramount to all others on every right and interest of Tenant in and to this Lease, and on any of Tenant's accounts receivable, furnishings, equipment, or fixtures or property of any kind belonging to Tenant and located at or used in connection with the Facility ("**Landlord's Lien**"). Such lien is granted for the purpose of securing the payments of Rent, charges, penalties, and damages herein covenanted to be paid by Tenant, and for the purpose of securing the performance of all of Tenant's obligations under this Lease. Such lien shall be in addition to all rights to Landlord given and provided by law. This Lease shall constitute a security agreement under the Uniform Commercial Code granting Landlord a security interest in such furnishings, equipment, fixtures or property of any kind and accounts receivable, and upon the request by Landlord, Tenant shall prepare and file, or consent to the filing of, such financing statements and other documents reasonably required to perfect such security interest, which documents shall be filed or recorded at the expense of Tenant. Landlord may prepare and file, such financing statements and other documents reasonably required to perfect such security interest and Tenant hereby consents thereto under the Uniform Commercial Code.

ARTICLE XXV. INDEMNIFICATION

25.1 Tenant agrees to protect, indemnify and save harmless Landlord from and against any claims, demands, losses, and causes of action of any nature whatsoever asserted against or incurred by Landlord on account of: (a) any failure on the part of Tenant during the Term of this Lease to perform or comply with any of the terms of this Lease; (b) injury to or death of persons or loss of or damage to property, occurring on the Demised Premises or any adjoining sidewalks, streets or ways or in any manner growing out of or connected with the use or occupation of the Demised Premises by Tenant or the condition thereof, or the use of any existing or future sewer system, or the use of any adjoining sidewalks, streets or ways occurring after the Effective Date; (c) any claims, penalties, recoveries, interest, monetary sanctions, fees, or other liabilities imposed by a governmental agency or by a third party insurance company related to the operations of or payments made to the Facility while Tenant was providing skilled care nursing services; or (d) any violation by the Tenant of any healthcare laws or any other matter, fact, event or circumstance arising out of the operation of the real property. Tenant further agrees to pay any reasonable attorneys' fees and expenses incident to the defense by Landlord of any such claims, demands or causes of action.

25.2 Landlord agrees to indemnify, defend and save harmless Tenant from and against any liabilities, losses, claims, demands and causes of action whatsoever asserted against or incurred by Tenant on account of Landlord's gross negligence, willful misconduct or breach by Landlord of its obligations under this Lease.

25.3 In the event that any liability, claim, demand or cause of action which is indemnified against by or under any term, provision, section or paragraph of this Lease ("**Indemnitee's Claim**") is made against or received by any indemnified party (hereinafter "**Indemnitee**") hereunder, said Indemnitee shall notify the indemnifying party (hereinafter "**Indemnitor**") in writing within thirty (30) calendar days of Indemnitee's receipt of written notice of said Indemnitee's Claim, provided, however, that Indemnitee's failure to timely notify Indemnitor of Indemnitee's receipt of an Indemnitee's Claim shall not impair, void, vitiate or invalidate Indemnitor's indemnity hereunder nor release Indemnitor from the same, which duty, obligation and indemnity shall remain valid, binding, enforceable and in full force and effect so long as Indemnitee's delay in notifying Indemnitor does not, solely by itself, directly and materially prejudice Indemnitor's right or ability to defend the Indemnified Claim. Upon its receipt of any or all Indemnitee's Claim(s), Indemnitor shall, in its sole, absolute and unreviewable discretion, diligently and vigorously defend, compromise or settle said Indemnitee's Claim at Indemnitor's sole and exclusive cost and expense to the extent funds are available ("**Available Funds**") to fully indemnify such claims, and shall promptly provide Indemnitee evidence of sufficient Available Funds within fourteen (14) calendar days after the final, unappealable resolution of said Indemnitee's Claim. Upon the receipt of the written request of Indemnitee, Indemnitor shall within ten (10) Business Days provide Indemnitee a true, correct, accurate and complete written status report regarding the then current status of said Indemnitee's Claim. Prior to an Indemnification Default (as defined herein), Indemnitee may not settle or compromise an Indemnitee's Claim without Indemnitor's prior written consent. Failure to obtain such consent shall be deemed a forfeiture by Indemnitee of its indemnification rights hereunder. In the event that Indemnitor fails or refuses to indemnify, save, defend, protect or hold Indemnitee harmless from and against an Indemnitee's Claim and/or to diligently pursue the same to its conclusion, or in the event that Indemnitor fails to timely report to Indemnitee the status of its efforts to reach a final resolution of an Indemnitee's Claim, which failure to report causes Indemnitee material harm, or in the event that Indemnitor does not have the Available Funds, on seven (7) calendar days prior written notice to Indemnitor during which time Indemnitor may cure any alleged default hereunder, the foregoing shall immediately, automatically and without further notice be an event of default hereunder (an "**Indemnification Default**") and thereafter Indemnitee may, but shall not be obligated to, immediately and without notice to Indemnitor, except such notice as may be required by law and/or rule of Court, intervene in and defend, settle and/or compromise said Indemnitee's Claim at Indemnitor's sole and exclusive cost and expense, including but not limited to attorneys' fees, and, thereafter, within seven (7) calendar days of written demand for the same Indemnitor shall promptly reimburse Indemnitee all said Indemnitee's Claims and the reasonable costs, expenses and attorneys' fees incurred by Indemnitee to defend, settle or compromise said Indemnitee's Claims.

ARTICLE XXVI. SUBORDINATION PROVISIONS

26.1 Notwithstanding any provision of this Lease to the contrary, this Lease (and Tenant's interest in the Demised Premises and Personal Property) shall be subject and subordinate to the lien of the Loan Documents; provided that, Landlord shall use its commercially reasonable efforts to obtain a subordination, non-disturbance and attornment agreement is entered into with the current and any future holders of any mortgage encumbering the Demised Premises, providing that Tenant's rights hereunder shall not be affected for so long as Tenant is in compliance hereunder. A failure to obtain a non-disturbance agreement shall in no way affect the subordination of this lease. Tenant shall execute and deliver such documents as may be required in order to evidence such subordination within ten (10) Business Days after request therefor; provided that such documents shall not affect any of the provisions of this Lease relating to the amount of Rent, the purposes for which the Demised Premises may be used, the size or location of the Demised Premises, the duration or Effective Date of the Term, nor modify any representations, covenants or warranties made by Landlord hereunder, and such documents shall contain such customary non-disturbance provisions whereby, provided Tenant is not in default under this Lease, beyond any applicable notice and cure period, Tenant shall have the right to remain in possession of the Facility without disturbance after default by Landlord of the Loan Documents.

26.2 Notwithstanding anything to the contrary contained herein, it is understood, agreed and acknowledged that, Landlord shall have the right to finance, refinance and guaranty such financing or refinancing, from time to time, the Demised Premises and Personal Property, and grant a mortgage, deed of trust or security interest thereon, to assign or pledge any or all of its interest in this Lease and Landlord's Lien and to assign or pledge the revenues and receipts to be received by Landlord hereunder to a third party.

ARTICLE XXVII. AESTHETIC UPGRADES

27.1 The Landlord will match the funds paid by the Tenant ("**Tenant Aesthetic Costs**") for Tenant's aesthetic upgrades to the Facility up to Three Hundred Fifty Thousand Dollars ($350,000.00)

("**Landlord Reimbursement Limit**") during each five (5) year period of the Initial Term and the Renewal Term. The Landlord will match each Two Dollars ($2.00) spent by the Tenant with One Dollar ($1.00) of Landlord's funds. The Landlord shall pay to the Tenant to reimburse the Tenant for amounts incurred for Tenant's aesthetic upgrades to the Facility up to the Landlord Reimbursement Limit upon receipt of proof acceptable to the Landlord (a) that such work has been done and paid for by the Tenant and (b) that the Tenant has paid the Tenant Aesthetic Costs and provided that there are no uncured Events of Default or any event which with the passage of time or giving of notice or both would constitute an Event of Default at the time the Tenant requests such reimbursement. The Tenant shall not be entitled to any funds from the Landlord until the Tenant has paid for Seven Hundred Thousand Dollars ($700,000.00) of Tenant Aesthetic Costs and then the Landlord shall pay or reimburse the Tenant for Tenant Aesthetic Costs up to the Landlord Reimbursement Limit.

ARTICLE XXVIII. LOAN DOCUMENT RESERVES; COVENANTS

28.1 Any monthly tax, insurance, or capital expenditure or any other reserves required under the Loan Documents by the Lender against the Demised Premises during the Term of this Lease shall be paid by the Tenant to Landlord and shall be released for payment of the applicable taxes, insurance premiums or capital improvements to the Demised Premises. Any unused capital expenditure reserves paid by Tenant during the Term shall be paid over to Tenant upon return of such from the Lender or the termination of this Lease. The monthly tax, insurance, or capital expenditure reserves required under the Loan Documents are set forth in Schedule 28.1. The Tenant shall pay to the Landlord on the Effective Date the amount of all monthly tax, insurance, or capital expenditure reserves required under the Loan Documents on deposit with the Lender and upon such payment to the Landlord, those funds on deposit with the Lender will become the property of Tenant. Any such amount on deposit with the Lender at the end of the Term shall be paid to Tenant by Landlord or the successor tenant.

28.2 Tenant shall comply with the financial covenants set forth on Schedule 28.2 annexed hereto.

ARTICLE XXIX. TENANT'S ATTORNMENT

29.1 Tenant covenants and agrees that, if by reason of a default upon the part of Landlord herein in the performance of any of the terms and conditions of the Loan Documents and the Lender forecloses on the estate of Landlord in the Demised Premises, Tenant will attorn to Lender or the then holder of such mortgage or the purchaser in such foreclosure proceedings, as the case may be, and will recognize Lender or such holder of the mortgage or such purchaser as Landlord under this Lease. Tenant covenants and agrees to execute and deliver, at any time and from time to time, upon the request of Landlord, Lender, or of the holder of such mortgage or the purchaser in foreclosure proceedings, any instrument which may be reasonably necessary or appropriate to evidence such attornment. In the event any such proceedings are brought against Landlord under such mortgage or the holder of any such mortgage, then Tenant further waives the provisions of any statute or rule or law now or hereafter in effect which may terminate this Lease or give or purport to give Tenant any right of election to terminate this Lease or to surrender possession of the Demised Premises and agrees that, pending any final order, this Lease shall not be affected in any way whatsoever by any such proceedings.

ARTICLE XXX. REPRESENTATIONS

30.1 Landlord represents and warrants as follows:

(a) Landlord is a New Jersey limited liability company, is duly organized and validly existing under the laws of the State of New Jersey, and has the full right and power to enter into, and perform its obligations under this Lease and all agreements or documents entered into or executed in connection therewith, and has taken all requisite actions to authorize the execution, delivery and performance of this Lease and all agreements and documents entered into or executed in connection therewith.

(b) Neither the execution and delivery of this Lease, nor any agreement referred to or contemplated hereby, by Landlord will violate any provision of its Operating Agreement, be in conflict with, constitute a default or create a right of termination or cancellation under any agreement or commitment to which Landlord is a party.

(c) The Beds are the currently licensed long term care beds and behavioral care beds located at the Nursing Home.

30.2 Tenant represents and covenants to Landlord as follows:

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

(b) Tenant acknowledges that it has inspected the Demised Premises and the Personal Property and, subject to the terms and conditions of this Lease, agrees to lease the same in its present "AS IS-WHERE IS" condition. Except as set forth in this Lease, Landlord makes no representations, express or implied, as to the physical condition of the Demised Premises and the Personal Property or any other matter or thing affecting or related to the Demised Premises or the Personal Property (including without limitation any recoupments by governmental payors with respect to periods prior to the Effective Date).

(c) In addition to all other covenants contained herein, Tenant expressly covenants that they shall keep and maintain at the Facility at all times in good order and repair all items of Personal Property necessary for operating the Facility for not less than the current number of Beds in full compliance with all material laws, rules and regulations applicable to the Facility. Tenant shall maintain all such items in good order and repair, subject to reasonable wear and tear, and shall promptly replace any such items which become obsolete, damaged or destroyed with substitute items equivalent to that which has been replaced and such replacement items shall become and be deemed the personal property of Landlord.

(d) Tenant will, as of the Effective Date, be the licensed operator of the Facility, and shall thereafter maintain in good standing such licensure in connection with its operation of the Demised Premises as a nursing facility, and; Tenant shall be, as of the Effective Date certified by, and the holder of valid provider agreements with Medicaid and/or Medicare, as applicable, and shall thereafter maintain in good standing such certifications in connection with its operation of the Demised Premises as a nursing facility.

(e) Tenant shall be, as of the Effective Date, and will thereafter continue to be, in substantial compliance with all state and federal laws, rules, regulations and procedures with regard to the operation of a nursing facility; Tenant will operate the Facility in a manner consistent with high quality nursing care and sound reimbursement principles under the Medicare and Medicaid programs; and Tenant shall not abandon, terminate, vacate or fail to renew any material certificate, license or permit which relates to the operation of the Facility on the Demised Premises or in any way commit any act which will cause any such certificate, license or permit to be revoked by any federal, state or local governmental authority having jurisdiction thereof. Notwithstanding anything contained herein to the contrary, Landlord is merely the Landlord of the Demised Premises which is the subject of this Lease and shall have no liability in connection with the operation of the Facility or the provision of health care services from or at the Facility. Tenant shall have the exclusive responsibility (i) as the operator, licensee and provider of the Facility and all health care services provided from or at the Facility, independent and separate from Landlord; (ii) for securing and maintaining in full force and effect all licenses, permits, accreditations, provider numbers, approvals, qualifications, certifications, and other authorizations granted by any regulatory agency or other governmental authority or accreditation organization relating to or affecting the Facility, the establishment, construction, ownership, operation, maintenance, management, use, regulation, development, expansion or construction thereof, the provision of health care services thereon, and/or the reimbursement of health care costs relating thereto (collectively the "**Health Care Licenses**"); (iii) for compliance with all requirements of governmental authorities and under Health Care Licenses, (iv) for quality control of the Facility and services, and (v) for all computer systems, software, record keeping, data bases and privacy requirements relating to the Facility, all of which shall be provided at Tenant's own expense.

(f) No representation or warranty by or on behalf of Tenant contained in this Lease and no statement by or on behalf of Tenant in any certificate, list, exhibit, schedule or other instrument furnished or to be furnished to Landlord by or on behalf of Tenant pursuant hereto contains any untrue statement of a substantial fact, or omits or will omit to state any substantial facts which are necessary in order to make the statements contained therein, in light of the circumstances under which they are made, not misleading in any substantial respect.

ARTICLE XXXI. TENANT'S COVENANTS

31.1 Tenant covenants that, during the Term and thereafter, Tenant will not (1) relocate or seek regulatory approval to relocate the Facility (or any portion thereof, including an of the Beds) to another location; (2) seek any regulatory approvals relating to the Facility or any of its services without the express prior written consent of Landlord, in its sole and absolute discretion; or (3) enter into any agreement to sell, transfer or assign any of its interests in, or to relocate or build a replacement facility for, any of the facility Beds or seek regulatory approval for any of the foregoing, or for a reduction in the number of Beds.

31.2 In the event of any breach of the provisions of Section 31.1(1), (2) or (3) hereof, and as a result thereof some or all of the facility Beds are not operated at the Demised Premises due to the fault of Tenant, Landlord shall be entitled to $350,000.00 from Tenant and its principals as liquidated damages and not as a penalty. The parties acknowledge and agree that Landlord's right to the $350,000.00, as liquidated damages hereunder would be reasonable in light of the harm caused by Tenant's breach of such provision, the difficulty of proof of Landlord's losses occasioned thereby, and the difficulty, inconvenience or non-feasibility of otherwise obtaining an adequate remedy. Additionally, the execution of any documentation to sell, assign or otherwise transfer any interest in the facility Beds, or the submission of any application to obtain regulatory approval to relocate any of the facility Beds to a location other than the Demised Premises, shall be an Event of Default by Tenant hereunder resulting in an immediate termination of this Lease upon no further notice to Tenant, in addition to any other damages to which Landlord may be entitled.

ARTICLE XXXII. FINANCIAL STATEMENTS

32.1 Within thirty (30) days after each calendar month and ninety (90) days after the end of each of its fiscal years, Tenant shall furnish to Landlord full and complete internally prepared financial statements of the operations of the Demised Premises and the Facility for such annual fiscal period which shall prepared in accordance with generally accepted accounting principles consistently applied and be certified by Tenant that such Financial Statements present fairly the financial condition of Tenant, and which shall contain a statement of capital changes, balance sheet and detailed income and expense statement, and census report by payor (collectively, the "**Financial Statements**"). Each such statement shall be certified as being true and correct by an officer of Tenant. Within one hundred eighty (180) days after the end of each of its fiscal years, Tenant shall furnish to Landlord full and complete audited Financial Statements for the fiscal year then ended.

32.2 Within thirty (30) days after the date for filing Tenant's tax return (as the same may be extended), Tenant shall furnish Landlord with a copy of the tax return for the Facility for said year, certified by an officer of Tenant to be true, correct and complete.

32.3 Within thirty (30) days after the end of each calendar quarter, Tenant shall deliver to Landlord a written statement, certified as true and correct by an officer of Tenant, confirming the amount of the Rent Coverage Ratio for the preceding quarter that Tenant is in compliance with the Rent Coverage Ratio specified on Schedule 28.2.

32.4 At all times, Tenant shall keep and maintain full and correct records and books of account of the operations of Tenant in the Demised Premises and records and books of account of the entire business operations of Tenant in accordance with generally accepted accounting principles. Upon request by Landlord, from time to time, Tenant shall make available for inspection by Landlord or its designee, during reasonable business hours, at the Facility or Tenant's offices, the records and books of account covering the entire business operations of Tenant on the Demised Premises.

32.5 Copies of all lawsuits and administrative proceedings demanding $100,000 or more that are reasonably likely to materially affect the financial condition of the Facility shall be provided to Landlord within five (5) days of receipt, without Landlord demand as well as all notices of governmental or quasi-governmental investigations received by and relating to Tenant including without limitation all ZPIC Audits, AG and OIG Investigations.

32.6 Tenant shall furnish Landlord, within ten (10) days of the receipt by Tenant, of any and all notices (regardless of form) or charges issued relating to a material non-compliance from any health care regulatory agency and/or any third party payor that Landlord's license, Medicare or Medicaid certification is reasonably likely to be downgraded, revoked, or suspended, that action is pending, being considered or being, or could be, taken to downgrade, revoke, or suspend Tenant's license or certification or to fine, penalize or impose remedies upon Tenant, or that action is pending, being taken, or is reasonably likely to be taken, to discontinue, suspend, deny, decrease or recoup any payments or reimbursements due, made or coming due to Tenant or related to the operation of the Facility, any of which is reasonably likely to have an aggregate material adverse effect on the Facility or Tenant; provided, however, that Landlord shall be promptly notified in writing of any material inquiry or investigation by the State Medicaid Fraud Control Unit, The United States Department of Health and Human Services, Office of The Inspector General or by The United States Department of Justice.

32.7 Tenant shall file all required third party payor cost reports on or prior to the date such reports are due and shall make available upon request from Landlord, within thirty (30) days after the date of filing, a complete and accurate copy of the annual Medicare or Medicaid cost report and other annual third party payor cost reports for Tenant, which will be prepared by Tenant, and any amendments filed with respect to such reports and all notices, responses, audit reports or inquiries with respect to such reports.

32.8 Tenant shall furnish Landlord, within ten (10) days of receipt but at least five (5) Business Days prior to the earliest date on which Tenant is required to take any action with respect thereto or would suffer any adverse consequence, a copy of any third party payor or other licensing or accreditation or ranking agency or entity survey, report, warning letter, or notice, and any statement of deficiencies that will include an "immediate jeopardy" or higher, or includes a deficiency score of "substandard quality of care" (as that term is defined in Part 488 of 42 C.F.R.), and within the time period required by the particular agency for furnishing a plan of correction also furnish or cause to be furnished to Landlord a copy of the plan of correction generated from such survey, report, warning letter, or notice for Tenant and by subsequent correspondence related thereto, and correct or cause to be corrected any deficiency, the curing of which is a condition of continued licensure or of full participation in any third party payor program by the date required for cure by such agency or entity (plus extensions granted by such agency or entity).

32.9 Tenant shall provide Landlord with any other information reasonably required by the Lender.

32.10 Tenant shall obtain Landlord's consent to all union contracts for the Facility and any renewal or amendments of same, which consent shall not by unreasonably withheld, conditioned or delayed.

ARTICLE XXXIII. LICENSURE/TERMINATION

33.1 Tenant shall conduct its operations at the Facility at all times, at a minimum, in a manner consistent with or better than governmental authority requirements and, in connection therewith, Tenant shall;

(a) endeavor to maintain a high level of care for the residents of the Facility at all times and shall maintain the standard of care at a level necessary to ensure a level of quality of care for the residents of the Facility in material compliance with health care laws;

(b) maintain a standard of care in the storage, use, transportation and disposal of all medical equipment, medical supplies, medical products or gases, and medical waste, of any kind and in any form, that is in material compliance with all applicable laws;

(c) operate the Facility in a prudent manner in material compliance with applicable laws and cause all health care licenses, the certificate of need, reimbursement or care contracts, and any other agreements necessary for the certification, licensure, accreditation or operation of the Facility; and as may be necessary for participation in each of the third party payor reimbursement programs to remain in effect without reduction in the number of licensed Beds or Beds authorized for use in each of the third party payor reimbursement programs;

(d) not take or permit action which will result in a reduction, suspension, denial or elimination of reimbursement for services from, or material recoupment by, any third party payor that would materially adversely affect Tenant; and

(e) not take any action to rescind, withdraw, revoke, amend, modify, supplement or otherwise alter the nature, tenor, or scope of the health care licenses that would materially adversely affect Tenant and not transfer any rights thereunder to any other location or entity without the express written permission of Landlord which may be granted or denied in Landlord's sole discretion.

33.2 Tenant shall not assign, transfer, or pledge as collateral security any of its interest in any health care licenses, certificates of need or third party payor payment or reimbursement contracts (including rights to payment thereunder) pertaining to Tenant or the Facility, or assign, transfer or remove or permit any other Person to assign, transfer, or remove any records pertaining to the Facility, including, without limitation, resident records, medical and clinical records (except for removal of such patient resident records as directed by the patients or residents owning such records), without Landlord's prior written consent, which consent may be granted or refused in Landlord's sole discretion; provided that Tenant may, to the extent permitted by applicable law and upon prior written notice to Landlord (except for resident records, medical and clinical records which are required in the day to day care of the residents), which such records shall be held at the Facility. Tenant shall hold such health care licenses and certificates of need (to the extent owned by Tenant) free from restrictions or known conflicts that would materially impair the use or operation of the Facility as intended, and are not provisional, probationary or restrictive in any way.

33.3 Tenant shall ensure that the number of Beds for residents of the Facility is not decreased without the prior written consent of Landlord.

33.4 Tenant hereby represents, warrants and certifies to Landlord, as of the Effective Date, as follows:

(a) All health care licenses, required, necessary or desirable for the legal use, occupancy and operation of the Facility have been obtained and are in full force and effect, including, without limitation, approved provider status in any third party payor payment or reimbursement program and a valid certificate of need or similar certificate, license, or approval issued by the applicable governmental authority, as applicable for the requisite number of Beds at the Facility. Tenant possesses and holds free from restrictions or conflicts with the rights of others all such health care licenses, and will operate or shall cause the Facility to be operated in a manner such that such health care licenses shall remain in force and effect.

(b) The health care licenses, including the certificate of need, may not be and have not been transferred by the Tenant to any location other than the Facility, have not been pledged by the Tenant as collateral security, and are held (or will be held on the commencement date of this Lease) free from restrictions or known conflicts that would materially impair the use or operation of the Facility as intended, and are not provisional, probationary or restricted in any way.

(c) Neither Tenant nor, to Tenant's Knowledge, the Facility have taken or will take any action to rescind, withdraw, revoke, amend, modify, supplement or otherwise alter the nature, tenor, or scope of the health care license.

(d) The Facility will be on the Effective Date duly licensed as required under applicable laws of the State in which the Facility is located. The licensed Bed capacity of the Facility is as set forth herein. Neither Tenant nor, to Tenant's Knowledge, the Facility has applied to reduce the number of licensed or certified Beds of the Facility, to move or transfer the right to any and all of the licensed or certified Beds of the Facility to any other location, or to amend or otherwise change the Facility's authorized Bed capacity and/or the number of Beds approved by the applicable governmental authority in the State where the Facility is located, and there are no proceedings or actions pending or, to Tenant's Knowledge, contemplated to reduce the number of licensed or certified Beds of the Facility.

(e) Tenant will be on the Effective Date in material compliance with the requirements for participation in the Medicare and Medicaid Programs with respect to the Facility that currently participates in such programs, including the Medicare and Medicaid Patient and Program Protection Act of 1987, and has a current provider agreement under Title XVIII and/or XIX of the Social Security Act, which is in full force and effect.

(f) To Tenant's Knowledge, as of the date hereof, Tenant is not a target of, participant in, or subject to any action, proceeding, suit, audit, investigation or sanction by any governmental authority or any administrative or investigative body or entity or any other third party or any patient or resident (including, without limitation, whistleblower suits, or suits brought pursuant to federal or state False Claims Acts, and Medicaid/Medicare/State fraud/abuse laws) which may result, directly or indirectly, or with the passage of time, in the imposition of a fine, penalty, alternative, interim or final sanction, a lower rate certification, recoupment, recovery, suspension or discontinuance of all or part of any reimbursement from any governmental authority or third party payor, a lower reimbursement rate for services rendered to eligible patients, or any other civil or criminal remedy, or which could result in the appointment of a receiver or manager, or in the modification, limitation, annulment, revocation, transfer, surrender, suspension or other impairment of a health care license, or affect Tenant or the Facility's current participation in any third party payor program, as applicable or any successor programs thereto, at current rate certification, nor has Tenant any such action, proceeding, suit, investigation proceeding or audit been threatened.

(g) There is no threatened or pending revocation, suspension, termination, probation, restriction, limitation, or non-renewal affecting Tenant or, to Tenant's Knowledge, the Facility or provider agreement with any third party payor.

(h) To Tenant's Knowledge, there are no agreements with residents of the Facility, or with any other persons or organizations, which deviate in any material adverse respect from, or which conflict with, any Applicable Laws. Tenant will have in place as of the Effective Date policies and procedures to maintain all resident records at the Facility, including patient and/or resident account records, in accordance with Applicable Laws and professional standards.

(i) All Third Party Payor insurance cost reports and financial reports submitted by or on behalf of Tenant, the Facility will be materially accurate and complete and will not be misleading in any material respects.

33.5 Tenant acknowledges and agrees that as between Landlord and Tenant, to the extent permitted by Applicable Law, Landlord is and shall always be the holder and owner of the certificate of need and the owner of all certificate of need rights under applicable law authorizing and permitting the use of the Demised Premises as a Facility (collectively, the "**CON**") and Tenant hereby waives and releases any right, title or interest Tenant may now or hereafter have in the CON and covenants and agrees that it will never own, hold or otherwise claim any interest in the CON, which CON will not under any circumstances or conditions, whether now existing or hereafter arising, or whether beyond the present contemplation of the parties, or by contract or implication, ever be assigned, transferred or conveyed to Tenant and Tenant shall under no circumstances be permitted to transfer the rights associated with the Facility to care for patients or residents to any other location.

33.6 Licenses, certificates or permits, trade names, reservations or allocations held in the name of Tenant, an agent or representative of Tenant, or a Facility (except those described in subsection (a) above), which relate to the operation of the nursing home business in the Demised Premises, and the name of the Facility, as then known to the general public shall upon Landlord's written request from and after termination of this Lease, be assigned by Tenant to a replacement licensed operator of the Facility and/or, or a subsequent tenant identified by Landlord, including without limitation its provider agreements and provider numbers to the extent permitted by applicable law and to the extent permitted by the terms of such licenses, certificates or permits, trade names, reservations or allocations. If Tenant fails to make or refuses to recognize the assignment of any licenses, permits or certificates, trade names, reservations or allocations referred to herein, this provision of this Lease shall constitute an act of assignment to the replacement licensed operator and/or tenant identified by Landlord to the extent such assignment is permitted by applicable law and to the extent such assignment is permitted by the terms of such licenses, certificates or permits, trade names, reservations or allocations.

33.7 The present number of Beds utilized in the Demised Premises or any rights to additional beds as a result of the existence of the Facility shall not be transferable by Tenant to others or to other locations unless approved in advance by Landlord in writing, which approval may be tendered or refused at Landlord's sole discretion.

33.8 Tenant shall not and shall not allow any Person to abandon or surrender any licenses, permits, certificates or authorizations required for, or which relate to the operation of, the Demised Premises as a nursing home facility without prior notice to, and receipt of written approval from, Landlord, which approval may be tendered or refused at Landlord's sole discretion. Tenant shall not and shall not allow any Person to act or fail to act in any manner which will cause any licenses, permits or certificates to be revoked or not renewed by any governmental authority having jurisdiction thereof and/or act or fail to act in a manner which jeopardizes the same.

33.9 Tenant shall not permit itself to be in the condition or engage in the conduct set forth in this paragraph. If Tenant files for bankruptcy, becomes insolvent, permits itself to become subject to any action seeking the appointment of a trustee, receiver, liquidator, custodian or similar official of Tenant or a substantial part of its assets, permits itself to become subject to any action of involuntary receivership, fails to pay its debts as they become due, or takes any corporate action to authorize any of the foregoing, Tenant acknowledges and agrees, as permitted by applicable law, that any such proceedings or similar proceedings shall have no impact on the CON, and the CON shall be and remain at all times the property of Landlord. Tenant shall not take any steps or act in a manner that could reasonably be expected to have an adverse effect on Landlord's CON or that would prevent Landlord from the full enjoyment of its CON.

The provisions of Article 33 hereof shall survive the expiration or earlier termination of this Lease.

33.10 Upon termination of this Lease (whether by reason of default, the natural expiration of the Term of otherwise), the following provisions shall be applicable:

(a) Upon the expiration or other termination of this Lease, Tenant shall return to Landlord the Demised Premises and the Personal Property in a condition similar to that which existed on the Effective Date (reasonable wear and tear and obsolescence excepted), licensed by DOH and by any governmental agencies having jurisdiction over the Demised Premises with at least the current number of Beds, and free of liens or encumbrances except for tax liens for current general real estate taxes or special assessments which shall be prorated, and liens of record as of the Effective Date.

(b) Landlord shall keep and shall not be obligated to return to Tenant any Base Rent paid by Tenant; provided that in the event this Lease terminates or expires during a calendar month, Tenant shall receive its prorated portion of Base Rent for the period that this Lease was not in effect. Tenant shall not be obligated to account or pay to Landlord any earnings or income earned from the Effective Date during the Term. Tenant shall pay all bills incurred in the ownership of the Demised Premises and operation of the Facility from the Effective Date through the end of the Term, and shall receive and keep all income and suffer all losses incurred in the ownership of the Demised Premises and operation of the Facility from the Effective Date through the end of the Term.

(c) During the period from the Effective Date through the end of the Term:

(i) Tenant shall be responsible for the payment of all real estate taxes in accordance with the provisions of Article VI hereof;

(ii) Tenant shall maintain all required insurance and Tenant shall be liable for payment of and shall pay the premiums thereon; and

(iii) In case of termination, Tenant shall be liable to return to Landlord, the Demised Premises and all Personal Property in a condition similar to that which existed on the Effective Date, together with any alterations performed therein, reasonable wear and tear excepted, and free of liens or encumbrances arising through Tenant except for tax liens for current general real estate taxes or special assessments, which shall be prorated to the termination date, and except as to consumable items to the extent of consumption thereof, which, as consumed, will be replenished by Tenant, in the ordinary course of business.

(d) Upon termination of this Lease, the parties will request appropriate inspections by governmental agencies upon the return of the Demised Premises to Landlord. Tenant agrees that it will cure any municipal violations issued against the Demised Premises or Personal Property. Tenant agrees to execute such documents and take such actions as may be required in order to restore Landlord to ownership and possession of the Demised Premises and the Personal Property, including, without limitation, execution of any assignment or change of ownership documents required to license Landlord or its assignee to operate the Facility.

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

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

ARTICLE XXXIV. CONDITIONS PRECEDENT AND CONCURRENT TO CLOSING

34.1 The following shall be conditions precedent to Tenant's obligation to proceed with this Lease on the Effective Date:

(a) Tenant shall possess, all necessary approvals, certifications and licenses from all appropriate governmental agencies necessary to permit Tenant to operate the Facility as a skilled nursing facility, including, without limitation, the License permitting Tenant to operate the Facility with at least the current number of Beds;

(b) Landlord shall not be in material breach of any term, provision or condition of this Lease;

(c) Landlord shall have duly and timely performed and fulfilled all of its duties, obligations, promises, covenants and agreements hereunder; and

(d) All schedules and exhibits to this Lease prepared by Landlord shall be true, complete and correct in all material respects.

34.2 The following shall be conditions precedent to Landlord's obligation to proceed with this Lease as of the Effective Date:

(a) Tenant shall have duly and timely performed and fulfilled all of its duties, obligations, promises, covenants and agreements hereunder; and

(b) Tenant shall not be in material breach of any term, provision or condition of this Lease.

34.3 Notwithstanding anything contained in Section 34.1 to the contrary, Tenant may in its sole discretion waive any conditions precedent or conditions concurrent contained in Section 34.1.

34.4 Notwithstanding anything contained in Section 34.2 to the contrary, Landlord may in its sole discretion waive any conditions precedent or conditions concurrent contained in Section 34.2.

34.5 Except as otherwise provided in this Lease, in the event that any of the conditions precedent are not satisfied as of the Effective Date, Tenant's or Landlord's sole and exclusive remedy hereunder shall be to terminate this Lease, in which event, Landlord shall refund any monies paid by Tenant to Landlord with respect to this Lease.

ARTICLE XXXV. RIGHT OF FIRST REFUSAL

35.1 Tenant is hereby granted an ongoing right of first refusal (the "**Right of First Refusal**") with respect to the Demised Premises pursuant to the terms of this Article 35. If at any time during the Term or Renewal Term, Landlord or its affiliate receives a written offer from an independent third party (a "**Purchaser**") to purchase all or any portion of the Demised Premises (as the case may be, collectively, the "**Offered Property**") which Landlord or such affiliate is prepared to accept, and provided no Event of Default has occurred and is continuing, Landlord or such affiliate shall, prior to executing a contract of sale or other binding agreement with such Purchaser, provide a written notice to Tenant ("**Offer Notice**") of Landlord's or such affiliate's, as applicable, intent to sell the Offered Property, which written notice shall include a copy of the written offer received from the Purchaser and the material terms and conditions of the proposed sale, including but not limited to, the proposed Offered Property and the proposed purchase price (the "**Offer**"). Tenant shall advise Landlord in writing ("**Tenant's Determination**") within ten (10) Business Days after receipt of the Offer Notice whether Tenant agrees to exercise its right to acquire the Offered Property in accordance with all of the terms of the Offer. If Tenant elects to accept the Offer pursuant to a timely delivered Tenant's Determination, the parties shall diligently engage in commercially reasonable and good faith negotiations to enter into a written agreement for the purchase and sale of the Offered Property in accordance with all of the terms of the Offer, but providing for a closing of the purchase and sale transaction on the date that is ninety (90) days after Tenant's receipt of the Offer Notice (time being of the essence) or at such other time as is mutually agreed to by the parties to the Purchase Agreement, containing no representations and warranties as to the Offered Property or the condition thereof and otherwise on terms acceptable to the parties in their reasonable discretion (a "**Purchase Agreement**"); provided, that if the parties fail to enter into a Purchase Agreement within thirty (30) days after Tenant's receipt of an initial draft Purchase Agreement from Landlord, for any reason, neither party shall have any liability to the other on account of such failure. If Tenant fails to exercise the Right of First Refusal within ten (10) Business Days after its receipt of the Offer Notice pursuant to this Section 35.1, or if the parties fail to enter into a Purchase Agreement within thirty (30) days after Tenant's receipt of an initial draft Purchase Agreement from Landlord (but only if such failure is due to Tenant's failure to negotiate and enter into the Purchase Agreement in good faith, and the parties are not otherwise engaged in continuing good faith negotiations to finalize the Purchase Agreement on terms acceptable to the parties in their reasonable discretion), then Landlord may sell the Offered Property on substantially the same terms or terms more favorable to Landlord than those set forth on in the Offer Notice; provided, however, if Landlord desires to sell the Offered Property on terms more favorable to the purchaser then the terms offered to Tenant in the Offer Notice, Landlord shall not accept such offer unless it first sends another Offer Notice to Tenant containing the new terms on which Landlord is willing to sell the Offered Property and Tenant fails to exercise its Right of First Refusal within five (5) Business Days after its receipt of the updated Offer Notice.

35.2 Notwithstanding the foregoing, Tenant shall have no Right of First Refusal (a) at any time while an Event of Default has occurred and is continuing, (b) with respect to any sale of the Offered Property to a Purchaser that controls, is controlled by or is under common control with Landlord, (c) with respect to any foreclosure or deed-in-lieu of foreclosure of the Offered Property to a lender or other lienholder, or any transfer of the Offered Property that is involuntary or occurs by operation of law, (d) with respect to any sale or other transfer of both the Offered Property and any other real property that is not a portion of the Demised Premises as part of a portfolio transaction, or (e) at any time after Tenant or its designee or guarantor defaults under a Purchase Agreement.

35.3 Tenant may not sell, assign, transfer, hypothecate or otherwise dispose of the Right of First Refusal granted herein or any interest therein, except to a direct transferee or direct assignee of Tenant's entire interest in the Lease and the Demised Premises pursuant to or an Assignment approved by Landlord in accordance with the terms of Article XVIII of this Lease. Any attempted assignment of the Right of First Refusal in violation of the preceding sentence shall result in the Right of First Refusal granted herein being null and void. For clarity, under no circumstances may the Right of First Refusal be assigned or transferred or assigned separately from Tenant's interest in this Lease, and any such purported assignment or transfer shall be void *ab initio*.

35.4 At Tenant's request, Landlord and Tenant shall enter into a memorandum in recordable form to memorialize this Right of First Refusal and Tenant shall have the right to cause such memorandum to be recorded in the public records of the county in which the Demised Premises are located, the costs of preparation and recording of which shall be borne solely by Tenant.

ARTICLE XXXVI. MISCELLANEOUS

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

36.2 All payments to be made by the Tenant hereunder (other than Base Rent), whether or not designated as "**Additional Rent**", shall be deemed Additional Rent, so that in the event of a default of payment when due, Landlord shall be entitled to all of the remedies available at law or equity, or under this Lease, for the nonpayment of Rent.

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

36.4 Landlord and Tenant agree that, at the request of either party, a memorandum of this Lease reasonably acceptable to each of Landlord and Tenant shall be executed by both parties and recorded in the real property records of the county in which the Demised Premises are located.

36.5 Tenant represents that it did not deal with any broker in connection with this Lease, and hereby indemnifies Landlord against the claims or demands of any broker claimed through a relationship with Tenant. Landlord represents that it did not deal with any broker in connection with this Lease, and hereby indemnifies Tenant against the claims or demands of any broker claimed through a relationship with Landlord.

36.6 If an action shall be brought to recover any Rent under this Lease, or for or on account of any breach of or to enforce or interpret any of the terms, covenants or conditions of this Lease, or for the recovery of possession of the Demised Premises, the Landlord shall be entitled to recover from the Tenant, reasonable attorneys' fees incurred in the enforcement of this Lease.

36.7 Should Tenant hold possession hereunder after the expiration of the Term of this Lease with or without the consent of Landlord, Tenant shall become a tenant on a month to month basis upon all the terms, covenants and conditions herein specified, excepting however that Tenant shall pay Landlord a monthly rental, for the period of such month-to-month tenancy, in an amount equal to one and one-half times the last Rent specified.

36.8 All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered (i) upon the delivery (or refusal to accept delivery) by personal delivery, messenger or overnight express delivery service (or, if such date is not on a Business Day, on the Business Day next following such date), (ii) on the third (3rd) Business Day next following the date of its mailing by certified mail, postage prepaid, at a post office maintained by the United States Postal Service, or (iii) by electronic mail transmission, addressed as follows:

If to Landlord:

CEDAR HILL REALTY
ASSOCIATES, LLC
175 Belgrove Drive
Kearny, New Jersey 07032
Attn: David Sussman

If to Tenant:

CG HEALTHCARE, LLC
175 Belgrove Drive
Kearny, New Jersey 07032
Attn: David Sussman

or such other address that any party designates to the other by written notice given in the manner stated above. Any notice sent by electronic mail shall be deemed delivered upon transmission, so long as said transmission is evidenced by proof of said transmittal and sent before 5:00 p.m. local time at the place of the recipient and if sent after 5:00 p.m. shall be deemed delivered on the next Business Day. Notices from counsel to Landlord shall for all purposes hereunder constitute notice from Landlord. Notices from counsel to Tenant shall for all purposes hereunder constitute notice from Tenant.

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

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

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

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

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

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

36.15 All nouns and pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons, firm or firms, corporation or corporations, entity or entities or any other thing or things may require. "Any" or "any" shall mean "any and all"; "or" shall mean "and/or"; "including" shall mean "including, but not limited to".

36.16 This Lease may be executed in counterparts, each of which shall for all purposes be deemed an original, and all of such counterparts shall together constitute one and the same agreement.

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

36.18 This Lease shall be construed in accordance with the laws of the State of New Jersey without regard to conflict of laws principles.

36.19 The parties hereto agree that with respect to all disputes, problems or claims arising out of or in connection with this Lease and all other agreements or other instruments executed in connection herewith, including and any claim for indemnification by either of the parties hereto (collectively, "**Disputes**"), the parties hereto shall, in good faith, use their reasonable efforts to resolve the Dispute. If after such efforts the parties hereto are unable within ten (10) days of the arising of the Dispute to resolve the Dispute in good faith, then either party may elect, by written notice to the other party hereto, to submit such dispute to arbitration pursuant to this Section 36.19. In such event, the parties shall use best efforts to use a mutually agreed upon arbitrator (the "**Arbitrator**"). In the event the parties are unable to mutually agree upon the Arbitrator, within fifteen (15) days of the notice submitting such dispute to arbitration, then either party may submit to final and binding arbitration before the American Arbitration Association

("**AAA**"), or its successor, pursuant to the Federal Arbitration Act, 9 U.S.C. Sec. 1 *et seq*. In the event AAA is utilized: (a) the parties hereto agree that the rules of the American Arbitration Association applicable to commercial arbitrations shall apply to any such arbitration and that the Expedited Procedures under the Commercial Arbitration Rules shall apply, (b) either party may commence the arbitration process called for in this Lease by filing a written demand for arbitration with AAA, with a copy to the other party, and (c) the arbitration will be conducted in accordance with the provisions of AAA Streamlined Arbitration Rules and Procedures in effect at the time of filing of the demand for arbitration. The parties will cooperate with either the Arbitrator or AAA, as applicable, and with one another in selecting an arbitrator from a panel of neutrals, and in scheduling the arbitration proceedings. The provisions of this Section 36.19 with respect to the arbitration before either the Arbitrator or AAA may be enforced by any court of competent jurisdiction, and the parties agree that any such enforcement action shall be brought in courts of competent jurisdiction having situs in the location of the Demised Premises and fully submit to the jurisdiction of any such courts and the parties seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the parties against whom enforcement is ordered. The fees and expenses of such arbitration shall be borne by the non-prevailing party, as determined by such arbitration. Upon the mutual agreement of the parties involved in the Dispute, the parties may submit to final and binding arbitration before any other recognized alternative dispute resolution company or organization. Any arbitration hereunder shall be conducted by each party choosing one arbitrator and the two chosen arbitrators choosing a third arbitrator. The parties hereto agree that this Section 36.19 has been included to rapidly and inexpensively resolve any disputes between them with respect to the matters described above, and that this paragraph shall be grounds for dismissal of any court action commenced by any party with respect to a dispute arising out of such matters. Notwithstanding the foregoing provisions of this Section 36.19, in no event may Tenant require Landlord to arbitrate any Dispute regarding the occurrence of an Event of Default by Tenant or the exercise by Landlord of its remedies for an Event of Default pursuant to this Lease or applicable law.

36.20 It is expressly understood and agreed that except as otherwise expressly provided herein, this Lease shall not be construed as creating any personal liability whatsoever against any member, officer, director, shareholder or agent of Landlord and/or of Tenant and in particular without limiting the generality of the foregoing, there shall be no personal liability to pay any obligations set forth herein or to perform any covenant, either expressed or implied, herein contained, and that, except as otherwise provided herein, all personal liability of any member, officer, director, shareholder or agent of Landlord and/or of Tenant of every sort, if any, is hereby expressly waived by the other party hereto.

36.21 The term "**Knowledge**" as used herein shall be deemed to mean the best of a Person's knowledge, and of the principals, officers and agents of such Person. Any fact or circumstance that a Person and their principals, officers or agents reasonably should know assuming commercially reasonable best efforts were utilized, shall be deemed the Knowledge of such Person. The term "**commercially reasonable efforts**" or any similar phrase shall mean the efforts that a commercially reasonable Person desirous of achieving a result would use in similar circumstances to achieve that result as expeditiously as reasonably practicable, provided, however, that a Person required to use commercially reasonable efforts under this Lease will not thereby be required to take any action that would result in a material adverse change in the benefits to such Person of this Lease or the transactions contemplated hereby or to make any change in its business, incur any extraordinary fees or expenses or incur any other material burden. "**Person**" shall mean any individual, partnership (general and/or limited), association, corporation, limited liability company, trust, joint venture or other legal entity of any and every nature whatsoever.

ARTICLE XXXVII. MORTGAGES OF TENANT'S INTEREST

37.1 Provided that the Tenant shall have obtained the prior consent of Lender, Tenant shall have the right to collaterally assign all of its rights, title, and interests hereunder, and to mortgage and encumber Tenant's leasehold interest under this Lease by any deed of trust, mortgage, or other instrument (any such instrument, a "**Leasehold Mortgage**"), to secure a debt or debts (each a "**Loan**") without any further consent from Landlord; provided, however, that (x) any such Leasehold Mortgage shall be a lien on Tenant's interest in this Lease and shall not encumber Landlord's interest in this Lease or Landlord's fee interest in the land on which the Demised Premises are located, (y) the applicable deeds of trust, mortgages, promissory notes, agreements, and any other instruments or documents (collectively, the "**Financing Documents**") creating any obligation to repay, securing any obligation to repay, or pledging Tenant's interest in this Lease as security for any such obligation to repay, comply with and satisfy the criteria set forth in this Section 37.1 (collectively, the "**Loan Criteria**"), and (z) each applicable Financing Documents shall include such provisions as may be necessary to give full effect to the Loan Criteria.

(a) A Leasehold Mortgage must be obtained from an Institutional Lender. An "**Institutional Lender**" means a bank, trust company, insurance company, pension fund or other entity which regularly engages in the lending of money and/or the holder of any mortgage which is a security for the issuance of public or private bonds or a syndication offering similar obligations having a net worth of at least $50,000,000 and which is not a Precluded Transferee. A "**Precluded Transferee**" means shall mean any person or entity that by virtue of its designation as an "excluded person" is excluded under the U.S. Department of Health and Human Services ("**HHS**") Office of Inspector General's ("**OIG**") List of Excluded Individuals/Entities, the U.S. General Services Administration's Excluded Parties List System, or otherwise excluded from participation in Medicare or other Federal Health Care Programs (as defined therein), or is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal or state department or agency, or (i) is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order of the President of the United States listing such person as a "Prohibited Person"; (ii) that is owned or controlled by, or acting for or on behalf of, any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, such Executive Order; with whom either Landlord or Tenant are prohibited from dealing or otherwise engaging in any transaction by any terrorism or money laundering legal requirements, including the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (known as the Patriot Act) and the Executive Order; (iii) that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; (iv) that is named as a "specifically designated national" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, http://www.treas.gov.ofac/t11sdn.pdf, or any replacement website or other replacement official publication of such list or is named on any other U.S. or foreign government or regulatory list issued; (v) that is covered by the International Emergency Economic Power Act, 50 U.S.C. §1701 et. seq., the U.S. Department of Treasury's Office of Foreign Asset Control, or any other law, regulation, or executive order relating to the imposition of economic sanctions against any country, region or individual pursuant to United States law or United Nations resolution; or (vi) that is an affiliate (including any principal, officer, immediate family member, or close associate) of a person described in one or more of clauses (i) – (vi) of this definition of Precluded Transferee. Tenant shall have the right to Leasehold Mortgage its leasehold interest under this Lease to a party other than an Institutional Lender only with Landlord's prior written approval.

(b) The Financing Documents shall provide that any notice of default required to be given to Tenant thereunder shall simultaneously be supplied to Landlord, at the address designated for Landlord as set forth in Section 36.8 of this Lease, and shall provide Landlord the right, but Landlord shall not be obligated, to remedy any default or pay any delinquent payment due under each such Financing Document, to the same extent, on the same terms and upon the same notice as given to Tenant. Any such payment or expense incurred by Landlord shall be due from Tenant as Additional Rent on demand, but any such payment by Landlord shall not be a waiver of Tenant's default or of any other rights or remedies of Landlord under this Lease.

(c) On the date that Tenant is granted any new Loan, the outstanding principal balance of all of Tenant's existing Loans (which are not then being repaid) *plus* the principal amount of the new Loan shall not exceed eighty percent (80%) of the sum of the Current Fair Market Value *plus* Closing Costs (as such terms are defined below in this Section 37.1(c)) (eighty percent (80%) of such sum, the "**Maximum Loan Amount**"). "**Current Fair Market Value**" shall mean the amount, as determined by a professional appraiser with not less than ten (10) years' experience valuing similar projects in New Jersey, which a willing and able buyer would pay, and a willing and able seller would accept, for Tenant's remaining ground leasehold interest under this Lease as of the date of the applicable Loan, considering income flow from the Demised Premises, the replacement cost of the improvements thereon, less depreciation, and sales of comparable improvements, but not considering the fee simple value of the land on which the Demised Premises are located, and assuming there was no requirement that such leasehold interest be sold. "**Closing Costs**" shall mean the aggregate costs paid by Tenant related to the closing of any Loan or the underlying transaction related to any Loan, which such amount shall accumulate over time for all Loans, and such running sum shall constitute the "**Closing Costs**" hereunder.

(d) Tenant shall provide drafts of the proposed Financing Documents with respect to each Loan to Landlord for its review and approval, which will not be unreasonable withheld or delayed provided that such Financing Documents contain commercially reasonable terms and do not adversely affect the Landlord or its Lender. All costs incurred by the Landlord in its and its counsel's review of the Financing Documents will be paid by the Tenant.

37.2 So long as Tenant meets the Loan Criteria set forth in Section 37.1, Landlord shall use commercially reasonable efforts to cooperate with Tenant in Tenant obtaining a Leasehold Mortgage, including without limitation by completing and submitting commercially reasonable forms, attestations, and other documents reasonably required by a Leasehold Mortgagee that are not inconsistent with the terms of this Lease all at the Tenant's sole cost and expense. Notwithstanding anything contained herein to the contrary, any such Leasehold Mortgage shall be subject and subordinate to all matters of record as of the Effective Date, and the terms of this Lease, and Landlord will not be required to pledge or subordinate its fee simple ownership interest in the Demised Premises to the lien of any Leasehold Mortgage. Additionally, Tenant and any Institutional Lender providing a Leasehold Mortgage (a "**Leasehold Mortgagee**") acknowledge and agree that by any Leasehold Mortgage, Landlord has not assumed any obligations of Tenant under such Leasehold Mortgage or any of the related Financing Documents.

37.3 Tenant shall timely meet all of its obligations under all Financing Documents including without limitation any Leasehold Mortgage.

37.4 Landlord recognizes, acknowledges and consents to the liens and security interests of Leasehold Mortgagee in the personal and intangible property of Tenant, and Landlord subordinates any security interests or liens that it has or may have in the future to such personal and intangible property, whether now or in the future, and Landlord further agrees that in the event that Landlord acquires any such personal and intangible property of Tenant, such acquisition shall be subject and subordinate to any liens and security interests of Leasehold Mortgagee.

37.5 Landlord, upon delivering to Tenant any notice of default ("**Notice of Default**") under the provisions of or with respect to this Lease, shall also deliver a copy of the notice to Leasehold Mortgagee.

37.6 Leasehold Mortgagee shall have the right to cure any default by the Tenant hereunder and Landlord shall accept such performance by or at the direction of Leasehold Mortgagee as if it had been made by Tenant.

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