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**SUBORDINATION, ASSIGNMENT  
AND SECURITY AGREEMENT**

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**SUBORDINATION, ASSIGNMENT  
AND SECURITY AGREEMENT  
(Borrower and Property Operator)  
(Seniors Housing)**

This SUBORDINATION, ASSIGNMENT AND SECURITY AGREEMENT (this “Assignment”) is made and entered into as of February 15, 2019, by and among (i) BIRMINGHAM AL SENIOR PROPERTY LLC, a Delaware limited liability company (“**Borrower**”), (ii) CAPITAL ONE, NATIONAL ASSOCIATION, a national banking association (“**Lender**”), (iii) NINETEEN SENIOR CARE LLC, a Delaware limited liability company (“**Operator**”), and (iv) SOMERBY SENIOR LIVING SERVICES, LLC, an Alabama limited liability company (“**Manager**”) (individually and collectively, Operator and Manager, “**Property Operator**”).

**RECITALS:**

A. Pursuant to that certain Amended & Restated Master Credit Facility Agreement dated as of the date hereof, executed by and between Borrower and Lender and others (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Master Agreement**”), Lender is making loans in favor of Borrower, comprised of a \$266,331,000 Variable Advance (collectively, the “**Advances**”), in accordance with the terms of the Master Agreement, as evidenced by, among other things, one or more Renewed, Amended and Restated Multifamily Notes, executed by Borrower (and the other borrowers party to the Master Agreement) and made payable to Lender (individually and collectively, as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Note**”).

B. In addition to the Master Agreement, the Advances and the Note are also secured by, among other things, one or more Amended and Restated Multifamily Mortgages, Deeds of Trust or Deeds to Secure Debt (individually and collectively, as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Security Instrument**”).

C. Borrower is the owner of a Seniors Housing Facility known as Somerby of St. Vincent’s One Nineteen, and located in Shelby County, Alabama, as more particularly described in the Security Instrument as the “**Mortgaged Property**.” A legal description of the Mortgaged Property is attached hereto as Exhibit A.

D. Operator is the operating tenant of the Mortgaged Property pursuant to that certain Lease Agreement dated as of December 21, 2018, between Borrower and Operator (as may be hereinafter amended and modified from time to time, the “**Operating Lease**”) and is the holder of the Licenses, as set forth on Exhibit C.



E. Manager is the manager of the Mortgaged Property pursuant to that certain Management Agreement dated as of December 21, 2018 between Operator and Manager (as may be hereinafter amended or modified from time to time, the “**Management Agreement**”).

F. Lender requires and Property Operator is willing to subordinate its right, title and interest to and under the Facility Operating Agreement to the Master Agreement and the Security Instrument and to assign all of its interest, as applicable, in Leases, Rents, Personalty, Contracts and Accounts to Lender as additional security for the Advances.

G. Property Operator is willing to consent to this Assignment, to perform its obligations under the Facility Operating Agreement and this Assignment for Lender, or its successors and assigns in interest, and to permit Lender to terminate the Facility Operating Agreement without liability.

**AGREEMENTS:**

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Borrower, Lender and Property Operator agree as follows:

**1. Definitions; Parties.**

(a) Capitalized terms used and not specifically defined herein have the meanings given to such terms in the Master Agreement or the Security Instrument, as applicable. The following terms, when used in this Assignment, have the following meanings:

“**Advances**” has the meaning as defined in Recital A above.

“**Event of Default**” means any Event of Default under the Loan Documents, including under this Assignment.

“**Facility Operating Agreement**” means, individually and collectively, any of an Operating Lease, Sublease, Management Agreement or other agreement setting forth the responsibilities for the operation, management, maintenance, or administration of the Mortgaged Property as a Seniors Housing Facility, as identified in the Recitals. Any reference herein to the Facility Operating Agreement as it relates to Manager shall mean the Management Agreement.

“**Facility Operating Agreement Rent**” means any rent, fees or other sums due or to become due by Property Operator to Borrower under a Facility Operating Agreement.

“**Goods**” means (except as set forth on Schedule 1 attached hereto) all of the following that are (a) located on the Mortgaged Property, (b) used or intended to be used now or in the future in connection with the management or operation of the Mortgaged Property, or (c) held or generated by Property Operator specifically with respect to the Mortgaged Property: inventory; furniture;

furnishings; machinery, equipment, engines, boilers, incinerators, and installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air or light; antennas, cable, wiring, and conduits used in connection with radio, television, security, fire prevention, or fire detection, or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains, and curtain rods; mirrors, cabinets, paneling, rugs, and floor and wall coverings; fences, trees and plants; swimming pools; exercise equipment; supplies; tools; books and records (whether in written or electronic form); websites, URLs, blogs and social network pages exclusive to the Mortgaged Property; computer equipment (hardware and software) exclusive to the Mortgaged Property; all kitchen or restaurant supplies and facilities; dining room supplies and facilities; medical supplies and facilities; leasehold improvements or related furniture and equipment; including all present and future parts, additions, accessories, replacements, attachments, accessions, replacement parts and substitutions of the foregoing, and the proceeds thereof (cash and non-cash, including insurance proceeds); and any other equipment, supplies or furniture owned by Property Operator and leased to any third party service provider or any other operator or manager of the Mortgaged Property; and other tangible personal property which is used now or in the future in connection with the management or operation of the Mortgaged Property or is located on the Mortgaged Property.

“**Land**” means the land described in Exhibit A.

“**Mortgaged Property**” has the meaning as defined in Recital C above provided, however, the following is hereby carved out from Section (m) thereof: provided, however, that the names “**Somerby of St. Vincent’s One Nineteen**,” “**Somerby at St. Vincent’s One Nineteen**,” and “**Memory Care at Somerby at St. Vincent’s One Nineteen**,” and associated trademark rights (collectively, the “**Brand Rights**”) are not assigned to Lender, subject to the following: Operator agrees that if any signage or other materials bearing the Brand Rights exist on the Mortgaged Property on the date Lender acquires the Mortgaged Property through a Foreclosure Event, then, to the extent Borrower has a right to grant Lender a license, Lender shall have an irrevocable license, coupled with an interest and for which consideration has been paid and received, to use the signage and materials bearing the Brand Rights then existing on the Mortgaged Property in connection with operating the Mortgaged Property for a period not to exceed one hundred eighty (180) days after the date Lender acquires the Mortgaged Property through a Foreclosure Event.”

“**Operating Covenants**” means all terms, conditions, provisions, requirements, representations, and affirmative and negative covenants of the Loan Documents relating to the use and operation of the Mortgaged Property, which shall also be deemed to run directly to the Property Operator.



**“Personalty”** means (except as set forth on Schedule 1 attached hereto) all Goods, accounts, choses of action, chattel paper, documents, general intangibles (including software), payment intangibles, instruments, investment property, letter of credit rights, supporting obligations, computer information, source codes, object codes, records and data, all telephone numbers or listings, claims (including claims for indemnity or breach of warranty), deposit accounts and other property or assets of any kind or nature related to the Mortgaged Property now or in the future, and all other intangible property and rights relating to the management or operation of, or used in connection with, the Mortgaged Property, including all governmental permits relating to any activities on the Mortgaged Property.

**“Property Operator”** has the meaning as defined in the Preamble above.

**“Seniors Housing Facility Lease”** means, individually and together, any Operating Lease or Sublease.

**“Third Party Payments”** means all payments and the rights to receive such payments from Medicaid or other federal, state or local programs, boards, bureaus or agencies, and from residents, private insurers or others relating to the Mortgaged Property.

**“UCC Collateral”** means, collectively, the Facility Operating Agreement, any of the Accounts, Contracts, Leases, Personalty, Rents and Third Party Payments located at or, as applicable, related to the Mortgaged Property, which, under applicable law, may be subject to a security interest under the UCC, whether acquired now or in the future and all products and cash and non-cash proceeds thereof.

(b) Any reference to Property Operator in this Assignment shall refer to Operator, Sublessee, Manager or other entity each in their respective capacities as being responsible for the management and operation of the Mortgaged Property under the applicable Facility Operating Agreement and made a party hereto.

Any assignment of Leases, Rents, Licenses, Personalty, Contracts, Third Party Payments and Accounts made by a Property Operator under this Assignment shall be to the extent such Property Operator has a present or hereinafter acquired interest in such Leases, Rents, Licenses, Personalty, Contracts, Third Party Payments and Accounts.

Any representation, warranty or covenant made by a Property Operator under this Assignment shall be to the extent that such Property Operator has an interest in the Mortgaged Property or Facility Operating Agreement, as applicable. To the extent that a Property Operator does not have an interest in the Mortgaged Property or Facility Operating Agreement, any such representation, warranty or covenant shall not be applicable to such party.

**2. Uniform Commercial Code Security Agreement.**

(a) To secure to Lender, the performance of the covenants and agreements of Property Operator contained in this Assignment, Property Operator hereby pledges, assigns, and grants to Lender a continuing security interest in the UCC Collateral. This Assignment constitutes a security agreement and a financing statement under the UCC. Property Operator hereby authorizes Lender to file financing statements, continuation statements and financing statement amendments in such form as Lender may require to perfect or continue the perfection of this security interest without the signature of Property Operator. If an Event of Default has occurred and is continuing, Lender shall have the remedies of a secured party under the UCC or otherwise provided at law or in equity, in addition to all remedies provided by this Assignment. Lender may exercise any or all of its remedies against the UCC Collateral separately or together, and in any order, without in any way affecting the availability or validity of Lender's other remedies. For purposes of the UCC, the debtor is Property Operator and the secured party is Lender. The name and address of the debtor and secured party are set forth after Property Operator's signature below which are the addresses from which information on the security interest may be obtained.

(b) Each Property Operator represents and warrants solely with respect to itself that: (i) Property Operator maintains its chief executive office at the location set forth after Property Operator's signature below, and Property Operator will notify Lender in writing of any change in its chief executive office within five (5) days of such change; (ii) Property Operator's state of incorporation, organization, or formation, if applicable, is as set forth on Page 1 of this Assignment; (iii) Property Operator's exact legal name is as set forth on Page 1 of this Assignment; (iv) Property Operator's organizational identification number, if applicable, is as set forth after Property Operator's signature below; (v) Property Operator is the owner of the UCC Collateral subject to no liens, charges or encumbrances other than the lien hereof; (vi) except as expressly provided in the Master Agreement, the UCC Collateral will not be removed from the Mortgaged Property without the consent of Lender; and (vii) no financing statement covering any of the UCC Collateral or any proceeds thereof is on file in any public office except pursuant hereto or pursuant to the other Loan Documents.

(c) All property of every kind acquired by Property Operator after the date of this Assignment which by the terms of this Assignment shall be subject to the lien and the security interest created hereby, shall immediately upon the acquisition thereof by Property Operator and without further conveyance or assignment become subject to the lien and security interest created by this Assignment. Nevertheless, Property Operator shall execute, acknowledge, deliver and record or file, as appropriate, all and every such further security agreements, financing statements, assignments and assurances as Lender shall require for accomplishing the purposes of this Assignment and to comply with the re-recording requirements of the UCC.



**3. Assignment of Leases and Rents; Appointment of Receiver; Lender in Possession.**

(a) As part of the consideration for Lender's approval of the Facility Operating Agreement, Property Operator absolutely and unconditionally assigns and transfers to Lender any interest it has in all Leases and Rents. It is the intention of Property Operator to establish present, absolute and irrevocable transfers and assignments to Lender of all Rents and to authorize and empower Lender to collect and receive all Rents without the necessity of further action on the part of Property Operator. Property Operator and Lender intend these assignments of Leases and Rents to be effective immediately and to constitute absolute present assignments, and not assignments for additional security only. However, if these present, absolute and unconditional assignments of Leases and Rents are not enforceable by their terms under the laws of the Property Jurisdiction, then it is the intention of Property Operator that in this circumstance this Assignment create and perfect a lien on Leases and Rents in favor of Lender to secure the obligations of Property Operator under this Assignment and Borrower's obligations under the Loan Documents, which lien shall be effective as of the date of this Assignment.

(b) Until an Event of Default has occurred and is continuing, but subject to the limitations set forth in this Assignment, Property Operator shall have a revocable license to exercise all rights, power and authority granted to Property Operator under the Leases (including the right, power and authority to modify the terms of any Lease, extend or terminate any Lease, or enter into a new Lease, other than a Seniors Housing Facility Lease, subject to the limitations set forth in this Assignment and the Master Agreement), and to collect and receive all Rents, to hold all Rents in trust for the benefit of Lender, and, if applicable, to apply all Rents to pay the Facility Operating Agreement Rent, and to pay the current costs and expenses of managing, operating and maintaining the Mortgaged Property, including utilities and Impositions (to the extent not included in Imposition Deposits), tenant improvements and other capital expenditures. So long as no Event of Default has occurred and is continuing (and no event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing), the Rents remaining after application pursuant to the preceding sentence may be retained and distributed by Property Operator free and clear of, and released from, Lender's rights with respect to Rents under this Assignment.

(c) If an Event of Default has occurred and is continuing, without the necessity of Lender entering upon and taking and maintaining control of the Mortgaged Property directly, by a receiver, or by any other manner or proceeding permitted by the laws of the Property Jurisdiction, the revocable license granted to Property Operator pursuant to Section 3(b) shall automatically terminate, and Lender shall immediately have all rights, powers and authority granted to Property Operator under any Lease (including the right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease) and, without notice, Lender shall be entitled to all Rents as they become due and payable, including Rents then due and unpaid. During the continuance of an Event of Default, Property Operator authorizes Lender to collect, sue for and compromise Rents and directs each resident or tenant of the Mortgaged Property to pay all Rents to, or as directed by, Lender, and Property Operator shall, upon Property Operator's receipt of any

Rents from any sources, pay the total amount of such receipts to Lender. Although the foregoing rights of Lender are self-effecting, at any time during the continuance of an Event of Default, Lender may make demand for all Rents, and Lender may give, and Property Operator hereby irrevocably authorizes Lender to give, notice to all residents or tenants of the Mortgaged Property instructing them to pay all Rents to Lender. No resident or tenant shall be obligated to inquire further as to the occurrence or continuance of an Event of Default, and no resident or tenant shall be obligated to pay to Property Operator any amounts that are actually paid to Lender in response to such a notice. Any such notice by Lender shall be delivered to each resident or tenant personally, by mail or by delivering such demand to each rental unit.

(d) If an Event of Default has occurred and is continuing, Lender is further authorized to give notice to all Third Party Payment payors (other than Medicaid payments from governmental entities) at Lender's option, instructing them to pay all Third Party Payments which would otherwise be paid to Property Operator to Lender, to the extent permitted by law.

(e) If an Event of Default has occurred and is continuing, Lender may, regardless of the adequacy of Lender's security or the solvency of Property Operator, and even in the absence of waste, enter upon, take and maintain full control of the Mortgaged Property, and may exclude Property Operator and its agents and employees therefrom, in order to perform all acts that Lender, in its discretion, determines to be necessary or desirable for the operation and maintenance of the Mortgaged Property, including the execution, cancellation or modification of Leases, the collection of all Rents (including through use of a lockbox arrangement, cash management arrangement or depository agreement, at Lender's election), the making of repairs to the Mortgaged Property and the execution or termination of Contracts providing for goods or services at or otherwise in connection with the operation, use or maintenance of the Mortgaged Property, paying fees and out-of-pocket expenses of attorneys, accountants, inspectors and consultants, obtaining (or force-placing) the insurance required by the Loan Documents, for the purposes of enforcing the assignments of Leases and Rents, protecting the Mortgaged Property or the security of this Assignment and the Advances, or for such other purposes as Lender in its discretion may deem necessary or desirable.

(f) Notwithstanding any other right provided Lender under this Assignment or any other Loan Document, if an Event of Default has occurred and is continuing, and regardless of the adequacy of Lender's security or Property Operator's solvency, and without the necessity of giving prior notice (oral or written) to Property Operator, Lender may apply to any court having jurisdiction for the appointment of a receiver for the Mortgaged Property to take any or all of the actions set forth in Section 3(e). If Lender elects to seek the appointment of a receiver for the Mortgaged Property at any time after an Event of Default has occurred and is continuing, Property Operator, by its execution of this Assignment, expressly consents to the appointment of such receiver, including the appointment of a receiver *ex parte*, if permitted by applicable law. Property Operator consents to shortened time consideration of a motion to appoint a receiver. Lender or the receiver, as applicable, shall be entitled to receive a reasonable fee for managing the Mortgaged Property and such fee shall become an additional part of the Indebtedness. Immediately upon



appointment of a receiver or Lender's entry upon and taking possession and control of the Mortgaged Property, possession of the Mortgaged Property and all documents, records (including records on electronic or magnetic media), accounts, surveys, plans and specifications relating to the Mortgaged Property, and all security deposits and prepaid Rents, shall be surrendered to Lender or the receiver, as applicable. If Lender or receiver takes possession and control of the Mortgaged Property, Lender or receiver may exclude Property Operator and its representatives from the Mortgaged Property.

(g) The acceptance by Lender of the assignments of the Leases and Rents pursuant to this Section 3 shall not at any time or in any event obligate Lender to take any action under this Assignment or to expend any money or to incur any expense. Lender shall not be liable in any way for any injury or damage to person or property sustained by any Person in, on or about the Mortgaged Property, provided that Lender shall not be released from liability that occurs as a result of Lender's gross negligence or willful misconduct as determined by a court of competent jurisdiction pursuant to a final, non-appealable court order. Prior to Lender's actual entry upon and taking possession and control of the Land and Improvements, Lender shall not be:

(i) obligated to perform any of the terms, covenants and conditions contained in any Lease (or otherwise have any obligation with respect to any Lease);

(ii) obligated to appear in or defend any action or proceeding relating to any Lease or the Mortgaged Property; or

(iii) responsible for the operation, control, care, management or repair of the Mortgaged Property or any portion of the Mortgaged Property.

(h) Lender shall be liable to account only to Borrower and Property Operator and only for Rents actually received by Lender. Lender shall not be liable to Borrower or Property Operator, anyone claiming under or through Borrower, Property Operator or anyone having an interest in the Mortgaged Property by reason of any act or omission of Lender under this Section 3, and each of Borrower and Property Operator hereby releases and discharges Lender from any such liability to the fullest extent permitted by law, provided that Lender shall not be released from liability that occurs as a result of Lender's gross negligence or willful misconduct as determined by a court of competent jurisdiction pursuant to a final, non-appealable court order. If the Rents are not sufficient to meet the costs of taking control of and managing the Mortgaged Property and collecting the Rents, any funds expended by Lender for such purposes shall be added to, and become a part of, the principal balance of the Indebtedness (and secured by this Assignment and the Security Instrument), be immediately due and payable, and bear interest at the Default Rate from the date of disbursement until fully paid. Any entering upon and taking control of the Mortgaged Property by Lender or the receiver, and any application of Rents as provided in this Assignment, shall not cure or waive any Event of Default or invalidate any other right or remedy of Lender under applicable law or provided for in this Assignment or any Loan Document.



(i) Borrower and Property Operator acknowledge and agree that the exercise by Lender of any of the rights conferred in this Assignment shall not be construed to make Lender a mortgagee-in-possession of the Mortgaged Property so long as Lender has not itself entered into actual possession of the Land and Improvements.

**4. Assignment of Contracts and Management Agreement; Contracts Affecting the Mortgaged Property.**

(a) Property Operator has entered into the Contracts identified on Exhibit B for the provision of goods or services at or otherwise in connection with the operation, use or maintenance of the Mortgaged Property. Property Operator may in the future enter into Contracts for the provision of additional goods or services at or otherwise in connection with the operation, use or maintenance of the Mortgaged Property.

(b) As consideration for the material financial benefit to be derived by Property Operator from Lender's approval of the Facility Operating Agreement, to the extent permitted by applicable law, Property Operator pledges, grants a security interest in and assigns to Lender all of Property Operator's right, title and interest, if any, in, to and under (i) the Contracts, including Property Operator's right, power and authority to modify the terms of, extend or terminate any such Contract, and (ii) the Management Agreement. To the extent permitted by applicable law, it is the intention of Property Operator to establish a present, absolute and irrevocable transfer and assignment to Lender of all of Property Operator's right, title and interest in, to and under the Contracts and the Management Agreement. To the extent permitted by applicable law, Property Operator and Lender intend this assignment of the Contracts and the Management Agreement to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. If this present, absolute and unconditional assignment of the Contracts or the Management Agreement is not enforceable by its terms under the laws of the Property Jurisdiction, then it is the intention of Property Operator that in this circumstance this Assignment create and perfect a lien on the Contracts and the Management Agreement in favor of Lender to secure the obligations of Property Operator under this Assignment and Borrower's obligations under the Loan Documents, which lien shall be effective as of the date of this Assignment. The acceptance by Lender of this assignment of the Contracts and the Management Agreement shall not at any time or in any event obligate Lender to take any action under this Assignment or to expend any money or to incur any expenses.

(c) Until Lender gives notice to Property Operator of Lender's exercise of its rights under this Section 4, Property Operator shall have all rights, power and authority granted to Property Operator under any Contract (except as otherwise limited by this Section 4, Section 9(t) or any other provision of this Assignment), including the right, power and authority to modify, extend or terminate any Contract. If an Event of Default has occurred and is continuing, at the option of Lender, the permission given to Property Operator pursuant to the preceding sentence to exercise all rights, power and authority under Contracts shall terminate.

(d) Upon Lender's delivery of notice to Property Operator of an Event of Default, Lender shall immediately have all rights, powers and authority granted to Property Operator under any Contract and the Management Agreement, including the right, power and authority to modify the terms of, extend or terminate any such Contract or the Management Agreement.

**5. Assignment of Licenses.**

As consideration for the material financial benefit to be derived by Property Operator from Lender's approval of the Facility Operating Agreement, to the extent permissible under applicable law and regulation, Property Operator pledges, grants a security interest in and assigns to Lender to secure Property Operator's obligations under this Assignment all of Property Operator's right, title and interest, if any, in and to all Licenses and any other agreements or permits of any nature whatsoever now or hereafter obtained or entered into by Property Operator with respect to the occupancy, use, operation, maintenance and administration of the Mortgaged Property as a Seniors Housing Facility.

**6. Subordination to Mortgage Lien.**

The Facility Operating Agreement is and shall be subject and subordinate to the liens, terms, covenants and conditions of this Assignment, the Security Instrument and the other Loan Documents, and to all renewals, modifications, consolidations, replacements and extensions thereof, and to all advances heretofore made or which may hereafter be made pursuant to the Security Instrument (including all sums advanced for the purposes of (a) protecting or further securing the lien of the Security Instrument, curing defaults by Borrower under the Loan Documents or for any other purposes expressly permitted by the Security Instrument, or (b) constructing, renovating, repairing, furnishing, fixturing or equipping the Mortgaged Property).

**7. Property Operator Fee Subordination.**

If Property Operator is a Borrower Affiliate, Property Operator agrees that any management fees payable to Property Operator by Borrower pursuant to the Facility Operating Agreement shall be subordinated in right to the prior payment in full of the Indebtedness. If Property Operator is not a Borrower Affiliate, Property Operator agrees that any management fees payable to Property Operator by Borrower pursuant to the Facility Operating Agreement shall be subordinated in right of payment to the prior payment in full of monthly debt service and funding of escrows and reserves as required under the Loan Documents, and the payment of all operating expenses and capital expenditures incurred in connection with the operation and management of the Mortgaged Property.

**8. Property Operator Representations and Warranties.**

[(a)] Operator represents and warrants to Lender as follows as of the date of this Assignment:



(i) Operator has unconditionally accepted delivery of the Mortgaged Property pursuant to the terms of the Facility Operating Agreement and is operating the Mortgaged Property as a Seniors Housing Facility;

(ii) the Facility Operating Agreement Terms set forth on Exhibit D are true and correct;

(iii) the Facility Operating Agreement does not provide for free Facility Operating Agreement Rent, partial Facility Operating Agreement Rent, Facility Operating Agreement Rent concessions of any kind, the advance payment of Facility Operating Agreement Rent other than as set forth in Section 9(k), or Facility Operating Agreement Rent abatement or offsetting of Facility Operating Agreement Rent;

(iv) no Facility Operating Agreement Rent has been paid for more than thirty (30) days in advance;

(v) all required payments of Facility Operating Agreement Rent have been made prior to the date hereof;

(vi) Operator has fully inspected the Mortgaged Property and found the same to be as required by the Facility Operating Agreement in good order and repair, and all conditions and duties of an inducement nature under the Facility Operating Agreement to be performed by Borrower have been satisfied, including but not limited to payment to Operator of any Borrower contributions for improvements, completion by Borrower of the construction of any improvements to be constructed by Borrower, and payment to Operator of any consulting fees;

(vii) Operator has no options to purchase, right of first refusal to purchase or right of first offer to purchase under the Facility Operating Agreement or with respect to the Mortgaged Property or any part thereof, except as set forth on Exhibit D;

(viii) Operator has not assigned or sublet and is now the sole owner of the interest or leasehold estate created by the Facility Operating Agreement;

(ix) Operator has no offsets, claims or defenses against Borrower with respect to the Facility Operating Agreement, and to Operator's knowledge, no party is in default under any of the terms, conditions, provisions or agreements of the Facility Operating Agreement;

(x) Operator has paid the Facility Operating Agreement Security Deposit set forth on Exhibit D to Borrower, if any;

(xi) Operator has not executed any prior assignment of Leases and Rents with respect to the Mortgaged Property that is currently in effect;



(xii) Operator has received from Borrower and reviewed a fully executed copy of the Master Agreement and each of the other Loan Documents that set forth the Operating Covenants;

(xiii) Operator has not at any time engaged in, caused or permitted any Prohibited Activities or Conditions other than Prohibited Activities or Conditions that are the subject of an O&M Plan approved in writing by Lender; to Property Operator's knowledge, no Prohibited Activities or Conditions exist or have existed on the Mortgaged Property; and Operator has complied with all Environmental Laws, including all requirements for notification regarding the presence of or any releases of Hazardous Materials;

(xiv) Operator has not filed and is not subject to any filing for bankruptcy or reorganization under any applicable bankruptcy or insolvency laws;

(xv) except as disclosed in the Master Agreement, there are no claims, actions, suits, or proceedings at law or in equity by or before any Governmental Authority now pending against, affecting or, to Operator's knowledge, threatened against Operator, any entity that Controls Operator, or the Mortgaged Property that would adversely affect the Licenses or the operations at the Mortgaged Property. Operator is not currently operating under a consent order or decree, or any other agreement or decree mandated by any Governmental Authority that restricts or otherwise affects the operation of the Mortgaged Property;

(xvi) Operator currently operates the Mortgaged Property as the type of facility described on, and holds the Licenses identified on, Exhibit C, and is unaware of any other required Licenses. Each of the Licenses listed on Exhibit C has been lawfully issued to Operator, is current, valid and in full force and effect and must be renewed for the period set forth on Exhibit C. No violations of record exist pertaining to any License and the terms of the Licenses set forth on Exhibit C are true and correct;

(xvii) the operation of the Mortgaged Property complies with the Licenses;

(xviii) to Operator's knowledge, there currently exist no grounds for the revocation, suspension or limitation of any License;

(xix) if Operator is a HIPAA Covered Entity or HIPAA Business Associate, Operator has developed and implemented appropriate administrative, technical and physical safeguards to protect the privacy and security of Protected Health Information (as that term is defined in HIPAA), and otherwise achieved substantial compliance with applicable HIPAA requirements, including those concerning privacy, breach notification, security and electronic transaction standards;

(xx) except as set forth on Exhibit B attached hereto, the Contracts are assignable and no previous assignment of Operator's interest in the Contracts has been made, and the

Contracts are in full force and effect in accordance with their respective terms and there are no defaults thereunder;

(xxi) Operator is duly organized, validly existing and qualified to transact business in the Property Jurisdiction;

(xxii) Operator has the requisite power and authority to carry on its business as now conducted and as contemplated to be conducted in connection with the performance of its obligations under this Assignment; and

(xxiii) the execution, delivery and performance of this Assignment have been duly authorized by all necessary action and proceedings by or on behalf of Operator, and no further approvals or filings of any kind, including any approval of or filing with any Governmental Authority, are required by or on behalf of Operator as a condition to the valid execution, delivery and performance by Operator of the Facility Operating Agreement and this Assignment.

[(b)] Manager represents and warrants to Lender as follows as of the date of this Assignment:

(i) Manager is managing the Mortgaged Property as a Seniors Housing Facility pursuant to the terms of the Facility Operating Agreement;

(ii) the Facility Operating Agreement Terms set forth on Exhibit D are true and correct;

(iii) Manager has fully inspected the Mortgaged Property and found the same to be as required by the Facility Operating Agreement in good order and repair, and all conditions and duties of an inducement nature under the Facility Operating Agreement to be performed by Borrower have been satisfied, including but not limited to payment to Property Operator of any Borrower contributions for improvements, completion by Borrower of the construction of any improvements to be constructed by Borrower, and payment to Property Operator of any consulting fees;

(iv) Manager has no rights or options to purchase, right of first refusal to purchase, or right of first offer to purchase under the Facility Operating Agreement or with respect to the Mortgaged Property or any part thereof, except as set forth on Exhibit D;

(v) Manager has not assigned, sub-contracted or delegated any of its rights and obligations created by the Facility Operating Agreement;

(vi) Manager has no offsets, claims or defenses against Operator with respect to the Facility Operating Agreement, and to Manager's knowledge, no party is in default



under any of the terms, conditions, provisions or agreements of the Facility Operating Agreement;

(vii) Manager has not executed any prior assignment of Leases and Rents with respect to the Mortgaged Property that is currently in effect;

(viii) Manager has received from Borrower and reviewed a fully executed copy of the Master Agreement, and each of the other Loan Documents that set forth the Operating Covenants;

(ix) Manager has not filed and is not subject to any filing for bankruptcy or reorganization under any applicable bankruptcy or insolvency laws;

(x) except as disclosed in the Master Agreement, there are no claims, actions, suits, or proceedings at law or in equity by or before any Governmental Authority now pending against, affecting or, to Manager's knowledge, threatened against Manager, any entity that Controls Manager, or the Mortgaged Property that would adversely affect the Licenses or the operations at the Mortgaged Property. Manager is not currently operating under a consent order or decree, or any other agreement or decree mandated by any Governmental Authority that restricts or otherwise affects the operation of the Mortgaged Property;

(xi) to Manager's knowledge no violations of record exist pertaining to any License and the terms of the Licenses set forth on Exhibit C are true and correct;

(xii) the management of the Mortgaged Property complies with the Licenses;

(xiii) to Manager's knowledge, there currently exist no grounds for the revocation, suspension or limitation of any License;

(xiv) if Manager is a HIPAA Covered Entity or HIPAA Business Associate, Manager has developed and implemented appropriate administrative, technical and physical safeguards to protect the privacy and security of Protected Health Information (as that term is defined in HIPAA), and otherwise achieved substantial compliance with applicable HIPAA requirements, including those concerning privacy, breach notification, security and electronic transaction standards;

(xv) except as set forth in Exhibit B, attached hereto, the Contracts are assignable and no previous assignment of Manager's interest in the Contracts has been made, and the Contracts are in full force and effect in accordance with their respective terms and there are no defaults thereunder;

(xvi) Manager is duly organized, validly existing and qualified to transact business in the Property Jurisdiction;



(xvii) Manager has the requisite power and authority to carry on its business as now conducted and as contemplated to be conducted in connection with the performance of its obligations under this Assignment; and

(xviii) the execution, delivery and performance of this Assignment have been duly authorized by all necessary action and proceedings by or on behalf of Manager, and no further approvals or filings of any kind, including any approval of or filing with any Governmental Authority, are required by or on behalf of Manager as a condition to the valid execution, delivery and performance by Manager of the Facility Operating Agreement and this Assignment.

## **9. Property Operator Covenants.**

Each Property Operator covenants with Lender, solely with respect to itself and solely with respect to the Facility Operating Agreements and Contracts to which it is a party, that during the term of this Assignment:

(a) Property Operator shall not transfer the responsibility for the operation and management of the Mortgaged Property or the Licenses as prohibited by the Loan Documents;

(b) Property Operator shall cooperate with Lender, including attendance at any meetings requested by Lender (after reasonable prior notice), and, as required by the Loan Documents, furnishing financial statements of Property Operator (in connection with the operation of the Mortgaged Property) and operating statements for the Mortgaged Property, and allowing Lender to undertake inspections of the Mortgaged Property;

(c) Property Operator shall comply with all Operating Covenants, including arranging for the escrow of Taxes and insurance with Lender and providing insurance coverage in accordance with Lender's requirements;

(d) if, by reason of its exercise of any right or remedy under the Facility Operating Agreement, Property Operator acquires by right of subrogation or otherwise a lien on the Mortgaged Property which (but for this subsection) would be senior to the lien of the Security Instrument, then, in that event, such lien shall be subject and subordinate to the lien of the Security Instrument and this Assignment;

(e) until Property Operator receives notice (or otherwise acquires actual knowledge) of an Event of Default, Property Operator shall be entitled to retain for its own account any payments or fees made pursuant to the Facility Operating Agreement, subject to the terms of this Assignment, provided that if Property Operator is an Affiliated Property Operator, notice to Borrower of an Event of Default shall be deemed to be notice to Property Operator for purposes of this provision;

(f) after Property Operator or Borrower receives notice (or otherwise acquires actual knowledge) of an Event of Default, Property Operator shall not accept or retain any payments or fees made pursuant to the Facility Operating Agreement without Lender's prior written consent;

(g) if, after Property Operator or Borrower receives notice (or otherwise acquires actual knowledge) of an Event of Default, Property Operator receives any payments or fees pursuant to the Facility Operating Agreement other than from Lender, or if Property Operator receives any other payment or distribution of any kind from Borrower or from any other Person other than from Lender in connection with the Facility Operating Agreement which Property Operator is not permitted by this Assignment to retain for its own account, such payment or other distribution will be received and held in trust for Lender and unless Lender otherwise notifies Property Operator, will be promptly remitted in readily available funds to Lender, properly endorsed to Lender, to be applied to amounts due under the Loan Documents in such order and in such manner as Lender shall determine. Property Operator hereby irrevocably designates, makes, constitutes and appoints Lender (and all persons or entities designated by Lender) as Property Operator's true and lawful attorney in fact with power to endorse the name of Property Operator upon any checks representing payments referred to in this subsection;

(h) during the term of this Assignment, Property Operator shall not commence, or join with any other creditor in commencing any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings with respect to Borrower, without Lender's prior written consent;

(i) Property Operator shall deliver to Lender at the address indicated below and at the same time as such notice is given to Borrower, any notice of default under the Facility Operating Agreement;

(j) Property Operator shall not seek to terminate the Facility Operating Agreement by reason of any default of Borrower without prior written notice to Lender and the lapse of such time as was offered to Borrower under the Facility Operating Agreement in which to remedy the default, and the lapse of thirty (30) days after the expiration of such time as Borrower was permitted to cure such default; provided, however, that with respect to any default of Borrower under the Facility Operating Agreement which cannot be remedied within such time, if Lender commences to cure such default within such time and thereafter diligently proceeds with such efforts and pursues the same to completion, Lender shall have such time as is reasonably necessary to complete curing such default. Notwithstanding the foregoing, in the event either Lender or Borrower do not cure or commence curing such default within the time provided to Borrower under the Facility Operating Agreement and the nature of the default threatens Property Operator's ability to conduct its daily business or threatens to materially or adversely damage its property located on the Mortgaged Property, Property Operator shall be permitted to exercise its rights under the Facility Operating Agreement;



(k) Property Operator shall not pay Facility Operating Agreement Rent more than thirty (30) days in advance of the date on which the same are due or to become due under the Facility Operating Agreement;

(l) Property Operator shall certify promptly in writing to Lender in connection with any proposed assignment of the Advances, whether or not any default on the part of Borrower then exists under the Facility Operating Agreement and shall execute such estoppel certificates and subordination agreements as Lender shall reasonably require;

(m) Property Operator shall not create, incur, assume or suffer to exist any lien on the Mortgaged Property or any part of the Mortgaged Property or pledge any interest in the Mortgaged Property or any part of the Mortgaged Property, including the Leases, Rents and Contracts except as provided herein;

(n) Property Operator shall not without the prior written consent of Lender (1) extend, modify or terminate (except as set forth in 9(j) of this Assignment) any of the terms or provisions of the Facility Operating Agreement, (2) assign its rights under the Facility Operating Agreement, (3) in connection with any Facility Operating Agreement that is a master lease covering more than one property, add or release any property subject to the Facility Operating Agreement, or (4) transfer the Facility Operating Agreement. Within five (5) days of Property Operator's receipt, Property Operator shall give Lender written notice of any notice or information that Property Operator receives which indicates that any party (A) is in default under the terms of the Facility Operating Agreement, (B) is extending, modifying or terminating the Facility Operating Agreement or (C) is otherwise discontinuing its ownership, operation or management of the Mortgaged Property;

(o) Property Operator shall comply with its obligations under the Facility Operating Agreement;

(p) Property Operator shall promptly inform Lender in writing (and shall deliver to Lender copies of any related written communications, complaints, orders, judgments and other documents) relating to the commencement of any rulemaking or disciplinary proceeding or the promulgation of any proposed or final rule which would have, or may reasonably be expected to have, a material adverse effect on Property Operator's ability to operate and manage the Mortgaged Property or on the Mortgaged Property itself; the receipt of notice from any Governmental Authority having jurisdiction over Property Operator that (i) Property Operator is being placed under regulatory supervision, (ii) any License, permit, charter, membership or registration material to the conduct of Property Operator's business or the Mortgaged Property is to be suspended or revoked or (iii) Property Operator is to cease and desist any practice, procedure or policy employed by Property Operator in the conduct of its business, and such cessation would have, or may reasonably be expected to have, a material adverse effect on the Mortgaged Property;



(q) Property Operator shall provide immediate written notice to Lender of any claims, actions, suits, or proceedings at law or in equity (including any insolvency, bankruptcy, or receivership proceeding) by or before any Governmental Authority pending against, affecting or, to Property Operator's knowledge, threatened against Property Operator, any entity that Controls Property Operator, or the Mortgaged Property, which claims, actions, suits, or proceedings, if adversely determined reasonably would be expected to materially adversely affect the Licenses, the financial condition or business of Property Operator, or the condition, operation, or ownership of the Mortgaged Property;

(r) Property Operator shall provide to Lender within ten (10) days after its receipt, copies of all inspection reports, surveys, reviews, and certifications prepared by, for, or on behalf of any licensing or regulatory authority relating to the Mortgaged Property and any legal actions, orders, notices, or reports relating to the Mortgaged Property issued by the applicable regulatory or licensing authorities;

(s) Property Operator shall not look to Lender, any mortgagee in possession, or successor in title to the Mortgaged Property for accountability for any security deposit or other deposit held by Borrower;

(t) Property Operator shall fully perform all of its obligations under the Contracts, and Property Operator shall not assign, sell, pledge, transfer, mortgage or otherwise encumber its interests in any of the Contracts so long as this Assignment is in effect, or consent to any transfer, assignment or other disposition thereof without the written approval of Lender. Each Contract entered into by Property Operator subsequent to the date hereof, the average annual consideration of which, directly or indirectly, is at least \$50,000 shall provide: (i) that it shall be terminable for cause; and (ii) that it shall be terminable, at Lender's option, upon the occurrence and continuance of an Event of Default;

(u) if no regulatory or licensing requirements currently apply to the Mortgaged Property and Property Operator is legally authorized to operate the Mortgaged Property as a Seniors Housing Facility without a License as of the date hereof as set forth on Exhibit C, and if any licensing or similar regulatory requirement is imposed upon or otherwise becomes applicable to the Mortgaged Property, Property Operator shall obtain all Licenses required to lawfully operate the Mortgaged Property as a Seniors Housing Facility or shall ensure such licenses are obtained, and notify Loan Servicer of such licensing requirements, and shall maintain such Licenses in full force and effect, or shall ensure such Licenses are maintained in full force and effect;

(v) Property Operator covenants and agrees that it shall not perform any acts and has not executed, and shall not execute any instrument which would prevent Lender from exercising its rights under this Assignment;

(w) if Property Operator is a HIPAA Covered Entity or HIPAA Business Associate, Property Operator shall at all times remain in substantial compliance with applicable HIPAA

requirements, including those concerning privacy, breach notification, security and electronic transaction standards.

**10. Events of Default; Remedies.**

(a) The occurrence of any one or more of the following shall constitute an “**Event of Default**” under this Assignment: (i) a default, a breach of a covenant or a failure to perform any obligation under this Assignment after the expiration of any applicable notice or cure period; (ii) the failure of any representation or warranty in this Assignment to be true and correct in any material respect when made; (iii) any “Event of Default” listed in Section 14.01 of the Master Agreement; or (iv) a default under the Facility Operating Agreement after the expiration of any applicable notice or cure period thereunder. Borrower and Property Operator hereby acknowledge that any Event of Default by Borrower or Property Operator shall also constitute an Event of Default under the Master Agreement. If an Event of Default has occurred and is continuing, Lender shall have the right to exercise all rights as owner of the Mortgaged Property under the Facility Operating Agreement.

(b) In the event Property Operator fails to use and operate the Mortgaged Property according to the Operating Covenants, Lender shall have the right to enforce the Operating Covenants directly against Property Operator in accordance with this Assignment and enforce the Operating Covenants directly against Borrower in accordance with the provisions of the Loan Documents.

(c) If (i) Property Operator fails to perform any of its obligations under this Assignment or causes a default under the Facility Operating Agreement after any applicable notice or cure periods, or (ii) any action or proceeding is commenced which purports to affect the Mortgaged Property, Lender’s security, rights or interests under the Master Agreement or any Loan Document, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Environmental Laws, fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, then Lender may, at its option, make such appearances, disburse such sums and take such actions as Lender reasonably deems necessary to perform such obligations of Property Operator and to protect the Mortgaged Property, Lender’s security, rights or interest, including (A) payment of fees and out-of-pocket expenses of attorneys, accountants, inspectors and consultants, (B) entry upon the Mortgaged Property to make repairs or secure the Mortgaged Property, (C) procurement of the insurance required by the Master Agreement, and (D) payment of any amounts required under this Assignment, the Master Agreement, or the Facility Operating Agreement which Property Operator has failed to pay. Any amounts disbursed by Lender under this Section 10, or under any other provision of this Assignment that treats such disbursement as being made under this Section 10, due to Property Operator’s failure to perform its obligations under this Assignment or the Facility Operating Agreement, shall be immediately due and payable to Lender from Property Operator and shall become an additional part of the Indebtedness. The foregoing provisions shall not require Lender to incur any expense or take any action.



(d) If an Event of Default has occurred and is continuing, Lender shall have the right any time thereafter to terminate the Facility Operating Agreement without cause and without payment of any cancellation or termination fee, penalty or other liability, by giving written notice to Property Operator of its election to do so. Lender's notice shall specify the date of termination, which shall not be less than thirty (30) days after the date of such notice, except such lesser notice as Lender deems to be appropriate in the event of an emergency or impairment of Lender's collateral. Such termination right shall (i) supersede any limitation on termination rights contained in the Facility Operating Agreement, (ii) serve as consideration for the material benefit derived by Property Operator from Lender's approval of the Facility Operating Agreement and the making of the Advances, and (iii) become effective pursuant to Lender's right after an Event of Default occurs and continues to exercise all rights of Borrower under the Facility Operating Agreement.

(e) On the effective date of termination of the Facility Operating Agreement, Property Operator shall turn over to Lender all books and records relating to the Mortgaged Property and the residents and tenants (copies of which may be retained by Property Operator, at Property Operator's expense), together with such authorizations and letters of direction addressed to residents, tenants, suppliers, employees, banks and other parties as Lender may reasonably require. A final accounting of unpaid fees (if any) due to Property Operator under the Facility Operating Agreement shall be made within sixty (60) days after the effective date of termination, but Lender shall not have any liability or obligation to Property Operator for unpaid fees or other amounts payable under the Facility Operating Agreement which accrue before Lender acquires title to the Mortgaged Property, or before Lender becomes a mortgagee in possession (other than as set forth in Section 10).

(f) If an Event of Default has occurred and is continuing, Property Operator shall furnish promptly to Lender evidence of deposits and withdrawals from any account held or controlled by Property Operator relating to the Mortgaged Property.

(g) If an Event of Default has occurred and is continuing, Lender shall have the remedies of a secured party under the Uniform Commercial Code, in addition to all remedies provided by this Assignment or existing under applicable law. In exercising any remedies, Lender may exercise its remedies against the UCC Collateral separately or together, and in any order, without in any way affecting the availability of Lender's other remedies.

(h) If an Event of Default has occurred and is continuing, Lender or its designee may (in Lender's sole discretion) (1) direct Property Operator to pay Lender directly all Facility Operating Agreement Rent and other payments due under the Facility Operating Agreement, and (2) terminate Property Operator's authority to collect Accounts and notify the residents and account debtors that the Accounts have been assigned to Lender and, either in its own name or that of Property Operator, or both, demand, collect (including, through any lockbox arrangement, cash management arrangement or depository agreement prescribed by Lender), receive, give receipt for, sue for or give acquittance for any or all amounts due or to become due in respect of the Accounts, and may also, in its discretion, file any claim, institute any proceeding or take any other

action that Lender may deem necessary or appropriate to protect and realize upon the security interest of Lender in the Accounts. All of Lender's collection expenses shall be charged to Borrower's account and added to the Indebtedness. If Lender is collecting the Accounts as above provided, Lender shall have the right to receive, endorse, assign and deliver in Lender's name or Property Operator's name any and all checks, drafts and other instruments for the payment of money relating to the Accounts, and Property Operator hereby waives notice of presentment, protest and non-payment of any instrument so endorsed. If Lender is collecting the Accounts directly as above provided, Property Operator hereby constitutes Lender or Lender's designee as Property Operator's attorney-in-fact with power with respect to the Accounts to: (i) endorse Property Operator's name upon all notes, acceptances, checks, drafts, money orders or other evidences of payment that may come into Lender's possession; (ii) notify the U.S. Post Office to change the address for delivery of mail addressed to Property Operator for the Mortgaged Property to such address as Lender may designate; and (iii) receive, open and dispose of all such mail addressed to Property Operator.

(i) If an Event of Default has occurred and is continuing, Lender may, without demand and without advertisement or notice, at any time or times, sell and deliver any or all Personalty held by or for it at public or private sale, for cash, upon credit or otherwise, at such prices and upon such terms as Lender, in its sole discretion, deems advisable. Subject to the provisions of applicable law, Lender may postpone or cause the postponement of the sale of all or any portion of the Personalty by announcement at the time and place of such sale, and such sale may, without further notice, be made at the time and place to which the sale has been postponed or Lender may further postpone such sale by announcement made at such time and place. Without in any way limiting the foregoing, Lender shall, if an Event of Default has occurred and is continuing, have the right, in addition to all other rights provided herein or by law, to enter without legal process upon the Mortgaged Property (provided that such entry be done lawfully) for the purpose of taking possession of the Personalty, and the right to maintain such possession on the Mortgaged Property or to remove the Personalty or any part thereof to such other places as Lender may desire. Whether or not Lender exercises its right to take possession of the Personalty, Property Operator shall, upon Lender's demand, promptly assemble the Personalty and make it available to Lender at the Mortgaged Property.

(j) In order to induce Lender to lend funds under the Master Agreement and approve the Facility Operating Agreement, Borrower and Property Operator hereby agree that at the option of Lender upon the occurrence of an Event of Default, Property Operator shall continue to provide all necessary services required under any applicable licensing or regulatory requirements, subject to Section 10(j)(1) below. Property Operator agrees to fully cooperate with Lender and any receiver as may be appointed by a court, in (i) performing these services until such time as Lender has arranged for a replacement provider of the necessary services, and (ii) arranging an orderly transition of operating and management responsibilities to the receiver or a replacement provider of the necessary services (the "**Transition Period**"). Borrower and Property Operator agree to cooperate with Lender in arranging an orderly transition to a replacement Property Operator of all Licenses and governmental approvals necessary or reasonably required to operate the Mortgaged



Property as a Seniors Housing Facility, and to execute promptly all applications, assignments, consents and documents requested by Lender to facilitate such transition.

(1) During the Transition Period, if Lender requires that Manager continue to provide services at the Mortgaged Property, Manager shall be entitled to receive funds from Rents necessary to pay the salaries of Manager's employees at the Mortgaged Property and reimburse Manager for all regular operating expenses of the Mortgaged Property, which were in place prior to the Event of Default, but shall not be entitled to any management fees or other compensation under the Management Agreement.

(2) During the Transition Period, if Lender requires that Operator continue to operate the Mortgaged Property pursuant to the Operating Lease or Sublease, as applicable, so long as no Event of Default by Operator or Manager has occurred under this Assignment, Lender shall, until such time that Lender terminates the Operating Lease or Sublease, recognize Operator's right to quiet enjoyment and possession of the Mortgaged Property pursuant to the terms of the applicable Operating Lease or Sublease; provided however, Operator shall remit to Lender monthly the Post-Default NOI. "Post-Default NOI" shall mean all revenues generated by the operation of the Mortgaged Property, including Rents, less costs and expenses for the operation of the Mortgaged Property approved by Lender, including funds necessary to pay the salaries of Operator's or Manager's employees at the Mortgaged Property, and capital expenditures approved by Lender related to the operation of the Mortgaged Property. Costs and expenses shall not include any fees payable to Manager or Operator. Lender reserves the right to exercise all other remedies hereunder including the imposition of a lockbox arrangement, cash management arrangement or depositary agreement as set forth herein.

#### **11. No Assumption of Obligations.**

Borrower and Property Operator agree that Lender does not assume any obligations or duties of Borrower and Property Operator concerning the Facility Operating Agreement until and unless Lender shall exercise its rights hereunder.

#### **12. Power of Attorney.**

Borrower and Property Operator hereby irrevocably constitute and appoint Lender as Borrower's and Property Operator's attorney-in-fact to demand, receive and enforce their rights with respect to the provisions set forth in this Assignment, to give appropriate receipts, releases and satisfactions for and on Borrower's and Property Operator's behalf and to do any and all acts in Borrower's or Property Operator's names or in the name of Lender with the same force and effect as Borrower or Property Operator could do if this Assignment had not been made. The foregoing appointment shall be deemed to be coupled with an interest and irrevocable.

**13. Consideration.**

As consideration for the material financial benefit to be derived by Property Operator and Borrower as a result of Lender's approval of the Facility Operating Agreement, Property Operator and Borrower acknowledge receipt of good and valuable consideration for Property Operator's and Borrower's entry into this Assignment.

**14. Modifications to Loan Documents.**

Any amendments heretofore or hereafter made to any of the Loan Documents, other than this Assignment, shall not require the consent of Property Operator. Borrower shall be responsible for notifying Property Operator of any amendments to the Operating Covenants.

**15. Lender Requests.**

Within ten (10) days of written request of Lender, Property Operator shall promptly furnish to Lender copies of all Leases, Contracts, Licenses, books, records, monthly reports, statements of account, budgets, third party payment documentation, including reimbursement agreements, surveys, statements of deficiencies and plans of correction, and cost reports related to any payments or the right to receive payments from federal, state or local programs, boards, bureaus or agencies, and other items which Property Operator is required to maintain or otherwise maintains under the Facility Operating Agreement or the Operating Covenants or which Property Operator maintains for its own purposes with respect to the Mortgaged Property.

**16. Notice.**

**(a) Process of Serving Notice.**

All notices under this Assignment shall be:

(1) in writing and shall be:

(A) delivered, in person;

(B) mailed, postage prepaid, either by registered or certified delivery, return receipt requested;

(C) sent by overnight courier; or

(D) sent by electronic mail with originals to follow by overnight courier;

(2) addressed to the intended recipient at its respective address set forth at the end of this Assignment; and



(3) deemed given on the earlier to occur of:

(A) the date when the notice is received by the addressee; or

(B) if the recipient refuses or rejects delivery, the date on which the notice is so refused or rejected, as conclusively established by the records of the United States Postal Service or any express courier service.

**(b) Change of Address.**

Any party to this Assignment may change the address to which notices intended for it are to be directed by means of notice given to the other parties to this Assignment in accordance with this Section 16.

**(c) Default Method of Notice.**

Any required notice under this Assignment which does not specify how notices are to be given shall be given in accordance with this Section 16.

**(d) Receipt of Notices.**

Borrower, Property Operator and Lender shall not refuse or reject delivery of any notice given in accordance with this Assignment. Each party is required to acknowledge, in writing, the receipt of any notice upon request by the other party.

**17. Counterparts.**

This Assignment may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall constitute one and the same instrument.

**18. Governing Law.**

(a) This Assignment shall be governed by and construed in accordance with the laws of the Property Jurisdiction, and applicable federal law.

(b) Property Operator and Borrower agree that any controversy arising under or in relation to this Assignment shall be litigated exclusively in the Property Jurisdiction and Property Operator and Borrower irrevocably consent to service, jurisdiction, and venue of such course for any such litigation and waive any other venue to which Property Operator or Borrower might be entitled by virtue of domicile, habitual residence or otherwise.

**19. Successors and Assigns.**

This Assignment shall be binding upon Borrower, Property Operator and Lender and their respective successors, transferees and assigns, and shall inure to the benefit of and may be enforced by Lender and its successors, transferees and assigns. Borrower and Property Operator shall not assign any of their respective rights and obligations under this Assignment without the prior written consent of Lender.

**20. Entire Agreement; Amendments and Waivers.**

This Assignment contains the complete and entire understanding of the parties as to its subject matter. No amendment to this Assignment will be valid unless it is made in writing and executed by the parties to this Assignment. No specific waiver or forbearance for any breach of any of the terms of this Assignment shall be considered as a general waiver of that or any other term of this Assignment.

**21. Relationship of Parties.**

Nothing contained in this Assignment shall constitute Lender as a joint venturer, partner or agent of Borrower or Property Operator, or render Lender liable for any debts, obligations, acts, omissions or representations of Borrower or Property Operator except as provided herein.

**22. Enforceability.**

The determination of invalidity, illegality or unenforceability of any provision of this Assignment, pursuant to judicial decree, shall not affect the validity or enforceability of any other provision of this Assignment, each of which shall remain in full force and effect.

**23. Construction.**

(a) The captions and headings of the sections of this Assignment are for convenience only and shall be disregarded in construing this Assignment.

(b) Any reference in this Assignment to an "Exhibit" or "Schedule" or a "Section" or an "Article" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit or Schedule attached to this Assignment or to a Section or Article of this Assignment. All Exhibits and Schedules attached to or referred to in this Assignment, if any, are incorporated by reference into this Assignment.

(c) Any reference in this Assignment to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time.

(d) Use of the singular in this Assignment includes the plural and use of the plural includes the singular.



(e) As used in this Assignment, the term “including” means “including, but not limited to” or “including, without limitation,” and is for example only and not a limitation.

(f) Whenever Borrower’s or Property Operator’s knowledge is implicated in this Assignment or the phrase “to Borrower’s knowledge,” “to Property Operator’s knowledge” or a similar phrase is used in this Assignment, Borrower’s or Property Operator’s knowledge or such phrase(s) shall be interpreted to mean to the best of Borrower’s or Property Operator’s knowledge after reasonable and diligent inquiry and investigation.

(g) Unless otherwise provided in this Assignment, if Lender’s approval, designation, determination, selection, estimate, action or decision is required, permitted or contemplated hereunder, such approval, designation, determination, selection, estimate, action or decision shall be made in Lender’s sole and absolute discretion.

(h) All references in this Assignment to a separate instrument or agreement shall include such instrument or agreement as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(i) “Lender may” shall mean at Lender’s discretion, but shall not be an obligation.

**24. Manager not Obligated for Indebtedness in its Capacity as Manager.**

Notwithstanding anything to the contrary set forth herein, neither Manager, nor any of its members, partners, shareholders, officers, directors shall be personally liable for all or any portion of the Indebtedness in their capacity as Manager (or as members, partners, shareholders, officers, or directors of Manager).

**25. Conflict with Master Agreement.**

In the event that any inconsistency or conflict exists between the Master Agreement and this Assignment, the Master Agreement shall control in each such instance.

**[Remainder of Page Intentionally Blank]**

20190221000055000 02/21/2019 09:10:58 AM SUBAGREM  
30/45

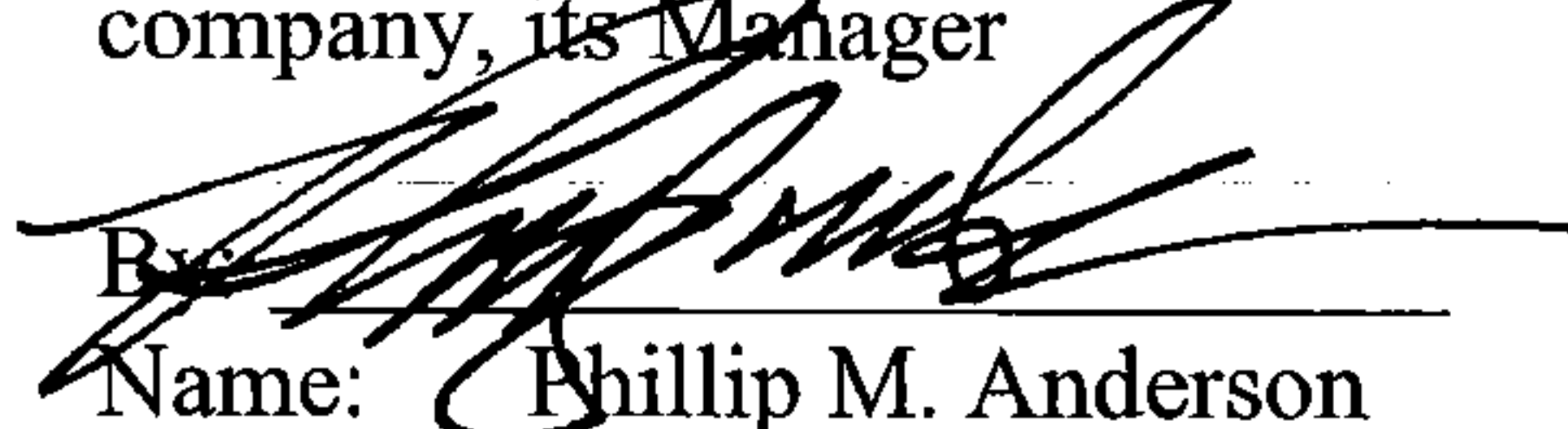
IN WITNESS WHEREOF, Borrower, Lender, Operator and Manager have executed this Assignment as of the day and year first written above.

**BORROWER:**

**BIRMINGHAM AL SENIOR PROPERTY  
LLC**, a Delaware limited liability company

By: BIRMINGHAM AL SENIOR  
HOLDINGS LLC, a Delaware  
limited liability company, its  
Manager

By: BSH II HOLDINGS 2 LLC, a  
Delaware limited liability  
company, its Manager

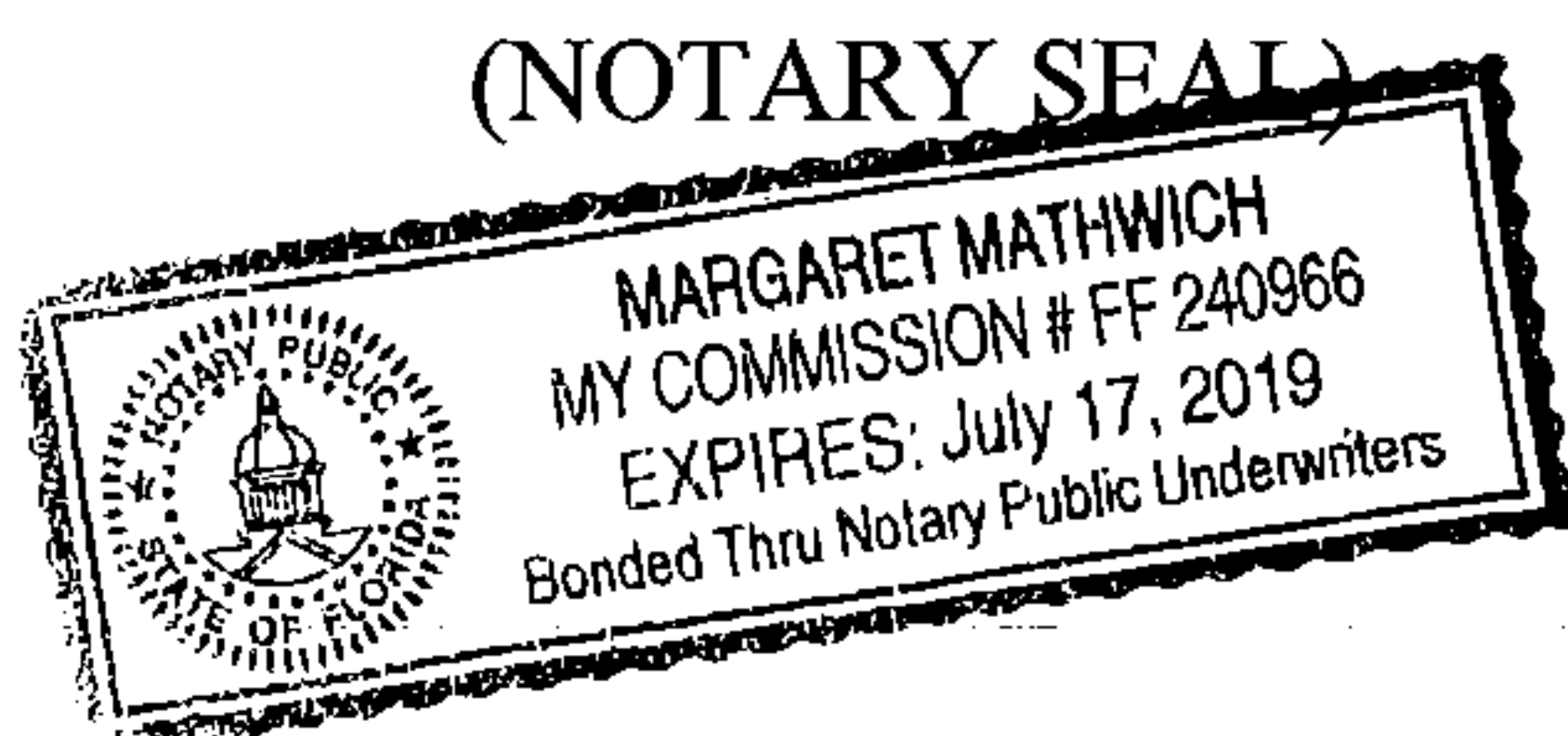
  
Name: Phillip M. Anderson  
Title: Manager



**ACKNOWLEDGEMENT**

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of January 2019, by Phillip M. Anderson, as Manager of BSH II HOLDINGS 2 LLC, a Delaware limited liability company, as Manager of ~~BIRMINGHAM AL SENIOR HOLDINGS LLC~~, a Delaware limited liability company, as Manager of **BIRMINGHAM AL SENIOR PROPERTY LLC**, a Delaware limited liability company, on behalf of the companies. He is ☒ personally known to me or ☐ has produced \_\_\_\_\_ as identification.

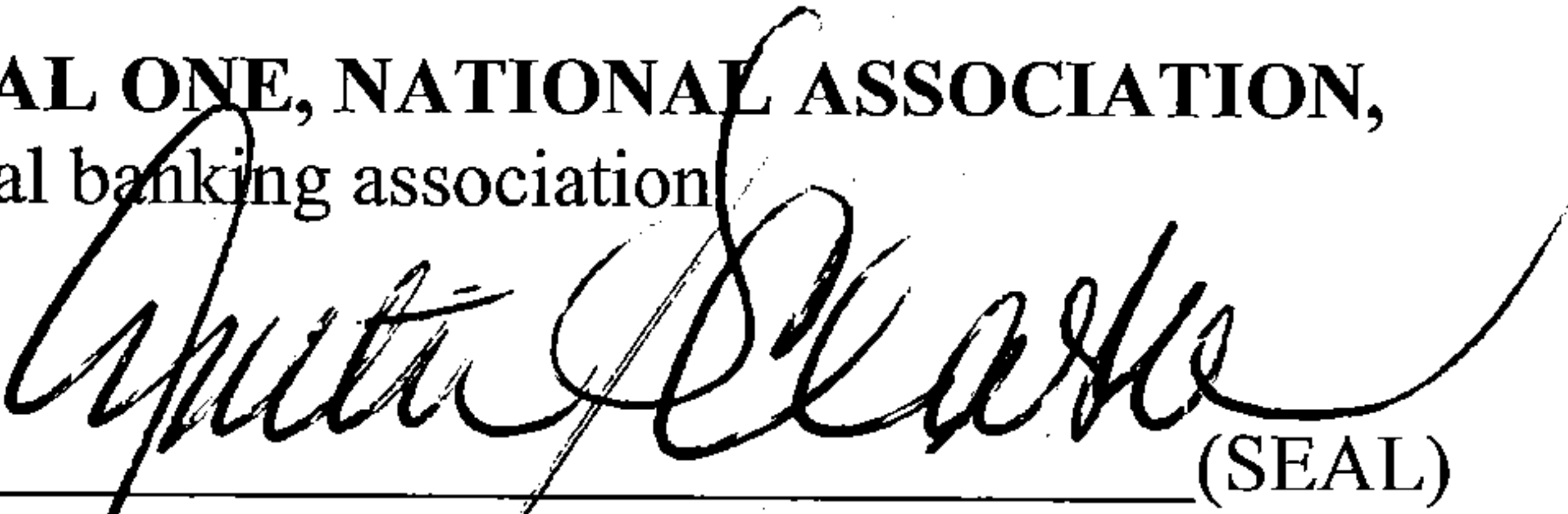


Margaret Mathwich  
Notary Public Signature

Margaret Mathwich  
(Name typed, printed or stamped)

**LENDER:**

**CAPITAL ONE, NATIONAL ASSOCIATION,**  
a national banking association

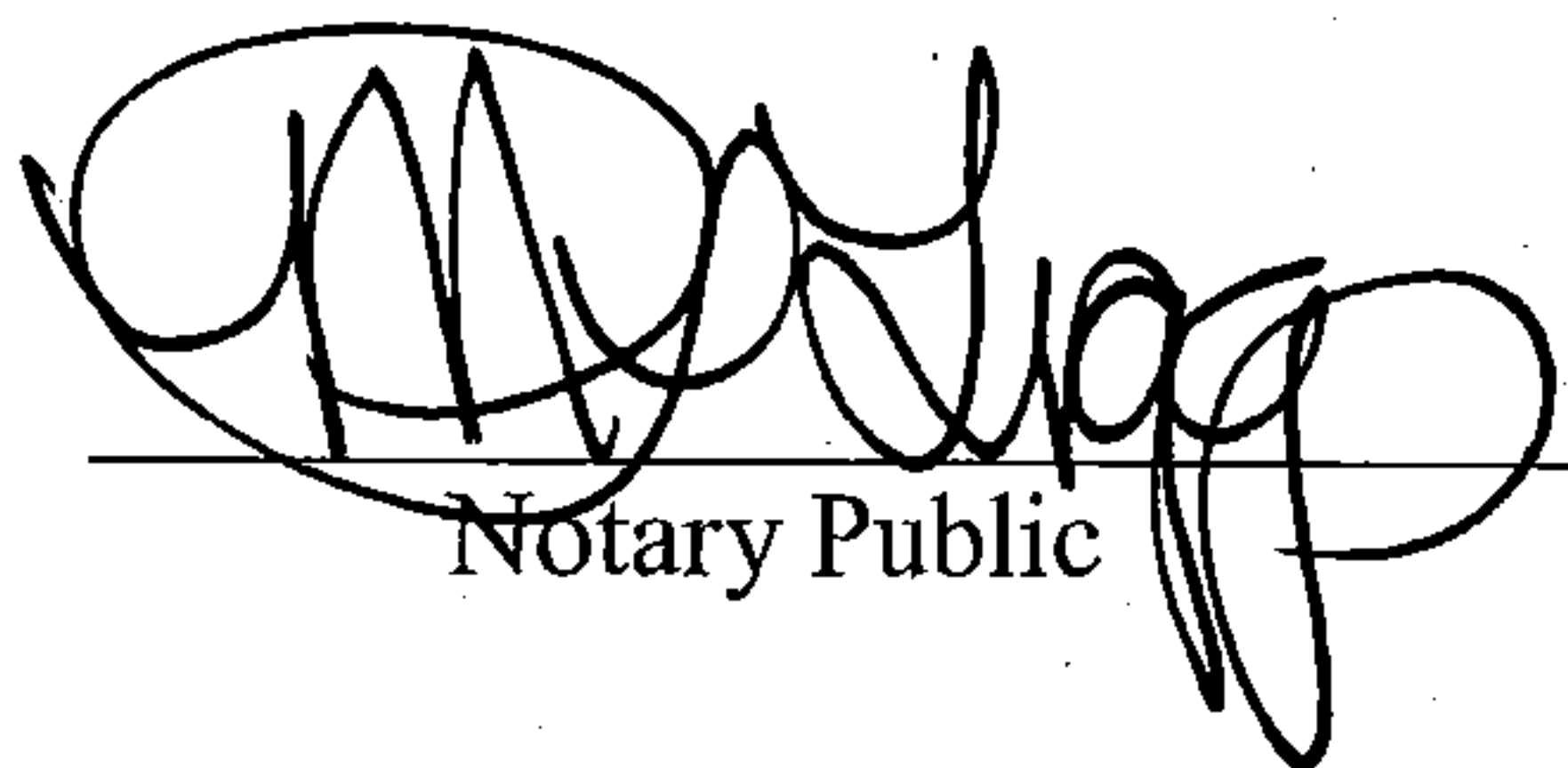
By:  (SEAL)  
Name: Anita S. Clarke  
Title: Senior Vice President

**ACKNOWLEDGMENT**

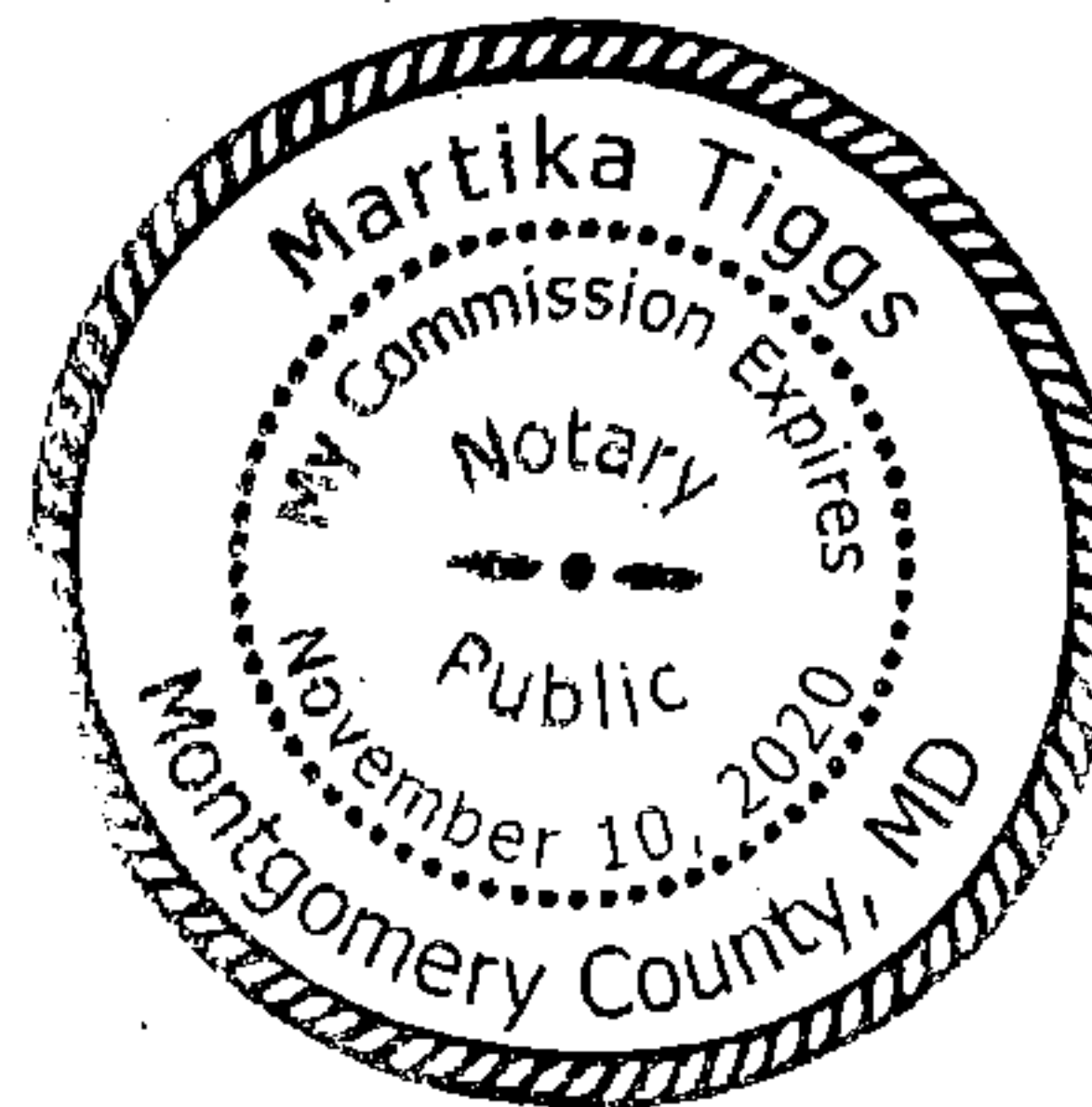
STATE OF Maryland )  
 ) ss.  
COUNTY OF Montgomery )

On this 16th day of February, 2019, before me, the undersigned, a Notary Public in and for said state, personally appeared Anita S. Clarke of Capital One, National Association, a national banking association proved to me through satisfactory evidence of identification, being [*check whichever applies*]: [ ] a driver's license, [ ] other state or federal governmental document bearing a photographic image, or ☒ my own personal knowledge of the identity of the signatory, to be the person whose name is signed to the attached document and acknowledged to me that she/he signed such document voluntarily for its stated purpose as Senior Vice President of Capital One, National Association and as the voluntary act of Capital One, National Association.

WITNESS my hand and official seal.

  
Notary Public

(Seal)





**OPERATOR:**

**NINETEEN SENIOR CARE LLC**, a  
Delaware limited liability company

By: **BIRMINGHAM AL SENIOR  
HOLDINGS LLC**, a Delaware  
limited liability company, its  
Manager

By: **BSH II HOLDINGS 2 LLC**, a  
Delaware limited liability  
company, its Manager

By:   
Name: **Robert W. Chapin, Jr.**  
Title: **Manager**

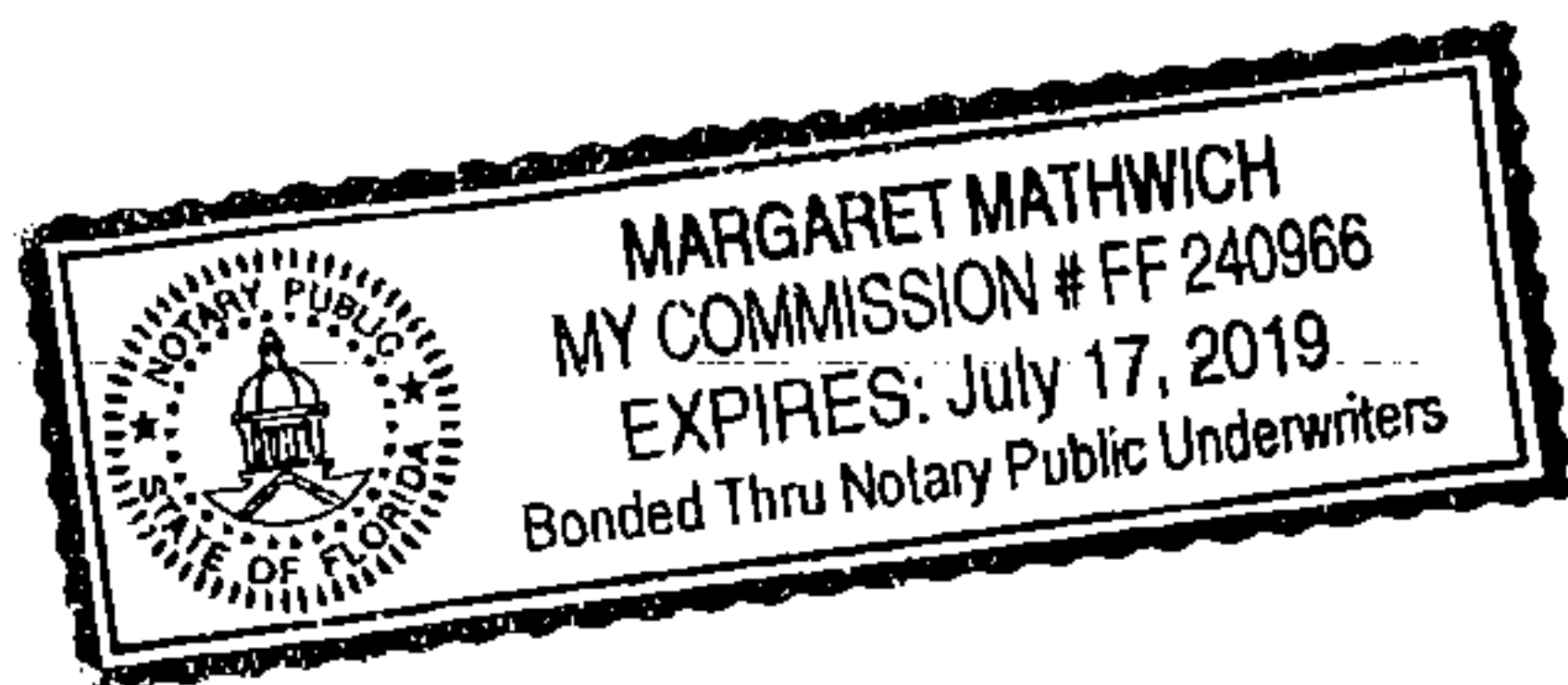
The name, chief executive office and organizational  
identification number of Property Operator (as Debtor  
under any applicable Uniform Commercial Code) are:  
Debtor Name/Record Owner:  
**NINETEEN SENIOR CARE LLC**  
Debtor Chief Executive Office Address:  
**c/o BSH II Holdings 2 LLC**  
**1000 Legion Place, Suite 1600,**  
**Orlando, FL 32801**

**ACKNOWLEDGMENT**

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of January, 2019, by Robert W. Chapin, Jr., as Manager of BSH II HOLDINGS 2 LLC, a Delaware limited liability company, as Manager of BIRMINGHAM AL SENIOR HOLDINGS LLC, a Delaware limited liability company, as Manager of **NINETEEN SENIOR CARE LLC**, a Delaware limited liability company, on behalf of the companies. He is ☒ personally known to me or ☐ has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)



Margaret Mathwich  
Notary Public Signature

Margaret Mathwich  
(Name typed, printed or stamped)



**MANAGER:**

**SOMERBY SENIOR LIVING SERVICES, LLC**, an  
Alabama limited liability company

By: BRIDGE SSLS HOLDINGS LLC, a Delaware limited  
liability company, its Manager

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By:   
Name: Phillip M. Anderson  
Title: Manager

The name, chief executive office and organizational  
identification number of Manager (as Debtor under any  
applicable Uniform Commercial Code) are:

Debtor Name/Record Owner:

Somerby Senior Living Services, LLC

Debtor Chief Executive Office Address:

c/o BSH II Holdings 2 LLC

1000 Legion Place, Suite 1600,

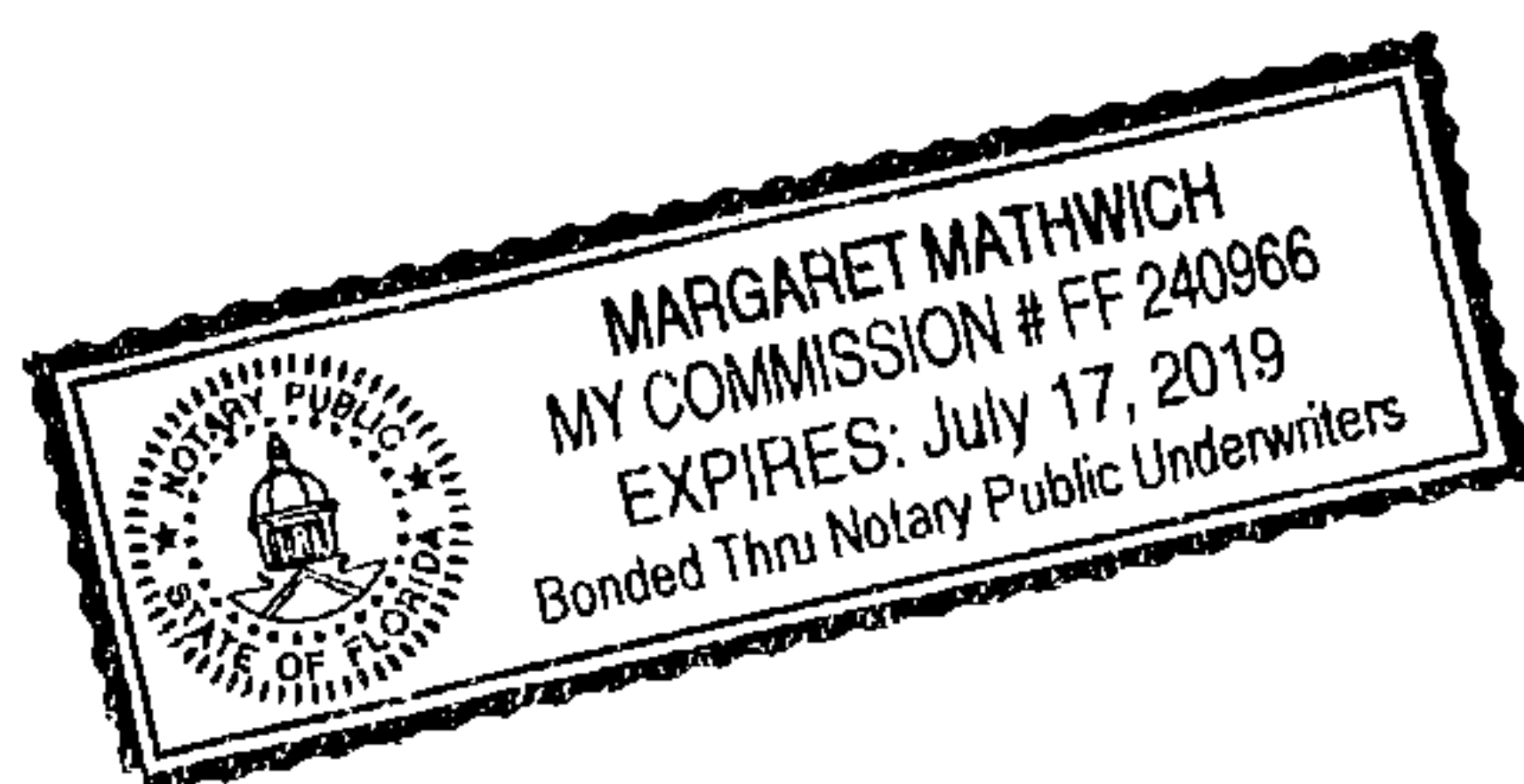
Orlando, FL 32801

**ACKNOWLEDGMENT**

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of January, 2019, by Phillip M. Anderson, as Manager of BRIDGE SSLS HOLDINGS LLC, a Delaware limited liability company, as Manager of **SOMERBY SENIOR LIVING SERVICES, LLC**, an Alabama limited liability company, on behalf of the companies. He is ☒ personally known to me or ☐ has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)



Margaret Mathwich  
Notary Public Signature

Margaret Mathwich  
(Name typed, printed or stamped)



**EXHIBIT A**  
**TO SUBORDINATION, ASSIGNMENT AND SECURITY AGREEMENT**  
**Legal Description**

**PARCEL 1:**

**LOT 1-B, ST. VINCENT'S HOSPITAL HIGHWAY NO. 119 SURVEY, MAP BOOK 39, PAGE 103 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**A PART OF LOT 1, GREYSTONE - 3RD SECTOR AS RECORDED IN MAP BOOK 14, PAGE 79 IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA AND SITUATED IN THE NORTHWEST 1/4 AND THE NORTHEAST 1/4 OF SECTION 32, TOWNSHIP 18 SOUTH, RANGE 1 WEST SHELBY COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**BEGIN AT THE SOUTHEASTERLY CORNER OF LOT 1, GREYSTONE - 3RD SECTOR AS RECORDED IN MAP BOOK 14, PAGE 79 IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF GREYSTONE WAY AS RECORDED IN MAP BOOK 29, PAGE 123 IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA, AND RUN IN A NORTHEASTERLY DIRECTION ALONG THE SOUTHEASTERLY LINE OF SAID LOT 1 A DISTANCE OF 569.13 FEET TO A POINT; THENCE 3°53'00" TO THE LEFT IN A NORTHEASTERLY DIRECTION ALONG THE SOUTHEASTERLY LINE OF SAID LOT 1 AND IT'S PROLONGATION A DISTANCE OF 424.81 FEET TO A POINT; THENCE 76°04'07" TO THE LEFT IN A NORTHWESTERLY DIRECTION A DISTANCE OF 352.05 FEET TO A POINT; THENCE 58°04'29" TO THE LEFT IN A SOUTHWESTERLY DIRECTION A DISTANCE OF 72.43 FEET TO A POINT ON A CURVE TO THE RIGHT HAVING A RADIUS OF 655.00 FEET AND A CENTRAL ANGLE OF 47°12'36"; THENCE 78°56'03" TO THE LEFT (ANGLE MEASURED TO TANGENT) IN A SOUTHEASTERLY, SOUTHERLY AND SOUTHWESTERLY DIRECTION ALONG THE ARC OF SAID CURVE A DISTANCE OF 539.70 FEET TO THE P.T. (POINT OF TANGENT) OF SAID CURVE; THENCE TANGENT TO SAID CURVE IN A SOUTHWESTERLY DIRECTION A DISTANCE OF 39.65 FEET TO A POINT; THENCE 90°00'00" TO THE RIGHT IN A NORTHWESTERLY DIRECTION A DISTANCE OF 25.00 FEET TO A POINT; THENCE 90°00'00" TO THE LEFT IN A SOUTHWESTERLY DIRECTION A DISTANCE OF 70.27 FEET TO THE P.C. (POINT OF CURVE) OF A CURVE TO THE RIGHT HAVING A RADIUS OF 517.00 FEET AND A CENTRAL ANGLE OF 24°29'13"; THENCE IN A SOUTHWESTERLY DIRECTION ALONG THE ARC OF SAID CURVE A DISTANCE OF 220.95 FEET TO THE P.R.C. (POINT OF REVERSE CURVE) OF A CURVE TO THE LEFT HAVING A RADIUS OF 370.50 FEET AND A CENTRAL ANGLE OF 23°26'54"; THENCE IN A SOUTHWESTERLY DIRECTION ALONG THE ARC OF SAID CURVE A DISTANCE OF 151.63 FEET TO THE P.T. (POINT**

OF TANGENT) OF SAID CURVE; THENCE TANGENT TO SAID CURVE IN A SOUTHWESTERLY DIRECTION A DISTANCE OF 72.81 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF GREYSTONE WAY; THENCE 91°09'24" TO THE LEFT IN A SOUTHEASTERLY DIRECTION ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF GREYSTONE WAY A DISTANCE OF 207.31 FEET TO THE P.C. (POINT OF CURVE) OF A CURVE TO THE LEFT HAVING A RADIUS OF 410.00 FEET AND A CENTRAL ANGLE OF 43°51'30"; THENCE IN A SOUTHEASTERLY, EASTERLY, AND NORTHEASTERLY DIRECTION ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF GREYSTONE WAY AND ALONG THE ARC OF SAID CURVE A DISTANCE OF 313.84 FEET TO THE POINT OF BEGINNING.

FOR INFORMATIONAL PURPOSES ONLY, SAID PARCEL BEING KNOWN AS 200 ONE NINETEEN BOULEVARD, BIRMINGHAM, AL 35242, TAX PARCEL NO. 03-9-32-0-001-005.005.

**PARCEL 2:**

BENEFICIAL EASEMENT SET FORTH IN RESTRICTIVE COVENANTS AND RECIPROCAL EASEMENT AGREEMENT RECORDED AS INSTRUMENT NO. 20071228000583600, AS AMENDED IN INSTRUMENT NO. 20111221000387420, AND AS FURTHER AMENDED BY SECOND AMENDMENT RECORDED AS INSTRUMENT NO. 20170428000146960.

**EXHIBIT B**  
**TO SUBORDINATION, ASSIGNMENT AND SECURITY AGREEMENT**  
**Contracts**

<u>Landlord</u>	<u>Tenant</u>	<u>Description of Lease</u>	<u>Effective Date</u>	<u>Expiration Date</u>	<u>Renewal Terms</u>	<u>Termination Language</u>	<u>Rent</u>	<u>Frequency of Payment</u>	<u>Assignable</u>
Somerby	AMT Staffing	Private Duty Homecare Services	1/1/2014	12/31/2014	-	60 days written notice	\$ 500.00	Monthly	Not specified in Lease
Somerby at St. Vincent's	Salon PS Alabama, LLC	Salon & Spa	2/19/2015	2/18/2018	-	30 days written notice	10% of services rendered	Per service	Yes

<u>Customer</u>	<u>Leasing Company</u>	<u>Equipment</u>	<u>Effective Date</u>	<u>Rent</u>	<u>Frequency of Payment</u>	<u>Assignable</u>
Dominion Management, LLC	U.S. Bank	Xerox WC 7845	3/31/2015	\$ 277.00	Monthly	Not specified in Lease
Dominion Management, LLC	U.S. Bank	2 Xerox WC 5335 Digital Systems & 1 Xerox WC 3615 Digital System	11/19/2015	\$ 546.00	Monthly	Not specified in Lease
Dominion Management, LLC	U.S. Bank	Xerox WC 3615	5/17/2016	\$ 42.96	Monthly	Not specified in Lease



Dominion Management, LLC	U.S. Bank	3 Xerox WC 3615 Digital Systems	2/4/2016	\$ 112.00	Monthly	Not specified in Lease
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<u>Name on Contract</u>	<u>Vendor / Provider Name</u>	<u>Description of Services</u>	<u>Effective Date</u>	<u>Expiration Date</u>	<u>Renewal Terms</u>	<u>Cost of Services</u>	<u>Frequency of Payment</u>	<u>Assignable</u>
Dominion Partners	Foliage Design Systems	Plant maintenance	10/21/2009	10/20/2011	-	-	-	Not specified in contract
Somerby at St. Vincent's One Nineteen	Guardian Pharmacy of Birmingham, LLC	Pharmaceutical products and services	10/1/2015	9/30/2017	Auto - 1 year	Varies	Varies	Yes
STV One Nineteen Senior Living, LLC	Marcus Cable of Alabama, LLC	Bulk video services	10/29/2017	10/28/2022	Auto - 1 year	\$ 3,536.00	Monthly	Not specified in contract
Somerby at St. Vincent's One Nineteen	MITEC	Fire Extinguisher Services	1/1/2014	12/31/2014	Auto - 1 year	\$ 243.00	Annual	Not specified in contract
Somerby at St. Vincent's One Nineteen	MITEC	Sprinkler Services	1/1/2014	12/31/2014	Auto - 1 year	\$ 2,046.00	Annual	Not specified in contract
Somerby at St. Vincent's One Nineteen	MITEC	Suppression Services	1/1/2014	12/31/2014	Auto - 1 year	\$ 450.00	Annual	Not specified in contract
Somerby at St. Vincent's One Nineteen	Power Plus	Generator Maintenance	4/1/2017	3/31/2020	-	\$ 738.70	Annual	Yes
Somerby at St. Vincent's	Schindler Elevator Corporation	Elevator Maintenance	10/24/2010	10/23/2015	Auto - 5 years	\$ 2,025.00	Quarterly	Yes

Somerby 119	SilverRock, Inc.	Landscape Maintenance	6/12/2017	5/31/2018	Auto - 1 year	\$ 2,500.00	Monthly	Not specified in contract
Somerby at St. Vincent's One Nineteen	Stark Exterminators	Eastern Subterranean Termites	5/1/2017	4/31/18	Auto - 1 year	\$ 2,180.00	Annual	Not specified in contract
Somerby at St. Vincent's One Nineteen	Stark Exterminators	Pest Control	5/5/2017	5/4/2018	Auto - 1 year	\$ 5,528.00	Annual	Not specified in contract
Somerby	Stericycle	Hazardous Waste Removal	3/4/2014	3/3/2015	Auto - 1 year	\$ 93.00	Monthly	Yes
Somerby - St. Vincent's Retirement Community	Steritech	Pest Control	9/14/2009	9/13/2010	Auto - 1 year	\$ 473.50	Monthly	Not specified in contract
Somerby 119	Taylor Power Systems	Standby Generator Industrial Maintenance	10/1/2015	9/30/2016	-	\$ 1,696.00	Annual	Not specified in contract
Dominion Partners, LLC	Teklinks	Internet	10/6/2015	10/5/2018	Auto - 1 year	\$ 750.00	Monthly	Not specified in contract
Somerby Senior Living	Verizon	Corporate Wireless Phone Plan	4/13/2018	4/12/2020	Auto - Monthly	-	Monthly	Yes
Somerby (RCY)	Waste Management	Non-Hazardous Waste Disposal	11/1/2014	2/1/2016	Auto - 3 years	\$ 129.45	Monthly	Not specified in contract
Dominion Senior Living at St. Vincent's	Windstream	Phone Services	10/6/2015	10/5/2018	Auto - 1 year	\$ 1,005.00	Monthly	Yes
-	O'Henry's Coffee	-	-	-	-	-	-	Not specified in contract

**EXHIBIT C**  
**TO SUBORDINATION, ASSIGNMENT AND SECURITY AGREEMENT**  
**Licenses**

Seniors Housing Facility Type	(Check all that apply)  Independent Living <input checked="" type="checkbox"/>  Assisted Living <input checked="" type="checkbox"/>
	Alzheimer's/Dementia Care <input checked="" type="checkbox"/>
License: Assisted Living Facility	Holder: Nineteen Senior Care LLC  Issuer: Alabama State Board of Health  Effective Date: [NOT STATED]  Expiration Date: December 31, 2019  License renewal frequency: 1 year  Period to submit renewal application prior to License expiration: None specified
License: Assisted Living Facility (Specialty Care)	Holder: Nineteen Senior Care LLC  Issuer: Alabama State Board of Health  Effective Date: [NOT STATED]  Expiration Date: December 31, 2019  License renewal frequency: 1 year  Period to submit renewal application prior to License expiration: None specified
Certificate of Occupancy Number 08-00032718 000 000	Issuer: City of Hoover  Effective Date: October 14, 2009



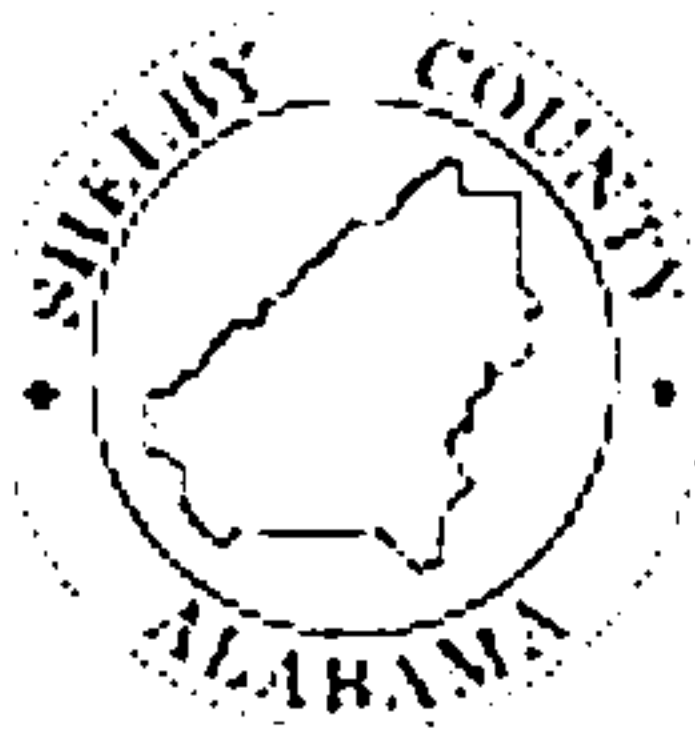
**EXHIBIT D**  
**TO SUBORDINATION, ASSIGNMENT AND SECURITY AGREEMENT**

<b>Operating Lease Terms</b>	
Agreement Name and Parties	Lease Agreement, dated as of December 21, 2018, between Birmingham AL Senior Property LLC, as landlord, and Nineteen Senior Care LLC, as tenant
Facility Operating Agreement Commencement Date	December 21, 2018
Facility Operating Agreement Rent Commencement Date	December 21, 2018
Primary Term of Facility Operating Agreement	December 21, 2018 - December 21, 2023
Renewal Options under Facility Operating Agreement	Five (5 ) options of one (1) year each
Facility Operating Agreement Security Deposit	\$-0-
Rights or options to purchase, rights of first refusal to purchase or rights of first offer to purchase	None

Management Agreement Terms	
Agreement Name and Parties	Management Agreement, dated as of December 21, 2018, between Nineteen Senior Care LLC and Somerby Senior Living Services, LLC
Facility Operating Agreement Commencement Date	December 21, 2018
Facility Operating Agreement Rent Commencement Date	N/A
Primary Term of Facility Operating Agreement	December 21, 2018 - December 31, 2028
Renewal Options under Facility Operating Agreement	None
Facility Operating Agreement Security Deposit	\$-0-
Rights or options to purchase, rights of first refusal to purchase or rights of first offer to purchase	N/A

**SCHEDULE 1  
EXCEPTIONS**

**None.**



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
02/21/2019 09:10:58 AM  
\$147.00 CHERRY  
20190221000055000

*Alex S. Bayl*