

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

|                           |   |                         |
|---------------------------|---|-------------------------|
| In re:                    | : | Chapter 11              |
| WHITEHALL TRUST,          | : | Case No. 24-15241 (PMM) |
| <i>Debtor.</i>            | : |                         |
| In re:                    | : | Chapter 11              |
| SAUCON TRUST,             | : | Case No. 24-15243 (PMM) |
| <i>Debtor.</i>            | : |                         |
| In re:                    | : | Chapter 11              |
| WHITEHALL MANOR, INC.     | : | Case No. 24-15245 (PMM) |
| <i>Debtor.</i>            | : |                         |
| In re:                    | : | Chapter 11              |
| SAUCON VALLEY MANOR, INC. | : | Case No. 24-15244 (PMM) |
| <i>Debtor.</i>            | : |                         |

**FIRST OBJECTION OF SECURED CREDITOR LEHIGH  
VALLEY 1, LLC TO MOTION FOR (1) INTERIM AND FINAL  
ORDERS (A) AUTHORIZING DEBTORS TO USE CASH  
COLLATERAL OF EXISTING SECURED PARTY AND  
GRANTING ADEQUATE PROTECTION FOR USE AND  
(B) PRESCRIBING FORM AND MANNER OF NOTICE AND  
SETTING THE TIME FOR THE FINAL HEARING AND  
(2) EXPEDITED HEARING ON THE RELIEF SOUGHT HEREIN**

Secured Creditor Lehigh Valley 1, LLC (“Lender”) objects to the Motion for (1) Interim and Final Orders (A) Authorizing Debtors to Use Cash Collateral of Existing Secured Party and Granting Adequate Protection for Use and (B) Prescribing Form and Manner of Notice and Setting the Time for the Final Hearing and (2) Expedited Hearing on the Relief Sought Herein (the “Cash Collateral Motion,” ECF 17) filed by Whitehall

Trust, Saucon Trust, Whitehall Manor, Inc., and Saucon Valley Manor, Inc. (collectively, the “Debtors”). In support of this objection, Lender states as follows:

### **INTRODUCTION**

1. The Debtor’s last-minute, holiday bankruptcy filings are part and parcel of their ongoing effort to evade their clear obligations to the Lender. The Lender holds a first-priority (except to the extent the Debtors have allowed real estate taxes to become delinquent), perfected security interest in all of the Debtors’ property, including the real estate owned by Whitehall Trust and Saucon Trust (collectively, the “Trust Debtors”) and the rents due to Whitehall Manor, Inc. and Saucon Valley, Inc. (collectively, the “Manor Debtors”).

2. The Debtors’ bankruptcy filings follow a long history of efforts to avoid payment of their obligations to the Lender, including:

- Failure to make any payments to their secured creditors for nearly five years;
- Failure to pay real estate taxes for several years, resulting in the accrual of tax liabilities that prime the Lender’s perfected, otherwise first-priority security interests;
- Entering in to nakedly fraudulent “lease amendments” that purported to forgive the two years of unpaid rent the Manor Debtors owe to the Trust Debtors, eliminating rent for an additional year, and modifying the amount due to essentially eliminate any future rent obligations;
- Refusing to provide basic insurance documentation as required under the applicable loan documents; and
- Defaulting in their obligations under various orders issued by the District Court in pending foreclosure actions to the extent the District Court imposed various sanctions on the Debtors.



3. These actions resulted in the Lender's filing of foreclosure actions against the Debtors. As a result of the Debtors' conduct, the District Judge Catherine Henry of this District has entered orders:

- Appointing a Receiver for the Trust Debtors' property;
- Imposing sanctions on the Debtors;
- Ordering the Manor Debtors to deliver their rents to the Receiver; and
- Invalidating the fraudulent lease amendments.

4. Just one week after the entry the most recent adverse order against the Debtors, and just one day before they were obligated to pay sanctions, deliver documents to the Receiver, and hand over their rents, the Debtors filed for bankruptcy protection.

5. Given this context, the Debtors filings present obvious issues, including, without limitation, whether they were filed in good faith or with proper authorization, whether they should be treated together or separately, whether the Receiver should be allowed to retain control of the Debtors' property, and whether the Debtors have any chance of successfully reorganizing.

6. More immediately, the Debtors seek permission from this Court to use the Lender's cash collateral to pay expenses, including payments to or for the benefit of family members and non-debtor insiders and affiliates and unnecessary payments, without providing any meaningful adequate protection for the Lender's interests.

7. Specifically, the Lender objects to the Cash Collateral Motion for the following reasons:

- The proposed adequate protection is grossly inadequate, as it provides for no payments of debt service. The Debtors' proposed replacement liens are on property the Lender already has a lien on. The Debtors' own Budgets show their continued operation is not protection for the Lender. Instead, the Debtors must pay contractual debt service and keep the

properties insured and current on property taxes to adequately protect the Lenders' security interests in cash collateral.

- The Debtors proposed use of cash collateral must provide for payment of current rent obligations the Manor Debtors owe to the Trust Debtors, consistent with 11 U.S.C. 363(d)(3).
- Any use of cash collateral must require weekly reporting to the Lender concerning actual versus budget receipts and expenses, rent received and due, other revenues received, and detail of expense payments.
- The Debtors' Budgets propose to pay plainly improper expenses. The Debtor proposes to pay Management Fees to an affiliate under the control of the same individual, expenses for the benefit of non-debtor affiliate entities, wages to family members of the same individual, payment of taxes and insurance without regard to whether those are necessary to pay on an interim basis, and an enormous and unjustified reservation for payment of bankruptcy legal fees.

8. Lender respectfully submits that this Court should not permit allow the Debtors to use cash collateral on an interim basis unless the Court imposes limitations to ensure that the Lender's interests are adequately protected, necessary and appropriate payments are made, and that the use of cash collateral not be a means to permit the Debtors to continue to line their insiders' pockets while evading their obligations to their secured creditor.

9. Simply put, the Debtors seek to use the automatic stay as a sword, to evade the consequences of their misconduct, and to continue consuming Lender's cash collateral, without providing the requisite (or any) adequate protection. This Court should not countenance this misuse of the bankruptcy process.

## **FACTUAL BACKGROUND**

### **A. THE LOANS AND DEFAULTS**

10. On January 26, 2012, M&T Realty Capital Corporation (“M&T”) provided a loan to Whitehall Trust in the amount of \$15,788,700, secured by a mortgage on the real property located at 1177 6th Street, Whitehall, Pennsylvania.

11. On December 1, 2012, M&T provided a loan to Saucon Trust in the amount of \$19,462,800, secured by a mortgage on the real property located at 1050 Main Street, Unit #1, Hellertown, Pennsylvania. Both properties house senior living facilities.

12. The loans were insured by U.S. Department of Housing and Urban Development (“HUD”), and due to Whitehall Trust’s and Saucon Trust’s payment defaults, both notes and both mortgages were assigned by M&T to HUD effective November 16, 2022. HUD then held a publicly advertised loan sale, at which Windstream Capital LLC was the authorized and winning bidder on these two loans. HUD then assigned both notes, both mortgages, all security agreements, and all related loan documents to Windstream Capital LLC on September 20, 2023. Windstream Capital subsequently assigned the loan documents to Lender on May 15, 2024.

13. Neither Whitehall Trust nor Saucon Trust (collectively, the “Trust Debtors”) has made a **single** voluntary mortgage payment on either loan since February 2021—a period of nearly five years. Due to the Trust Debtors’ defaults, both Loans were accelerated, and demand was made for the immediate payment of all amounts due. However, the Debtors continued to refuse to make any mortgage payments on either loan.

14. The total amounts due and owing by the Trust Debtors to Lender are as follows as of December 22, 2025:

**Saucon Trust**

|                       |                        |
|-----------------------|------------------------|
| Principal             | \$16,238,862.47        |
| Interest              | 1,860,702.99           |
| Tax & Insurance       | (91,067.24)            |
| Late Charges          | 76,536.35              |
| Miscellaneous Fees    | 151,099.11             |
| Payoff Processing Fee | 650.00                 |
| Recording Fee         | 70.75                  |
| <b>TOTAL</b>          | <b>\$18,236,854.33</b> |

**Whitehall Trust**

|                       |                        |
|-----------------------|------------------------|
| Principal             | \$12,487,669.04        |
| Interest              | 1,934,548.06           |
| Tax & Insurance       | (65,842.96)            |
| Late Charges          | 76,829.50              |
| Miscellaneous Fees    | 160,316.37             |
| Payoff Processing Fee | 650.00                 |
| Recording Fee         | 110.00                 |
| <b>TOTAL</b>          | <b>\$14,594,280.01</b> |

**B. TAX DELINQUENCIES AND RISK OF TAX SALE**

15. As a result of the Debtors' failure to pay real estate taxes, both Properties were subject to significant tax and municipal liens which caused the Properties to be listed for tax sale. The Trust Debtors (through the Manor Debtors) entered into a tax repayment plan, which to date has repaid the past due 2023 property taxes.

16. However, the Debtors currently still owe approximately \$371,000 in property taxes for Whitehall and \$412,000 in property taxes for Saucon—a combined total of approximately \$783,000 in delinquent real estate taxes.

17. These tax liens prime Lender's mortgage liens and continue to erode Lender's collateral position.

**C. APPOINTMENT OF RECEIVER**

18. On June 20, 2024, Lender filed foreclosure actions in the Eastern District of Pennsylvania against both Trust Debtors (Case Nos. 24-cv-02627 and 24-cv-02709). On August 7, 2024, Lender filed Motions to Appoint a Receiver for both Properties.

19. On May 2, 2025, presiding District Judge Catherine Henry entered an Order appointing Erin Duffy, Esq. of Duane Morris LLP as Receiver for both Properties for the benefit of Lender. (A copy of this Order is attached hereto as Exhibit A.) In the Opinion in Support of the Order, the Court found that: (a) the mortgages themselves provided that

the holder “shall be entitled to the appointment of a Receiver of the rents and profits of the mortgaged premises as a matter of right and without notice”; (b) Defendants had failed to make payments since February 2021—over four years; (c) audited financial statements showed “substantial doubt about the Trust’s ability to continue as a going concern”; and (d) appointment was necessary to manage the Properties and ensure bills would be paid on time and structures maintained. (A copy of the opinion is attached hereto as Exhibit B.)

20. The Receiver’s Order authorized and directed the Receiver to collect all rents and directed that “Rents and Leases shall be turned over to Receiver and the Defendant shall be enjoined and restrained from collecting the Rents and Leases of the Properties or interfering with Receiver’s ability to collect said Rents and Leases.”

#### **D. THE FRAUDULENT LEASE AMENDMENTS**

21. Prior to the loan defaults and prior to the HUD sale to Windstream (now Lender), the Lease Agreements between Debtor Whitehall Manor and Debtor Saucon Valley Manor (collectively, the “Manor Debtors”), on one hand, and the property-owning Trust Debtors, on the other hand, required substantial monthly rent payments as follows:

| <b>Lease</b>                       | <b>Monthly Rent</b> | <b>Annual Rent</b> |
|------------------------------------|---------------------|--------------------|
| Whitehall Manor to Whitehall Trust | \$139,000           | \$1,668,000        |
| Saucon Manor to Saucon Trust       | \$142,118           | \$1,705,421        |
| <b>COMBINED TOTAL</b>              | <b>\$281,118</b>    | <b>\$3,373,421</b> |

22. Effective as of September 21, 2023—*after* the mortgages had defaulted, *after* HUD had taken over the loans, and *after* HUD had auctioned the loans—Abraham Atiyeh (the Manager of the Trust Debtors) unilaterally, on behalf of the Debtor Trusts, and on behalf of the Manor Debtors (allegedly operated by his wife), drafted, prepared and executed two purported lease amendments (the “Fourth Amendment” for the

Whitehall property and the “Sixth Amendment” for the Saucon property). These lease amendments, for which Debtor Trusts received no consideration:

- (a) **Waived ALL rent from March 2021 through September 2023**—approximately 2.5 years of rent totaling approximately **\$8.4 million**;
- (b) **Waived ALL rent for the year 2024 totaling over \$3.3 million**;
- (c) Set **maximum rent of only \$300,000/year** per property for 2025 (less the amounts paid by the Manor Debtors for taxes and capital improvements); and
- (d) Were executed in **violation of Section 2(c) of the Lessee Security Agreements**, which required prior written consent of the Lender for any lease modifications.

23. Abraham Atiyeh admitted under oath that the Debtor Trusts received no consideration from the Manor Debtors for these lease amendments. These amendments were designed to strip rental income from the property-owning Debtor Trusts (whose cash flow was pledged to the mortgage lender) and to keep all cash in the operating Manor Debtors (controlled by the same Atiyeh family).

**E. DECEMBER 19, 2025 ORDER VOIDING THE LEASE AMENDMENTS AND IMPOSING SANCTIONS**

24. Lender filed a Motion to Void and Set Aside the Lease Amendments and for Declaratory Judgment in July 2025. The Receiver filed a Motion for Sanctions based on the Respondents’ failure to comply with prior Court-ordered document production.

25. On December 19, 2025—just one week before the bankruptcy filing—District Judge Henry entered an Order in the Foreclosure Action which provided:

- 1. GRANTED the Receiver’s Motion for Sanctions;
- 2. Ordered Respondents to pay \$21,281.00 to the Receiver by December 29, 2025;

3. Ordered Respondents to produce all documents required by the Court's September 2, 2025 Order by December 29, 2025;
4. Warned that failure to comply would result in striking Defendants' Answer and Affirmative Defenses and entering Judgment of Foreclosure;
5. GRANTED Lehigh's Motion to Void and Set Aside Lease Amendments;
6. DECLARED the Sixth Amendment and Fourth Amendment to be NULL, VOID, and OF NO LEGAL EFFECT;
7. Ordered the Manors to turn over to the Receiver any rental payments received from Good Shepherd Rehabilitation Hospital since October 31, 2025;
8. Ordered the Manors to turn over to the Receiver ALL receipts from occupants to be paid beginning January 2026.

(A copy of the December 19, 2025 Order is attached hereto as Exhibit C.)

26. The Debtors' four bankruptcy petitions were all filed on December 26, 2025—just one day before the December 29, 2025 Court's sanctions deadline, and just one week after the entry of the December 19, 2025 Order.

**F. THE LESSEE SECURITY AGREEMENTS ENTITLE LENDER TO ALL RENTS FROM MANOR DEBTORS**

27. Lender's collateral package is more extensive than a typical mortgage.

Lender holds by assignment:

1. **Mortgages:** Against real property, improvements, equipment, personal property, and "rents, profits and other attributes."
2. **Security Agreements (Debtor Trusts):** Security Agreement, with filed UCC-1s against all personal property, accounts receivable, cash, and rents of Debtor Whitehall Trust and of Debtor Saucon Trust.
3. **Lessee Security Agreements (Manor Debtors):** Critically, Lender also holds signed Lessee Security Agreements with filed UCC-1's

providing Lender with a perfected, first-priority security interest in *all personal property, accounts receivable, and rents of both Debtor Whitehall Manor, Inc. and of Debtor Saucon Valley Manor, Inc.*—the OPERATING entities.

28. The Lessee Security Agreements grant Lender a security interest in “all rents, leases, income, revenues, issues, profits, royalties and other benefits arising or derived... from the Premises” and “all accounts, accounts receivable, general intangibles, chattel paper, instruments, documents, inventory, goods, cash, bank accounts,” including “all healthcare insurance receivables, including, but not limited to Medicaid and Medicare receivables, Veterans Administration or other governmental receivables, private patient receivables.” (Copies of the Lessee Security Agreements and associated UCC-1 filings are attached hereto as Exhibits D and E.)

29. Accordingly, Lender holds a security interest in and has the right to collect rents directly from all the residents living at the properties. The Manor Debtors themselves granted this security interest to the original lender, and the security interests run with the assigned loans.

**G. THE RENT STREAM: LENDER’S CASH COLLATERAL**

30. Based on the Debtors’ own filings, the two Properties generate the following revenue:

| <b>Property</b>                     | <b>Residents</b> | <b>Avg. Rent</b> | <b>Monthly Revenue</b>                    |
|-------------------------------------|------------------|------------------|-------------------------------------------|
| Whitehall Manor                     | 127              | \$4,500          | \$571,500                                 |
| Saucon Valley Manor                 | 197              | \$4,700          | \$925,900                                 |
| <b>TOTAL MONTHLY ANNUAL REVENUE</b> | <b>324</b>       |                  | <b>\$1,497,400</b><br><b>\$17,968,800</b> |

31. The generated rent is Lender’s cash collateral. Every dollar collected by Debtor Whitehall Manor and by Debtor Saucon Valley Manor from the residents residing at the two properties is subject to Lender’s security interests.



32. However, the Debtors improperly propose to spend all of the collected rent – Lender’s cash collateral – on operations, while paying Lender nothing.

#### **H. CONTRACTUAL DEBT SERVICE AND REAL ESTATE TAXES**

33. Based on the December 19, 2025 District Court Order, and the Lessee Security Agreements, all rent and revenue collected from occupants of the Properties are due to the Receiver, or now to Lender as the secured party. As the Debtors’ fraudulent lease amendments have been voided by Judge Henry of the EDPA, the original lease terms apply, requiring monthly rental payments of \$139,000 (from Debtor Whitehall Manor) and \$142,118 (from Debtor Saucon Manor).

34. The amounts due from the Debtor Trusts pursuant the contractual terms of the promissory notes and the mortgages are as follows:

| <b>Item</b>                                | <b>Monthly Amount</b> | <b>Basis</b> |
|--------------------------------------------|-----------------------|--------------|
| Whitehall Mortgage P&I                     | \$69,844.95           | Contract     |
| Saucon Mortgage P&I                        | \$69,578.58           | Contract     |
| Whitehall Tax Escrow (~\$120K/yr)          | \$10,000.00           | 1/12th       |
| Saucon Tax Escrow (~\$110K/yr)             | \$9,167.00            | 1/12th       |
| Insurance Escrow (~\$851K/yr)              | \$70,917.00           | 1/12th       |
| <b>MINIMUM MONTHLY ADEQUATE PROTECTION</b> | <b>\$229,507.53</b>   |              |

35. The Debtors’ Budget, however, proposes to make no payments to Lender while consuming approximately \$1.5 million per month in revenue that constitutes Lender’s cash collateral.

36. Further, Debtors’ Budget contains no payments to keep ongoing property taxes current.

#### **I. INSURANCE CONCERNS AND FORCE-PLACEMENT REQUIREMENTS**

37. For over six months, Lender has repeatedly requested complete copies of the insurance policies covering the Properties. Despite these repeated requests, the

Debtors have provided only heavily redacted copies of insurance documentation. Based on the limited information provided, *it is impossible for Lender to determine whether the Properties carry adequate insurance coverage.*

38. This is not a mere technicality. These facilities house over 320 vulnerable elderly residents—127 at Whitehall Manor and 197 at Saucon Valley Manor. These seniors, many of whom have mobility issues and require assistance with daily activities, are exposed to numerous potential hazards, including slip-and-fall accidents, medication errors, and other incidents common to personal care homes. Any single catastrophic incident could result in massive liability exposure.

39. The grave dangers facing senior care facilities were tragically illustrated just three days before the bankruptcy filing. On December 23, 2025, a catastrophic gas explosion at the Silver Lake Nursing Home in Bristol Township, Bucks County, Pennsylvania—approximately 20 miles from Philadelphia—killed two people and injured twenty others. The explosion was so powerful that it caused part of the first floor to collapse into the basement, trapping immobile residents inside. Governor Shapiro described the explosion as catastrophic. First responders were forced to brave flames, collapsing walls, a heavy gas odor, and even a second explosion to rescue trapped residents—many of whom could not walk and were in wheelchairs.

40. The Bristol tragedy underscores the critical importance of ensuring adequate insurance coverage for facilities housing vulnerable populations.

41. Without unredacted copies of the insurance policies, Lender cannot verify that the Properties are adequately protected against property damage, general liability, professional liability, or catastrophic loss.

42. Under Section 6 of the Lessee Security Agreements, the Lessees covenanted to “purchase and maintain insurance at all times with respect to the Premises” and to “furnish the Secured Party with certificates or other evidence satisfactory to the Secured Party of compliance with the foregoing insurance provisions.”

43. Under Section 6.01(B) of the Lease Agreements, in the event the Lessee fails to maintain required insurance, “the Owner may, at its option and upon such notice to the Lessee as is reasonable under the circumstances, procure and maintain such insurance. The Lessee agrees and covenants to pay any amounts so advanced therefor by the Owner, together with interest thereon at the prime rate of interest published in the Wall Street Journal plus five percent (5.0%), from the date thereof.”

44. If the Debtors cannot immediately provide complete, unredacted copies of all insurance policies demonstrating adequate coverage to this Court, Lender will be forced to exercise its contractual right to force-place insurance on both Properties. The cost of such force-placed insurance—which is typically significantly more expensive than standard coverage—must be included as part of the requisite adequate protection payments. Lender should not be required to bear the risk of inadequate, or undisclosed, coverage while the Debtors improperly consume Lender’s cash collateral.

## **OBJECTIONS TO THE CASH COLLATERAL MOTION**

### **I. THE PROPOSED ORDER DOES NOT PROVIDE ADEQUATE PROTECTION TO THE LENDER**

#### **A. Adequate Protection of Lender's Interest is Required**

45. Under 11 U.S.C. § 363(c)(2), a debtor-in-possession may use cash collateral only with the consent of the secured creditor or court authorization after notice and a hearing. Section 363(e) mandates that the court “shall prohibit or condition such use... as is necessary to provide adequate protection” of the secured creditor’s interest. 11 U.S.C. § 363(e).

46. Section 361 provides three non-exclusive examples of adequate protection: periodic cash payments to the extent use results in a decrease in the value of the creditor’s interest, replacement liens to the extent use results in a decrease in value, or other relief resulting in the “indubitable equivalent” of the creditor’s interest. 11 U.S.C. § 361.

47. Critically, the burden of proof on adequate protection lies with the party opposing relief from stay—namely, the Debtor. *See* 11 U.S.C. § 363(p); *Resolution Trust Corp. v. Swedeland Dev. Group, Inc.*, 16 F.3d 552, 564 (3d Cir. 1994).

48. The Third Circuit Court of Appeals has established that adequate protection must provide the secured creditor with “the value for which [it] bargained pre-bankruptcy” and “should as nearly as possible under the circumstances of the case provide the creditor with the value of his bargained for rights.” *Swedeland*, 16 F.3d at 562-63 (quoting *In re O’Connor*, 808 F.2d 1393, 1396 (10th Cir. 1987), and *In re Martin*, 761 F.2d 472, 476 (8th Cir. 1985)). The whole purpose of adequate protection for a creditor is to

ensure that the creditor receives the value for which it bargained before the bankruptcy filing occurred.

49. As noted above, the Lender holds a perfected, first-priority (after the real estate taxes the Debtors have not paid) in all of the Debtors' property, including the Trust Debtors' real estate and the Manor Debtors' rents.

50. The Debtors propose to provide adequate protection through replacement liens and their ongoing operations. These measures are not adequate to protect the Lenders' interests without payment of the contractual debt service due under the Loan Documents, including, principal, interest, real estate taxes, and insurance.

51. The Debtors must make debt-service payments in order to adequately protect the Lenders' interests.

**B. Replacement Liens are insufficient to protect the Lender's interests**

52. The proposed replacement liens are fundamentally inadequate because the Lender already holds security interests in all of the Debtors' property, including mortgages on both Trusts' real properties, UCC security interests on all personal property of both Trust Debtors, and lessee security agreements on all personal property and rents of both operating Manor entities.

53. A "replacement lien" on property the creditor already has a lien on provides no additional protection. Courts within this Circuit have explained that such liens are "illusory" and place the creditor in a worse situation" than before the bankruptcy. *See, e.g., In re LTAP US, LLLP*, No. 10-14125(KG), 2011 WL 671761, at \*32 (Bankr. D. Del. Feb.

18, 2011); *see also Hari Ram, Inc. v. Magnolia Portfolio, LLC (In re Hari Ram, Inc.)*, 507 B.R. 114 (Bankr. M.D. Pa. 2014).

54. The only property the Trust Debtors own is real estate, on which the Lender already holds mortgages.

55. Similarly, in *Hari Ram*, the court held that “the offer of a replacement lien on post-petition rents is meaningless because [the] creditor already has a lien on these assets under § 552(b)(2).” *Hari Ram*, 507 B.R. 114. Pursuant to Section 552(b)(2), because the Lender already has a a lien on all of the Manor Debtors’ personal property, including their agreements with their tenants, and all rental payments the Manor Debtors receives are proceeds of those agreements, the Lender already has a security interest in the \$1.5 million per month in post-petition resident rents from each of the Manor entities.

56. The Trust Debtors’ sole assets are real property already subject to the Lender’s mortgages, and the Manor Debtors’ assets are already subject to Lender’s UCC security interests. There is simply nothing of value upon which to grant a meaningful replacement lien.

57. Additionally, the Debtors’ proposed Cash Collateral Order provides only that the Lender will receive Replacement Liens “consistent with the Whitehall and Saucon Mortgages.” As discussed above, the Debtors’ security interests extend beyond simply these mortgages. The Lender requests that this provision be modified to extend the Replacement Liens to all property “consistent with the Whitehall Trust and Saucon Mortgages, the Whitehall Trust and Saucon Trust Security Agreements and filed UCC-1 Financing Statements, and the Whitehall Manor and Saucon Valley Manor Lessee Security Agreements and filed UCC-1 Financing Statements.”

**C. The Debtors' continued existence is insufficient to protect the Lender's interests**

58. The Debtors next argue that preservation of going concern value constitutes adequate protection. This argument fails under controlling Third Circuit authority.

59. In *Swedeland*, the Court held that “continued construction based on projections and improvements to the property does not alone constitute adequate protection.... Those cases which have considered improvements to be adequate protection have done so only when the improvements were made in conjunction with the debtor’s providing additional collateral beyond the contemplated improvements.” 16 F.3d at 566 (citations omitted).

60. Similarly, in *Pursuit Athletic*, which the Debtor cites, the court found adequate protection by going concern value only where there was “no actual diminution [of] value.” *In re Pursuit Athletic Footwear*, 193 B.R. 713, 716-18 (Bankr. D. Del. 1996).

61. Here, by contrast, the Debtors have not shown that they can preserve their going concern value without actual diminution.

62. *First*, the Debtors’ Budgets show that, on a cash basis, they can operate only at a break-even level for three months, assuming no unforeseen costs. This also ignores their proposed allowance of a 10% variance from the budget, which, if used, would send them far into a negative cash balance.

63. *Second*, this ignores that while the Debtors are operating on, at best, a cash-neutral basis, they are using up their other assets, such as future rents and accounts receivable. The “income” – presumably in fact cash receipts – reflected in the Budgets are proceeds of other assets, likely rents and other accounts receivable, in which the Lender

already holds a perfected security interest. The Debtors are consuming these assets and are doing nothing to protect the Lender's interest in them.

64. Moreover, Debtors have not asserted, let alone demonstrated, that their operations will generate new property which will replenish these amounts, on which they offer the Lenders a replacement lien. Indeed, the properties are close to fully occupied – Saucon Valley Manor is 94% occupied, and Whitehall Manor is 75% occupied – and the Debtors have little additional capacity to generate additional revenues even if it were feasible to increase occupancy to 100%.

65. *Third*, the Budget itself contains a significant error that shows that the Debtors are unable to operate as a going concern on a cash basis. The first Budget included in the Cash Collateral Motion – presumably for Saucon Valley Manor, though this is not clear because both budgets are titled “Creekside Associates” – shows total “Disbursements” of \$2,740,348.36 when calculating net cash flow, but shows “Total Expenses” of \$2,842,523,89. If the “Total Expenses” amount is used in the net cash flow calculation, then the Debtors are losing nearly \$100,000 over three months.

66. *Fourth*, the Debtors have provided only two proposed budgets, although there are four Debtors. The Debtors have either: (1) improperly consolidated each of the Trust Debtors with the relevant Manor Debtor, without offering any basis for substantive consolidation; or (2) have offered no budget for the Trust Debtors. If the former, the Debtors have jumped the gun and should not be allowed to use cash collateral without identifying which Debtor is responsible for which expenses and which is going to pay each expense. If the latter, the Debtor is implicitly recognizing the readily apparent fact that the Trust Debtors cannot adequately protect the Lender's interest in their property, lack equity in that property, and have no ability to reorganize. If so, the Lender requests that



the Trust Debtors forthrightly admit those facts and promptly consent to dismissal of their cases, relief from the automatic stay, or another appropriate remedy.

67. *Fifth*, the Debtors' own Budgets show they have no ability to make mortgage payments. An operation that consumes \$1.5 million per month in revenue while paying nothing on account of more than \$31 million of secured debt is not "operating profitably" for the secured creditor's or anyone else's benefit (other than insiders); it is systematically diminishing the Lender's collateral position. The cash is being consumed on operations, not preserved for the secured creditor. Property taxes are accruing at approximately \$230,000 per year, with \$738,000 of past due real estate taxes owed, and these tax liens prime Lender's mortgage liens. Interest continues accruing without payment. Every month that passes, Lender's position deteriorates further.

68. The Budgets make it readily apparent that the Debtors' ongoing operations provide no protection, let alone adequate protection, of the Lender's interests.

**D. The Debtors Must Provide Adequate Protection Through Payments of Debt Service**

69. When collateral is deteriorating, relevant authority requires periodic cash payments. In *Ukrainian Savings and Loan Ass'n v. Trident Corp.*, the court affirmed an order granting stay relief where the debtor failed to make mortgage, tax, and insurance payments, holding: "Standing alone, the lack of periodic mortgage payments and the failure of Trident to make arrangements for such payments supports a finding of inadequate protection.... [T]he Bankruptcy Judge did not err in concluding that Trident's slim equity cushion in the property, which was constantly eroding due to Trident's failure

to pay interest, taxes, and insurance premiums, did not provide adequate protection to the Bank.” 22 B.R. 491, 495-96 (E.D. Pa. 1982).

70. Likewise, in *Metropolitan Life Ins. v. Monroe Park (In re Monroe Park)*, the court explained: “[a]ccruing property taxes, or water or sewer charges on the mortgaged property,” if unpaid, “erode the value of [the secured creditor’s] interest” because these claims are “superior to [the] mortgage lien” and that the court must require compensation for the secured creditor’s loss of use of money during the stay, especially when interest charges are accruing and no cash payments offered. 17 B.R. 394, 939-40 (D. Del. 1982).

71. Based on the foregoing authorities, the Lender respectfully submits that the Debtors should be required, at a minimum, to make adequate assurance payments to the Lender in the amount due under the Loan Documents of \$139,423.53 in principal and interest (including \$69,844.95 for Whitehall Trust and \$69,578.58 for Saucon Trust),

72. In addition, unless the Debtors can demonstrate immediately that they are paying currently their real estate taxes and insurance, they should be required to pay monthly, as additional adequate assurance, real estate tax escrow payments of \$19,167 (one-twelfth of annual property taxes), and insurance escrow payments of \$70,917 (one-twelfth of approximately \$851,000 annual insurance).

73. As the Debtors’ proposed replacement liens and going-concern value do not protect the Lenders’ interests in the Debtors’ property, the Debtors should only be allowed to use the Lenders’ cash collateral if they make these adequate assurance payments.

**II. DEBTORS SHOULD BE REQUIRED TO PAY RENT DUE AS PROVIDED IN 11 U.S.C. § 365(D)(3)**

74. As noted above, the District Court has voided the 2023 Lease Amendments. As a result, the prior leases are in place.

75. Under the effective lease between Whitehall Trust and Whitehall Manor, Whitehall Manor owes a current lease payment of \$708,000 due on December 31, 2025. (A copy of the relevant Lease and Amendments is attached hereto as Exhibit F.)

76. Section 365(d)(3) of the Bankruptcy Code provides, “The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title.” 11 U.S.C. § 365(d)(3).

77. Section 365(d)(3) requires Whitehall Manor to make the \$708,000 rent payment to Whitehall Trust due on December 31, 2025, but the Budget makes no provision for that payment.

78. The 2023 Trust Amendments that the Debtors discuss in their pleadings are no answer. The District Court has already declared them invalid.

79. The Lender objects to Cash Collateral Motion to the extent it seeks approval of the Debtor’s use of cash collateral without requiring the Debtors to fulfill their obligations under the effective leases and under Section 365(d)(3) of the Bankruptcy Code.

### **III. ANY CASH COLLATERAL ORDER SHOULD REQUIRE TIMELY REPORTING TO THE LENDER**

80. In the proposed Cash Collateral Order, the Debtor proposes to provide the Lender “any reports of operations required to be provided by the prepetition agreements at the same time and in the same manner as set forth therein.”

81. At the same time, the Debtors are seeking leave to use the Lender’s cash collateral and pay expenses on a weekly basis without any meaningful monitoring. Given the history described above, the Debtors should not be permitted such leeway.

82. The Lender requests that the Debtors be required to provide the following on a weekly basis, to be provided no later than the third business day after the end of each week:

- A report showing the actual amount versus budgeted amount received or expended for each line item in the Budget for the week and the cumulative amounts for each line item since the Petition Date;
- A report of all rents due to the Manor Debtors paid and/or due for the week;
- A report of all other revenues received by any of the Debtors for the week; and
- A detailed report of each expense paid by any of the Debtors during the week.

83. The Lender respectfully requests that, to the extent the Court enters an order allowing the Debtors to use cash collateral on an interim basis, it require the Debtors to provide the foregoing weekly reports.

#### **IV. THE DEBTOR'S PROPOSED CASH COLLATERAL BUDGET IS IMPROPER**

84. In addition to the lack of adequate protection of the Lender's interests, the Lender objects to the Debtors' Cash Collateral Motion and proposed Budget because they Debtor seeks the Court's blessing to make improper or unjustified payments.

85. *First*, the Budget includes \$214,830.90 in payments for "Management Fees" to an insider or affiliate of the Debtors. The Lender has sought information about the basis, purpose, recipient, and amount of these proposed payments.<sup>1</sup> Without any justification, these payments are at best highly questionable and should not be permitted in an interim cash collateral order. To the extent the Court approves the Debtors' use of cash collateral on an interim basis, it should prohibit payment of any management fees to any affiliate or insider of the Debtors, including Mr. Atiyeh's family members.

86. *Second*, the Lender understands that one of the Debtors – Saucon Valley Manor – provides various services to affiliated non-debtor entities, including food production, shared employees, and other services. The Debtors' budget appears to include amounts for these categories without any indication whether these amounts include services provided to non-debtor affiliates. To the extent the Court approves the Debtors' use of cash collateral on an interim basis, it should prohibit payment of any expenses for the benefit or use of any non-debtor affiliate or insider of the Debtors.

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<sup>1</sup> The undersigned counsel received information purportedly in response to this request, and the other requests below, after 5:00 p.m. on January 29, 2025, the eve of the hearing. Counsel has not had a chance to review this information and reserves all rights regarding it.

87. *Third*, the Lender understands that the Debtors employ close relatives of Abraham Atiyeh, the control person of at least the Debtor Trusts, including his wife and daughter. The Lender has sought information from the Debtors concerning the work they purportedly perform for the Debtors. Any such payment to insiders of the Debtors without any explanation or support is plainly inappropriate. To the extent the Court approves the Debtors' use of cash collateral on an interim basis, it should prohibit payment of any salary or wages to any insider of the Debtors, including Mr. Atiyeh's family members.

88. *Fourth*, the Budget includes payment of taxes and insurance without any explanation of what taxes and insurance are being paid, what period is covered, and which entities are beneficiaries of these payments and whether any are non-Debtors. The Lender has sought this information. Any payment of taxes or insurance that are for taxes that do not constitute a lien on the Debtors' property, insurance that is not required under the loan documents or that covers a non-debtor, or are not for the current period, are not justified. To the extent the Court approves the Debtors' use of cash collateral on an interim basis, it should prohibit any such payments.

89. *Fifth*, the Budget includes a total of \$450,000 for payment of legal fees for the Debtors' bankruptcy counsel and Committee counsel, yet the Court has not approved the retention of bankruptcy counsel for the Debtors and no committee has been appointed. To the extent the Court approves the Debtors' use of cash collateral on an interim basis, it should prohibit payment of any salary or wages to any insider of the Debtors.

### **RESERVATION OF RIGHTS**

90. Notwithstanding the foregoing, Lender reserves all of its present and future rights, claims, and remedies with respect to its liens and security interests in the Debtors' cash collateral, including, without limitation, (i) its right to challenge the validity, extent, perfection, and priority of any liens or interests asserted by the Debtor or any other party in interest in such cash collateral; (ii) its right to contest the Debtors' proposed use of cash collateral and to seek appropriate adequate protection, including additional or replacement liens, additional adequate protection payments, or superpriority claims; (iii) its right to require valuations and to object to any valuation methodologies; (iv) its right to seek modification, expansion, or termination of the use of cash collateral if protections are inadequate; (v) its right to seek relief from the automatic stay or to seek other relief as permitted by the Bankruptcy Code; and (vi) any other rights and remedies available under applicable law, equity, or contract.

WHEREFORE, Plaintiffs respectfully request that this Court enter an appropriate order denying the use of cash collateral except to the extent provided herein.

Respectfully Submitted,

HANGLEY ARONCHICK SEGAL PUDLIN  
& SCHILLER

Dated: December 29, 2025

By: /s/ Matthew A. Hamermesh

Matthew A. Hamermesh

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*Attorneys for Secured Creditor Lehigh Valley 1,  
LLC*



# EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**LEHIGH VALLEY 1 LLC, successor by  
assignment to WINDSTREAM CAPITAL  
LLC, successor by assignment to the  
UNITED STATES SECRETARY OF  
HOUSING AND URBAN DEVELOPMENT,  
successor by assignment to M&T REALTY  
CAPITAL CORPORATION**

**v.**

**WHITEHALL FIDUCIARY LLC, as  
TRUSTEE OF WHITEHALL TRUST U/T/A:  
DATED AUGUST 1, 2027**

CIVIL ACTION NO. 24-2627

|                                                                                                                                                                                                                                                                |                                      |                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|------------------------------------------|
| <b>LEHIGH VALLEY 1, LLC, successor by<br/>assignment to WINDSTREAM CAPITAL<br/>LLC, successor by assignment to the<br/>UNITED STATES SECRETARY OF<br/>HOUSING AND URBAN DEVELOPMENT,<br/>successor by assignment to M&amp;T REALTY<br/>CAPITAL CORPORATION</b> | :<br>:<br>:<br>:<br>:<br>:<br>:<br>: | <b>CIVIL ACTION<br/><br/>NO. 24-2709</b> |
|                                                                                                                                                                                                                                                                |                                      |                                          |
| <b>v.</b>                                                                                                                                                                                                                                                      | :<br>:<br>:<br>:                     |                                          |
|                                                                                                                                                                                                                                                                |                                      |                                          |
| <b>SAUCON TRUST, U/T/A DATED<br/>OCTOBER 1, 2007</b>                                                                                                                                                                                                           | :<br>:<br>:<br>:                     |                                          |

## ORDER

**AND NOW**, this 2<sup>nd</sup> day of May 2025, upon consideration of Plaintiff's Motion for Appointment of a Receiver (Docket No. 8 (24-2627) and Docket No. 17 (24-2709)), Defendants' opposition thereto, as well as all replies and sur-replies, and after oral argument being held, it is hereby **ORDERED** that Plaintiff's Motions are **GRANTED**. It is further **ORDERED** as follows:

## I. APPOINTMENT OF THE RECEIVER

1. Duane Morris LLP through Erin Duffy, Esq. is appointed as Receiver with the usual powers and directions for the benefit of the Plaintiff of all the rents and profits now due and unpaid or to become due during the pendency of this mortgage foreclosure action, effective

immediately for all real and personal, tangible and intangible property (including, without limitation, all structures, leases, fixtures and moveable personal property, in addition to all of the property set forth in paragraph 6(a) hereof) owned by Whitehall Fiduciary LLC, as Trustee of Whitehall Trust U/T/A Dated August 1, 2007 ("Whitehall") at 1177 6<sup>th</sup> Street, Whitehall, PA and Saucon Trust U/T/A Dated October 1, 2007 ("Saucon") at 1050 Main Street, Unit # 1, Hellertown, PA (collectively the "Properties"); with respect to income of any kind; and with respect to any and all other property and property interests pledged or assigned to Plaintiff under the Loan Documents, as defined in the Complaints.

## **II. TERM OF THE RECEIVER**

2. The Receiver shall serve as the receiver for the Properties for a period which shall commence on the date of this Order and shall continue, notwithstanding the entry of judgment in favor of Lehigh Valley 1 LLC (by consent or otherwise), subject to the terms of paragraph 3 below, until the earliest to occur of: (i) the termination of such appointment by a subsequent Order of Court; (ii) Lehigh Valley 1 LLC's (or its nominee's, designee's or assignee's) acquisition of title to the Leasehold Estate through the delivery to Lehigh Valley 1 LLC (or its nominee, designee or assignee) of a sheriff's assignment or by assignment in lieu of foreclosure; or (iii) full payment of all sums due and owing under the "Loan Documents" (as defined in Plaintiff's Complaints).

3. Notwithstanding the terms of paragraph 2, at Lehigh Valley 1 LLC's request, and upon Court approval, following the occurrence of the events described in part (iii) of paragraph 2, the Receiver shall continue the receivership for such reasonable period as may be necessary to wind up the receivership.

4. The receivership may be terminated at any time by Lehigh Valley 1 LLC filing with the Court and serving upon the Receiver, Whitehall, and Saucon a Notice of Request to Terminate Appointment of the Receiver (a "Termination Request").

5. Within 30 days after the termination of the receivership, the Receiver shall file with the Court and serve upon Lehigh Valley 1 LLC, Whitehall and Saucon its final report and accounting for the receivership, and the Receiver or Lehigh Valley 1 LLC may request that the Court enter an Order approving such final report and accounting and discharging the Receiver from its duties under this Order.

### **III. POWERS AND DUTIES OF THE RECEIVER**

6. The Receiver shall have all necessary powers to manage the rents and profits of the Property, including the following powers:

(a) To enter and take immediate possession of the Property, and to demand, collect and receive the rents, income, revenues, proceeds and profits derived from tenants at the Property, their sublessees or any occupants in possession, including maintenance fees, management fees, special assessments and/or other charges relating to the Property, which are now due and unpaid or which may become due hereafter (collectively, the "Rents"), and all personal property owned or utilized by Lehigh Valley 1 LLC that relates to the management or operation of the Property, including all books, records, bank accounts, reserve accounts, cash on hand, keys, and combinations for locks or other access information in the possession of or reasonably available to Whitehall, Saucon or their property managers (collectively, the "Receivership Properties");

(b) To access and use office equipment at the Properties used by Whitehall, Saucon or their property managers, including computer equipment, software programs and passwords;

(c) To take all actions necessary to preserve, maintain, operate, and manage the Property. The Receiver must obtain Lehigh Valley 1 LLC's prior written consent before any such expenditures are made;

(d) To employ counsel and, with the consent of Lehigh Valley 1 LLC, accountants or other professionals, contractors and support personnel and other persons necessary

in order to carry out its duties as the Receiver and to preserve, maintain and operate the Property, and to compensate such persons at competitive rates, without further Order of this Court, at their respective hourly rates, plus reimbursement of all reasonable and necessary out-of-pocket expenses;

(e) To commence, prosecute, continue or defend actions at law or in equity (in its own name or in the names of Whitehall or Saucon) that the Receiver deems necessary to protect or preserve the Property, to recover possession of the Property, to collect the rents, or to evict or eject any tenants or occupants in accordance with applicable state laws;

(f) To continue in effect, modify or terminate (if and to the extent terminable without penalty or premium unless such termination penalty or premium shall be paid by the Receiver) agreements, contracts, understandings or commitments entered into by Whitehall or Saucon with respect to the Properties, to the extent permitted by applicable law, and to make additional agreements and contracts reasonably necessary for the operation and preservation of the Properties;

(g) To retain a reputable management company (including, but not limited to, an affiliate of the Receiver), maintenance personnel, broker, leasing agent and/or marketing agent to operate and manage the Properties, and to market the Properties for rent, without further order of this Court, but with the consent of Lehigh Valley 1 LLC, and at competitive rates plus reimbursement of its reasonable and necessary out-of-pocket expenses;

(h) To pay all past-due and current insurance premiums, taxes, assessments, sewer and utility charges levied against the Properties, and (with the consent of Lehigh Valley 1 LLC) to purchase merchandise, construction and other materials, supplies and services as the Receiver deems necessary and advisable to assist the Receiver in performing its duties and to pay the ordinary and usual rates and prices;

(i) To open and utilize any new bank accounts as the Receiver deems necessary

or desirable in connection, and the Receiver is authorized, empowered and directed to use Whitehall's and/or Saucon's tax identification number in connection with the revenue and expenses with respect to the Properties;

(j) To make, enter into, enforce, terminate, modify or accept a surrender of any of the Leases (as defined in the Mortgage); to obtain and evict occupants (subject to applicable laws and regulations); to bring or defend any suits in connection with the Leases or Rents in its own name or in the name of Whitehall or Saucon; to compromise any Rents or other payments, income or proceeds that may become due; and to sue for or otherwise collect and receive all Rents, including those past due and unpaid. Rents and Leases shall be turned over to Receiver and the Defendant shall be enjoined and restrained from collecting the Rents and Leases of the Properties or interfering with Receiver's ability to collect said Rents and Leases. **Tenants, occupants, and licensees** of the Properties are enjoined from paying any rent or lease payment to the Defendant, its agents, servants or attorneys, and if they do so, they may be held liable to Receiver and Plaintiff for these sums;

(k) To present for payment any checks, money orders or other forms of payment made payable to Whitehall, Saucon, their property managers, or any other agent, assignee or nominee of Whitehall or Saucon, which constitute Rents, endorse and collect the proceeds, to be used and maintained as elsewhere provided;

(l) To keep the Properties insured (whether by the existing insurance coverages or new coverages), each of which insurance policy shall name the Receiver and Lehigh Valley 1 LLC as additional insureds, if permitted by the insurer, and shall comply, at a minimum, with the terms of the Loan Documents;

(m) As Receiver, to use for any such purpose any funds of Whitehall or Saucon, including the Rents;

(n) To notify all local, state and federal government agencies, all vendors and suppliers, and any and all others who provide goods and services to the Properties of its appointment as the Receiver;

(o) Receiver is authorized to apply income from the Properties, subject to the lien rights of Lehigh Valley 1 LLC, as follows and in the following order to the extent funds are available: first, to pay Receiver's approved fees and expenses which include the Receiver's attorneys' fees related to the receivership; second, to pay all operating expenses with respect to the Properties (other than the obligations owed to Plaintiff under the Loan Documents); third, to pay all capital obligations with respect to the Properties; fourth, to fund reasonable reserves for anticipated operating expenses and capital obligations with respect to the Properties; and lastly, to pay the obligations owed to Plaintiff under the Loan Documents;

(p) To take any and all steps necessary to receive, collect and review all mail or other parcels relating to the Properties addressed to Whitehall, Saucon and/or their property managers, including, but not limited to, mail or other parcels addressed to any post office boxes held in the name of Whitehall, Saucon, their property managers, or any other agent, assignee or nominee of Whitehall or Saucon, and to instruct the U.S. Postmaster and any other mail or parcel carrier or service to re-route, hold, and/or release said mail or other parcels to the Receiver; provided that any mail and other parcels addressed to Whitehall or Saucon that do not relate to the Properties and reviewed by the Receiver in the performance of its duties will be forwarded to Whitehall, Saucon or their property managers by the Receiver after its review;

(q) With prior written consent and authorization from Lehigh Valley 1 LLC to delegate or assign any and all rights and powers of the Receiver set forth herein, in the reasonable discretion of the Receiver;

(r) To apply to this Court for further direction and for such further powers as may be necessary to enable the Receiver to fulfill its duties;

(s) To keep a true and accurate account of any and all receipts and expenditures for the Properties;

(t) Receiver shall, within 30 days of qualification and appointment, provide Lehigh Valley 1 LLC, Whitehall and Saucon with an inventory of all property of which Receiver has taken possession. If Receiver subsequently comes into possession of additional property, Receiver will provide Lehigh Valley 1 LLC, Whitehall and Saucon with a supplemental inventory;

(u) In addition to any financial, operating, and other reports and information required to be delivered pursuant to the Loan Documents, Receiver shall provide the following documents for the immediate preceding calendar month, which documents are believed by the Receiver as being true, correct, and complete as of the reporting date;

(i) a balance sheet, statement of income and expenses, statement of cash flows for the Properties and on a consolidated basis for all Properties;

(ii) a detailed rent roll for the Properties showing the occupancy of the respective Properties, name of each tenant, occupant, or customer and, for each tenant, occupant, or customer, the space occupied, the lease or occupancy commencement and expiration dates, the rent or fee payable, the rent or fee paid to date and the security deposit being held for such tenant, if any, and a leasing or rental activity report for the Properties each in detail reasonably satisfactory to Petitioner;

(iii) an aged payables report and an aged receivables report for the Properties;

(iv) a capital expenditure report for the Properties;

(v) all bank statements with monthly reconciliations; and

(vi) each of the above will be provided to Plaintiff on a monthly basis.



(v) To pay all ordinary and reasonable costs associated with the Properties arising on or after the date of the Complaint, that were not invoiced by the vendor or provider prior to the date of this Order;

(w) To open any new customer accounts necessary to effectively manage the Properties and/or to require Whitehall and/or Saucon to identify the Receiver as an authorized account user for any existing accounts;

(x) To pay any pre-receivership obligations of Whitehall and Saucon authorized by Lehigh Valley 1 LLC;

(y) To execute a W-9 as an attorney-in-fact for Whitehall and Saucon;

(z) To notify tenants and other persons now or hereafter in possession of all or any portion of the Properties to pay all Rents directly to the Receiver;

(aa) To exercise commercially reasonable discretion in determining whether to refund security deposit to a tenant, in whole or in part, in accordance with the applicable leases or agreements, and to pay any such funds from security deposits turned over from Whitehall, Saucon or (for tenancies arising after the date of this Order) security deposits paid by or on behalf of a tenant first, and then from cash flow generated from Rents, issues, profits, and income from the Properties.

(bb) Receiver and Lehigh Valley 1 LLC are authorized to enter transactions by which Lehigh Valley 1 LLC may lend monies to Receiver (on a nonrecourse basis as to Receiver) to enable Receiver to perform its duties, which shall be secured by a first and prior lien and security interest on the Properties and on all other collateral of Lehigh Valley 1 LLC, in favor of Lehigh Valley 1 LLC as security for such on the same terms and conditions set forth in the Mortgage, subject, however, to the terms of paragraph (cc) below.

(cc) Whitehall and Saucon shall hold in trust for Receiver (and not sell, transfer, assign, lend, pledge, hypothecate, return, reject, revoke or in any other way actually or

constructively dispose of, without Court approval or the written consent of Plaintiff), any certificate, deposit, fund, account, trademark, benefit, liquor or food license or permit, or other right or interest owned by it and used in connection with the Properties, and shall assign (to the extent assignable) any of the same to Receiver upon Receiver's written request.

(dd) Notwithstanding anything contained in this Order, (1) any obligation or liability incurred by the Receiver during the receivership shall not be a personal obligation or liability of Whitehall or Saucon, but shall be collectible only out of the Properties, and the Receiver shall include the foregoing in each agreement, purchase order and other contract it enters into pursuant hereto, and (2) neither Whitehall, Saucon nor any of their affiliates shall be liable for any action or inaction of the Receiver. Receiver covenants not to sue or bring any claim, demand action or suit against Whitehall or Saucon directly or indirectly that is inconsistent with the foregoing and the nonrecourse nature of the obligations of Whitehall and Saucon pursuant to the terms and provisions of the Loan Agreement and other similar provisions contained in the Loan Documents.

7. Neither the Receiver nor any person or entity employed by the Receiver (collectively, the "Receiver Parties") shall be liable to Whitehall, Saucon or to any third party for any act or omission which he, she, it or they have undertaken in good faith; provided, however, nothing contained herein shall release or limit the liability of the Receiver Parties arising from the gross negligence or willful misconduct of the Receiver Parties. The Receiver shall be entitled to all defenses and immunities provided under applicable law, including under *Barton v. Barbour*, 104 U.S. 126 (1881) and its progeny, for acts or omissions within the scope of the Receiver's appointment.

8. Except as provided in this Order, the Receiver shall not be responsible for the payment of any services commissioned or incurred, or goods purchased, prior to the date of this Order, including utility invoices (including electricity, gas, water, sewer, garbage, phone/internet,

etc.), payroll and property vendors, all of which shall remain the responsibility of Whitehall or Saucon.

9. No utility may terminate service to the Properties because of non-payment of pre-receivership obligations without prior order of this Court, nor may the continuation of any utility be conditioned upon the Receiver's payment of any pre-receivership consumption, charges or fees.

10. No insurance company may cancel its existing current-paid policy without prior order of this Court.

#### **IV. TURNOVER BY WHITEHALL AND SAUCON**

11. Whitehall, Saucon and all persons acting under their direction are ordered to immediately deliver to Receiver possession of the Properties and each of the following, to the extent owned by Whitehall or Saucon, in the possession or control of Whitehall or Saucon, and relating to the Properties without any right of offset or recoupment:

(a) Property-related information and other property management database files,

(b) All cash collateral for the indebtedness owed by Whitehall or Saucon to Plaintiff (whether consisting of cash on hand, cash in any and all bank accounts or other accounts, all rights to security deposits, if any, including but not limited to amounts that Whitehall or Saucon may have deposited with utility companies, and all other cash and cash equivalents);

(c) All keys to the Properties;

(d) All security deposits, rent, prepaid rent and other sums relating to the use, enjoyment, possession, improvement or occupancy of all or any part of the Properties, in each case, to the extent received by Whitehall or Saucon and any accounts in which any of the foregoing are deposited;

(e) A current list of the occupants of the Properties;

(f) Any and all current Properties accounts receivable and accounts payable reports;

(g) Any and all contracts in effect with respect to the Properties, and any material related correspondence;

(h) Any and all payroll records and other materials reasonably requested by Receiver and related to persons employed by Whitehall, Saucon or their property managers at the Properties;

(i) Certificates evidencing the insurance policies covering the Properties;

(j) Records showing any insured losses to the Properties in the past five years;

(k) Any and all bank statements relating to any accounts maintained by Whitehall or Saucon with respect to the Properties;

(l) The tax identification numbers of Whitehall and Saucon;

(m) Any and all other records pertaining to the management of the Properties to the extent such records are maintained; and

(n) All licenses, certificates, surveys, reports, communications and correspondence from the Commonwealth of Pennsylvania related to the Properties or operations of the Properties for the past twenty-four (24) months.

12. From and after the date Whitehall and Saucon deliver possession of the Properties to Receiver, Whitehall and Saucon shall continue to perform or cause to be performed at the sole cost and expense of Whitehall and Saucon all actions necessary for Whitehall and Saucon to keep their organizational status in good standing with their state of organization and the state where the Properties are located, if different, including, without limitation, the timely filing of all required annual reports, tax returns and other similar state and local filings and paying any required fees and charges.

13. Whitehall, Saucon and all persons acting under their direction are ordered to cooperate and use their best efforts to ensure a smooth transition of the management and operation of the Properties to the Receiver, including, but not limited to, requests for information or

documents that pertain to the maintenance, operation or leasing of the Properties or any efforts to collect any sums due;

14. Within three (3) days from the date of this Order, provide the Receiver with the name, title, address, telephone number and email address of a designated representative of Whitehall and Saucon with whom the Receiver shall communicate about the obligations expressed in this Order, and promptly notify the Receiver of any changes.

**V. NON-INTERFERENCE BY WHITEHALL AND SAUCON**

15. Whitehall, Saucon and their officers, directors, general partners, limited partners, agents, property managers, architects, contractors, subcontractors and employees, and all other persons with actual or constructive knowledge of this Order and their agents and employees, are enjoined from:

(a) Interfering with the Receiver, directly or indirectly, in the management and operation of the Properties or in the collection of Rents;

(b) Extending, dispersing, transferring, assigning, selling, conveying, devising, pledging, mortgaging, creating a security interest in or disposing of the whole or any part of the Properties (including the Rents) without the prior written consent of the Receiver;

(c) Doing any act which will, or will tend to, impair, defeat, divert, prevent or prejudice the preservation of the Properties (including the Rents and licenses or certificates) or the interest of Lehigh Valley 1 LLC in the Properties or the Rents;

(d) Undertaking any efforts to cancel, terminate or modify the coverage provided by any existing insurance policies relating to the Properties before their respective expiration dates; or

(e) Transferring, selling, assigning, revoking, returning, terminating or canceling, or taking or failing to take any action that would compromise, without the consent of the Receiver, any contract, permit, approval, license, privilege, or right necessary for the operation

of business at or use and occupancy of the Properties.

16. In the event Whitehall or Saucon fail to comply with the terms of this Order, the Receiver may seek assistance from the U.S. Marshal to enforce the same.

#### **VI. RECEIVER'S COMPENSATION**

17. The Receiver shall be compensated at its standard hourly rates. The Receiver's fee will be \$975 per hour and said monthly fee shall be deducted directly from the rents, income and revenue received by Receiver.

18. In addition to the Receiver's fees, the Receiver shall be reimbursed for its reasonable costs, including legal fees, travel expenses, and other business expenses associated with the Receivership. The Receiver may pay itself from Rents, the Receivership Properties, and from the sale of the Properties, if any.

19. The Receiver shall file monthly reports with the Court disclosing its compensation and reimbursement.

#### **VII. BANKRUPTCY OF WHITEHALL AND/OR SAUCON**

20. If Whitehall and/or Saucon files a bankruptcy case during the receivership, Lehigh Valley 1 LLC shall give notice of the bankruptcy case to the Court and the Receiver. If the Receiver receives notice that the bankruptcy has been filed and that part of the bankruptcy estate includes the Properties (or any part of them) that are the subject of this Order, the Receiver shall have the following duties:

(a) The Receiver shall give prompt notice of the bankruptcy case to Lehigh Valley 1 LLC.

(b) The Receiver shall immediately contact Lehigh Valley 1 LLC and determine whether Lehigh Valley 1 LLC intends to move in the bankruptcy court for an order for: (i) relief from the automatic stay; and (ii) relief from the Receiver's obligation to turn over the Properties (11 U.S.C. § 543). If Lehigh Valley 1 LLC disclaims in writing any intention to make such a

motion or fails to file such motion within ten court days following its receipt of notice of the bankruptcy filing, the Receiver shall immediately turn over the Properties (or applicable portion thereof) to the appropriate entity (either to the trustee in bankruptcy if one has been appointed or, if not, to the debtor in possession) and otherwise comply with 11 U.S.C. § 543.

If Lehigh Valley 1 LLC intends to seek relief immediately from both the automatic stay and the Receiver's obligation to turn over the Properties, the Receiver may remain in possession and preserve the Properties pending the ruling on those motions unless otherwise ordered by the Bankruptcy Court. (11 U.S.C. § 543(a).) The Receiver's authority to preserve the Properties shall be limited as follows: (i) the Receiver may continue to collect Rents and other income; (ii) the Receiver may make only those disbursements necessary to preserve and protect the Properties; (iii) the Receiver shall not execute any new leases or other long-term contracts without the approval of this Court and the Bankruptcy Court; and (iv) the Receiver shall do nothing that would effect a material change in the circumstances of the Properties.

#### **VIII. MISCELLANEOUS**

21. Without limiting any of the general or specific powers granted herein, Receiver is vested with all the powers, rights, and duties provided to receivers under applicable law, and may act in the name of Whitehall and/or Saucon without the approval or consent of the members, managers, directors, officers, partners, or other persons that would be legally required in the absence of the Receiver's appointment to approve or consent to such action.

22. The Receiver shall notify all known creditors of Whitehall or Saucon of the entry of this Order by sending a copy of the Order to the creditor at its last known mailing address.

23. Entry of this Order shall operate as a stay applicable to all persons and entities of:

(a) Any act, including without limitation the commencement or continuation of a judicial, administrative, or other action or proceeding including the issuance of process to obtain possession of Receivership Properties or to interfere with or exercise control over Receivership



Properties, other than the commencement or continuation of a judicial, administrative, or other action or proceeding to enforce any lien having priority over the rights of the Receiver in the Receivership Properties;

(b) Any act to create or perfect any lien against Receivership Properties to the extent that the lien secures a claim that arose before the date of this Order.

24. Without first obtaining leave of this Court, all creditors, directors, equity owners, employees, unions, and other persons, and all others acting on behalf of such person, including sheriffs, Marshals, other officers, deputies, servants, agents, are enjoined from:

(a) Terminating any service, whether utility or otherwise, to or for the Properties without first obtaining express authorization from this Court;

(b) Attempting to modify, cancel, terminate, call, extinguish, revoke or accelerate the due date of any lease, loan, mortgage, indebtedness, security agreement or otherwise affecting the Receivership Properties;

(c) Doing any act to interfere with the Receiver taking control, possession, or management of the Receivership Properties, or to interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Properties;

(d) Engaging in any act to collect, assess, or recover Receivership Properties for a claim against Whitehall or Saucon that arose before the appointment of the Receiver;

(e) Exercising a right of set off against Receivership Properties for a debt owing to Whitehall or Saucon that arose before the appointment of the Receiver.

(f) Plaintiff reserves the right to terminate the Receiver at any time.

(g) This receivership will continue in effect until further order of the Court.

(h) Notwithstanding anything in this Order to the contrary, Lehigh Valley 1's consent shall not be required for Receiver to take actions or make expenditures necessary



to comply with federal and state law or directives regarding the operations of the Properties  
or to comply with state statutory and regulatory requirements.

**BY THE COURT:**

*s/ Catherine Henry*

**CATHERINE HENRY, J.**

# EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**LEHIGH VALLEY 1 LLC, successor by :  
assignment to WINDSTREAM CAPITAL :  
LLC, successor by assignment to the : CIVIL ACTION  
UNITED STATES SECRETARY OF :  
HOUSING AND URBAN DEVELOPMENT, :  
successor by assignment to M&T REALTY :  
CAPITAL CORPORATION : NO. 24-2627**

**v.**

**WHITEHALL FIDUCIARY LLC, as                   :**  
**TRUSTEE OF WHITEHALL TRUST U/T/A:**  
**DATED AUGUST 1, 2027                         :**

**LEHIGH VALLEY 1, LLC, successor by :  
assignment to WINDSTREAM CAPITAL :  
LLC, successor by assignment to the : CIVIL ACTION  
UNITED STATES SECRETARY OF :  
HOUSING AND URBAN DEVELOPMENT, :  
successor by assignment to M&T REALTY : NO. 24-2709  
CAPITAL CORPORATION :**

**v.**

**SAUCON TRUST, U/T/A DATED  
OCTOBER 1, 2007**

## MEMORANDUM OPINION

Henry, J. *s/CH*

May 2, 2025

The instant matter involves two mortgage foreclosure actions brought by Plaintiff, Lehigh Valley 1 LLC (“Lehigh”), against Defendant, Whitehall Fiduciary LLC (“Whitehall”), and Defendant, Saucon Trust (“Saucon”). Both mortgages are virtually identical aside from the amounts of the loans, and the action against Whitehall and the action against Saucon are virtually identical mortgage foreclosure actions. Therefore, these matters were consolidated. In both cases, Lehigh filed identical motions in which it sought appointment of a receiver to manage the

Properties, both of which house residential senior living facilities encumbered by the mortgages. Lehigh contends a receiver is necessary because both mortgages are in default and have been for over 4 years, the financial health of both Whitehall and Saucon is dire, and there is a concern about diminution in value of the Properties. Both Whitehall and Saucon, represented by the same law firm, have opposed the motions, arguing that Plaintiff has not met the burden for appointment of a receiver.

#### **I. BACKGROUND**

On January 26, 2012, M&T Realty Capital Corporation (“M&T”) provided a loan to Defendant Whitehall in the amount of \$15,788,700 secured by a mortgage on real property located at 1177 6<sup>th</sup> Street, Whitehall PA. (Docket No. 7, Am. Compl., ¶ 15, (24-2627)). On December 1, 2012, M&T provided a loan to Defendant Saucon in the amount of \$19,462,800 secured by a mortgage on real property located at 1050 Main Street, Unit #1, Hellertown, PA. (Docket No. 9, Am. Compl., ¶ 11 (24-2790)). Both the Whitehall property and the Hellertown property house senior living facilities and both loans are secured by a mortgage and a note.

Both notes and mortgages were assigned by M&T to the United States Secretary of Housing and Urban Development (“HUD”) effective November 16, 2022. HUD assigned both notes and mortgages to Windstream Capital on September 20, 2023, and Windstream Capital assigned both notes and mortgages to Lehigh on May 15, 2024. (Am. Compls., Exs. D-I.)

There is no real dispute that Whitehall and Saucon are in default, as both entities have failed to make their required monthly debt payments since at least February of 2021. Due to Defendants’ defaults, both Loans were accelerated, and demand was made for the immediate

payment of all amounts due and owing in full on October 5, 2023. (Docket No. 31, Am. Compl., Ex. J (24-2627)).<sup>1</sup>

Lehigh alleges that Whitehall and Saucon are in poor financial condition, have failed to pay taxes on the Properties, have failed to provide Lehigh with evidence of insurance on the Properties, and have failed to provide Lehigh with a current financial report. (Docket Nos. 8 (24-2627) and 12 (24-2709)). In response, neither Whitehall nor Saucon argue that they are not in default. Rather, they argue that the parties must do discovery before a receiver can be appointed, that Lehigh has an adequate security interest in the Properties, that there is no allegation of Whitehall or Saucon engaging in fraudulent conduct, that Lehigh's evidence of Defendants' weak financial positions is old and outdated, and that Lehigh has not shown any danger of the Properties being diminished in value. (Docket Nos. 10 (24-2627) and 19 (24-2790)).

## II. ANALYSIS

It is true that receivership is an extraordinary equitable remedy that is not routinely granted. *Morgan Stanley Smith Barney LLC v. Johnson*, 952 F.3d 978, 980 (8<sup>th</sup> Cir. 2020); see also *Maxwell v. Enterprise Wall Paper Mfg. Co.*, 131 F.2d 400, 403 (3d Cir. 1942). However, a district court is given "broad discretion" in the decision to appoint a receiver. *Wilmington Tr. N.A. v. Pavilion Apts. PENN LLC*, No. 22-3985, 2023 WL 187568, at \*3 (E.D. Pa. Jan. 13, 2023). There is "no exhaustive or dispositive list of factors" to be used by a court in determining whether to appoint a receiver. *Deutsche Bank Tr. Co. Americas v. Greenfield of Perkiomen Valley, LLC*, No. 23-1439, 2024 WL 38040, at \*2 (E.D. Pa. Jan. 3, 2024), citing *Wells Fargo*

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<sup>1</sup> Both Lehigh's Complaint and Amended Complaint in Case no. 24-2709 against Saucon are identical to the Complaint and Amended Complaint in case no. 24-2627 against Whitehall. However, in 24-2709, Lehigh's Complaint and Amended Complaint reference a demand letter being sent to Saucon and state that a copy of the letter is attached to the pleadings as Exhibit J. However, there is no Exhibit J attached to the Complaint or Amended Complaint in 24-2709. Although the document is missing, it can be assumed that it is identical to Exhibit J attached to the Amended Complaint in 24-2627, as every other document in these two cases is identical. However, for the purposes of the instant motion, whether an October 5, 2023, demand letter was sent to Saucon or not is immaterial.

*Bank, N.A. v. CCC Atl., LLC*, 905 F.Supp.2d 604, 614 (D.N.J. 2012). District courts in this Circuit commonly use the factors set forth in *Wells Fargo Bank v. CCC Atlantic*, but no one factor is dispositive, nor is the list of factors exhaustive. *CCC Atlantic*, 905 F.Supp.2d at 614. In the mortgage foreclosure context, the Court will consider whether “the property is inadequate security for the loan; the mortgage contract contains a clause granting the mortgagee the right to a receiver; the continued default of the mortgagor; and the misuse of project funds by the mortgagor.” *CCC Atl.*, 905 F.Supp.2d at 614. (quotation omitted) (cleaned up). In addition, when the receiver will manage the property as well as collect rent, the Court will assess “the danger of waste; ... the defendant's fraudulent conduct; imminent danger that property will be lost, concealed, injured, diminished in value, or squandered; the inadequacy of available legal remedies; the probability that harm to plaintiff by denial of the appointment would be greater than the injury to the parties opposing appointment; and the plaintiff's probable success in the action and the possibility of irreparable injury to his interests in the property.” *Id.* at 614–15 (quotation omitted); see also *Deutsche Bank Trust Co. v. Greenfield*, 2004 WL 38040, at \*2. In addition, “[n]o hearing is necessary where the facts support the appointment of a receiver.” *MSCI 2006-IQ11 Logan Blvd. Ltd. Partnership v. Greater Lewistown Shopping Plaza, L.P.*, No. 16-2090, 2017 WL 485958, \*1 (M.D. Pa. Feb. 6, 2017), citing *United States v. Berk & Berk*, 767 F.Supp. 593, 597 (D.N.J. 1991). Upon reviewing the above factors and applying them to the facts of this matter, I find that no evidentiary hearing is necessary, and the balance of factors weighs in favor of appointing a receiver.

**A. Contractual Provision**

First and foremost, the strongest factor weighing in favor of appointing a receiver is the fact that the Mortgages for both Properties contemplate such a remedy. Specifically, they state:

“[T]he holder of this mortgage, in any action to foreclose, shall be entitled to the appointment of a Receiver of the rents and profits of the mortgaged premises as a matter of right and without notice, with power to collect the rents, issues, and profits of said mortgaged premises.” (Docket No. 7, Ex. B, p. 6 (24-2627); Docket No. 9, Ex. B, p. 20 (24-2709)). It continues: “The Mortgagor for itself and any subsequent owner hereby waives any and all defenses to the application for a Receiver and hereby specifically consents to such appointment ...” *Id.*

Provisions granting a right to the appointment of a receiver weigh heavily in favor of appointing one, though they do not eliminate the Court's discretion. *Wilmington Tr., N.A. as Tr. of \$29,615,000 Philadelphia Auth. for Indus. Dev. Senior Hous. Revenue Bonds v. Pavilion Apartments PENN LLC*, No. 22-3985, 2023 WL 187568, at \*3 (E.D. Pa. Jan. 13, 2023); see also *Wilmington Tr., N.A., as Tr. for the Benefit of the Registered Holders of Wells Fargo Commercial Mortgage Trust 2019-C50, Commercial Mortgage Pass-Through Certificates, Series 2019-C50 v. M.P. Mgmt. LLC*, No. 21-5498, 2021 WL 4786117, at \*7 (D.N.J. Oct. 14, 2021) (provisions which merely permit mortgagee to apply for appointment are “relevant but not dispositive,” whereas a “full, self-executing consent to appointment of a receiver for any and all purposes upon default” is given “considerable weight”). “The importance of these contractual provisions” in the Court's decision to appoint a receiver “cannot be underestimated because they set apart this commercial foreclosure case from the traditional scenario in which a receiver is sought at equity and no such contractual provisions exist.” *CCC Atl.*, 905 F. Supp.2d at 615. “[W]here the parties have agreed *ex ante* that, in the event of a default, the lender has the right to all rent payments and to the appointment of a receiver.... appointment of a receiver is not such a drastic remedy.” *Id.* at 616.

There is no dispute that neither Whitehall nor Saucon have made a mortgage payment in years; accordingly, both Defendants are in default. These defaults triggered Lehigh's right to move for appointment of a receiver as set forth in the Mortgages. Both Defendants oppose the appointment of a receiver, despite agreeing to one in the event of default in their respective Mortgages. In the instant matter, "[i]t is evident . . . that by the plain language of the mortgage contract[s], the parties have agreed to a receivership of the subject property." *MSCI 2006-IQ11 Logan Boulevard Ltd. P'ship v. Greater Lewistown Shopping Plaza, L.P.*, No. 16-2090, 2017 WL 485958, at \*4 (M.D. Pa. Feb. 6, 2017). The "terms of a mortgage agreement are binding on the parties," *Metropolitan Life Ins. Co. v. Liberty Center Venture*, 650 A.2d 887, 891 (Pa. Super. Ct. 1994), and the parties in the instant matter are no different. Based upon the clear language of the Mortgages, as well as Defendants' unquestionable defaults, I conclude that this factor weighs very strongly in favor of appointment of a receiver. However, this factor is not dispositive, and I must analyze the remaining factors in determining whether to appoint a receiver.<sup>2</sup>

#### **B. Likelihood of Success**

The continuing failure of both Whitehall and Saucon to make monthly mortgage payments shows that Lehigh is likely to succeed on its mortgage foreclosure claims. In Pennsylvania, "[i]n an action regarding a note secured by a mortgage, the lender 'presents a prima facie case by showing the execution and delivery of the note and its nonpayment.'" *Wilmington Trust v. Pavilion Apartments PENN LLC*, 2023 WL 187568, \*6, citing *Wells Fargo Bank, N.A. v. Chun Chin Yung*, 317 F. Supp.3d 879, 885 (E.D. Pa. 2018) (citations omitted). The Notes as to both Whitehall and Saucon were attached to the respective complaints, and neither

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<sup>2</sup> Unsurprisingly, Defendants very much try to downplay the importance of the contractual provisions that they consented to that permit the appointment of a receiver. However, they do admit, as they must, that contractual consent to the appointment of a receiver is a factor that I may consider. (Docket No. 10-1, p. 4 (24-2627), Docket No. 19-3, pp. 4-5 (24-2709)).



Defendant has suggested that their required mortgage payments were made in a timely fashion. Lehigh alleges that Whitehall and Saucon have not made a monthly mortgage payment since February of 2021. Because of Defendants' defaults, Lehigh accelerated both Loans and demanded the immediate payment of all amounts due in full; Defendants continued to refuse to make a single monthly payment. Because of Defendants' long-term, ongoing failures to pay the monthly amounts due on the Loans, secured by the Mortgages, Lehigh is likely to succeed in its mortgage foreclosure action.

Defendants argue that this factor does not support appointment of a receiver, because Lehigh has not yet obtained a judgment in the foreclosure action. This argument is unpersuasive, because the factor examines Lehigh's **likelihood** of success on the merits, not whether it **has** succeeded on the merits. Accordingly, I find that this factor weighs in favor of appointing a receiver.

### **C. Defendants' Financial Health/Status**

As discussed above, Defendants have failed to make payments when due for over four years. A borrower's inability to make payments when due reveals its poor financial condition, suggesting a need to preserve the property. *Deutsche Bank Tr. Co. Americas v. Greenfield of Perkiomen Valley, LLC*, 2024 WL 38040, at \*3; *Federal Nat'l Mortgage Ass'n v. Maple Creek Gardens, LLC*, 09-14703, 2010 WL 374033, \*3 (E.D. Mich. Jan. 25, 2010); see e.g., *CCC Atlantic*, 905 F. Supp. 2d at 616.

Further, Lehigh produced 2021 audited financial statements for both Whitehall and Saucon. Both statements note that "At (sic) December 31, 2021, the Trust was in default with its mortgage note. In addition, [the operating entities for Defendants] continue to report operating losses. These conditions raise substantial doubt about the Trust's ability to continue as a going

concern within one year after the issuance date of the financial statements...” Whitehall and Saucon 2021 Audited Financial Statements, p. 8.<sup>3</sup>

Lehigh further notes that both Properties, until recently, were subject to significant tax and municipal liens which created the risk that the Properties could be lost at tax sale. Also, neither Whitehall nor Saucon have provided financial reporting to Lehigh in numerous years, despite said disclosure being required by the Loan Documents. These updated financial statements would allow Lehigh to determine the condition of its collateral; without them, Lehigh has no way to determine the financial status of Defendants and the safety of its collateral.

Further, neither Whitehall nor Saucon make any argument regarding what either entity will do to resolve their defaults, nor do they offer any proof of their financial stability. Further, neither entity makes any representation that they will begin making payments any time soon.

Defendants argue that their financial positions cannot be considered until discovery is completed into these matters. However, that argument ignores the reality that evidence of Defendants’ financial positions from 2021 is available in the form of the audited financial statements that show significant losses. Further, Defendants continued failure to make monthly payments on the Mortgages is further evidence of their financial positions. If Defendants were concerned about discovery into their current financial status, they could have produced an updated financial statement in response to Lehigh’s demand in July of 2024. But they did not. Accordingly, this factor demonstrates both entities’ poor financial health and weighs in favor of appointing a receiver.

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<sup>3</sup> Due to their confidential nature, Lehigh emailed Defendants’ 2021 financial statements directly to the Court for my review. Lehigh also emailed a redacted insurance policy received from Whitehall, a Statement of Multi-Family Mortgage Account sent by HUD to Whitehall, a Certificate of Compliance of Whitehall demonstrating how many occupants the property may have, and the Payment History for Whitehall received from HUD. I have reviewed all these documents prior to authoring this opinion.

**D. Diminution of Value**

There is no question that Lehigh has grounds to be concerned about a possible diminution in the value of its collateral. Despite Lehigh's request prior to filing the instant suits, (Docket No. 8, Ex. J (24-2627) and Docket No. 12, Ex. J (24-2709)), Whitehall and Saucon continue to refuse to provide updated financial statements to Lehigh. Accordingly, Lehigh has no information as to the status of any leases that the entities have entered, how much rent is being collected, if the taxes are paid and up to date, if there are unpaid bills, if the Properties are insured or if there are liens entered against the Properties. Any one of these issues could potentially diminish the value of the Properties, thereby diminishing the value of Lehigh's collateral. Therefore, this factor also weighs in favor of appointing a receiver.

**E. Inadequate Legal Remedy**

As stated by Judge Savage in *Deutsche Bank Trust Co. v. Greenfield*, where there is no danger of the property being devalued and legal remedies are adequate, there is no need for the appointment of a receiver. 2024 WL 38040, \*5, citing *Mintzer v. Arthur L. Wright & Co.*, 263 F.2d 823, 826 (3d Cir. 1959). However, when normal remedies are frustrated, appointment of a receiver may be more appropriate. *Id.* In this matter, Lehigh has shown that the defaults of Whitehall and Saucon may be decreasing the value of Lehigh's collateral. Further, neither Whitehall nor Saucon will provide Lehigh with recent financial statements or any proof that the taxes on the Properties have been paid or that the Properties are properly insured. There is a high risk that the value of the collateral will decrease. Foreclosure will not serve to prevent the damage that may be done to the Properties while the case is running its course through the legal system. Accordingly, the legal remedy of foreclosure is inadequate, and this factor weighs in favor of appointing a receiver.

**F. Balance of the Interests**

In situations where appointing a receiver could cause more harm than good, the balance of the interests should be found to weigh against the appointment of a receiver. In the instant matter, Lehigh argues that a receiver is necessary to manage the Properties. A receiver would assure that the Properties will have bills paid on time and be properly insured, and that the physical structures located on the Properties will be maintained. Clearly, that is a benefit to both Lehigh and Defendants. However, Defendants both argue that appointing a receiver would do more harm than good because it “unquestionably interferes” with their right to control their property. (Docket No. 10, pp. 15-16 (24-2627) and Docket No. 19-3, p. 15 (24-2709), citing *Mintzer*, 263 F.2d at 825.) Although the benefits of appointing a receiver are obviously great, Defendants are correct that such an appointment would impair their ability to control the Properties. Accordingly, I find that this factor is neutral, as the potential harm is approximately equal to the possible benefits.

**G. Other Factors**

There are other factors that courts may consider, none of which are relevant to the instant matter. As stated previously, the list of factors that courts can consider is not exhaustive, nor is it dispositive. Using my discretion, as I am permitted to do in this matter, I find there is no evidence of misuse of project funds by the mortgagor, inadequacy of security for the loan, nor fraudulent conduct on behalf of Defendants.

**H. Identity of Receiver**

Lehigh requests the appointment of Ryan Stumphauzer of Stumphauzer Kolaya Nadler & Sloman, PLLC as the receiver in this matter. Although I find that the appointment of a receiver is indeed necessary, I would prefer to appoint a more local individual as the receiver, as Mr.

Stumphauzer is located in Florida. Accordingly, I appoint Duane Morris LLP through Erin Duffy, Esq. as the Receiver for both Whitehall and Saucon, and she will proceed pursuant to the terms set forth in the attached Order.

### **III. CONCLUSION**

For all the reasons set forth above, I find that the appointment of a receiver in these matters is warranted. An appropriate order follows.

# EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**LEHIGH VALLEY 1 LLC, successor by  
assignment to WINDSTREAM CAPITAL  
LLC, successor by assignment to the  
UNITED STATES SECRETARY OF  
HOUSING AND URBAN DEVELOPMENT,  
successor by assignment to M&T REALTY  
CAPITAL CORPORATION** :

**: CIVIL ACTION**

**: NO. 24-2627**

**v.**

**WHITEHALL FIDUCIARY LLC, as  
TRUSTEE OF WHITEHALL TRUST U/T/A  
DATED AUGUST 1, 2007**

**LEHIGH VALLEY 1, LLC, successor by  
assignment to WINDSTREAM CAPITAL  
LLC, successor by assignment to the  
UNITED STATES SECRETARY OF  
HOUSING AND URBAN DEVELOPMENT,  
successor by assignment to M&T REALTY  
CAPITAL CORPORATION** :

**: CIVIL ACTION**

**: NO. 24-2709**

**v.**

**SAUCON TRUST, U/T/A DATED  
OCTOBER 1, 2007**

**ORDER**

**AND NOW**, this 19<sup>th</sup> day of December, 2025, upon consideration of Receiver’s Motion for Sanctions (the “Motion for Sanctions”), the Responses filed by Defendants Whitehall Fiduciary LLC (“Whitehall Trust”) and Saucon Trust and Non-Parties Nimita Kapoor Atiyeh and Abraham Atiyeh (collectively, “Respondents”), the Receiver’s Reply in Further Support of the Motion, along with Receiver’s Affidavit setting for the amount of attorneys’ fees and costs incurred in the preparation, filing and presentment of the Motion for Sanctions, and upon consideration of Plaintiff’s Motion to Void and Set Aside Lease Amendments and for Declaratory Judgment (“Motion to Void Amendments”), and the Response thereto, the oral argument held in Court on December 18, 2025,

and the concessions, admissions and statements made by the Parties, and the Court having found that Respondents have each violated the September 2, 2025 Order by failing to produce documents ordered to be produced in the aforementioned Order; it is hereby **ORDERED** as follows:

1. The Receiver's Motion for Sanctions (Docket No. 102, Case No. 24-2709) is **GRANTED**.
2. On or before December 29, 2025, Respondents shall produce each and every document ordered to be produced by this Court's Order dated September 2, 2025. Respondents are each deemed to have possession, control or the practical ability to obtain the documents, and may not claim that they cannot obtain the documents ordered to be produced.
3. On or before December 29, 2025, Respondents shall pay to Receiver the sum of \$21,281.00 to compensate her for the preparation, filing and presentment of the Motion for Sanctions.
4. Receiver shall file a Report to the Court on or before January 2, 2026, indicating whether Respondents have complied with the requirements of the above paragraphs 2 and 3. If it is reported in the Report that Respondents have not complied with requirements of paragraphs 2 and 3, the Court will consider striking Defendants' Answer and Affirmative Defenses and entering Judgment of Foreclosure and Sale in favor of Plaintiff and against Defendants.
5. On or before December 29, 2025, Respondents, Whitehall Manor, Inc. and Saucon Valley Manor, Inc. are directed to turn over to Receiver any rental payments received from October 31, 2025 (the date Good Shepherd Rehabilitation Hospital was directed to make payments to the Receiver). This includes rent received from Good Shepherd Rehabilitation Hospital only.



6. Respondents, Whitehall Manor, Inc. and Saucon Valley Manor, Inc. are restrained from interfering with Receivers' efforts to collect rent, licensing fees, other occupancy fees or income of any sort from any and all occupants of the Properties. As agreed to by the Parties, any rent, licensing fee, occupancy fee or income of any sort that is or was paid to Respondents, Whitehall Manor, Inc. or Saucon Valley Manor, Inc. or any other entity over which Respondents, Whitehall Manor, Inc. or Saucon Valley Manor, Inc. have an interest or otherwise control, for rent or fees due and owing for January of 2026 and thereafter, shall be turned over to Receiver within 3 days of the date of this Order (in the case where money has already been received) or within 3 days of receipt (in the case where money is hereinafter received), along with a complete accounting of the source of the money received.
7. Plaintiff's Motion to Void and Set Aside Lease Amendments (Docket No. 92, Case No. 24-2627) is **GRANTED**.
8. The Sixth Amendment to Lease Agreement executed on September 21, 2023, affecting the property at 1050 Main Street, Unit #1, Hellertown, Pennsylvania, and the Fourth Amendment to Lease and Memorandum of Lease Extension executed on September 21, 2023, affecting the property at 1177 Sixth Street, Whitehall, Pennsylvania (the "Amendments"), are hereby **DECLARED NULL, VOID, and OF NO LEGAL EFFECT**.

**BY THE COURT:**

*/s/ Catherine Henry*  
CATHERINE HENRY, J.

# EXHIBIT D

WHITEHALL MANOR SENIOR LIVING  
FHA Project No. 034-22084

**LESSEE SECURITY AGREEMENT**

**THIS LESSEE SECURITY AGREEMENT** (the "Agreement") is made, entered into and dated as of the 26<sup>th</sup> day of January, 2012, by and between **WHITEHALL MANOR, INC.**, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, whose principal place of business is located at 1177 Sixth Street, Whitehall, Pennsylvania 18052 (the "Lessee" or "Debtor"); and **M&T REALTY CAPITAL CORPORATION**, a corporation organized and existing under the laws of the State of Maryland and having an address at 25 South Charles Street, 17th Floor, Baltimore, Maryland 21201 (the "Secured Party"), as follows:

**Recitals**

A. Contemporaneously with this Agreement, the Secured Party has made a loan to Whitehall Fiduciary, LLC, as Trustee of Whitehall Trust u/t/a dated August 1, 2007 (the "Borrower") in the maximum principal amount of \$15,788,700.00 (the "Loan"). The Loan is (i) evidenced by the Mortgage Note made by the Borrower in favor of the Secured Party, dated as of even date herewith (the "Note") and (ii) secured, in part, by an assisted living project known as Whitehall Manor Senior Living, FHA Project No. 034-22084 (the "Project") located at 1177 Sixth Street, Whitehall, Pennsylvania 18052, as more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Premises"). The Premises are leased to the Lessee by the Borrower pursuant to a Lease Agreement dated on or about August, 2008, as amended by a First Amendment to Lease Agreement dated as of January 1, 2010 and a Second Amendment to Lease Agreement dated as of January 1, 2012 (collectively, the "Lease"), and are the subject of the Regulatory Agreement Nursing Homes between the Lessee and the Federal Housing Commissioner, dated as of even date herewith (the "Regulatory Agreement Nursing Homes").

B. As security, in part, for the Obligations (as defined below), the Borrower (i) granted to the Secured Party the Mortgage, dated as of even date herewith, encumbering the Project, which has been or is concurrently herewith being recorded in the real estate records of the jurisdiction in which the Premises are located (the "Mortgage"), (ii) entered into a Security Agreement, dated as of even date herewith, with the Secured Party (the "Borrower Security Agreement") and (iii) entered into a Regulatory Agreement with the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner ("HUD"), dated as of even date herewith (the "Borrower Regulatory Agreement"). As additional security, the Lessee has entered into this Agreement with the Secured Party. The Note, the Mortgage, the Borrower Security Agreement, the Borrower Regulatory Agreement, this Agreement, the Regulatory Agreement Nursing Homes and all other agreements, instruments, and documents which are now existing or are in the future signed or delivered by, or on behalf of, the Borrower to the Secured Party and/or HUD, or by or on behalf of the Lessee to the Secured Party and/or HUD, in connection with, or related to, the Lease, the Loan or the other Obligations are sometimes collectively referred to as the "Loan Documents."

C. The Lessee is affiliated with and/or shares common ownership with the Borrower, and shall benefit directly from the making of the Loan.

D. As used herein, "Healthcare Assets" means (i) any and all licenses, permits and/or approvals issued by any governmental authority with respect to the use or operation of the Project for its "Approved Use" (as defined in the Regulatory Agreement Nursing Homes), (ii) any and all Medicare and Medicaid provider agreements, and (iii) any and all "Government Accounts" and "Government Payments" (each as defined below).

### **Statement of Agreement**

#### **1. SECURITY INTEREST; SETOFF.**

(a) To secure the full, prompt and complete payment and performance of all Obligations, the Lessee hereby, to the fullest extent permitted by applicable law with respect to Healthcare Assets, grants to, and creates in favor of, the Secured Party a continuing security interest in all of Lessee's right, title and interest in and to the property described on Exhibit B attached hereto and incorporated herein by reference (the "Collateral"). "Obligations" means, as of any date, the Loan and all other indebtedness, liabilities, obligations, covenants, debts and amounts owing from the Borrower and/or the Lessee to the Secured Party and/or HUD arising out of, in connection with, described in, or evidenced by the Loan Documents, whether direct or indirect, absolute or contingent, related or unrelated, now or in the future existing and whether consisting of principal, interest, fees, indemnities, expenses (including attorneys' fees), charges or other sums, however any of that indebtedness, obligations, or liabilities may be evidenced or acquired, all as now exist or may, after the date of this Agreement, be incurred, renewed, extended, consolidated, adjusted or amended.

(b) In addition to (and without limitation of) any right of setoff, lien or counterclaim the Secured Party may otherwise have, the Secured Party may, at its option, setoff and retain, and may refuse to allow withdrawals by, or for the benefit of the Borrower and/or Lessee of, any and all funds, monies, securities and other property held in escrow or for the account of the Borrower and/or the Lessee pursuant to the Loan Documents, against any amount payable by the Borrower and/or the Lessee under the Note, the Mortgage or any of the other Loan Documents which is not paid when due (whether or not any of the funds, monies, securities, or other property are then distributable to, or on behalf of, the Lessee).

(c) Notwithstanding any provisions to the contrary contained in this Agreement, nothing set forth in this Agreement shall be construed as granting to Secured Party a security interest, assigning receivables, giving dominion and control or designating an attorney-in-fact with respect to Healthcare Assets in violation of any applicable law.

#### **2. REPRESENTATIONS; GENERAL COVENANTS.**

(a) To induce the Secured Party to make the Loan, the Lessee promises to the Secured Party that the following statements are, and will continue throughout the term of this Agreement to be, true: (i) except to the extent expressly permitted pursuant to Section 19 hereof, the security interest granted to the Secured Party in the Collateral constitutes a valid, first priority security interest; (ii) the Lessee has good title to, and is the sole and lawful owner of, the



Collateral; (iii) the Lessee has full power and authority to enter into and perform its obligations under this Agreement; (iv) except to the extent expressly permitted pursuant to Section 19 hereof, rights granted to the Borrower under the Lease, if any, which are subordinate to the liens in favor of the Secured Party ("Subordinate Lease Rights") and taxes that are not yet due and payable, the Collateral is free and clear of any lien, security interest, claim, interest, pledge, assignment or other encumbrance (a "Lien") except (A) the security interest in favor of the Secured Party and (B) those Liens, if any, approved in writing by Secured Party (the "Permitted Liens"); (v) the Lessee keeps all tangible Collateral at the Premises; (vi) all trade names, assumed names, fictitious names and other names used by the Lessee during the five year period preceding the date of this Agreement are set forth on Exhibit C, and the Lessee has not, during the preceding five year period, except as may be set forth on Exhibit C, acquired any of its assets in any bulk transfer; (vii) Lessee's chief executive office is as set forth in the first paragraph of this Agreement; (viii) Lessee's jurisdiction of organization is as set forth in the first paragraph of this Agreement; (ix) Lessee's exact legal name is as set forth in the first paragraph of this Agreement; (x) Lessee's organizational number (if any) as assigned by the State in which Lessee is organized is the number identified as Lessee's organizational ID # on the financing statement(s) filed in connection with the closing of the Loan, and (xi) except as may be set forth on Exhibit C, the Lessee has no rights, titles or interests in, or with respect to, any investment property, any letters of credit, any electronic chattel paper, any commercial tort claims, any instruments, including promissory notes, or any Deposit Accounts (as defined below).

(b) The Lessee will (i) cause, at its expense, any and all UCC financing statements naming as secured party anyone other than Secured Party, which represent or evidence a Lien or potential Lien against any or all of the Collateral, to be terminated within thirty (30) days of the date hereof (except Permitted Liens, if any), and (ii) provide within forty-five (45) days of the date hereof, at its expense, to Secured Party one or more UCC search reports with respect to each office in which a UCC filing may be required in order for Secured Party to validly perfect its security interest in any or all of the Collateral, confirming that a UCC financing statement has been filed in such office in favor of Secured Party and that there are no other UCC financing statements in effect with respect to any of the Collateral except those in favor of Secured Party and Permitted Liens. The Lessee will not grant, create or permit to exist any Lien on any of the Collateral except for the Liens in favor of the Secured Party, Permitted Liens, and Subordinate Lease Rights, and except to the extent expressly permitted pursuant to Section 19 hereof. The Lessee, at the Secured Party's request, will defend the Collateral against the claims and demands of any other individual, unincorporated association, partnership, joint venture, trust, business trust, corporation, limited liability company, institution, entity or any governmental authority ("Persons") at any time claiming any interest in the Collateral.

(c) The Collateral will only be used by the Lessee in the operation of the Project. Until an Event of Default (as defined below) occurs, the Lessee may have possession of the Collateral and use it in any lawful manner not inconsistent with the Loan Documents and any policy of insurance thereon. The Lessee will not sell, assign, lease, or otherwise dispose of any of the Collateral without the prior written consent of the Secured Party; however, the Lessee will have the right, without the Secured Party's consent, to transfer, sell or dispose of any Collateral which is (i) tangible personal property and (ii) obsolete or worn out ("Consumed Property") if the Lessee, concurrently with such transfer, sale or disposition, replaces the Consumed Property with replacement personal property which is free and clear of any Liens except for the Liens in

favor of the Secured Party and Subordinate Lease Rights and has the same or greater value and utility as the Consumed Property originally had (any such replacement personal property will automatically become a part of the Collateral under this Agreement). The Secured Party's interests in the proceeds of the Collateral (or notification of its interests in the proceeds of the Collateral in financing statements or otherwise) will not be construed as modifying this Agreement or as the Secured Party's consent to the disposition of any Collateral other than as provided in this Agreement.

(d) All tangible Collateral is to be located at the Project ("Collateral Location"), and no tangible Collateral may be removed therefrom without the prior consent of the Secured Party unless the Collateral is (i) Consumed Property under the terms of Section 2(c) above or (ii) being removed in accordance with the terms of Section 2(e) below. Immediately on demand therefor by the Secured Party, the Lessee will deliver to the Secured Party any and all evidences of ownership of the Collateral (including certificates of title and applications for title). The Lessee will give the Secured Party not less than 30 days prior written notice of any change of (A) Lessee's corporate, partnership, limited liability company, doing business, trade or legal name or (B) any Collateral Location.

(e) The Lessee will, at its own cost and expense, maintain all of the tangible Collateral in good working condition and make all necessary renewals, repairs, replacements, additions, betterments and improvements thereto, and, in this connection, the Lessee may temporarily remove the same, or any part thereof, from the Project if such removal is necessary or advisable in connection with the Lessee's fulfilling of its obligations under this Section 2(e), and does not affect the priority of the security interests created under this Agreement.

(f) The Lessee will, upon request of Secured Party, deliver to Secured Party copies of all reports, financial statements and other information which the Lessee is obligated to provide to HUD in connection with the Project and/or Collateral not later than the earlier of (i) the delivery of such reports, financial statements and other information to HUD or (ii) ten (10) days after Secured Party makes such request.

(g) The Lessee will not change (i) without thirty (30) days prior notice to the Secured Party, the location of its chief executive office or (ii) without the prior written consent of the Secured Party, which shall not be unreasonably withheld, its jurisdiction of organization.

(h) The Lessee will not merge or consolidate with or into any other Person without the prior written consent of the Secured Party.

(i) As used in this Agreement, the capitalized term "Deposit Account" means (1) any deposit account into which payments to the Lessee with respect to the operation of the Project are initially deposited, as opposed to being transferred from another Project account, and (2) any deposit account into which Government Payments are directly transferred from a Government Account (defined below). The Lessee will not establish a Deposit Account unless (A) with respect to any such proposed Deposit Account (other than those set forth on Exhibit C) at least thirty (30) days prior written notice of the name and address of the depository bank, the type of account and any other information reasonably requested by the Secured Party is provided to Secured Party and (B) contemporaneously therewith, if requested by the Secured Party



consistent with the Lessee's obligations under Section 14, a control agreement in form and substance acceptable to the Secured Party is entered into among the Lessee, the Secured Party and the depository bank where the Deposit Account would be maintained (any such depository bank is referred to herein as a "Depository Bank" and any such control agreement is referred to herein as a "DACA"), unless the Deposit Account is a Government Account. A DACA may not be changed or terminated without the prior written consent of the Secured Party. Upon the Secured Party's written request (which request need be made only once and not on a recurring basis), the Lessee will take all reasonable steps to cause each Depository Bank to provide to the Secured Party (I) whether by Internet access or otherwise, on-line screen access to daily activity in the Deposit Accounts, and (II) a copy of each periodic account statement relating to the Deposit Accounts ordinarily furnished by such Depository Bank to the Lessee. The Lessee authorizes and approves of the Secured Party communicating directly with each Depository Bank. Unless the Lessee receives no Government Payments, the Lessee will maintain one or more separate Deposit Account(s) into which only Government Payments (defined below) are deposited (collectively, the "Government Accounts"), and the Lessee will not commingle in any Government Account proceeds of accounts from non-governmental payors with proceeds of accounts owing from governmental authorities, including Government Payments. The Lessee shall cause all Government Payments related to the operation of the Project to be paid directly into the Government Accounts. Prior to establishing a Government Account, the Lessee shall cause the Depository Bank that maintains such Government Account to enter into a deposit account instruction services agreement with the Secured Party and the Lessee in form and substance acceptable to the Secured Party with respect to such Government Account (each, a "DAISA"), which requires initiation of a funds transfer each business day, unless the Secured Party approves otherwise, of all available funds in the applicable Government Account to a Deposit Account of Lessee that is subject to a DACA and is not a Government Account. Not less than thirty (30) days prior to the effective date thereof, the Lessee will provide to the Secured Party a copy of (i) any change to any DAISA, or (ii) any new directions with respect to a Government Account issued to a Depository Bank maintaining such Government Account, in each case contemporaneously with providing the change or directions to the Depository Bank. Without limiting the generality of the foregoing, without the prior written consent of the Secured Party, neither a change to any DAISA nor any such new directions shall instruct a Depository Bank to transfer funds from the Government Account to a Deposit Account that is not then subject to a DACA. No change to or termination of a DAISA, nor any such new directions with respect to a Government Account, shall be made without the prior written consent of the Secured Party. Also, the Lessee shall not close a Government Account subject to a DAISA without the prior written consent of the Secured Party. Failure of Lessee to comply with any of the provisions of this Section 2(i) shall constitute an "Event of Default." As used herein, "Government Payment" means a payment from a governmental entity and shall include, without limitation, payments governed under the Social Security Act (42 U.S.C. §§ 1395 et seq.), including payments under Medicare, Medicaid and TRICARE/CHAMPUS, and payments administered or regulated by the Centers for Medicare and Medicaid Services of Department of Health and Human Services.

**3. COMPLIANCE WITH LAWS.** The Lessee will comply with the requirements of all valid and applicable federal, state and local laws.

**4. TAXES; EXPENSES.** Lessee will pay, when due, all taxes, assessments and other charges lawfully and validly levied or assessed on the Collateral or any part thereof. The Lessee will pay and, as applicable, reimburse the Secured Party for (i) any and all fees, costs and expenses, of whatever kind and nature, including the fees, expenses and disbursements of the Secured Party's counsel (including, but not limited to, fees, expenses and disbursements for preparation of documents, making title examinations and rendering opinion letters) which the Secured Party may incur in connection with filing any financing statements or other public notices to protect its interests hereunder, the enforcement, preservation and/or protection of the Secured Party's rights and/or remedies under the Loan Documents, whether incurred through judicial proceedings or otherwise, or in defending or prosecuting any actions or proceedings arising out of or relating to the Loan, and (ii) all filing and recording fees and taxes payable in connection with the transactions contemplated by the Loan Documents. All amounts payable by Lessee to Secured Party under this Section 4 will be paid by the Lessee upon the Secured Party's demand therefor.

**5. INSPECTION; NOTICES.** Subject to resident privacy rights, the Secured Party, or its agents, may enter on the Project and any other Collateral Location at any time during normal business hours, and from time to time, for the purpose of inspecting the Project and/or the Collateral and making copies or abstracts of all of the Lessee's records pertaining to the Collateral. The Lessee will keep accurate and complete records of the Collateral. The Lessee will give the Secured Party prompt notice of any Event of Default.

**6. INSURANCE.** The Lessee will purchase and maintain insurance at all times with respect to the Premises, all improvements now or hereafter located thereon, and all tangible Collateral against risks of fire (including so-called extended coverage), theft, vandalism, and such other risks as the Secured Party may require, in such form, for such periods, and written by such companies as may be satisfactory to the Secured Party, such insurance to include "law and ordinance" coverage, and to be payable to the Secured Party as its interests may appear. The Lessee will purchase and maintain at all times liability insurance and business interruption insurance in such amounts and issued by such companies as may be required from time to time by the Secured Party. All policies of insurance will provide for thirty (30) days advance written notice to the Secured Party of cancellation or any material change in coverages of such insurance. The Lessee will furnish the Secured Party with certificates or other evidence satisfactory to the Secured Party of compliance with the foregoing insurance provisions.

**7. DISCHARGE OF LIENS.** At its option but without any obligation to do so, the Secured Party may (a) discharge any taxes or other Liens at any time levied or placed on the Collateral, (b) pay for insurance on the Collateral, and/or (c) pay for the maintenance and preservation of the Collateral. The Lessee will reimburse the Secured Party on its demand for any payment made, or any expense incurred, by the Secured Party pursuant to this Section 7. All of the foregoing sums paid or advanced by the Secured Party will constitute part of the Obligations and will be secured by the Collateral.

**8. EVENTS OF DEFAULT.** Each of the following events or circumstances, whether or not caused by or within the control of the Lessee, will be an "Event of Default" under this Agreement:



- (a) The Lessee does not pay when due any of the Obligations, subject to any grace period provided under the Note;
- (b) The Lessee does not observe, perform or comply with any of the terms or conditions of this Agreement;
- (c) A default or breach under the Lease or under any of the Loan Documents (exclusive of this Agreement which is covered by the other subsections of this Section 8) has occurred, which default or breach is not cured within any applicable grace period;
- (d) Any warranty, representation or statement made or furnished to the Secured Party by, or on behalf of, the Lessee proves to have been false in any material respect when made or furnished or when treated as being made or furnished to the Secured Party;
- (e) The Secured Party does not have, for any reason, a perfected, first priority security interest in all of the Collateral except to the extent expressly permitted pursuant to Section 19 hereof;
- (f) There occurs any actual or threatened demolition of or injury or waste to the Project premises, not covered by insurance, or not replaced or restored by the Lessee or the Borrower, which may materially impair the value of the Collateral or the Project;
- (g) Filing by or against the Lessee of a petition in bankruptcy, for a reorganization, arrangement or debt adjustment, or for a receiver, trustee, or similar creditors' representative for Lessee's property or any part thereof, or of any other proceeding under any federal or state insolvency or similar law (and if such petition or proceeding is an involuntary petition or proceeding filed against the Lessee without its acquiescence therein or thereto at any time, the same is not promptly contested and, within 60 days of the filing of such involuntary petition or proceeding, dismissed or discharged), or the making of any general assignment by the Lessee for the benefit of creditors, or the Lessee dissolves or is the subject of any dissolution, winding up or liquidation;
- (h) The Lessee is dissolved and liquidation of the Lessee is commenced in accordance with the Lessee's organizational documents and/or the law of the jurisdiction of organization; or
- (i) The Lessee changes its name or the jurisdiction in which it is organized or merges or consolidates with or into another Person without the prior written consent of the Secured Party.

## **9. REMEDIES ON DEFAULT.**

- (a) If an Event of Default occurs, the Secured Party may then, or at any time after the occurrence of an Event of Default, (A) declare all Obligations immediately due and payable, and whereupon the Obligations will be due and payable automatically and immediately, without notice or demand, which the Lessee expressly waives, and proceed to enforce payment of the Obligations; (B) exercise all of the rights and remedies afforded to the Secured Party under (i) the terms of this Agreement and/or any of the other Loan Documents, (ii) under the UCC (as

defined in Section 12 below), and/or (iii) by law and/or in equity (subject, however, to any limitations imposed by applicable law with respect to Healthcare Assets); (C) collect and receive the proceeds of all Awards (as defined in Exhibit B), the rights of Lessee thereto and shares of Lessee therein being hereby assigned to the Secured Party, and give proper receipts and acquittances therefor and apply, at its option, the net proceeds thereof, after deducting expenses of collection, as a credit upon any portion, as selected by the Secured Party, of the Obligations; (D) require the Lessee to assemble the Collateral and make it available to the Secured Party at a place to be designated by the Secured Party which is reasonably convenient to both parties, and (E) without limiting the provisions of Section 1(b), apply (or instruct another Person to apply) to the Obligations the balance of any deposit account that is part of the Collateral.

(b) Without limitation of those rights and remedies, the Secured Party may, upon written notice to the Lessee, take, and publicly or privately sell or convey, full right, title and interest in and to the Collateral, or any part of it, in the name of the Secured Party and/or its designees. To the extent not prohibited by applicable law with respect to Healthcare Assets, the Lessee hereby constitutes and appoints the Secured Party as its true and lawful attorney in fact to assign and transfer its interest in any or all of the Collateral if an Event of Default occurs.

(c) If any notice is required by law for the Secured Party to make a sale or other disposition of the Collateral, the Secured Party and the Lessee agree that notice will not be unreasonable as to time if given in compliance with this Agreement ten (10) days before any sale or other disposition of the Collateral. All reasonable attorneys' and paralegal fees and other legal expenses incurred by the Secured Party to collect the Obligations, to retake, hold, prepare for sale, and to dispose of the Collateral will be (i) payable to the Secured Party on its demand for payment, (ii) part of the Obligations, and (iii) secured by the Collateral.

(d) The Lessee further specifically agrees that, in any exercise of the rights of the Secured Party under this Agreement or under any other Loan Document, (i) any combination of the Collateral and/or any other security for the Obligations may be offered for sale and (ii) all of the Collateral and/or any other security for the Obligations may be sold for one total price, and the proceeds of any such sale accounted for in one account without distinction among the items of security or without assigning to them any proportion of such proceeds, the Lessee hereby waiving the application of any doctrine of marshaling.

(e) The Lessee shall cooperate in any legal and lawful manner necessary or required, to permit the Secured Party or its successors and assigns to continue to operate and maintain the Project for its Approved Use in Lessee's name, place and stead. For this purpose, and to the extent not prohibited by applicable law with respect to Healthcare Assets, Lessee irrevocably appoints the Secured Party, its successors and assigns, as Lessee's true and lawful attorney-in-fact, to do all things necessary or required by the state in which the Project is located or any other government entity with jurisdiction over the Project, including, but not limited to, the provision of any and all information and data, the payment of fees and other charges, and the execution of documents, all in the name of the Lessee. This power is coupled with an interest.

#### **10. NO WAIVER BY SECURED PARTY; CUMULATIVE RIGHTS.**



(a) No waiver by the Secured Party of any Event of Default or default under this Agreement or any of the other Loan Documents will be effective unless such waiver is in writing and signed by duly authorized representatives of the Secured Party. No waiver by the Secured Party of any Event of Default or default under this Agreement or any of the other Loan Documents will operate as a waiver of any other Event of Default or default or of the same Event of Default or default on a future occasion. The Secured Party may delay in exercising or omit to exercise any right or remedy under this Agreement, any other Loan Document or by law or equity provided without waiving that or any past, present or future right or remedy. All rights and remedies of the Secured Party in this Agreement and the other Loan Documents will be cumulative, and none of these rights or remedies will be exclusive of any other right or remedy allowed at law or in equity or in any other Loan Document, and all of these rights and remedies may be exercised and enforced concurrently.

(b) Neither the Lessee nor any other Persons interested in the Collateral or the proceeds of the Collateral shall have any right to require the Secured Party first to resort to or proceed personally against any other Person or to proceed against any other collateral security, or to give priority or preference to any item of Collateral, or to proceed upon any guaranty, prior to exercising its rights hereunder. No renewal or extension of the Loan, no release or surrender of the Collateral and/or any other security for the Obligations, no release of any obligor with respect to the Obligations, and no delay by the Secured Party in enforcing the Obligations or exercising any right or power with respect to the Obligations shall affect the Secured Party's rights with respect to the Collateral.

**11. BINDING EFFECT.** All rights and remedies of the Secured Party under this Agreement will inure to the benefit of the Secured Party's successors and assigns; and all agreements, obligations, and duties of the Lessee will bind its heirs, personal representatives and permitted successors and assigns; however, the Lessee may not assign this Agreement or any of its rights under this Agreement or delegate any of its duties or obligations under this Agreement without the consent of the Secured Party.

**12. GOVERNING LAW; CONSTRUCTION; WAIVER OF TRIAL BY JURY.**

(a) This Agreement and all rights and obligations under this Agreement, including matters of construction, validity and performance, will be governed by the laws of the state in which the Project is located (the "State") except as to the existence, validity, perfection or priority (and the effect of perfection or non-perfection or invalidity) of any Lien of the Secured Party on any deposit account which will be governed by the laws of the state in which the applicable deposit account is maintained at the applicable bank, savings and loan association, credit union or like organization. If any term of this Agreement is found to be invalid by a court with jurisdiction under the laws of the State or laws of mandatory application, then the invalid term will be considered excluded from this Agreement and will not invalidate the remaining terms of this Agreement. All uncapitalized terms used herein which are now or hereafter defined in the Uniform Commercial Code, as now enacted in the State or as hereafter amended or superseded (the "UCC"), will have the same meaning herein as in the UCC unless the context indicates otherwise. Every power given herein is coupled with an interest and is irrevocable by death, dissolution or otherwise. The definition of any document includes all schedules, attachments and exhibits to that document, and all renewals, extensions, supplements,

amendments, modifications, restatements and consolidations of that document, and any document given in substitution for or replacement of that document. The term "including" is used by way of example only and not by way of limitation, and the singular includes the plural and conversely. The captions or headings contained in this Agreement are for reference purposes only and will not affect or relate to the interpretation of this Agreement.

(b) AS A SPECIFICALLY BARGAINED INDUCEMENT FOR THE SECURED PARTY TO ENTER INTO THE AGREEMENT AND EXTEND CREDIT TO BORROWER, SECURED PARTY AND LESSEE EACH HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVES ANY AND ALL RIGHT(S) TO A TRIAL BY JURY FOR ANY CAUSE OF ACTION, CLAIM OR DEFENSE RELATING TO, RESULTING FROM OR ARISING OUT OF ANY OF THE LOAN AND/OR ANY TRANSACTIONS, RIGHTS AND/OR OBLIGATIONS CONTEMPLATED BY THIS AGREEMENT AND/OR ANY OF THE OTHER LOAN DOCUMENTS. LESSEE FURTHER ACKNOWLEDGES THAT SUCH WAIVER OF THE RIGHT TO A TRIAL BY JURY IS MADE AFTER CONSULTATION WITH COUNSEL.

**13. TERM OF AGREEMENT.** The term of this Agreement will begin on the date of this Agreement and continue in full force and effect and be binding on the Lessee until the date that all of the Obligations are fully and finally paid and satisfied.

**14. PERFECTION; FURTHER ASSURANCES.** The Lessee agrees to comply with all applicable laws and requirements in order to grant to the Secured Party a valid, perfected first Lien on the Collateral except to the extent expressly permitted pursuant to Section 19 hereof. At any time and from time to time, the Lessee, on request of the Secured Party, will give, execute, file and/or record any notice, financing statement, instrument, document or agreement that the Secured Party may consider necessary or desirable to create, preserve, continue, perfect or validate any security interest or other Lien granted under this Agreement or which the Secured Party may consider necessary or desirable to exercise or enforce its rights under this Agreement. Without limiting the generality of the foregoing, the Secured Party is authorized to file with respect to the Collateral one or more financing statements or other documents without the signature of the Lessee and to name therein the Lessee as debtor and the Secured Party and/or HUD as secured parties; and correct or complete, or cause to be corrected or completed, any financing statements or other such documents as have been filed naming the Lessee as debtor and the Secured Party and/or HUD as secured parties. The Lessee hereby appoints the Secured Party as its attorney-in-fact and authorizes the Secured Party, acting alone on behalf of the Lessee, to execute, acknowledge, deliver, file and/or record any and all documents requiring execution by the Lessee and necessary or desirable to effectuate or facilitate the purposes of this Agreement and/or the obligations or covenants of the Lessee under this Agreement. The power of attorney granted hereby is coupled with an interest and is irrevocable. The Secured Party is also authorized by the Lessee to give notice to any Person that the Secured Party may consider necessary or desirable under applicable law to preserve, perfect or protect the Secured Party's and or HUD's interests in the Collateral. Without limiting the generality of the foregoing, with respect to any of the Collateral for which control of such Collateral is a method of perfection under the UCC, including all of the Lessee's rights, titles and interests in deposit accounts, investment property, electronic chattel paper and letter-of-credit rights, the Lessee will, on



Secured Party's request, cause to be executed by each Person that the Secured Party determines is appropriate, a control agreement in a form acceptable to the Secured Party.

**15. INTEREST.** Any amounts payable by the Lessee under this Agreement will bear interest at the rate of interest provided in the Note from the date on which such amounts are payable under this Agreement until the date on which such payments are made by the Lessee to the Secured Party; however, nothing in this Agreement will be deemed to give to the Lessee the right to withhold payment in consideration of the payment of such interest.

**16. DELIVERY OF NOTICES.** All notices must be in writing and sent (a) in person, (b) by certified or registered mail, or (c) by overnight delivery carrier for next day delivery, in each case to the address listed in the opening paragraph of this Agreement (or if notice of a new address is given in accordance with this Agreement, to the new address). Notice given in any other manner will not be considered delivered or given unless and until actually received. A notice period will start (i) if mailed, three business days after notice was sent by certified or registered mail, (ii) the next business day after being sent by overnight delivery, and (iii) the day the notice was delivered in person.

**17. REVIVAL OF SECURITY INTEREST.** If the Lessee makes a payment or payments to the Secured Party (or the Secured Party receives any payment or proceeds of the Collateral) that are subsequently voided, avoided, set aside, annulled, or disregarded under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of the payment or proceeds received, the Obligations or part intended to be satisfied will be revived and will continue in full force and effect as if these payment(s) or proceeds had not been received by the Secured Party, and the security interest granted herein shall be enforceable as to such Obligations as fully as if such payments had never been made.

**18. CLAIMS AGAINST SECURED PARTY.**

(a) Notification. The Secured Party shall not be in default under this Agreement, or under any of the other Loan Documents, unless a written notice specifically setting forth the claim of the Lessee shall have been given to Secured Party within one hundred eighty (180) days after the occurrence of the event which the Lessee alleges gave rise to such claim and the Secured Party does not remedy or cure the default, if any, with reasonable promptness thereafter.

(b) Remedies. If it is determined by the final, non-appealable order of a court of competent jurisdiction that the Secured Party has breached any of its obligations under the Loan Documents and has not remedied or cured same with reasonable promptness following receipt of notice thereof, the Secured Party's responsibilities shall be limited to the following: (i) where the breach consists of the failure to grant consent or give approval in violation of the terms and requirements of any of the Loan Documents, the obligation to grant such consent or give such approval; and (ii) where the breach involves any other violation of the Loan Documents, or where the Secured Party is determined to have acted in bad faith, the payment of any actual, direct, compensatory damages sustained by the Lessee as a result thereof.

(c) Limitations. In no event, however, shall the Secured Party be liable to the Lessee, or to any other party claiming through the Lessee, for any other damages, including, without

limitation, indirect, speculative, or punitive damages, whatever the nature of the breach by the Secured Party of its obligations under any of the Loan Documents. In no event shall the Secured Party be liable to the Lessee, or to any other party claiming through the Lessee, unless a written notice specifically setting forth the nature of the claim shall have been given to the Secured Party within the time period specified above.

## **19. PROVISIONS REGARDING ACCOUNTS RECEIVABLE LOANS.**

(a) Definitions. The following words and terms shall have the meanings hereinafter set forth:

"Accounts" shall mean all right, title and interest of the Lessee in and to the following, in each case arising from the Lessee's operation of the Project in the ordinary course of the Lessee's business: (a) all rights to payment of a monetary obligation, whether or not earned by performance, including, but not limited to, accounts (including, but not limited to accounts receivable, health-care insurance receivables, Medicaid and Medicare receivables, Veterans Administration receivables, or other governmental receivables, private patient receivables, and HMO receivables), (b) payment intangibles, (c) guaranties, letter-of-credit rights and other supporting obligations relating to the property described in clauses (a) and (b), and (d) all of the proceeds of the property described in clauses (a), (b) and (c). Notwithstanding the foregoing, "Accounts" do not include accounts rising from the sale of the Lessee's equipment, inventory or other goods, other than accounts arising from the sale of Lessee's inventory in the ordinary course of the Lessee's business.

"Eligible AR Lender" means a bank, financial institution or other institutional lender which is in the business of making loans to provide working capital to businesses and which is not affiliated with the Lessee.

"Eligible AR Loan" means a loan or line of credit obtained by the Lessee from an Eligible AR Lender (a) for the sole purpose of providing working capital for the operation of the Project and, with the approval of HUD and Secured Party, other projects that are encumbered by mortgage loans insured or held by HUD and (b) which satisfies all of the requirements of this Section 19.

"Required Intercreditor Agreement" means an Intercreditor Agreement (including any HUD-required Rider) executed by the Secured Party, the Eligible AR Lender, the Lessee and the Borrower, in form and substance satisfactory to Secured Party and approved by HUD.

(b) Eligible AR Loan. Subject to the written approval of Secured Party and HUD, the Lessee may obtain and maintain at any time one, and only one, Eligible AR Loan, which Eligible AR Loan may be secured by a first lien on the "AR Lender Priority Collateral" (composed of Accounts and as further defined in the Required Intercreditor Agreement), subject to the following limitations and requirements:

(i) in no event shall the principal amount of the Eligible AR Loan ever exceed such amount as may be approved in writing by Secured Party and HUD;



(ii) without the written approval of the Secured Party, none of the Collateral, except the AR Lender Priority Collateral, shall be given as security for any Eligible AR Loan;

(iii) with respect to any existing Eligible AR Loan, the Eligible AR Lender, Lessee and Secured Party shall have executed, and HUD shall have approved, the Required Intercreditor Agreement prior to closing of the Loan;

(iv) with respect to any other Eligible AR Loan, the Eligible AR Lender, Lessee and Secured Party shall have executed, and HUD shall have approved, the Required Intercreditor Agreement before such Eligible AR Loan is closed, any funds are disbursed thereunder, any UCC financing statements are filed in connection therewith or any security interest in connection therewith is granted or perfected;

(v) the Eligible AR Loan, the collateral therefor and all of the terms and conditions thereof shall at all times comply with all of the terms and conditions of the applicable Required Intercreditor Agreement; and

(vi) until the Eligible AR Loan is paid in full, the written approval of the Secured Party and HUD is required for any proposed modifications, extensions, renewals, or amendments to a Material Term of the Eligible AR Loan or the related security agreement, prior to the effective date of such amendment(s). As used herein, "Material Term" means a term in a loan or security agreement that (1) extends the maturity date of the loan, (2) adds guarantors to the loan, (3) releases guarantors from the loan, (4) adds borrowers to the loan, (5) adds an interest reserve to the loan, (6) amends the interest rate payable on the outstanding principal balance of the loan, (7) increases or decreases the principal amount of the loan, (8) adds collateral as additional security for the loan, and/or (9) amends or expands the type of obligations secured by the loan.

(c) Required Intercreditor Agreement. Each Required Intercreditor Agreement shall be included in the definition of the Loan Documents while it is in effect. The Lessee shall comply at all times with the Required Intercreditor Agreement then in effect.

(d) Information. Lessee shall, from time to time, promptly following a request by Secured Party or HUD, provide to Secured Party and/or HUD (i) any and all information and documents available to Lessee regarding any Eligible AR Loan and/or AR Lender Priority Collateral (including, but not limited to histories of draws upon, payments on account of, and outstanding balances with respect to, the Eligible AR Loan) and (ii) copies of any and all documents evidencing, securing and/or related to any Eligible AR Loan and/or any amendments thereto.

## **20. WAIVERS.**

(a) No act or thing need occur to establish the liability of the Lessee hereunder, and no act or thing, except full payment and discharge of all of the Obligations, shall

in any way exonerate the Lessee or modify, reduce, limit or release the liability of the Lessee hereunder.

(b) The Lessee will not exercise or enforce any right of contribution, reimbursement, recourse or subrogation available to the Lessee against any Person liable for payment of the Obligations, or as to any collateral security therefor, unless and until all of the Obligations shall have been fully paid and discharged.

(c) Whether or not any existing relationship between the Lessee and the Borrower has been changed or ended and whether or not this Agreement has been terminated, the Secured Party may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Obligations without any consent or approval by the Lessee and without any notice to the Lessee. The liability of the Lessee shall not be affected or impaired by any of the following acts or things (which the Secured Party is expressly authorized to do, omit or suffer from time to time, both before and after termination of this Agreement, without notice to or consent or approval by the Lessee): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Obligations; (ii) any one or more extensions or renewals of Obligations (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Obligations; (iii) any waiver or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Obligations, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Obligations; (iv) any full or partial release of, settlement with, or agreement not to sue Borrower or any other Person liable in respect of any Obligations; (v) any discharge of any evidence of Obligations or the acceptance of any instrument in renewal thereof of substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Obligations, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any modification, substitution, discharge, impairment, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Obligations or any evidence thereof; (ix) any order of application of any payments of credits upon Obligations; (x) any election by Secured Party under §1111(b)(2) of the United States Bankruptcy Code.

(d) The Lessee waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Obligations, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Lessee will not assert, plead or enforce against Secured Party any defense of waiver, release, discharge in bankruptcy, statute of limitations, res judicata, statute of frauds, anti-deficiency statute, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other Person liable in respect of any indebtedness, or any setoff available against Secured Party to Borrower or any such other Person, whether or not on account of a related transaction. The Lessee expressly agrees that the Lessee shall be and remain liable, to the extent of the Collateral, for any deficiency remaining after foreclosure of any security interest securing the Obligations, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision.



(e) The Lessee waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing the Obligations. To the extent of the Collateral, this Agreement constitutes an absolute, unlimited, unconditional and continuing guaranty of payment, not collection. The Secured Party shall not be required first to resort for payment of the Obligations to Borrower, or any other Persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Obligations, before enforcing this Agreement.

(f) The liability of the Lessee under this Agreement is in addition to and shall be cumulative with all other liabilities of the Lessee to Secured Party as obligor or otherwise, without any limitation as to amount, and all other liabilities of any other Person who guarantees all or any portion of the Obligations, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

(g) This Agreement shall be effective upon delivery to Secured Party, without further act, condition or acceptance by Secured Party. Any invalidity or unenforceability of any provision of application of this Agreement shall not affect other lawful provisions and application hereof, and to this end the provisions of this Agreement are declared to be severable.

(h) Lessee hereby covenants that this Agreement will not be discharged except by complete performance of the obligations contained in this Agreement. Lessee waives all setoffs and counterclaims and all presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, and notices of acceptance of, and reliance on, this Agreement. Lessee further waives all (i) notices of the existence, creation or incurring of new or additional indebtedness, arising either from additional loans extended to Lessee or Borrower, or otherwise, (ii) notices that the principal amount, or any portion thereof (and any interest thereon), of the Loan or any of the other Obligations is due, (iii) notices of any and all proceedings to collect from Lessee and/or Borrower of all or any part of the Obligations, or from anyone else, (iv), to the extent permitted by law, notices of exchange, sale, surrender or other handling of any security or collateral given to Secured Party to secure payment of all or any part of the Obligations, and (v) defenses based on suretyship or impairment of collateral.

## **21. MISCELLANEOUS.**

(a) This Agreement is intended to be supplemental to and not in substitution or in derogation of any security agreement contained in any other Loan Document.

(b) In any instance where the consent or approval of the Secured Party may be given or is required or any determination is to be rendered by the Secured Party hereunder, the granting, withholding or denial of such consent or approval and the rendering of such determination shall be made or exercised by the Secured Party at its sole and exclusive option.

(c) It is understood and agreed that no judgment or decree which may be entered on any debt secured or intended to be secured by the Mortgage shall operate to abrogate or lessen the effect of this Agreement, but that this Agreement shall continue in full force and effect until the payment and discharge of the Obligations.

(d) This Agreement, any Required Intercreditor Agreement and the other Loan Documents represent the entire agreement between the Secured Party and the Lessee with respect to the subject matter of this Agreement and supersede all previous agreements, negotiations, and understandings with respect to the subject matter of this Agreement. Neither this Agreement nor any of the other Loan Documents to which Lessee is a party may be amended, altered or changed other than in a writing signed by the Secured Party and the Lessee. The Lessee's warranties and representations in this Agreement will be treated as being continuing warranties and representations, made by the Lessee with the same effect as though the representations and warranties had been made again on, and as of, each day of the term of this Agreement.

(e) This Agreement may be executed in several counterparts and each counterpart will be considered an original of this Agreement.

## **22. RIGHTS OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT.**

(a) Lessee and Secured Party hereby agree that HUD shall be an additional secured party under this Security Agreement together with Secured Party, as their interests may appear, and that HUD shall be listed on the Uniform Commercial Code Financing Statements to be filed contemporaneously herewith; provided, however, that nothing herein or in the Uniform Commercial Code Financing Statements shall require the execution, now or any future time, of any amendment, extension, or other document by HUD.

(b) To the extent any party herein is required or desires to give notice to HUD hereunder, such notice shall be delivered in accordance with the provisions hereof, as follows: U.S. Department of Housing and Urban Development, c/o Office of Healthcare Programs, 451 7th Street S.W., Washington, DC 20410.

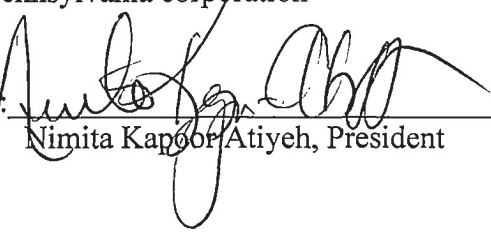
**IN WITNESS WHEREOF**, the Lessee and the Secured Party have signed this Agreement as of the date in the first paragraph of this Agreement.

[SEE ATTACHED COUNTERPART SIGNATURE PAGES]

**COUNTERPART SIGNATURE PAGE TO LESSEE SECURITY AGREEMENT**

**THE LESSEE:**

**WHITEHALL MANOR, INC.,**  
a Pennsylvania corporation

By: 

Nimita Kapoor Atiyeh, President

**COUNTERPART SIGNATURE PAGE TO LESSEE SECURITY AGREEMENT**

**THE SECURED PARTY:**

**M&T REALTY CAPITAL CORPORATION,**  
a Maryland corporation

By:   
Christine R. Chandler, Vice President

**EXHIBIT A TO LESSEE SECURITY AGREEMENT**

**UNIT 1 OF WHITEHALL MANOR CONDOMINIUM, according to the Declaration of Condominium of Whitehall Manor Condominium dated August 13, 2008 recorded in the Office of the Recorder of Deeds of Lehigh County, Pennsylvania as its Document ID # 7494518.**

**PARCEL ID NO. 5498 9378 8632-1**

**Together with an undivided interest of 50% of, in and to the Common Elements of the said WHITEHALL MANOR CONDOMINIUM.**



**EXHIBIT B TO LESSEE SECURITY AGREEMENT**

All of the following described property and interests in property, whether now in existence or hereafter arising, and relating to, situated or located on or used or usable in connection with the maintenance and/or operation of the property described in Exhibit A (hereafter referred to as the "Premises").

(a) All fixtures, furniture, equipment and other goods and tangible personal property of every kind and description whatsoever now or hereafter located on, in or at the Premises, including, but not limited to, all lighting, laundry, incinerating and power equipment; all engines, boilers, machines, radiators, motors, furnaces, compressors and transformers; all power generating equipment; all pumps, tanks, ducts, conduits, wire, switches, electrical equipment, and fixtures, fans and switchboards; all telephone equipment; all piping, tubing and plumbing equipment and fixtures; all heating, refrigeration, air-conditioning, cooling, ventilating, sprinkling, water, power, waste disposal and communications equipment, systems and apparatus; all water coolers and water heaters; all fire prevention, alarm and extinguishing systems and apparatus; all cleaning equipment; all lift, elevator and escalator equipment and apparatus; all partitions, shades, blinds, awnings, screens, screen doors, storm doors, exterior and interior signs, gas fixtures, stoves, ovens, refrigerators, garbage disposals, dishwashers, kitchen and laundry fixtures, utensils, appliances and equipment, cabinets, mirrors, mantles, floor coverings, carpets, rugs, draperies and other furnishings and furniture now or hereafter installed or used or usable in the operation of any part of the buildings, structures or improvements erected or to be erected in or upon the Premises and every replacement thereof, accession thereto, or substitution therefor, whether or not all of the above are now or hereafter acquired or attached to the Premises in any manner;

(b) All articles of tangible personal property not otherwise described herein which are now or hereafter located in, attached to or used in, on or about the buildings, structures or improvements now or hereafter located, placed, erected, constructed or built on the Premises and all replacements thereof, accessions thereto, or substitution therefor, whether or not the same are, or will be, attached to such buildings, structures or improvements in any manner;

(c) All rents, leases, income, revenues, issues, profits, royalties and other benefits arising or derived or to be derived from, or related to, directly or indirectly, the Premises, whether or not any of the property described in this item (c) constitutes accounts, chattel paper, documents, general intangibles, instruments or money;

(d) All awards now or hereafter made ("Awards") with respect to the Premises as a result of (i) the exercise of the power of condemnation or eminent domain, or the police power, (ii) the alteration of the grade of any street, or (iii) any other injury or decrease in the value of the Premises (including, but not limited to, any destruction or decrease in the value by fire or other casualty), whether or not any of the property described in this item (d) constitutes accounts, chattel paper, documents, general intangibles, instruments, investment property, deposit accounts, or money;

(e) All land surveys, plans and specifications, drawings, briefs and other work product and other papers and records now or hereafter used in the construction, reconstruction, alteration, repair or operation of the Premises;

(f) All licenses, permits, certificates and agreements for the provision of property or services to or in connection with, or otherwise benefiting, the Premises, any nursing home license, assisted living facility license, any and all Medicaid/Medicare Provider Agreements, and any other license necessary for the provision of services at the Premises; however, the Secured Party disclaims a security interest in such of the property described in this item (f) to the extent that a security interest in such property may not be granted to the Secured Party without the forfeiture of the rights of the Debtor (or any assignee of the Debtor) or a default resulting thereunder.

(g) All funds, monies, securities and other property held in escrow, lock boxes, depository or blocked accounts or as reserves and all rights to receive (or to have distributed to the Debtor) any funds, monies, securities or property held in escrow, lock boxes, depository or blocked accounts or as reserves, including, but not limited to, all of Debtor's rights (if any) to any funds or amounts in that certain reserve funds and/or residual receipts accounts created under the Regulatory Agreement required by the Secretary of Housing and Urban Development or the Federal Housing Administration Commissioner;

(h) All accounts, accounts receivable, general intangibles, chattel paper, instruments, documents, inventory, goods, cash, bank accounts, certificates of deposits, securities, insurance policies, letters of credit, deposits, judgments, liens, causes of action, warranties, guaranties and all other properties and assets of the Debtor, tangible or intangible, whether or not similar to the property described in this item (h). As used herein, the term "accounts receivable" shall include (i) all healthcare insurance receivables, including, but not limited to Medicaid and Medicare receivables, Veterans Administration or other governmental receivables, private patient receivables, and HMO 10 receivables; (ii) any payments due or to be made to the Debtor relating to the Premises or (iii) all other rights of the Debtor to receive payment of any kind with respect to the Premises;

(i) All books, records and files of whatever type or nature relating to any or all of the property or interests in property described herein or the proceeds thereof, whether or not written, stored electronically or electromagnetically or in any other form, and whether or not such books, records, or files constitute accounts, equipment or general intangibles.

(j) Any and all security or other deposits which have not been forfeited by any tenant under any lease; and

(k) All products and proceeds of any and all of the property (and interests in property) described herein, including, but not limited to, proceeds of any insurance, whether or not in the form of original collateral, accounts, contract rights, chattel paper, general intangibles, equipment, fixtures, goods, securities, leases, instruments, inventory, documents, deposit accounts or cash.



**EXHIBIT C TO LESSEE SECURITY AGREEMENT**

**Other Names Used by Lessee in Previous Five Years** (see Section 2(a) of Agreement): **None**

**Assets Acquired in Bulk Transfer in Previous Five Years** (see Section 2(a) of Agreement):  
**None**

**Lessee's Rights in the Following** (see Section 2(a) of Agreement):

*Investment property:* None

*Letters of Credit:* None

*Electronic Chattel Paper:* None

*Commercial Tort Claims:* None

*Instruments (including promissory notes):* None

*Deposit Accounts:*

| <u>Account Number</u> | <u>Depository Bank</u> | <u>Account Type</u><br>(e.g., operating or payroll) | <u>Government Accounts</u><br>(see note below) |
|-----------------------|------------------------|-----------------------------------------------------|------------------------------------------------|
| ██████████            | National Penn Bank     | Operating                                           | None                                           |

Note: Designate if Deposit Account receives deposits of proceeds of accounts from federal, state or local governments (e.g., Medicare and Medicaid), and if so, whether such Deposit Account is solely for such deposits or whether the Deposit Account commingles other non-governmental deposits. See Section 2(i) of the Agreement for the Lessee's obligations in this regard.

Project No.: 034-22084  
Project Name: Whitehall Manor Senior Living  
Location: Lehigh County, Pennsylvania

**ASSIGNMENT OF LESSEE SECURITY AGREEMENT**

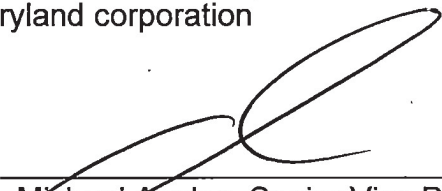
**November 16, 2022**

FOR VALUE RECEIVED, M&T REALTY CAPITAL CORPORATION, a Maryland corporation, called Assignor, does hereby grant, bargain, sell, convey and assign to the UNITED STATES SECRETARY OF HOUSING AND URBAN DEVELOPMENT, his/her successors and assigns, called Assignee, all Assignor's right, title and interest in and to the Lessee Security Agreement dated January 26, 2012, between Whitehall Manor, Inc., as Debtor, and M&T REALTY CAPITAL CORPORATION, as Secured Party. The Assignor hereby warrants that no act or omission of the Assignor has impaired the validity or priority of the first lien created by said Lessee Security Agreement and that Assignor has a good right to assign said Lessee Security Agreement. Attached hereto as Exhibit A is a description of the real property to which the Lessee Security Agreement relates.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this instrument has been duly executed to be effective  
as of the date first above written.

**M&T REALTY CAPITAL CORPORATION, a**  
Maryland corporation

By:   
Michael Angles, Senior Vice President

**EXHIBIT A**

**Legal Description**

UNIT 1 OF WHITEHALL MANOR CONDOMINIUM, according to the Declaration of Condominium of Whitehall Manor Condominium dated August 13, 2008 recorded in the Office of the Recorder of Deeds of Lehigh County, Pennsylvania as its Document ID # 7494518.

PARCEL ID NO. 5498 9378 8632-1

Together with an undivided interest of 50% of, in and to the Common Elements of the said WHITEHALL MANOR CONDOMINIUM.

ESTOPPEL CERTIFICATE

To: **M&T Realty Capital Corporation**  
25 South Charles Street, 17th Floor  
Baltimore, Maryland 21201

**Secretary of Housing and Urban Development**  
c/o Office of Healthcare Programs  
451 7th Street S.W.  
Washington, DC 20410

Re: Lease Agreement dated on or about August, 2008 by and between Whitehall Fiduciary LLC, as Trustee of Whitehall Trust under Agreement Dated August 1, 2007 ("Owner/Landlord"), and Whitehall Manor, Inc. ("Tenant"), with respect to Whitehall Manor Senior Living, 1177 Sixth Street, Whitehall, Pennsylvania 18052, FHA Project No. 034-22084 (the "Project"), as amended by a First Amendment to Lease Agreement dated effective as of January 1, 2010 by and between Owner/Landlord and Tenant and Second Amendment to Lease Agreement dated effective as of January 1, 2012 by and between Owner/Landlord and Tenant.

Gentlemen:

This Estoppel Certificate is furnished by Owner/Landlord and Tenant to M&T Realty Capital Corporation (the "Lender") and the Secretary of Housing and Urban Development ("HUD") in connection with a mortgage loan (the "Mortgage Loan") that Lender is making to the Owner/Landlord with respect to the Project, which Mortgage Loan is being insured by HUD. Owner/Landlord and Tenant understand that the Lender and HUD are relying upon this Estoppel Certificate in connection with making and insuring, respectively, the Mortgage Loan.

A. Certifications of Tenant. Tenant hereby represents and certifies to the Lender and HUD and their respective successors and assigns that, except as set forth in Exhibit A attached hereto:

1. "Lease" means the following documents, true and correct copies of which are attached hereto as Exhibit B: Lease Agreement dated on or about August, 2008 by and between Owner/Landlord and Tenant, as amended by a First Amendment to Lease Agreement dated effective as of January 1, 2010 by and between Owner/Landlord and Tenant and further amended by a Second Amendment to Lease Agreement dated effective as of January 1, 2012 by and between Owner/Landlord and Tenant;

2. Tenant is the tenant under the Lease and has not assigned, pledged, encumbered or transferred any of its rights or obligations thereunder. Tenant has not subleased all or any portion of the Project.

3. The Lease sets forth the full and complete agreement between Owner/Landlord and Tenant with respect to the Project. The Lease has not been amended (except as may be shown in

Exhibit B), is in full force and effect according to its terms, and is valid and binding upon Tenant.

4. Tenant is not in default under the Lease. No state of facts exists which, with the passage of time or the giving of notice, or both, could constitute a default by Tenant under the Lease. All rent, charges and other payments due to Owner/Landlord from Tenant under the Lease on or before the date hereof have been paid.

5. To the best of Tenant's knowledge; (a) Owner/Landlord is not in default under the Lease and (b) no state of facts exist which, with the passage of time or the giving of notice, or both, could constitute a default by Owner/Landlord under the Lease.

6. Tenant has not paid any rent, charges or other payments due to Owner/Landlord from Tenant under the Lease more than thirty (30) days in advance, nor has Tenant paid any security deposit under the Lease.

7. To the best of Tenant's knowledge, all conditions under the Lease to be satisfied by Owner/Landlord or Tenant as of the date hereof have been satisfied.

8. All improvements, alterations and other work, if any, to be performed or constructed by Owner/Landlord under the Lease have been completed and have been accepted by Tenant. All contributions, if any, required to be paid to Tenant by Owner/Landlord for improvements to the Project have been paid.

9. There are no actions, voluntary or involuntary, pending against Tenant under any bankruptcy, receivership, insolvency or similar laws of the United States or any State thereof.

B. Certifications of Owner/Landlord. Owner/Landlord hereby represents and certifies to the Lender and HUD and their respective successors and assigns that, except as set forth in Exhibit A attached hereto:

1. "Lease" means the following documents, true and correct copies of which are attached hereto as Exhibit B: Lease Agreement dated on or about August, 2008 by and between Owner/Landlord and Tenant, as amended by a First Amendment to Lease Agreement dated effective as of January 1, 2010 by and between Owner/Landlord and Tenant and further amended by a Second Amendment to Lease Agreement dated effective as of January 1, 2012 by and between Owner/Landlord and Tenant;

2. Owner/Landlord is the landlord under the Lease and has not assigned, pledged, encumbered or transferred any of its rights or obligations thereunder. Tenant is the tenant under the Lease. To the best of Owner/Landlord's knowledge, Tenant has not subleased all or any portion of the Project.

3. The Lease sets forth the full and complete agreement between Owner/Landlord and Tenant with respect to the Project. The Lease has not been amended (except as may be shown in Exhibit B), is in full force and effect according to its terms, and is valid and binding upon Owner/Landlord.



4. To the best of Owner/Landlord's knowledge; (a) Tenant is not in default under the Lease and (b) no state of facts exists which, with the passage of time or the giving of notice, or both, could constitute a default by Tenant under the Lease. All rent, charges and other payments due to Owner/Landlord from Tenant under the Lease on or before the date hereof have been paid.

5. Owner/Landlord is not in default under the Lease. No state of facts exists which, with the passage of time or the giving of notice, or both, could constitute a default by Owner/Landlord under the Lease.

6. Tenant has not paid any rent, charges or other payments due to Owner/Landlord from Tenant under the Lease more than thirty (30) days in advance nor has Tenant paid any security deposit under the Lease.

7. To the best of Owner/Landlord's knowledge, all conditions under the Lease to be satisfied by Owner/Landlord or Tenant as of the date hereof have been satisfied.

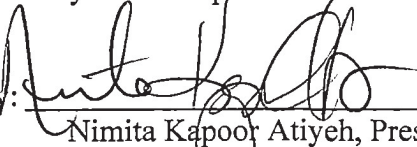
8. All improvements, alterations and other work, if any, to be performed or constructed by Owner/Landlord under the Lease have been completed and have been accepted by Tenant. All contributions, if any, required to be paid to Tenant by Owner/Landlord for improvements to the Project have been paid.

9. There are no actions, voluntary or involuntary, pending against Owner/Landlord under any bankruptcy, receivership, insolvency or similar laws of the United States or any State thereof.

DATED as of January 26, 2012.

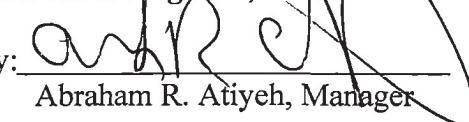
TENANT:

**WHITEHALL MANOR, INC.,**  
a Pennsylvania corporation

By:   
Nimita Kapoor Atiyeh, President

OWNER/LANDLORD:

**WHITEHALL FIDUCIARY, LLC,**  
**AS TRUSTEE OF WHITEHALL TRUST**  
u/t/a dated August 1, 2007

By:   
Abraham R. Atiyeh, Manager

**Exhibit A**

Exceptions:

**None**

**Exhibit B**

(Copy of Lease and all supplements, amendments or modifications thereto and assignments thereof—attached hereto)



**Pennsylvania Department of State**  
Bureau of Corporations and Charitable Organizations  
PO Box 8722 | Harrisburg, PA 17105-8722  
T: 717.787.1057  
[dos.pa.gov/BusinessCharities](https://dos.pa.gov/BusinessCharities)

BERGER LAW GROUP PC  
PHILLIP BERGER  
919 CONESTOGA ROAD  
BUILDING 3 SUITE 114  
BRYN MAWR, PA 19010

Request Date: 12/23/2025 1:30 PM  
UCC11 No.: 20251223327315

### UCC11 SEARCH REPORT

UCC Processed Through: 12/21/2025 11:59 PM

#### Search Criteria:

Debtor Organization: WHITEHALL TRUST  
Request Type: Lien Information Request (UCC 11)  
Active (Unlapsed Records Only), List and All Copies

#### Lien Listing

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                   |                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-----------------------------------|
| <b>Lien File No.:</b> 2012012605510                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>Filed:</b> 01/25/2012 08:00 AM | <b>Lapse:</b> 01/25/2027 08:00 AM |
| <b>Lien Type:</b> Financing Statement                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                   | <b>Pages:</b> 6                   |
| <b>Debtor(s):</b> WHITEHALL FIDUCIARY, LLC, AS TRUSTEE OF WHITEHALL TRUST U/T/A DATED AUGUST 1, 2007, 1177 SIXTH STREET, WHITEHALL, PA 18052<br>WHITEHALL TRUST, 1177 SIXTH STREET, WHITEHALL, PA 18052                                                                                                                                                                                                                                                                                                                                                             |                                   |                                   |
| <b>Secured Party(s):</b> M&T REALTY CAPITAL CORPORATION, 25 S. CHARLES STREET, 17TH FLOOR<br>BALTIMORE CITY<br>SECRETARY OF HOUSING AND URBAN DEVELOPMENT, C/O OFFICE OF HEALTHCARE PROGRAMS, 451 7TH STREET S.W. DISTRICT OF COLUMBIA<br>UNITED STATES SECRETARY OF HOUSING AND URBAN DEVELOPMENT, HIS/HER SUCCESSORS AND/OR ASSIGNS AS THEIR, 451 SEVENTH STREET, SW, WASHINGTON, DC 20410<br>WINDSTREAM CAPITAL LLC, 2100 PONCE DE LEON BLVD, SUITE 720 CORAL GABLES, FL 33134<br>LEHIGH VALLEY 1 LLC, 2100 PONCE DE LEON BLVD, SUITE 720 CORAL GABLES, FL 33134 |                                   |                                   |

#### ***Amendment - Continuation***

|                              |                            |          |
|------------------------------|----------------------------|----------|
| Amendment No.: 2016080101299 | Filed: 08/01/2016 03:12 PM | Pages: 1 |
|------------------------------|----------------------------|----------|

#### ***Amendment - Continuation***

|                              |                            |          |
|------------------------------|----------------------------|----------|
| Amendment No.: 2021080501293 | Filed: 08/05/2021 01:23 PM | Pages: 1 |
|------------------------------|----------------------------|----------|

#### ***Amendment - Assignment***

|                               |                            |          |
|-------------------------------|----------------------------|----------|
| Amendment No.: 20221227086744 | Filed: 12/27/2022 01:40 PM | Pages: 1 |
|-------------------------------|----------------------------|----------|

#### ***Amendment - Assignment***

|                               |                            |          |
|-------------------------------|----------------------------|----------|
| Amendment No.: 20240605145152 | Filed: 06/05/2024 09:49 AM | Pages: 1 |
|-------------------------------|----------------------------|----------|

#### ***Amendment - Assignment***

|                               |                            |          |
|-------------------------------|----------------------------|----------|
| Amendment No.: 20240605145160 | Filed: 06/05/2024 09:52 AM | Pages: 1 |
|-------------------------------|----------------------------|----------|



**Pennsylvania Department of State**  
Bureau of Corporations and Charitable Organizations  
PO Box 8722 | Harrisburg, PA 17105-8722  
T: 717.787.1057  
dos.pa.gov/BusinessCharities

BERGER LAW GROUP PC  
PHILLIP BERGER  
919 CONESTOGA ROAD  
BUILDING 3 SUITE 114  
BRYN MAWR, PA 19010

Request Date: 12/23/2025 1:22 PM  
UCC11 No.: 20251223327304

### UCC11 SEARCH REPORT

UCC Processed Through: 12/21/2025 11:59 PM

#### Search Criteria:

Debtor Organization: WHITEHALL MANOR INC.  
Request Type: Lien Information Request (UCC 11)  
Active (Unlapsed Records Only), List and All Copies

#### Lien Listing

|                                                                                                                                                  |                                   |                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-----------------------------------|
| <b>Lien File No.:</b> 2012012605508                                                                                                              | <b>Filed:</b> 01/25/2012 08:00 AM | <b>Lapse:</b> 01/25/2027 08:00 AM |
| <b>Lien Type:</b> Financing Statement                                                                                                            |                                   | <b>Pages:</b> 6                   |
| <b>Debtor(s):</b> WHITEHALL MANOR, INC., 1177 SIXTH STREET, WHITEHALL, PA 18052                                                                  |                                   |                                   |
| <b>Secured Party(s):</b> SECRETARY OF HOUSING AND URBAN DEVELOPMENT, C/O OFFICE OF HEALTHCARE PROGRAMS, 451 7TH STREET S.W. DISTRICT OF COLUMBIA |                                   |                                   |
| M&T REALTY CAPITAL CORPORATION, 25 S. CHARLES STREET, 17TH FLOOR                                                                                 |                                   |                                   |
| BALTIMORE CITY                                                                                                                                   |                                   |                                   |
| UNITED STATES SECRETARY OF HOUSING AND URBAN DEVELOPMENT, HIS/HER                                                                                |                                   |                                   |
| SUCCESSORS AND/OR ASSIGNS AS THEIR, 451 SEVENTH STREET, SW, WASHINGTON,                                                                          |                                   |                                   |
| D.C., DC 20410                                                                                                                                   |                                   |                                   |
| WINDSTREAM CAPITAL LLC, 2100 PONCE DE LEON BLVD, SUITE 720 CORAL GABLES, FL                                                                      |                                   |                                   |
| 33134                                                                                                                                            |                                   |                                   |
| LEHIGH VALLEY 1 LLC, 2100 PONCE DE LEON BLVD, SUITE 720 CORAL GABLES, FL                                                                         |                                   |                                   |
| 33134                                                                                                                                            |                                   |                                   |

#### ***Amendment - Continuation***

|                              |                            |          |
|------------------------------|----------------------------|----------|
| Amendment No.: 2016080101287 | Filed: 08/01/2016 03:09 PM | Pages: 1 |
|------------------------------|----------------------------|----------|

#### ***Amendment - Continuation***

|                              |                            |          |
|------------------------------|----------------------------|----------|
| Amendment No.: 2021080501281 | Filed: 08/05/2021 01:21 PM | Pages: 1 |
|------------------------------|----------------------------|----------|

#### ***Amendment - Assignment***

|                               |                            |          |
|-------------------------------|----------------------------|----------|
| Amendment No.: 20221229088143 | Filed: 11/17/2022 11:44 AM | Pages: 1 |
|-------------------------------|----------------------------|----------|

#### ***Amendment - Assignment***

|                               |                            |          |
|-------------------------------|----------------------------|----------|
| Amendment No.: 20240605145129 | Filed: 06/05/2024 09:34 AM | Pages: 1 |
|-------------------------------|----------------------------|----------|

#### ***Amendment - Assignment***

|                               |                            |          |
|-------------------------------|----------------------------|----------|
| Amendment No.: 20240605145135 | Filed: 06/05/2024 09:37 AM | Pages: 1 |
|-------------------------------|----------------------------|----------|

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Lien Listing

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**Lien File No.: 20250409066747**

**Filed: 04/09/2025 11:36 AM**

**Lapse: 04/09/2030 11:59 PM**

**Lien Type:** Financing Statement

**Pages:1**

**Debtor(s):** WHITEHALL MANOR, INC., 1177 6TH STREET, WHITEHALL, PA 18052

**Secured Party(s):** C T CORPORATION SYSTEM, AS REPRESENTATIVE, 330 N BRAND BLVD, SUITE 700,  
ATTN: SPRS GLENDALE, CA 91203



File Number: 2012012605508  
Date Filed: 01/25/2012 08:00 AM  
Carol Aichele  
Secretary of the Commonwealth

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

Kelly Kremer (513) 723-4000

B. SEND ACKNOWLEDGEMENT TO: (Name and Address)

M. Burr Keim Company  
2021 Arch Street  
Philadelphia, PA 19103

Commonwealth of Pennsylvania  
UCC1 Initial Filing 6 Page(s)



T1202667003

1. DEBTOR'S EXACT FULL LEGAL NAME -- Insert only one debtor name (1a or 1b) -- do not abbreviate or combine names

1a. ORGANIZATION'S NAME

OR Whitehall Manor, Inc.

1b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

1c. MAILING ADDRESS

1177 Sixth Street

CITY  
Whitehall

STATE  
PA

POSTAL CODE  
18052

COUNTRY  
USA

1d. SEE INSTRUCTIONS

ADD'L INFO RE  
ORGANIZATION  
DEBTOR

1e. TYPE OF ORGANIZATION  
corporation

1f. JURISDICTION OF ORGANIZATION  
Pennsylvania

1g. ORGANIZATIONAL ID#, if any  
2766225

☐ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME -- Insert only one debtor name (2a or 2b) -- do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

2c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

2d. SEE INSTRUCTIONS

ADD'L INFO RE  
ORGANIZATION  
DEBTOR

2e. TYPE OF ORGANIZATION

2f. JURISDICTION OF ORGANIZATION

2g. ORGANIZATIONAL ID#, if any

☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) -- Insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR M&T Realty Capital Corporation

3b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

3c. MAILING ADDRESS

25 S. Charles Street, 17th Floor

CITY

Baltimore

STATE

MD

POSTAL CODE

21201

COUNTRY

USA

4. This FINANCING STATEMENT covers the following collateral:

See Exhibit A attached hereto for a description of the real estate to which certain of the collateral relates.

See Exhibit B attached hereto for a description of the collateral.

Either Secured Party, acting alone, is authorized to file continuation statements with respect to this financing statement.

5. ALTERNATIVE DESIGNATION (if applicable): ☐ LESSOR/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOER ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable) 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) location(s) ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2.

8. OPTIONAL FILER REFERENCE DATA

Pennsylvania Department of State

Whitehall Manor Senior Living, FHA Project No. 034-22084

FILING OFFICE COPY -- NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 03/22/02)

Certificate Verification No.: 003476930 Date: 10/25/2022

### UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

1a. ORGANIZATION'S NAME

OR

**Whitehall Manor, Inc.**

1b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only org name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

11c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

11d. ~~SEE INSTRUCTIONS~~

ADD INFO RE  
ORGANIZATION  
DEBTOR

11e. TYPE OF ORGANIZATION

11f. JURISDICTION OF ORGANIZATION

11g. ORGANIZATIONAL ID #, if any

☐ NONE

12. ☒ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - Insert only org name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

**Secretary of Housing and Urban Development, c/o Office of Healthcare Programs**

12b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

12c. MAILING ADDRESS

**451 7th Street S.W.**

CITY

**Washington**

STATE

**DC**

POSTAL CODE

**20410**

COUNTRY

**USA**

13. This FINANCING STATEMENT covers ☐ Secured to be out or ☐ no-secured collateral, or is filed as a ☐ future filing.

14. Description of real estate:

See Exhibit A attached hereto for a description of the real estate to which certain of the collateral relates.

**Project Name: Whitehall Manor Senior Living**  
**Project No.: 034-22084**

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

**Whitehall Fiduciary, LLC,**  
**as Trustee of Whitehall Trust s/b dated August 1, 2007**  
**1177 Sixth Street**  
**Whitehall, Pennsylvania 18052**

16. Additional collateral description

See Exhibit B for a description of the collateral.

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY

☐ Filed in connection with a Manufactured-Home Transaction

☐ Filed in connection with a Public-Finance Transaction

UCC FINANCING STATEMENT ADDENDUM (FORM UCC1Ad) (REV. 05/21/09)

Certificate Verification No.: C03476930 Date: 10/25/2022

|                                                                |            |             |        |
|----------------------------------------------------------------|------------|-------------|--------|
| NAME OF FIRST DEBTOR (1A OR 1B) ON RELATED FINANCING STATEMENT |            |             |        |
| ORGANIZATION'S NAME<br><b>Whitehall Manor, Inc.</b>            |            |             |        |
| INDIVIDUAL'S LAST NAME                                         | FIRST NAME | MIDDLE NAME | SUFFIX |

|                                                                       |            |                     |
|-----------------------------------------------------------------------|------------|---------------------|
| NAME OF FIRST SECURED PARTY (3A OR 3B) ON RELATED FINANCING STATEMENT |            |                     |
| ORGANIZATION'S NAME<br><b>M&amp;T Realty Capital Corporation</b>      |            |                     |
| INDIVIDUAL'S LAST NAME                                                | FIRST NAME | MIDDLE NAME, SUFFIX |

**EXHIBIT A TO UCC FINANCING STATEMENT**

UNIT 1 OF WHITEHALL MANOR CONDOMINIUM, according to the Declaration of Condominium of Whitehall Manor Condominium dated August 13, 2008 recorded in the Office of the Recorder of Deeds of Lehigh County, Pennsylvania as its Document ID # 7494518.

PARCEL ID NO. 5498 9378 8632-1

Together with an undivided interest of 50% of, in and to the Common Elements of the said WHITEHALL MANOR CONDOMINIUM.



NAME OF FIRST DEBTOR (1A OR 1B) ON RELATED FINANCING STATEMENT

ORGANIZATION'S NAME

**Whitehall Manor, Inc.**

INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

NAME OF FIRST SECURED PARTY (3A OR 3B) ON RELATED FINANCING STATEMENT

ORGANIZATION'S NAME

**M&T Realty Capital Corporation**

INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME, SUFFIX

**EXHIBIT B TO UCC FINANCING STATEMENT**

All of the following described property and interests in property, whether now in existence or hereafter arising, and relating to, situated or located on or used or usable in connection with the maintenance and/or operation of the property described in Exhibit A (hereafter referred to as the "Premises").

(a) All fixtures, furniture, equipment and other goods and tangible personal property of every kind and description whatsoever now or hereafter located on, in or at the Premises, including, but not limited to, all lighting, laundry, incinerating and power equipment; all engines, boilers, machines, radiators, motors, furnaces, compressors and transformers; all power generating equipment; all pumps, tanks, ducts, conduits, wire, switches, electrical equipment, and fixtures, fans and switchboards; all telephone equipment; all piping, tubing and plumbing equipment and fixtures; all heating, refrigeration, air-conditioning, cooling, ventilating, sprinkling, water, power, waste disposal and communications equipment, systems and apparatus; all water coolers and water heaters; all fire prevention, alarm and extinguishing systems and apparatus; all cleaning equipment; all lift, elevator and escalator equipment and apparatus; all partitions, shades, blinds, awnings, screens, screen doors, storm doors, exterior and interior signs, gas fixtures, stoves, ovens, refrigerators, garbage disposals, dishwashers, kitchen and laundry fixtures, utensils, appliances and equipment, cabinets, mirrors, mantles, floor coverings, carpets, rugs, draperies and other furnishings and furniture now or hereafter installed or used or usable in the operation of any part of the buildings, structures or improvements erected or to be erected in or upon the Premises and every replacement thereof, accession thereto, or substitution therefor, whether or not all of the above are now or hereafter acquired or attached to the Premises in any manner;

(b) All articles of tangible personal property not otherwise described herein which are now or hereafter located in, attached to or used in, on or about the buildings, structures or improvements now or hereafter located, placed, erected, constructed or built on the Premises and all replacements thereof, accessions thereto, or substitution therefor, whether or not the same are, or will be, attached to such buildings, structures or improvements in any manner;

(c) All rents, leases, income, revenues, issues, profits, royalties and other benefits arising or derived or to be derived from, or related to, directly or indirectly, the Premises, whether or not

any of the property described in this item (c) constitutes accounts, chattel paper, documents, general intangibles, instruments or money;

(d) All awards now or hereafter made ("Awards") with respect to the Premises as a result of (i) the exercise of the power of condemnation or eminent domain, or the police power, (ii) the alteration of the grade of any street, or (iii) any other injury or decrease in the value of the Premises (including, but not limited to, any destruction or decrease in the value by fire or other casualty), whether or not any of the property described in this item (d) constitutes accounts, chattel paper, documents, general intangibles, instruments, investment property, deposit accounts, or money;

(e) All land surveys, plans and specifications, drawings, briefs and other work product and other papers and records now or hereafter used in the construction, reconstruction, alteration, repair or operation of the Premises;

(f) All licenses, permits, certificates and agreements for the provision of property or services to or in connection with, or otherwise benefiting, the Premises, any nursing home license, assisted living facility license, any and all Medicaid/Medicare Provider Agreements, and any other license necessary for the provision of services at the Premises; however, the Secured Party disclaims a security interest in such of the property described in this item (f) to the extent that a security interest in such property may not be granted to the Secured Party without the forfeiture of the rights of the Debtor (or any assignee of the Debtor) or a default resulting thereunder.

(g) All funds, monies, securities and other property held in escrow, lock boxes, depository or blocked accounts or as reserves and all rights to receive (or to have distributed to the Debtor) any funds, monies, securities or property held in escrow, lock boxes, depository or blocked accounts or as reserves, including, but not limited to, all of Debtor's rights (if any) to any funds or amounts in that certain reserve funds and/or residual receipts accounts created under the Regulatory Agreement required by the Secretary of Housing and Urban Development or the Federal Housing Administration Commissioner;

(h) All accounts, accounts receivable, general intangibles, chattel paper, instruments, documents, inventory, goods, cash, bank accounts, certificates of deposits, securities, insurance policies, letters of credit, deposits, judgments, liens, causes of action, warranties, guaranties and all other properties and assets of the Debtor, tangible or intangible, whether or not similar to the property described in this item (h). As used herein, the term "accounts receivable" shall include (i) all healthcare insurance receivables, including, but not limited to Medicaid and Medicare receivables, Veterans Administration or other governmental receivables, private patient receivables, and HMO 10 receivables; (ii) any payments due or to be made to the Debtor relating to the Premises or (iii) all other rights of the Debtor to receive payment of any kind with respect to the Premises;

(i) All books, records and files of whatever type or nature relating to any or all of the property or interests in property described herein or the proceeds thereof, whether or not written, stored electronically or electromagnetically or in any other form, and whether or not such books, records, or files constitute accounts, equipment or general intangibles.

(j) Any and all security or other deposits which have not been forfeited by any tenant under any lease; and

(k) All products and proceeds of any and all of the property (and interests in property) described herein, including, but not limited to, proceeds of any insurance, whether or not in the form of original collateral, accounts, contract rights, chattel paper, general intangibles, equipment, fixtures, goods, securities, leases, instruments, inventory, documents, deposit accounts or cash.

Certificate Verification No.: 003476930 Date: 10/25/2022

11/30/2011 12:09:519



File Number: 2012012605510  
Date Filed: 01/25/2012 08:00 AM  
Carol Aichele  
Secretary of the Commonwealth

**UCC FINANCING STATEMENT**

**FOLLOW INSTRUCTIONS (front and back) CAREFULLY**

**A. NAME & PHONE OF CONTACT AT FILER (optional)**  
**Kelly Kromer (513) 723-4000**

**B. SEND ACKNOWLEDGMENT TO: (Name and Address)**

M. Burr Keim Company  
2021 Arch Street  
Philadelphia, PA 19103

Commonwealth of Pennsylvania  
UCC1 Initial Filing 6 Page(s)



T1202667004

**1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (1a or 1b) - do not abbreviate or combine names**

**1a. ORGANIZATION'S NAME**  
**Whitehall Trust**  
**OR**  
**1b. INDIVIDUAL'S LAST NAME** FIRST NAME MIDDLE NAME SUFFIX

**1c. MAILING ADDRESS** CITY STATE POSTAL CODE COUNTRY  
**1177 Sixth Street** **Whitehall** **PA** **18052** **USA**

**1d. UCC INSTRUCTIONS** **ADDL INFO RE ORGANIZATION DEBTOR** **1e. TYPE OF ORGANIZATION** **1f. JURISDICTION OF ORGANIZATION** **1g. ORGANIZATIONAL ID#, if any**  
**trust** **Pennsylvania** ☒ **NONE**

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (2a or 2b) - do not abbreviate or combine names**

**2a. ORGANIZATION'S NAME**  
**Whitehall Fiduciary, LLC, as Trustee of Whitehall Trust w/t/a dated August 1, 2007**  
**OR**  
**2b. INDIVIDUAL'S LAST NAME** FIRST NAME MIDDLE NAME SUFFIX

**2c. MAILING ADDRESS** CITY STATE POSTAL CODE COUNTRY  
**1177 Sixth Street** **Whitehall** **PA** **18052** **USA**

**2d. UCC INSTRUCTIONS** **ADDL INFO RE ORGANIZATION DEBTOR** **2e. TYPE OF ORGANIZATION** **2f. JURISDICTION OF ORGANIZATION** **2g. ORGANIZATIONAL ID#, if any**  
**trust** **Pennsylvania** **3745062** ☐ **NONE**

**3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - Insert only one secured party name (3a or 3b)**

**3a. ORGANIZATION'S NAME**  
**M&T Realty Capital Corporation**  
**OR**  
**3b. INDIVIDUAL'S LAST NAME** FIRST NAME MIDDLE NAME SUFFIX

**3c. MAILING ADDRESS** CITY STATE POSTAL CODE COUNTRY  
**25 S. Charles Street, 17th Floor** **Baltimore** **MD** **21201** **USA**

**4. This FINANCING STATEMENT covers the following collateral:**

**See Exhibit A attached hereto for a description of the real estate to which certain of the collateral relates.**

**See Exhibit B attached hereto for a description of the collateral.**

**Either Secured Party, acting alone, is authorized to file continuation statements with respect to this financing statement.**

**5. ALTERNATIVE DESIGNATION (if applicable):** ☐ **LESSOR/LESSEE** ☐ **CONSIGNEE/CONSIGNOR** ☐ **BAILEE/BAITOR** ☐ **SELLER/BUYER** ☐ **AQ. LIEN** ☐ **NON-UCC FILING**

**6. This FINANCING STATEMENT is to be filed (for record) (for recording) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)** **7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (ADDITIONAL FEE)** ☐ **All Debtors** ☐ **Debtor 1** ☐ **Debtor 2**

**8. OPTIONAL FILER REFERENCE DATA**  
**Pennsylvania Department of State**

**Whitehall Manor Senior Living, FHA Project No. 034-22084**

**FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)**

Certificate Verification No.: 003476425 Date: 10/25/2022

### UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

|                            |            |                     |
|----------------------------|------------|---------------------|
| 1a. ORGANIZATION'S NAME    |            |                     |
| OR <b>Whitehall Trust</b>  |            |                     |
| 1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME, SUFFIX |

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only org name (11a or 11b) - do not abbreviate or combine names

|                             |            |             |                           |
|-----------------------------|------------|-------------|---------------------------|
| 11a. ORGANIZATION'S NAME    |            |             |                           |
| OR                          |            |             |                           |
| 11b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX                    |
| 11a. MAILING ADDRESS        |            | CITY        | STATE POSTAL CODE COUNTRY |

|                       |                                 |                           |                                   |                                                                   |
|-----------------------|---------------------------------|---------------------------|-----------------------------------|-------------------------------------------------------------------|
| 11c. SEE INSTRUCTIONS | ADD INFO RE ORGANIZATION DEBTOR | 11d. TYPE OF ORGANIZATION | 11f. JURISDICTION OF ORGANIZATION | 11g. ORGANIZATIONAL ID's, if any<br><input type="checkbox"/> NONE |
|-----------------------|---------------------------------|---------------------------|-----------------------------------|-------------------------------------------------------------------|

12. ☒ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - Insert only org name (12a or 12b)

|                                                                                         |            |             |        |
|-----------------------------------------------------------------------------------------|------------|-------------|--------|
| 12a. ORGANIZATION'S NAME                                                                |            |             |        |
| OR <b>Secretary of Housing and Urban Development, c/o Office of Healthcare Programs</b> |            |             |        |
| 12b. INDIVIDUAL'S LAST NAME                                                             | FIRST NAME | MIDDLE NAME | SUFFIX |

|                            |                   |           |              |            |
|----------------------------|-------------------|-----------|--------------|------------|
| 12a. MAILING ADDRESS       | CITY              | STATE     | POSTAL CODE  | COUNTRY    |
| <b>451 7th Street S.W.</b> | <b>Washington</b> | <b>DC</b> | <b>20410</b> | <b>USA</b> |

13. This FINANCING STATEMENT covers ☐ entire to be out or ☐ so-abstracted  
collateral, or is filed as a ☐ future filing.

14. Description of real estate:

See Exhibit A attached hereto for a description of the real estate to which certain of the collateral relates.

**Project Name: Whitehall Manor Senior Living**  
**Project No.: 034-22084**

16. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

15. Additional collateral description:

See Exhibit B for a description of the collateral.

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY  
☐ Filed in connection with a Manufactured-Home Transaction  
☐ Filed in connection with a Public-Finance Transaction

NAME OF FIRST DEBTOR (1A OR 1B) ON RELATED FINANCING STATEMENT

|                                               |            |             |        |
|-----------------------------------------------|------------|-------------|--------|
| ORGANIZATION'S NAME<br><b>Whitehall Trust</b> |            |             |        |
| INDIVIDUAL'S LAST NAME                        | FIRST NAME | MIDDLE NAME | SUFFIX |

NAME OF FIRST SECURED PARTY (3A OR 3B) ON RELATED FINANCING STATEMENT

|                                                                  |            |                     |
|------------------------------------------------------------------|------------|---------------------|
| ORGANIZATION'S NAME<br><b>M&amp;T Realty Capital Corporation</b> |            |                     |
| INDIVIDUAL'S LAST NAME                                           | FIRST NAME | MIDDLE NAME, SUFFIX |

**EXHIBIT A TO UCC FINANCING STATEMENT**

UNIT 1 OF WHITEHALL MANOR CONDOMINIUM, according to the Declaration of Condominium of Whitehall Manor Condominium dated August 13, 2008 recorded in the Office of the Recorder of Deeds of Lehigh County, Pennsylvania as its Document ID # 7494518.

PARCEL ID NO. 5498 9378 8632-1

Together with an undivided interest of 50% of, in and to the Common Elements of the said WHITEHALL MANOR CONDOMINIUM.



NAME OF FIRST DEBTOR (1A OR 1B) ON RELATED FINANCING STATEMENT

|                                               |            |             |        |
|-----------------------------------------------|------------|-------------|--------|
| ORGANIZATION'S NAME<br><b>Whitehall Trust</b> |            |             |        |
| INDIVIDUAL'S LAST NAME                        | FIRST NAME | MIDDLE NAME | SUFFIX |
|                                               |            |             |        |

NAME OF FIRST SECURED PARTY (3A OR 3B) ON RELATED FINANCING STATEMENT

|                                                                  |            |                     |
|------------------------------------------------------------------|------------|---------------------|
| ORGANIZATION'S NAME<br><b>M&amp;T Realty Capital Corporation</b> |            |                     |
| INDIVIDUAL'S LAST NAME                                           | FIRST NAME | MIDDLE NAME, SUFFIX |
|                                                                  |            |                     |

**EXHIBIT B TO UCC FINANCING STATEMENT**

All of the following described property and interests in property, whether now owned or existing or hereafter acquired, arising or created:

a. All fixtures, equipment and other goods and tangible personal property of every kind and description whatsoever now or hereafter located on, in or at the premises described in Exhibit A to this UCC Financing Statement (the "Premises"), including, but not limited to, all lighting, laundry, incinerating and power equipment; all engines, boilers, machines, motors, furnaces, compressors and transformers; all power generating equipment; all pumps, tanks, ducts, conduits, wire, switches, electrical equipment and fixtures, fans and switchboards; all telephone equipment (except that telephone equipment leased from a telephone company); all piping, tubing, and plumbing equipment and fixtures; all heating, refrigeration, air-conditioning, cooling, ventilating, sprinkling, water, power, waste disposal and communications equipment, systems and apparatus; all water coolers and water heaters; all fire prevention, alarm, and extinguishing systems and apparatus; all cleaning equipment; all lift, elevator and escalator equipment and apparatus; all partitions, shades, blinds, awnings, screens, screen doors, storm doors, exterior and interior signs, gas fixtures, stoves, ovens, refrigerators, garbage disposals, dishwashers, kitchen and laundry fixtures, utensils, appliances and equipment, cabinets, mirrors, mantles, floor coverings, carpets, rugs, draperies and other furnishings and furniture now or hereafter installed or used or usable in the operation of any part of the buildings, structures or improvements erected or to be erected in or upon the Premises and every replacement thereof, accession thereto, or substitution therefor, whether or not the same are now or hereafter attached to the Premises in any manner;

b. All articles of tangible personal property not otherwise described herein which are now or hereafter located in, attached to or used in, on or about the buildings, structures or improvements now or hereafter located, placed, erected, constructed or built on the Premises and all replacements thereof, accessions thereto, or substitution therefor, whether or not the same are, or will be, attached to such buildings, structures or improvements in any manner;

c. All rents, leases, lease contracts, lease agreements, income, revenues, issues, profits, royalties and other benefits arising or derived or to be derived from, or related to, directly or indirectly, the Premises, whether or not any of the property described in this item (c)

constitutes accounts, chattel paper, documents, general intangibles, instruments, investment property, deposit accounts or money;

d. All awards now or hereafter made ("Awards") with respect to the Premises as a result of (i) the exercise of the power of condemnation or eminent domain, or the police power, (ii) the alteration of the grade of any street, or (iii) any other injury or decrease in the value of the Premises (including, but not limited to, any destruction or decrease in the value by fire or other casualty), whether or not any of the property described in this item (d) constitutes accounts, chattel paper, documents, general intangibles, instruments, investment property, deposit accounts or money;

e. All land surveys, plans and specifications, drawings, briefs and other work product of the Debtor or its employees, contractors or agents, and other papers and records now or hereafter used in the construction, reconstruction, alteration, repair or operation of the Premises;

f. All licenses, permits, certificates and agreements for the provision of property or services to or in connection with, or otherwise benefiting, the Premises, including, but not limited to, nursing home and/or assisted living facility licenses, certificates of need, "bed authority" and Medicare and Medicaid provider agreements; however, the Secured Party disclaims a security interest in such of the property described in this item (f) to the extent that a security interest in such property may not be granted to the Secured Party without the forfeiture of the rights of the Debtor (or any assignee of the Debtor) or a default resulting thereunder;

g. Any and all funds, monies, securities, and other property held in escrow or as reserves, and all rights to receive (or to have distributed to the Debtor) any funds, monies, securities, or other property held in escrow or as a reserve, including, but not limited to, all of Debtor's rights (if any) to any and all funds or amounts held in reserves or accounts created under the Regulatory Agreement, including, but not limited to, replacement reserve accounts and residual receipts accounts;

h. All of the Debtor's accounts (including, but not limited to, health-care-insurance receivables and other accounts receivable), general intangibles (including, but not limited to, payment intangibles, tax refunds, tax refund claims and low income housing tax credits, if any, applicable to the Premises), chattel paper (including, but not limited to, tangible chattel paper and electronic chattel paper), leases, lease contracts, lease agreements, instruments, documents, inventory, as-extracted collateral, cash, money, deposit accounts, lock boxes, blocked accounts, certificates of deposit, investment property, insurance policies, letter-of-credit rights, judgments, liens, causes of action, warranties, guaranties, supporting obligations, and all other properties and assets of the Debtor, tangible or intangible, whether or not similar to the property described in this item (h) or elsewhere in this Exhibit B;

i. All books, records and files of whatever type or nature relating to any or all of the property or interests in property described herein or the proceeds thereof, whether or not written, stored electronically, optically or electromagnetically or in any other form, and whether or not such books, records, or files constitute accounts, equipment or general intangibles;



j. All current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights-of-way, strips and gores of land, streets, alleys, roads, waters, watercourses, and appurtenances related to or benefiting the Premises, and all rights-of-way, streets, alleys and roads which may have been or in the future may be vacated;

k. All contracts, options and other agreements for the sale of the Premises or the improvements thereon, entered into by the Debtor now or in the future, including cash or securities or other security deposited to secure performance by the parties of their obligations, and all construction contracts, architectural and engineering agreements and management contracts now or in the future existing pertaining to the construction, rehabilitation, development, repair, operation, ownership, equipping or management of the Premises;

l. Any and all rights of Debtor in tenant security deposits which have not been forfeited by any tenant under any lease;

m. All names under or by which any part of the Premises may be operated or known, and all trademarks, trade names, and goodwill relating to any part of the Premises;

n. The interest of the Debtor in and to any and all funds and monies created or established and held pursuant to any indenture of trust or similar instrument authorizing the issuance of bonds or notes for the purpose of financing the Project located upon the Premises; and

o. All rights, titles and interests of the Debtor under any and all security agreements now or hereafter entered into by the Debtor with any lessee of all or any portion of the Premises and all of the Debtor's rights, titles and interests in the collateral described therein.

p. All products and proceeds of any and all of the property (and interests in property) described herein, including, but not limited to, proceeds of any insurance, whether or not in the form of original collateral, accounts, contract rights, chattel paper, general intangibles, equipment, fixtures, goods, investment property, letter-of-credit rights, leases, lease contracts, lease agreements, instruments, inventory, documents, deposit accounts, supporting obligations or cash proceeds.



# EXHIBIT E

SAUCON VALLEY MANOR  
FHA Project No. 034-22096

### LESSEE SECURITY AGREEMENT

**THIS LESSEE SECURITY AGREEMENT** (the "Agreement") is made, entered into and dated as of the 1st day of December, 2012, by and between **SAUCON VALLEY MANOR, INC.**, a corporation organized and existing under the laws of the state of Pennsylvania, whose principal place of business is located at 1050 Main Street, Hellertown, Pennsylvania 18055 (the "Lessee" or "Debtor"); and **M&T REALTY CAPITAL CORPORATION**, a corporation organized and existing under the laws of the State of Maryland and having an address at 25 South Charles Street, 17th Floor, Baltimore, Maryland 21201 (the "Secured Party"), as follows:

#### Recitals

A. Contemporaneously with this Agreement, the Secured Party has made a loan to **SAUCON TRUST, U/T/A DATED OCTOBER 1, 2007** (the "Borrower") in the maximum principal amount of \$19,462,800.00 (the "Loan"). The Loan is (i) evidenced by the Mortgage Note made by the Borrower in favor of the Secured Party, dated as of even date herewith (the "Note") and (ii) secured, in part, by an assisted living project known as Saucon Valley Manor, FHA Project No. 034-22096 (the "Project") located at 1050 Main Street, Hellertown, Pennsylvania 18055, as more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Premises"). The Premises are leased to the Lessee by the Borrower pursuant to a Lease dated January 1, 2006, as amended (the "Lease"), and are the subject of the Regulatory Agreement Nursing Homes between the Lessee and the Federal Housing Commissioner, dated as of even date herewith (the "Regulatory Agreement Nursing Homes").

B. As security, in part, for the Obligations (as defined below), the Borrower (i) granted to the Secured Party the Mortgage, dated as of even date herewith, encumbering the Project, which has been or is concurrently herewith being recorded in the real estate records of the jurisdiction in which the Premises are located (the "Mortgage"), (ii) entered into a Security Agreement, dated as of even date herewith, with the Secured Party (the "Borrower Security Agreement") and (iii) entered into a Regulatory Agreement with the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner ("HUD"), dated as of even date herewith (the "Borrower Regulatory Agreement"). As additional security, the Lessee has entered into this Agreement with the Secured Party. The Note, the Mortgage, the Borrower Security Agreement, the Borrower Regulatory Agreement, this Agreement, the Regulatory Agreement Nursing Homes and all other agreements, instruments, and documents which are now existing or are in the future signed or delivered by, or on behalf of, the Borrower to the Secured Party and/or HUD, or by or on behalf of the Lessee to the Secured Party and/or HUD, in connection with, or related to, the Lease, the Loan or the other Obligations are sometimes collectively referred to as the "Loan Documents."

C. The Lessee is affiliated with and/or shares common ownership with the Borrower, and shall benefit directly from the making of the Loan.

D. As used herein, "Healthcare Assets" means (i) any and all licenses, permits and/or approvals issued by any governmental authority with respect to the use or operation of the Project for its "Approved Use" (as defined in the Regulatory Agreement Nursing Homes), (ii) any and all Medicare and Medicaid provider agreements, and (iii) any and all "Government Accounts" and "Government Payments" (each as defined below).

### Statement of Agreement

#### 1. SECURITY INTEREST; SETOFF.

(a) To secure the full, prompt and complete payment and performance of all Obligations, the Lessee hereby, to the fullest extent permitted by applicable law with respect to Healthcare Assets, grants to, and creates in favor of, the Secured Party a continuing security interest in all of Lessee's right, title and interest in and to the property described on Exhibit B attached hereto and incorporated herein by reference (the "Collateral"). "Obligations" means, as of any date, the Loan and all other indebtedness, liabilities, obligations, covenants, debts and amounts owing from the Borrower and/or the Lessee to the Secured Party and/or HUD arising out of, in connection with, described in, or evidenced by the Loan Documents, whether direct or indirect, absolute or contingent, related or unrelated, now or in the future existing and whether consisting of principal, interest, fees, indemnities, expenses (including attorneys' fees), charges or other sums, however any of that indebtedness, obligations, or liabilities may be evidenced or acquired, all as now exist or may, after the date of this Agreement, be incurred, renewed, extended, consolidated, adjusted or amended.

(b) In addition to (and without limitation of) any right of setoff, lien or counterclaim the Secured Party may otherwise have, the Secured Party may, at its option, setoff and retain, and may refuse to allow withdrawals by, or for the benefit of the Borrower and/or Lessee of, any and all funds, monies, securities and other property held in escrow or for the account of the Borrower and/or the Lessee pursuant to the Loan Documents, against any amount payable by the Borrower and/or the Lessee under the Note, the Mortgage or any of the other Loan Documents which is not paid when due (whether or not any of the funds, monies, securities, or other property are then distributable to, or on behalf of, the Lessee).

(c) Notwithstanding any provisions to the contrary contained in this Agreement, nothing set forth in this Agreement shall be construed as granting to Secured Party a security interest, assigning receivables, giving dominion and control or designating an attorney-in-fact with respect to Healthcare Assets in violation of any applicable law.

#### 2. REPRESENTATIONS; GENERAL COVENANTS.

(a) To induce the Secured Party to make the Loan, the Lessee promises to the Secured Party that the following statements are, and will continue throughout the term of this Agreement to be, true: (i) except to the extent expressly permitted pursuant to Section 19 hereof, the security interest granted to the Secured Party in the Collateral constitutes a valid, first priority security interest; (ii) the Lessee has good title to, and is the sole and lawful owner of, the Collateral; (iii) the Lessee has full power and authority to enter into and perform its obligations under this Agreement; (iv) except to the extent expressly permitted pursuant to Section 19

hereof, rights granted to the Borrower under the Lease, if any, which are subordinate to the liens in favor of the Secured Party ("Subordinate Lease Rights") and taxes that are not yet due and payable, the Collateral is free and clear of any lien, security interest, claim, interest, pledge, assignment or other encumbrance (a "Lien") except (A) the security interest in favor of the Secured Party and (B) those Liens, if any, approved in writing by Secured Party (the "Permitted Liens"); (v) the Lessee keeps all tangible Collateral at the Premises; (vi) all trade names, assumed names, fictitious names and other names used by the Lessee during the five year period preceding the date of this Agreement are set forth on Exhibit C, and the Lessee has not, during the preceding five year period, except as may be set forth on Exhibit C, acquired any of its assets in any bulk transfer; (vii) Lessee's chief executive office is as set forth in the first paragraph of this Agreement; (viii) Lessee's jurisdiction of organization is as set forth in the first paragraph of this Agreement; (ix) Lessee's exact legal name is as set forth in the first paragraph of this Agreement; (x) Lessee's organizational number (if any) as assigned by the State in which Lessee is organized is the number identified as Lessee's organizational ID # on the financing statement(s) filed in connection with the closing of the Loan, and (xi) except as may be set forth on Exhibit C, the Lessee has no rights, titles or interests in, or with respect to, any investment property, any letters of credit, any electronic chattel paper, any commercial tort claims, any instruments, including promissory notes, or any Deposit Accounts (as defined below).

(b) The Lessee will (i) cause, at its expense, any and all UCC financing statements naming as secured party anyone other than Secured Party, which represent or evidence a Lien or potential Lien against any or all of the Collateral, to be terminated within thirty (30) days of the date hereof (except Permitted Liens, if any), and (ii) provide within forty-five (45) days of the date hereof, at its expense, to Secured Party one or more UCC search reports with respect to each office in which a UCC filing may be required in order for Secured Party to validly perfect its security interest in any or all of the Collateral, confirming that a UCC financing statement has been filed in such office in favor of Secured Party and that there are no other UCC financing statements in effect with respect to any of the Collateral except those in favor of Secured Party and Permitted Liens. The Lessee will not grant, create or permit to exist any Lien on any of the Collateral except for the Liens in favor of the Secured Party, Permitted Liens, and Subordinate Lease Rights, and except to the extent expressly permitted pursuant to Section 19 hereof. The Lessee, at the Secured Party's request, will defend the Collateral against the claims and demands of any other individual, unincorporated association, partnership, joint venture, trust, business trust, corporation, limited liability company, institution, entity or any governmental authority ("Persons") at any time claiming any interest in the Collateral.

(c) The Collateral will only be used by the Lessee in the operation of the Project. Until an Event of Default (as defined below) occurs, the Lessee may have possession of the Collateral and use it in any lawful manner not inconsistent with the Loan Documents and any policy of insurance thereon. The Lessee will not sell, assign, lease, or otherwise dispose of any of the Collateral without the prior written consent of the Secured Party; however, the Lessee will have the right, without the Secured Party's consent, to transfer, sell or dispose of any Collateral which is (i) tangible personal property and (ii) obsolete or worn out ("Consumed Property") if the Lessee, concurrently with such transfer, sale or disposition, replaces the Consumed Property with replacement personal property which is free and clear of any Liens except for the Liens in favor of the Secured Party and Subordinate Lease Rights and has the same or greater value and utility as the Consumed Property originally had (any such replacement personal property will



automatically become a part of the Collateral under this Agreement). The Secured Party's interests in the proceeds of the Collateral (or notification of its interests in the proceeds of the Collateral in financing statements or otherwise) will not be construed as modifying this Agreement or as the Secured Party's consent to the disposition of any Collateral other than as provided in this Agreement.

(d) All tangible Collateral is to be located at the Project ("Collateral Location"), and no tangible Collateral may be removed therefrom without the prior consent of the Secured Party unless the Collateral is (i) Consumed Property under the terms of Section 2(c) above or (ii) being removed in accordance with the terms of Section 2(e) below. Immediately on demand therefor by the Secured Party, the Lessee will deliver to the Secured Party any and all evidences of ownership of the Collateral (including certificates of title and applications for title). The Lessee will give the Secured Party not less than 30 days prior written notice of any change of (A) Lessee's corporate, partnership, limited liability company, doing business, trade or legal name or (B) any Collateral Location.

(e) The Lessee will, at its own cost and expense, maintain all of the tangible Collateral in good working condition and make all necessary renewals, repairs, replacements, additions, betterments and improvements thereto, and, in this connection, the Lessee may temporarily remove the same, or any part thereof, from the Project if such removal is necessary or advisable in connection with the Lessee's fulfilling of its obligations under this Section 2(e), and does not affect the priority of the security interests created under this Agreement.

(f) The Lessee will, upon request of Secured Party, deliver to Secured Party copies of all reports, financial statements and other information which the Lessee is obligated to provide to HUD in connection with the Project and/or Collateral not later than the earlier of (i) the delivery of such reports, financial statements and other information to HUD or (ii) ten (10) days after Secured Party makes such request.

(g) The Lessee will not change (i) without thirty (30) days prior notice to the Secured Party, the location of its chief executive office or (ii) without the prior written consent of the Secured Party, which shall not be unreasonably withheld, its jurisdiction of organization.

(h) The Lessee will not merge or consolidate with or into any other Person without the prior written consent of the Secured Party.

(i) As used in this Agreement, the capitalized term "Deposit Account" means (1) any deposit account into which payments to the Lessee with respect to the operation of the Project are initially deposited, as opposed to being transferred from another Project account, and (2) any deposit account into which Government Payments are directly transferred from a Government Account (defined below). The Lessee will not establish a Deposit Account unless (A) with respect to any such proposed Deposit Account (other than those set forth on Exhibit C) at least thirty (30) days prior written notice of the name and address of the depository bank, the type of account and any other information reasonably requested by the Secured Party is provided to Secured Party and (B) contemporaneously therewith, if requested by the Secured Party consistent with the Lessee's obligations under Section 14, a control agreement in form and substance acceptable to the Secured Party is entered into among the Lessee, the Secured Party

and the depository bank where the Deposit Account would be maintained (any such depository bank is referred to herein as a "Depository Bank" and any such control agreement is referred to herein as a "DACA"), unless the Deposit Account is a Government Account. A DACA may not be changed or terminated without the prior written consent of the Secured Party. Upon the Secured Party's written request (which request need be made only once and not on a recurring basis), the Lessee will take all reasonable steps to cause each Depository Bank to provide to the Secured Party (I) whether by Internet access or otherwise, on-line screen access to daily activity in the Deposit Accounts, and (II) a copy of each periodic account statement relating to the Deposit Accounts ordinarily furnished by such Depository Bank to the Lessee. The Lessee authorizes and approves of the Secured Party communicating directly with each Depository Bank. Unless the Lessee receives no Government Payments, the Lessee will maintain one or more separate Deposit Account(s) into which only Government Payments (defined below) are deposited (collectively, the "Government Accounts"), and the Lessee will not commingle in any Government Account proceeds of accounts from non-governmental payors with proceeds of accounts owing from governmental authorities, including Government Payments. The Lessee shall cause all Government Payments related to the operation of the Project to be paid directly into the Government Accounts. Prior to establishing a Government Account, the Lessee shall cause the Depository Bank that maintains such Government Account to enter into a deposit account instruction services agreement with the Secured Party and the Lessee in form and substance acceptable to the Secured Party with respect to such Government Account (each, a "DAISA"), which requires initiation of a funds transfer each business day, unless the Secured Party approves otherwise, of all available funds in the applicable Government Account to a Deposit Account of Lessee that is subject to a DACA and is not a Government Account. Not less than thirty (30) days prior to the effective date thereof, the Lessee will provide to the Secured Party a copy of (i) any change to any DAISA, or (ii) any new directions with respect to a Government Account issued to a Depository Bank maintaining such Government Account, in each case contemporaneously with providing the change or directions to the Depository Bank. Without limiting the generality of the foregoing, without the prior written consent of the Secured Party, neither a change to any DAISA nor any such new directions shall instruct a Depository Bank to transfer funds from the Government Account to a Deposit Account that is not then subject to a DACA. No change to or termination of a DAISA, nor any such new directions with respect to a Government Account, shall be made without the prior written consent of the Secured Party. Also, the Lessee shall not close a Government Account subject to a DAISA without the prior written consent of the Secured Party. Failure of Lessee to comply with any of the provisions of this Section 2(i) shall constitute an "Event of Default." As used herein, "Government Payment" means a payment from a governmental entity and shall include, without limitation, payments governed under the Social Security Act (42 U.S.C. §§ 1395 et seq.), including payments under Medicare, Medicaid and TRICARE/CHAMPUS, and payments administered or regulated by the Centers for Medicare and Medicaid Services of Department of Health and Human Services.

**3. COMPLIANCE WITH LAWS.** The Lessee will comply with the requirements of all valid and applicable federal, state and local laws.

**4. TAXES; EXPENSES.** Lessee will pay, when due, all taxes, assessments and other charges lawfully and validly levied or assessed on the Collateral or any part thereof. The Lessee will pay and, as applicable, reimburse the Secured Party for (i) any and all fees, costs and



expenses, of whatever kind and nature, including the fees, expenses and disbursements of the Secured Party's counsel (including, but not limited to, fees, expenses and disbursements for preparation of documents, making title examinations and rendering opinion letters) which the Secured Party may incur in connection with filing any financing statements or other public notices to protect its interests hereunder, the enforcement, preservation and/or protection of the Secured Party's rights and/or remedies under the Loan Documents, whether incurred through judicial proceedings or otherwise, or in defending or prosecuting any actions or proceedings arising out of or relating to the Loan, and (ii) all filing and recording fees and taxes payable in connection with the transactions contemplated by the Loan Documents. All amounts payable by Lessee to Secured Party under this Section 4 will be paid by the Lessee upon the Secured Party's demand therefor.

**5. INSPECTION; NOTICES.** Subject to resident privacy rights, the Secured Party, or its agents, may enter on the Project and any other Collateral Location at any time during normal business hours, and from time to time, for the purpose of inspecting the Project and/or the Collateral and making copies or abstracts of all of the Lessee's records pertaining to the Collateral. The Lessee will keep accurate and complete records of the Collateral. The Lessee will give the Secured Party prompt notice of any Event of Default.

**6. INSURANCE.** The Lessee will purchase and maintain insurance at all times with respect to the Premises, all improvements now or hereafter located thereon, and all tangible Collateral against risks of fire (including so-called extended coverage), theft, vandalism, and such other risks as the Secured Party may require, in such form, for such periods, and written by such companies as may be satisfactory to the Secured Party, such insurance to include "law and ordinance" coverage, and to be payable to the Secured Party as its interests may appear. The Lessee will purchase and maintain at all times liability insurance and business interruption insurance in such amounts and issued by such companies as may be required from time to time by the Secured Party. All policies of insurance will provide for thirty (30) days advance written notice to the Secured Party of cancellation or any material change in coverages of such insurance. The Lessee will furnish the Secured Party with certificates or other evidence satisfactory to the Secured Party of compliance with the foregoing insurance provisions.

**7. DISCHARGE OF LIENS.** At its option but without any obligation to do so, the Secured Party may (a) discharge any taxes or other Liens at any time levied or placed on the Collateral, (b) pay for insurance on the Collateral, and/or (c) pay for the maintenance and preservation of the Collateral. The Lessee will reimburse the Secured Party on its demand for any payment made, or any expense incurred, by the Secured Party pursuant to this Section 7. All of the foregoing sums paid or advanced by the Secured Party will constitute part of the Obligations and will be secured by the Collateral.

**8. EVENTS OF DEFAULT.** Each of the following events or circumstances, whether or not caused by or within the control of the Lessee, will be an "Event of Default" under this Agreement:

(a) Any of the Obligations are not paid on or before the date when due, subject to any grace period provided under the Note;

(b) The Lessee does not observe, perform or comply with any of the terms or conditions of this Agreement;

(c) A default or breach under the Lease or under any of the Loan Documents (exclusive of this Agreement which is covered by the other subsections of this Section 8) has occurred, which default or breach is not cured within any applicable grace period;

(d) Any warranty, representation or statement made or furnished to the Secured Party by, or on behalf of, the Lessee proves to have been false in any material respect when made or furnished or when treated as being made or furnished to the Secured Party;

(e) The Secured Party does not have, for any reason, a perfected, first priority security interest in all of the Collateral except to the extent expressly permitted pursuant to Section 19 hereof;

(f) There occurs any actual or threatened demolition of or injury or waste to the Project premises, not covered by insurance, or not replaced or restored by the Lessee or the Borrower, which may materially impair the value of the Collateral or the Project;

(g) Filing by or against the Lessee of a petition in bankruptcy, for a reorganization, arrangement or debt adjustment, or for a receiver, trustee, or similar creditors' representative for Lessee's property or any part thereof, or of any other proceeding under any federal or state insolvency or similar law (and if such petition or proceeding is an involuntary petition or proceeding filed against the Lessee without its acquiescence therein or thereto at any time, the same is not promptly contested and, within 60 days of the filing of such involuntary petition or proceeding, dismissed or discharged), or the making of any general assignment by the Lessee for the benefit of creditors, or the Lessee dissolves or is the subject of any dissolution, winding up or liquidation;

(h) The Lessee is dissolved and liquidation of the Lessee is commenced in accordance with the Lessee's organizational documents and/or the law of the jurisdiction of organization; or

(i) The Lessee changes its name or the jurisdiction in which it is organized or merges or consolidates with or into another Person without the prior written consent of the Secured Party.

## **9. REMEDIES ON DEFAULT.**

(a) If an Event of Default occurs, the Secured Party may then, or at any time after the occurrence of an Event of Default, (A) declare all Obligations immediately due and payable, and whereupon the Obligations will be due and payable automatically and immediately, without notice or demand, which the Lessee expressly waives, and proceed to enforce payment of the Obligations; (B) exercise all of the rights and remedies afforded to the Secured Party under (i) the terms of this Agreement and/or any of the other Loan Documents, (ii) under the UCC (as defined in Section 12 below), and/or (iii) by law and/or in equity (subject, however, to any limitations imposed by applicable law with respect to Healthcare Assets); (C) collect and receive the proceeds of all Awards (as defined in Exhibit B), the rights of Lessee thereto and shares of

Lessee therein being hereby assigned to the Secured Party, and give proper receipts and acquittances therefor and apply, at its option, the net proceeds thereof, after deducting expenses of collection, as a credit upon any portion, as selected by the Secured Party, of the Obligations; (D) require the Lessee to assemble the Collateral and make it available to the Secured Party at a place to be designated by the Secured Party which is reasonably convenient to both parties, and (E) without limiting the provisions of Section 1(b), apply (or instruct another Person to apply) to the Obligations the balance of any deposit account that is part of the Collateral.

(b) Without limitation of those rights and remedies, the Secured Party may, upon written notice to the Lessee, take, and publicly or privately sell or convey, full right, title and interest in and to the Collateral, or any part of it, in the name of the Secured Party and/or its designees. To the extent not prohibited by applicable law with respect to Healthcare Assets, the Lessee hereby constitutes and appoints the Secured Party as its true and lawful attorney in fact to assign and transfer its interest in any or all of the Collateral if an Event of Default occurs.

(c) If any notice is required by law for the Secured Party to make a sale or other disposition of the Collateral, the Secured Party and the Lessee agree that notice will not be unreasonable as to time if given in compliance with this Agreement ten (10) days before any sale or other disposition of the Collateral. All reasonable attorneys' and paralegal fees and other legal expenses incurred by the Secured Party to collect the Obligations, to retake, hold, prepare for sale, and to dispose of the Collateral will be (i) payable to the Secured Party on its demand for payment, (ii) part of the Obligations, and (iii) secured by the Collateral.

(d) The Lessee further specifically agrees that, in any exercise of the rights of the Secured Party under this Agreement or under any other Loan Document, (i) any combination of the Collateral and/or any other security for the Obligations may be offered for sale and (ii) all of the Collateral and/or any other security for the Obligations may be sold for one total price, and the proceeds of any such sale accounted for in one account without distinction among the items of security or without assigning to them any proportion of such proceeds, the Lessee hereby waiving the application of any doctrine of marshaling.

(e) The Lessee shall cooperate in any legal and lawful manner necessary or required, to permit the Secured Party or its successors and assigns to continue to operate and maintain the Project for its Approved Use in Lessee's name, place and stead. For this purpose, and to the extent not prohibited by applicable law with respect to Healthcare Assets, Lessee irrevocably appoints the Secured Party, its successors and assigns, as Lessee's true and lawful attorney-in-fact, to do all things necessary or required by the state in which the Project is located or any other government entity with jurisdiction over the Project, including, but not limited to, the provision of any and all information and data, the payment of fees and other charges, and the execution of documents, all in the name of the Lessee. This power is coupled with an interest.

#### **10. NO WAIVER BY SECURED PARTY; CUMULATIVE RIGHTS.**

(a) No waiver by the Secured Party of any Event of Default or default under this Agreement or any of the other Loan Documents will be effective unless such waiver is in writing and signed by duly authorized representatives of the Secured Party. No waiver by the Secured Party of any Event of Default or default under this Agreement or any of the other Loan

Documents will operate as a waiver of any other Event of Default or default or of the same Event of Default or default on a future occasion. The Secured Party may delay in exercising or omit to exercise any right or remedy under this Agreement, any other Loan Document or by law or equity provided without waiving that or any past, present or future right or remedy. All rights and remedies of the Secured Party in this Agreement and the other Loan Documents will be cumulative, and none of these rights or remedies will be exclusive of any other right or remedy allowed at law or in equity or in any other Loan Document, and all of these rights and remedies may be exercised and enforced concurrently.

(b) Neither the Lessee nor any other Persons interested in the Collateral or the proceeds of the Collateral shall have any right to require the Secured Party first to resort to or proceed personally against any other Person or to proceed against any other collateral security, or to give priority or preference to any item of Collateral, or to proceed upon any guaranty, prior to exercising its rights hereunder. No renewal or extension of the Loan, no release or surrender of the Collateral and/or any other security for the Obligations, no release of any obligor with respect to the Obligations, and no delay by the Secured Party in enforcing the Obligations or exercising any right or power with respect to the Obligations shall affect the Secured Party's rights with respect to the Collateral.

**11. BINDING EFFECT.** All rights and remedies of the Secured Party under this Agreement will inure to the benefit of the Secured Party's successors and assigns; and all agreements, obligations, and duties of the Lessee will bind its heirs, personal representatives and permitted successors and assigns; however, the Lessee may not assign this Agreement or any of its rights under this Agreement or delegate any of its duties or obligations under this Agreement without the consent of the Secured Party.

**12. GOVERNING LAW; CONSTRUCTION; WAIVER OF TRIAL BY JURY.**

(a) This Agreement and all rights and obligations under this Agreement, including matters of construction, validity and performance, will be governed by the laws of the state in which the Project is located (the "State") except as to the existence, validity, perfection or priority (and the effect of perfection or non-perfection or invalidity) of any Lien of the Secured Party on any deposit account which will be governed by the laws of the state in which the applicable deposit account is maintained at the applicable bank, savings and loan association, credit union or like organization. If any term of this Agreement is found to be invalid by a court with jurisdiction under the laws of the State or laws of mandatory application, then the invalid term will be considered excluded from this Agreement and will not invalidate the remaining terms of this Agreement. All uncapitalized terms used herein which are now or hereafter defined in the Uniform Commercial Code, as now enacted in the State or as hereafter amended or superseded (the "UCC"), will have the same meaning herein as in the UCC unless the context indicates otherwise. Every power given herein is coupled with an interest and is irrevocable by death, dissolution or otherwise. The definition of any document includes all schedules, attachments and exhibits to that document, and all renewals, extensions, supplements, amendments, modifications, restatements and consolidations of that document, and any document given in substitution for or replacement of that document. The term "including" is used by way of example only and not by way of limitation, and the singular includes the plural



and conversely. The captions or headings contained in this Agreement are for reference purposes only and will not affect or relate to the interpretation of this Agreement.

(b) AS A SPECIFICALLY BARGAINED INDUCEMENT FOR THE SECURED PARTY TO ENTER INTO THE AGREEMENT AND EXTEND CREDIT TO BORROWER, SECURED PARTY AND LESSEE EACH HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVES ANY AND ALL RIGHT(S) TO A TRIAL BY JURY FOR ANY CAUSE OF ACTION, CLAIM OR DEFENSE RELATING TO, RESULTING FROM OR ARISING OUT OF ANY OF THE LOAN AND/OR ANY TRANSACTIONS, RIGHTS AND/OR OBLIGATIONS CONTEMPLATED BY THIS AGREEMENT AND/OR ANY OF THE OTHER LOAN DOCUMENTS. LESSEE FURTHER ACKNOWLEDGES THAT SUCH WAIVER OF THE RIGHT TO A TRIAL BY JURY IS MADE AFTER CONSULTATION WITH COUNSEL.

**13. TERM OF AGREEMENT.** The term of this Agreement will begin on the date of this Agreement and continue in full force and effect and be binding on the Lessee until the date that all of the Obligations are fully and finally paid and satisfied.

**14. PERFECTION; FURTHER ASSURANCES.** The Lessee agrees to comply with all applicable laws and requirements in order to grant to the Secured Party a valid, perfected first Lien on the Collateral except to the extent expressly permitted pursuant to Section 19 hereof. At any time and from time to time, the Lessee, on request of the Secured Party, will give, execute, file and/or record any notice, financing statement, instrument, document or agreement that the Secured Party may consider necessary or desirable to create, preserve, continue, perfect or validate any security interest or other Lien granted under this Agreement or which the Secured Party may consider necessary or desirable to exercise or enforce its rights under this Agreement. Without limiting the generality of the foregoing, the Secured Party is authorized to file with respect to the Collateral one or more financing statements or other documents without the signature of the Lessee and to name therein the Lessee as debtor and the Secured Party and/or HUD as secured parties; and correct or complete, or cause to be corrected or completed, any financing statements or other such documents as have been filed naming the Lessee as debtor and the Secured Party and/or HUD as secured parties. The Lessee hereby appoints the Secured Party as its attorney-in-fact and authorizes the Secured Party, acting alone on behalf of the Lessee, to execute, acknowledge, deliver, file and/or record any and all documents requiring execution by the Lessee and necessary or desirable to effectuate or facilitate the purposes of this Agreement and/or the obligations or covenants of the Lessee under this Agreement. The power of attorney granted hereby is coupled with an interest and is irrevocable. The Secured Party is also authorized by the Lessee to give notice to any Person that the Secured Party may consider necessary or desirable under applicable law to preserve, perfect or protect the Secured Party's and or HUD's interests in the Collateral. Without limiting the generality of the foregoing, with respect to any of the Collateral for which control of such Collateral is a method of perfection under the UCC, including all of the Lessee's rights, titles and interests in deposit accounts, investment property, electronic chattel paper and letter-of-credit rights, the Lessee will, on Secured Party's request, cause to be executed by each Person that the Secured Party determines is appropriate, a control agreement in a form acceptable to the Secured Party.

**15. INTEREST.** Any amounts payable by the Lessee under this Agreement will bear interest at the rate of interest provided in the Note from the date on which such amounts are payable under this Agreement until the date on which such payments are made by the Lessee to the Secured Party; however, nothing in this Agreement will be deemed to give to the Lessee the right to withhold payment in consideration of the payment of such interest.

**16. DELIVERY OF NOTICES.** All notices must be in writing and sent (a) in person, (b) by certified or registered mail, or (c) by overnight delivery carrier for next day delivery, in each case to the address listed in the opening paragraph of this Agreement (or if notice of a new address is given in accordance with this Agreement, to the new address). Notice given in any other manner will not be considered delivered or given unless and until actually received. A notice period will start (i) if mailed, three business days after notice was sent by certified or registered mail, (ii) the next business day after being sent by overnight delivery, and (iii) the day the notice was delivered in person.

**17. REVIVAL OF SECURITY INTEREST.** If the Lessee makes a payment or payments to the Secured Party (or the Secured Party receives any payment or proceeds of the Collateral) that are subsequently voided, avoided, set aside, annulled, or disregarded under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of the payment or proceeds received, the Obligations or part intended to be satisfied will be revived and will continue in full force and effect as if these payment(s) or proceeds had not been received by the Secured Party, and the security interest granted herein shall be enforceable as to such Obligations as fully as if such payments had never been made.

**18. CLAIMS AGAINST SECURED PARTY.**

(a) **Notification.** The Secured Party shall not be in default under this Agreement, or under any of the other Loan Documents, unless a written notice specifically setting forth the claim of the Lessee shall have been given to Secured Party within one hundred eighty (180) days after the occurrence of the event which the Lessee alleges gave rise to such claim and the Secured Party does not remedy or cure the default, if any, with reasonable promptness thereafter.

(b) **Remedies.** If it is determined by the final, non-appealable order of a court of competent jurisdiction that the Secured Party has breached any of its obligations under the Loan Documents and has not remedied or cured same with reasonable promptness following receipt of notice thereof, the Secured Party's responsibilities shall be limited to the following: (i) where the breach consists of the failure to grant consent or give approval in violation of the terms and requirements of any of the Loan Documents, the obligation to grant such consent or give such approval; and (ii) where the breach involves any other violation of the Loan Documents, or where the Secured Party is determined to have acted in bad faith; the payment of any actual, direct, compensatory damages sustained by the Lessee as a result thereof.

(c) **Limitations.** In no event, however, shall the Secured Party be liable to the Lessee, or to any other party claiming through the Lessee, for any other damages, including, without limitation, indirect, speculative, or punitive damages, whatever the nature of the breach by the Secured Party of its obligations under any of the Loan Documents. In no event shall the Secured Party be liable to the Lessee, or to any other party claiming through the Lessee, unless a written



notice specifically setting forth the nature of the claim shall have been given to the Secured Party within the time period specified above.

**19. PROVISIONS REGARDING ACCOUNTS RECEIVABLE LOANS.** Written approval from HUD and Secured Party must be obtained prior to the Lessee's obtaining any accounts receivable financing, as set forth in paragraph (b) of this Section.

(a) Definitions. The following words and terms shall have the meanings hereinafter set forth:

"Accounts" shall mean all right, title and interest of the Lessee in and to the following, in each case arising from the Lessee's operation of the Project in the ordinary course of the Lessee's business: (a) all rights to payment of a monetary obligation, whether or not earned by performance, including, but not limited to, accounts (including, but not limited to accounts receivable, health-care insurance receivables, Medicaid and Medicare receivables, Veterans Administration receivables, or other governmental receivables, private patient receivables, and HMO receivables), (b) payment intangibles, (c) guaranties, letter-of-credit rights and other supporting obligations relating to the property described in clauses (a) and (b), and (d) all of the proceeds of the property described in clauses (a), (b) and (c). Notwithstanding the foregoing, "Accounts" do not include accounts rising from the sale of the Lessee's equipment, inventory or other goods, other than accounts arising from the sale of Lessee's inventory in the ordinary course of the Lessee's business.

"Eligible AR Lender" means a bank, financial institution or other institutional lender which is in the business of making loans to provide working capital to businesses and which is not affiliated with the Lessee.

"Eligible AR Loan" means a loan or line of credit obtained by the Lessee from an Eligible AR Lender (a) for the sole purpose of providing working capital for the operation of the Project and, with the approval of HUD and Secured Party, other projects that are encumbered by mortgage loans insured or held by HUD and (b) which satisfies all of the requirements of this Section 19.

"Required Intercreditor Agreement" means an Intercreditor Agreement (including any HUD-required Rider) executed by the Secured Party, the Eligible AR Lender, the Lessee and the Borrower, in form and substance satisfactory to Secured Party and approved by HUD.

(b) Eligible AR Loan. Provided that prior written approval of HUD and Secured Party is obtained, the Lessee may obtain and maintain an Eligible AR Loan, which Eligible AR Loan may be secured by a first lien on the "AR Lender Priority Collateral" (composed of Accounts and as further defined in the Required Intercreditor Agreement), subject to the following limitations and requirements:

(i) no more than one Eligible AR Loan shall be maintained at any time;

(ii) in no event shall the principal amount of the Eligible AR Loan ever exceed such amount as may be approved in writing by Secured Party and HUD;

(iii) without the written approval of the Secured Party, none of the Collateral, except the AR Lender Priority Collateral, shall be given as security for any Eligible AR Loan;

(iv) with respect to any existing Eligible AR Loan, the Eligible AR Lender, Lessee and Secured Party shall have executed, and HUD shall have approved, the Required Intercreditor Agreement prior to closing of the Loan;

(v) with respect to any other Eligible AR Loan, the Eligible AR Lender, Lessee and Secured Party shall have executed, and HUD shall have approved, the Required Intercreditor Agreement before such Eligible AR Loan is closed, any funds are disbursed thereunder, any UCC financing statements are filed in connection therewith or any security interest in connection therewith is granted or perfected;

(vi) the Eligible AR Loan, the collateral therefor, and all of the terms and conditions thereof shall at all times comply with all of the terms and conditions of the applicable Required Intercreditor Agreement; and

(vii) until the Eligible AR Loan is paid in full, the written approval of the Secured Party and HUD is required for any proposed modifications, extensions, renewals, or amendments to a Material Term of the Eligible AR Loan or the related security agreement, prior to the effective date of such amendment(s). As used herein, "Material Term" means a term in a loan or security agreement that (1) extends the maturity date of the loan, (2) adds guarantors to the loan, (3) releases guarantors from the loan, (4) adds borrowers to the loan, (5) adds an interest reserve to the loan, (6) amends the interest rate payable on the outstanding principal balance of the loan, (7) increases or decreases the principal amount of the loan, (8) adds collateral as additional security for the loan, and/or (9) amends or expands the type of obligations secured by the loan.

(c) Required Intercreditor Agreement. Each Required Intercreditor Agreement shall be included in the definition of the Loan Documents while it is in effect. The Lessee shall comply at all times with the Required Intercreditor Agreement then in effect.

(d) Information. Lessee shall, from time to time, promptly following a request by Secured Party or HUD, provide to Secured Party and/or HUD (i) any and all information and documents available to Lessee regarding any Eligible AR Loan and/or AR Lender Priority Collateral (including, but not limited to histories of draws upon, payments on account of, and outstanding balances with respect to, the Eligible AR Loan) and (ii) copies of any and all documents evidencing, securing and/or related to any Eligible AR Loan and/or any amendments thereto.

## 20. WAIVERS.

(a) No act or thing need occur to establish the liability of the Lessee hereunder, and no act or thing, except full payment and discharge of all of the Obligations, shall

in any way exonerate the Lessee or modify, reduce, limit or release the liability of the Lessee hereunder.

(b) The Lessee will not exercise or enforce any right of contribution, reimbursement, recourse or subrogation available to the Lessee against any Person liable for payment of the Obligations, or as to any collateral security therefor, unless and until all of the Obligations shall have been fully paid and discharged.

(c) Whether or not any existing relationship between the Lessee and the Borrower has been changed or ended and whether or not this Agreement has been terminated, the Secured Party may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Obligations without any consent or approval by the Lessee and without any notice to the Lessee. The liability of the Lessee shall not be affected or impaired by any of the following acts or things (which the Secured Party is expressly authorized to do, omit or suffer from time to time, both before and after termination of this Agreement, without notice to or consent or approval by the Lessee): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Obligations; (ii) any one or more extensions or renewals of Obligations (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Obligations; (iii) any waiver or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Obligations, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Obligations; (iv) any full or partial release of, settlement with, or agreement not to sue Borrower or any other Person liable in respect of any Obligations; (v) any discharge of any evidence of Obligations or the acceptance of any instrument in renewal thereof of substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Obligations, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any modification, substitution, discharge, impairment, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Obligations or any evidence thereof; (ix) any order of application of any payments of credits upon Obligations; (x) any election by Secured Party under §1111(b)(2) of the United States Bankruptcy Code.

(d) The Lessee waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Obligations, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Lessee will not assert, plead or enforce against Secured Party any defense of waiver, release, discharge in bankruptcy, statute of limitations, res judicata, statute of frauds, anti-deficiency statute, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other Person liable in respect of any indebtedness, or any setoff available against Secured Party to Borrower or any such other Person, whether or not on account of a related transaction. The Lessee expressly agrees that the Lessee shall be and remain liable, to the extent of the Collateral, for any deficiency remaining after foreclosure of any security interest securing the Obligations, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision.

(e) The Lessee waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing the Obligations. To the extent of the Collateral, this Agreement constitutes an absolute, unlimited, unconditional and continuing guaranty of payment, not collection. The Secured Party shall not be required first to resort for payment of the Obligations to Borrower, or any other Persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Obligations, before enforcing this Agreement.

(f) The liability of the Lessee under this Agreement is in addition to and shall be cumulative with all other liabilities of the Lessee to Secured Party as obligor or otherwise, without any limitation as to amount, and all other liabilities of any other Person who guarantees all or any portion of the Obligations, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

(g) This Agreement shall be effective upon delivery to Secured Party, without further act, condition or acceptance by Secured Party. Any invalidity or unenforceability of any provision of application of this Agreement shall not affect other lawful provisions and application hereof, and to this end the provisions of this Agreement are declared to be severable.

(h) Lessee hereby covenants that this Agreement will not be discharged except by complete performance of the obligations contained in this Agreement. Lessee waives all setoffs and counterclaims and all presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, and notices of acceptance of, and reliance on, this Agreement. Lessee further waives all (i) notices of the existence, creation or incurring of new or additional indebtedness, arising either from additional loans extended to Lessee or Borrower, or otherwise, (ii) notices that the principal amount, or any portion thereof (and any interest thereon), of the Loan or any of the other Obligations is due, (iii) notices of any and all proceedings to collect from Lessee and/or Borrower of all or any part of the Obligations, or from anyone else, (iv), to the extent permitted by law, notices of exchange, sale, surrender or other handling of any security or collateral given to Secured Party to secure payment of all or any part of the Obligations, and (v) defenses based on suretyship or impairment of collateral.

## 21. MISCELLANEOUS.

(a) This Agreement is intended to be supplemental to and not in substitution or in derogation of any security agreement contained in any other Loan Document.

(b) In any instance where the consent or approval of the Secured Party may be given or is required or any determination is to be rendered by the Secured Party hereunder, the granting, withholding or denial of such consent or approval and the rendering of such determination shall be made or exercised by the Secured Party at its sole and exclusive option.

(c) It is understood and agreed that no judgment or decree which may be entered on any debt secured or intended to be secured by the Mortgage shall operate to abrogate or lessen the effect of this Agreement, but that this Agreement shall continue in full force and effect until the payment and discharge of the Obligations.



(d) This Agreement, any Required Intercreditor Agreement and the other Loan Documents represent the entire agreement between the Secured Party and the Lessee with respect to the subject matter of this Agreement and supersede all previous agreements, negotiations, and understandings with respect to the subject matter of this Agreement. Neither this Agreement nor any of the other Loan Documents to which Lessee is a party may be amended, altered or changed other than in a writing signed by the Secured Party and the Lessee. The Lessee's warranties and representations in this Agreement will be treated as being continuing warranties and representations, made by the Lessee with the same effect as though the representations and warranties had been made again on, and as of, each day of the term of this Agreement.

(e) This Agreement may be executed in several counterparts and each counterpart will be considered an original of this Agreement.

## **22. RIGHTS OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT.**

(a) Lessee and Secured Party hereby agree that HUD shall be an additional secured party under this Security Agreement together with Secured Party, as their interests may appear, and that HUD shall be listed on the Uniform Commercial Code Financing Statements to be filed contemporaneously herewith; provided, however, that nothing herein or in the Uniform Commercial Code Financing Statements shall require the execution, now or any future time, of any amendment, extension, or other document by HUD.

(b) To the extent any party herein is required or desires to give notice to HUD hereunder, such notice shall be delivered in accordance with the provisions hereof, as follows: U.S. Department of Housing and Urban Development, c/o Office of Healthcare Programs, 451 7th Street S.W., Washington, DC 20410.

**IN WITNESS WHEREOF**, the Lessee and the Secured Party have signed this Agreement as of the date in the first paragraph of this Agreement.

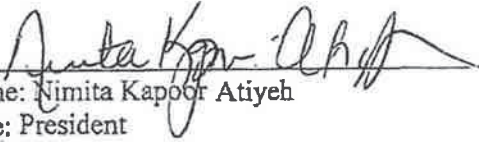
[SEE ATTACHED COUNTERPART SIGNATURE PAGES]



**COUNTERPART SIGNATURE PAGE TO LESSEE SECURITY AGREEMENT**

**THE LESSEE:**

**SAUCON VALLEY MANOR, INC.,**  
a Pennsylvania corporation

By:   
Name: Nimita Kapoor Atiyeh  
Title: President

**COUNTERPART SIGNATURE PAGE TO LESSEE SECURITY AGREEMENT**

**THE SECURED PARTY:**

**M&T REALTY CAPITAL CORPORATION,**  
a Maryland corporation

By:   
Name: Christine R. Chandler  
Title: Vice President

**EXHIBIT A TO LESSEE SECURITY AGREEMENT**

**LEGAL DESCRIPTION**

UNIT I of Condos at Saucon Valley Manor, also known as Saucon Valley Condominium, according to the Declaration of Condominium of Saucon Valley Condominium, also known as Condos at Saucon Valley Manor, as recorded on December 8, 2006 in the Office of the Recorder of Deeds in and for Northampton County, Pennsylvania in Record Book 2006-1 at page 507467

Together with an undivided interest of 40% of, in and to the Common Elements of the said CONDOS AT SAUCON VALLEY MANOR.

Together with an easement upon Unit 2 for encroachment of improvements and entry facilities, and dedicated parking, as provided in the Declaration of Condominium of CONDOS AT SAUCON VALLEY MANOR (see Exhibit B, page 3 of the Declaration)

BEING Northampton County, Pennsylvania Tax Parcel Q7SW2A-1-3-0715

Being more fully bounded as set forth on attached page

DESCRIPTION OF 1050 MAIN STREET

ALL THAT CERTAIN lot or tract of land situated on the west side of Main Street (S.R. 412) in the Borough of Hellertown, County of Northampton, and Commonwealth of Pennsylvania, being known as 1050 Main Street, also being Unit One on the Condominium Declaration Plan for Condos at Saucon Valley Manor, said plan recorded in the Northampton County Recorder of Deeds Office in Map Book Volume 20065 Page 759, bounded and described as follows to wit:

BEGINNING at the intersection formed by the westerly right of way line of Main Street with the northerly curb line of Sycamore Avenue; thence along the said northerly curb line of Sycamore Avenue

1. South 86°47'33" West 266.09 feet; thence-in and through land now or formerly of Abraham R. Atiyeh D.B.V. 2000-1 Page 14351 the following three courses and distances;
2. North 03° 14'23" West 59.03 feet;
3. North 86° 41'33" East 18.00 feet;
4. North 03° 13'52" West 411.34 feet to the southerly right of way line of Thomas Avenue; thence along the same
5. North 86° 48'59" East 247.48 feet to the westerly right of way line of Main Street; thence along the same
6. South 03° 18'24" East 470.30 feet to the place of beginning.

CONTAINS: 117,610.588 Sq. Ft. 2.7000 Acres

Exhibit A

**EXHIBIT B TO LESSEE SECURITY AGREEMENT**

All of the following described property and interests in property, whether now in existence or hereafter arising, and relating to, situated or located on or used or usable in connection with the maintenance and/or operation of the property described in Exhibit A (hereafter referred to as the "Premises").

(a) All fixtures, furniture, equipment and other goods and tangible personal property of every kind and description whatsoever now or hereafter located on, in or at the Premises, including, but not limited to, all lighting, laundry, incinerating and power equipment; all engines, boilers, machines, radiators, motors, furnaces, compressors and transformers; all power generating equipment; all pumps, tanks, ducts, conduits, wire, switches, electrical equipment, and fixtures, fans and switchboards; all telephone equipment; all piping, tubing and plumbing equipment and fixtures; all heating, refrigeration, air-conditioning, cooling, ventilating, sprinkling, water, power, waste disposal and communications equipment, systems and apparatus; all water coolers and water heaters; all fire prevention, alarm and extinguishing systems and apparatus; all cleaning equipment; all lift, elevator and escalator equipment and apparatus; all partitions, shades, blinds, awnings, screens, screen doors, storm doors, exterior and interior signs, gas fixtures, stoves, ovens, refrigerators, garbage disposals, dishwashers, kitchen and laundry fixtures, utensils, appliances and equipment, cabinets, mirrors, mantles, floor coverings, carpets, rugs, draperies and other furnishings and furniture now or hereafter installed or used or usable in the operation of any part of the buildings, structures or improvements erected or to be erected in or upon the Premises and every replacement thereof, accession thereto, or substitution therefor, whether or not all of the above are now or hereafter acquired or attached to the Premises in any manner;

(b) All articles of tangible personal property not otherwise described herein which are now or hereafter located in, attached to or used in, on or about the buildings, structures or improvements now or hereafter located, placed, erected, constructed or built on the Premises and all replacements thereof, accessions thereto, or substitution therefor, whether or not the same are, or will be, attached to such buildings, structures or improvements in any manner;

(c) All rents, leases, income, revenues, issues, profits, royalties and other benefits arising or derived or to be derived from, or related to, directly or indirectly, the Premises, whether or not any of the property described in this item (c) constitutes accounts, chattel paper, documents, general intangibles, instruments or money;

(d) All awards now or hereafter made ("Awards") with respect to the Premises as a result of (i) the exercise of the power of condemnation or eminent domain, or the police power, (ii) the alteration of the grade of any street, or (iii) any other injury or decrease in the value of the Premises (including, but not limited to, any destruction or decrease in the value by fire or other casualty), whether or not any of the property described in this item (d) constitutes accounts, chattel paper, documents, general intangibles, instruments, investment property, deposit accounts, or money;



(e) All land surveys, plans and specifications, drawings, briefs and other work product and other papers and records now or hereafter used in the construction, reconstruction, alteration, repair or operation of the Premises;

(f) All licenses, permits, certificates and agreements for the provision of property or services to or in connection with, or otherwise benefiting, the Premises, any nursing home license, assisted living facility license, any and all Medicaid/Medicare Provider Agreements, and any other license necessary for the provision of services at the Premises; however, the Secured Party disclaims a security interest in such of the property described in this item (f) to the extent that a security interest in such property may not be granted to the Secured Party without the forfeiture of the rights of the Debtor (or any assignee of the Debtor) or a default resulting thereunder.

(g) All funds, monies, securities and other property held in escrow, lock boxes, depository or blocked accounts or as reserves and all rights to receive (or to have distributed to the Debtor) any funds, monies, securities or property held in escrow, lock boxes, depository or blocked accounts or as reserves, including, but not limited to, all of Debtor's rights (if any) to any funds or amounts in that certain reserve funds and/or residual receipts accounts created under the Regulatory Agreement required by the Secretary of Housing and Urban Development or the Federal Housing Administration Commissioner;

(h) All accounts, accounts receivable, general intangibles, chattel paper, instruments, documents, inventory, goods; cash, bank accounts, certificates of deposits, securities, insurance policies, letters of credit, deposits, judgments, liens, causes of action, warranties, guaranties and all other properties and assets of the Debtor, tangible or intangible, whether or not similar to the property described in this item (h). As used herein, the term "accounts receivable" shall include (i) all healthcare insurance receivables, including, but not limited to Medicaid and Medicare receivables, Veterans Administration or other governmental receivables, private patient receivables, and HMO 10 receivables; (ii) any payments due or to be made to the Debtor relating to the Premises or (iii) all other rights of the Debtor to receive payment of any kind with respect to the Premises;

(i) All books, records and files of whatever type or nature relating to any or all of the property or interests in property described herein or the proceeds thereof, whether or not written, stored electronically or electromagnetically or in any other form, and whether or not such books, records, or files constitute accounts, equipment or general intangibles.

(j) Any and all security or other deposits which have not been forfeited by any tenant under any lease; and

(k) All products and proceeds of any and all of the property (and interests in property) described herein, including, but not limited to, proceeds of any insurance, whether or not in the form of original collateral, accounts, contract rights, chattel paper, general intangibles, equipment, fixtures, goods, securities, leases, instruments, inventory, documents, deposit accounts or cash.

**EXHIBIT C TO LESSEE SECURITY AGREEMENT**

**Other Names Used by Lessee in Previous Five Years** (see Section 2(a) of Agreement): **None**

**Assets Acquired in Bulk Transfer in Previous Five Years** (see Section 2(a) of Agreement):  
**None**

**Lessee's Rights in the Following** (see Section 2(a) of Agreement):

*Investment property:* None

*Letters of Credit:* None

*Electronic Chattel Paper:* None

*Commercial Tort Claims:* None

*Instruments (including promissory notes):* None

*Deposit Accounts:*

| <u>Account Number</u> | <u>Depository Bank</u> | <u>Account Type</u><br>(e.g.; operating or payroll) | <u>Government Accounts</u><br>(see note below) |
|-----------------------|------------------------|-----------------------------------------------------|------------------------------------------------|
|-----------------------|------------------------|-----------------------------------------------------|------------------------------------------------|

Note: Designate if Deposit Account receives deposits of proceeds of accounts from federal, state or local governments (e.g., Medicare and Medicaid), and if so, whether such Deposit Account is solely for such deposits or whether the Deposit Account commingles other non-governmental deposits. See Section 2(i) of the Agreement for the Lessee's obligations in this regard.



**Pennsylvania Department of State**  
Bureau of Corporations and Charitable Organizations  
PO Box 8722 | Harrisburg, PA 17105-8722  
T: 717.787.1057  
[dos.pa.gov/BusinessCharities](http://dos.pa.gov/BusinessCharities)

BERGER LAW GROUP PC  
PHILLIP BERGER  
919 CONESTOGA ROAD  
BUILDING 3 SUITE 114  
BRYN MAWR, PA 19010

Request Date: 12/23/2025 1:34 PM  
UCC11 No.: 20251223327320

### UCC11 SEARCH REPORT

UCC Processed Through: 12/21/2025 11:59 PM

#### Search Criteria:

Debtor Organization: SAUCON TRUST, U/T/A DATED OCTOBER 1, 2007  
Request Type: Lien Information Request (UCC 11)  
Active (Unlapsed Records Only), List and All Copies

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Lien Listing

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Lien Listing

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**Lien File No.: 2012121705499**

**Filed: 12/13/2012 08:00 AM**

**Lapse: 12/13/2027 08:00 AM**

**Lien Type:** Financing Statement

**Pages: 7**

**Debtor(s):** SAUCON TRUST, U/T/A DATED OCTOBER 1, 2007, 1050 MAIN STREET, HELLERTOWN, PA 18055

**Secured Party(s):** M&T REALTY CAPITAL CORPORATION, 25 SOUTH CHARLES STEET, 17TH FLOOR  
BALTIMORE CITY  
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, C/O OFFICE OF  
HEALTHCARE PROGRAMS, 451 7TH STREET S.W. DISTRICT OF COLUMBIA  
UNITED STATES SECRETARY OF HOUSING AND URBAN DEVELOPMENT, HIS/HER  
SUCCESSORS AND/OR ASSIGNS AS THEIR, 451 SEVENTH STREET, SW, WASHINGTON, D.  
C., DC 20410  
UNITED STATES SECRETARY OF HOUSING AND URBAN DEVELOPMENT, HIS/HER  
SUCCESSORS AND/OR ASSIGNS AS THEIR, 451 SEVENTH STREET, SW, WASHINGTON,  
D.C., DC 20410  
WINDSTREAM CAPITAL LLC, 2100 PONCE DE LEON BLVD, SUITE 720 CORAL GABLES, FL  
33134  
LEHIGH VALLEY 1 LLC, 2100 PONCE DE LEON BLVD, SUITE 720 CORAL GABLES, FL  
33134

***Amendment - Continuation***

Amendment No.: 2017070200025

Filed: 07/02/2017 04:09 PM

Pages: 1

***Amendment - Continuation***

Amendment No.: 2022071300173

Filed: 07/13/2022 09:10 AM

Pages: 1

***Amendment - Assignment***

Amendment No.: 20221212077225

Filed: 11/17/2022 09:37 AM

Pages: 1

***Amendment - Assignment***

Amendment No.: 20221227086767

Filed: 11/21/2022 01:46 PM

Pages: 1

***Amendment - Assignment***

Amendment No.: 20240605145096

Filed: 06/05/2024 09:23 AM

Pages: 1

***Amendment - Assignment***

Amendment No.: 20240605145102

Filed: 06/05/2024 09:27 AM

Pages: 1



**Pennsylvania Department of State**  
Bureau of Corporations and Charitable Organizations  
PO Box 8722 | Harrisburg, PA 17105-8722  
T: 717.787.1057  
dos.pa.gov/BusinessCharities

BERGER LAW GROUP PC  
PHILLIP BERGER  
919 CONESTOGA ROAD  
BUILDING 3 SUITE 114  
BRYN MAWR, PA 19010

Request Date: 12/23/2025 1:21 PM  
UCC11 No.: 20251223327302

### UCC11 SEARCH REPORT

UCC Processed Through: 12/21/2025 11:59 PM

#### Search Criteria:

Debtor Organization: SAUCON VALLEY MANOR INC.  
Request Type: Lien Information Request (UCC 11)  
Active (Unlapsed Records Only), List and All Copies

#### Lien Listing

|                                                                                                                                                          |                                   |                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-----------------------------------|
| <b>Lien File No.:</b> 2012121705502                                                                                                                      | <b>Filed:</b> 12/13/2012 08:00 AM | <b>Lapse:</b> 12/13/2027 08:00 AM |
| <b>Lien Type:</b> Financing Statement                                                                                                                    |                                   | <b>Pages:</b> 7                   |
| <b>Debtor(s):</b> SAUCON VALLEY MANOR, INC., 1050 MAIN STREET, HELLERTOWN, PA 18055                                                                      |                                   |                                   |
| <b>Secured Party(s):</b> U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, C/O OFFICE OF HEALTHCARE PROGRAMS, 451 7TH STREET S.W. DISTRICT OF COLUMBIA   |                                   |                                   |
| M&T REALTY CAPITAL CORPORATION, 25 SOUTH CHARLES STREET, 17TH FLOOR                                                                                      |                                   |                                   |
| BALTIMORE CITY                                                                                                                                           |                                   |                                   |
| UNITED STATES SECRETARY OF HOUSING AND URBAN DEVELOPMENT, HIS/HER SUCCESSORS AND/OR ASSIGNS AS THEIR, 451 SEVENTH STREET, SW, WASHINGTON, D.C., DC 20410 |                                   |                                   |
| WINDSTREAM CAPITAL LLC, 2100 PONCE DE LEON BLVD, SUITE 720 CORAL GABLES, FL 33134                                                                        |                                   |                                   |
| LEHIGH VALLEY 1 LLC, 2100 PONCE DE LEON BLVD, SUITE 720 CORAL GABLES, FL 33134                                                                           |                                   |                                   |

#### ***Amendment - Continuation***

|                              |                            |          |
|------------------------------|----------------------------|----------|
| Amendment No.: 2017070200026 | Filed: 07/02/2017 04:11 PM | Pages: 1 |
|------------------------------|----------------------------|----------|

#### ***Amendment - Continuation***

|                              |                            |          |
|------------------------------|----------------------------|----------|
| Amendment No.: 2022071300172 | Filed: 07/13/2022 09:10 AM | Pages: 1 |
|------------------------------|----------------------------|----------|

#### ***Amendment - Assignment***

|                               |                            |          |
|-------------------------------|----------------------------|----------|
| Amendment No.: 20221212077719 | Filed: 11/21/2022 11:48 AM | Pages: 1 |
|-------------------------------|----------------------------|----------|

#### ***Amendment - Assignment***

|                               |                            |          |
|-------------------------------|----------------------------|----------|
| Amendment No.: 20240605145081 | Filed: 06/05/2024 09:12 AM | Pages: 1 |
|-------------------------------|----------------------------|----------|

#### ***Amendment - Assignment***

|                               |                            |          |
|-------------------------------|----------------------------|----------|
| Amendment No.: 20240605145087 | Filed: 06/05/2024 09:17 AM | Pages: 1 |
|-------------------------------|----------------------------|----------|



File Number: 2012121705502  
Date Filed: 12/13/2012 08:00 AM  
Carol Aichele  
Secretary of the Commonwealth

**UCC FINANCING STATEMENT**

**FOLLOW INSTRUCTIONS (front and back) CAREFULLY**

**A. NAME & PHONE OF CONTACT AT FILER (optional)**

**B. SEND ACKNOWLEDGMENT TO: (Name and Address)**

M. BURR KEIM COMPANY  
2021 ARCH STREET  
PHILADELPHIA, PA 19103

Commonwealth of Pennsylvania  
UCC1 Initial Filing 7 Page(s)



T1234867045

**1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (1a or 1b) - do not abbreviate or combine names**

**1a. ORGANIZATION'S NAME**

**SAUCON VALLEY MANOR, INC.**

**OR 1b. INDIVIDUAL'S LAST NAME**

**FIRST NAME**

**MIDDLE NAME**

**SUFFIX**

**1c. MAILING ADDRESS**

**1050 MAIN STREET**

**CITY**

**HELLERTOWN**

**STATE**

**PA**

**POSTAL CODE**

**18055**

**COUNTRY**

**USA**

**1d. SEE INSTRUCTIONS**

**ADDL INFO RE  
ORGANIZATION  
DEBTOR**

**1e. TYPE OF ORGANIZATION**  
Corporation

**1f. JURISDICTION OF ORGANIZATION**  
PENNSYLVANIA

**1g. ORGANIZATIONAL ID#, if any**  
2906235

☐ NONE

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (2a or 2b) - do not abbreviate or combine names**

**2a. ORGANIZATION'S NAME**

**OR**

**2b. INDIVIDUAL'S LAST NAME**

**FIRST NAME**

**MIDDLE NAME**

**SUFFIX**

**2c. MAILING ADDRESS**

**CITY**

**STATE**

**POSTAL CODE**

**COUNTRY**

**2d. SEE INSTRUCTIONS**

**ADDL INFO RE  
ORGANIZATION  
DEBTOR**

**2e. TYPE OF ORGANIZATION**

**2f. JURISDICTION OF ORGANIZATION**

**2g. ORGANIZATIONAL ID#, if any**

☐ NONE

**3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE or ASSIGNOR S/P) - Insert only one secured party name (3a or 3b)**

**3a. ORGANIZATION'S NAME**

**M&T REALTY CAPITAL CORPORATION**

**OR 3b. INDIVIDUAL'S LAST NAME**

**FIRST NAME**

**MIDDLE NAME**

**SUFFIX**

**3c. MAILING ADDRESS**

**25 SOUTH CHARLES STREET, 17TH FLOOR**

**CITY**

**BALTIMORE**

**STATE**

**MD**

**POSTAL CODE**

**21201**

**COUNTRY**

**USA**

**4. This FINANCING STATEMENT covers the following collateral:**

See Exhibit A attached hereto for a description of the real estate to which certain of the collateral relates.

See Exhibit B attached hereto for a description of the collateral.

Either Secured Party, acting alone, is authorized to file continuation statements with respect to this financing statement.

|                                                                                                                                                             |  |                                                                    |                                              |                                                |                                       |                                   |                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------|----------------------------------------------|------------------------------------------------|---------------------------------------|-----------------------------------|-----------------------------------------|
| 6. ALTERNATIVE DESIGNATION (if applicable):                                                                                                                 |  | <input type="checkbox"/> LESSEE/LESSOR                             | <input type="checkbox"/> CONSIGNEE/CONSIGNOR | <input type="checkbox"/> BAILEE/BAILOR         | <input type="checkbox"/> SELLER/BUYER | <input type="checkbox"/> AD. LIEN | <input type="checkbox"/> NON-UCC FILING |
| 8. <input type="checkbox"/> This FINANCING STATEMENT is to be filed for recording (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable) |  | 7. Check to REQUEST SEARCH REPORT(s) on Debtor(s) (ADDITIONAL FEE) |                                              | <input type="checkbox"/> All Debtors           |                                       | <input type="checkbox"/> Debtor 1 | <input type="checkbox"/> Debtor 2       |
| 9. OPTIONAL FILER REFERENCE DATA<br>Department of State, Pennsylvania                                                                                       |  |                                                                    |                                              | Saucun Valley Manor, FHA Project No. 034-22096 |                                       |                                   |                                         |

### UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

#### 9. NAME OF FIRST DEBTOR (a or b) ON RELATED FINANCING STATEMENT

|                              |            |                     |
|------------------------------|------------|---------------------|
| 9a. ORGANIZATION'S NAME      |            |                     |
| OR SAUCON VALLEY MANOR, INC. |            |                     |
| 9b. INDIVIDUAL'S LAST NAME   | FIRST NAME | MIDDLE NAME, SUFFIX |

#### 10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

#### 11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME -- (insert only one name (11a or 11b) -- do not abbreviate or combine names)

|                              |                                |                           |                                                                                                  |
|------------------------------|--------------------------------|---------------------------|--------------------------------------------------------------------------------------------------|
| 11a. ORGANIZATION'S NAME     |                                |                           |                                                                                                  |
| OR                           |                                |                           |                                                                                                  |
| 11b. INDIVIDUAL'S LAST NAME  | FIRST NAME                     | MIDDLE NAME               | SUFFIX                                                                                           |
| 11c. MAILING ADDRESS         |                                | CITY                      | STATE POSTAL CODE COUNTRY                                                                        |
| 11d. <u>SEE INSTRUCTIONS</u> | ADD. INFO. ORGANIZATION DEBTOR | 11e. TYPE OF ORGANIZATION | 11f. JURISDICTION OF ORGANIZATION 11g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE |

#### 12. ☒ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR SP'S NAME -- (insert only one name (12a or 12b))

|                                                                                         |  |            |                           |
|-----------------------------------------------------------------------------------------|--|------------|---------------------------|
| 12a. ORGANIZATION'S NAME                                                                |  |            |                           |
| OR U. S. Department of Housing and Urban Development, c/o Office of Healthcare Programs |  |            |                           |
| 12b. INDIVIDUAL'S LAST NAME                                                             |  |            |                           |
| 12c. MAILING ADDRESS                                                                    |  | CITY       | STATE POSTAL CODE COUNTRY |
| 451 7 <sup>th</sup> Street S.W.                                                         |  | Washington | DC 20410 USA              |

#### 13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ de-constructed collateral, or is filed as a ☐ future filing

#### 14. Description of real estate:

See Exhibit A attached hereto for a description of the real estate to which certain of the collateral relates.

Project Name: Saucon Valley Manor  
Project No.: 034-22096

#### 15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest)

Saucon Trust, u/t/a dated October 1, 2007  
1050 Main Street  
Hellertown, Pennsylvania 18055

#### 18. Additional collateral description:

See Exhibit B attached hereto.

#### 17. Check only if applicable and check only one box.

Debtor is a ☐ trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

#### 18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY  
☐ Filed in connection with a Manufactured-Home Transaction—effective 30 years  
☐ Filed in connection with a Public-Finance Transaction—effective 30 years

NAME OF FIRST DEBTOR (1A OR 1B) ON RELATED FINANCING STATEMENT

ORGANIZATION'S NAME

**SAUCON VALLEY MANOR, INC.**

INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

NAME OF FIRST SECURED PARTY (3A OR 3B) ON RELATED FINANCING STATEMENT

ORGANIZATION'S NAME

**M&T REALTY CAPITAL CORPORATION**

INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME, SUFFIX

**EXHIBIT A TO UCC FINANCING STATEMENT**

(Attached hereto and incorporated by reference herein)

**LEGAL DESCRIPTION**

UNIT 1 of Condos at Saucon Valley Manor, also known as Saucon Valley Condominium, according to the Declaration of Condominium of Saucon Valley Condominium, also known as Condos at Saucon Valley Manor, as recorded on December 8, 2006 in the Office of the Recorder of Deeds in and for Northampton County, Pennsylvania in Record Book 2006-1 at page 507467

Together with an undivided interest of 40% of, in and to the Common Elements of the said CONDOS AT SAUCON VALLEY MANOR.

Together with an easement upon Unit 2 for encroachment of improvements and entry facilities, and dedicated parking, as provided in the Declaration of Condominium of CONDOS AT SAUCON VALLEY MANOR (see Exhibit B, page 3 of the Declaration)  
BEING Northampton County, Pennsylvania Tax Parcel Q7SW2A-1-3-0715

Being more fully bounded as set forth on attached page



DESCRIPTION OF 1050 MAIN STREET

ALL THAT CERTAIN lot or tract of land situated on the west side of Main Street (S.R. 412) in the Borough of Hellertown, County of Northampton, and Commonwealth of Pennsylvania, being known as 1050 Main Street, also being Unit One on the Condominium Declaration Plan for Condos at Saucon Valley Manor, said plan recorded in the Northampton County Recorder of Deeds Office in Map Book Volume 20065 Page 759, bounded and described as follows to wit:

BEGINNING at the intersection formed by the westerly right of way line of Main Street with the northerly curb line of Sycamore Avenue; thence along the said northerly curb line of Sycamore Avenue

1. South 86°47'33" West 266.09 feet; thence-in and through land now or formerly of Abraham R. Atiyeh D.B.V. 2000-1 Page 14351 the following three courses and distances;
2. North 03° 14'23" West 59.03 feet;
3. North 86° 41'33" East 18.00 feet;
4. North 03° 13'52" West 411.34 feet to the southerly right of way line of Thomas Avenue; thence along the same
5. North 86° 48'59" East 247.48 feet to the westerly right of way line of Main Street; thence along the same
6. South 03° 18'24" East 470.30 feet to the place of beginning.

CONTAINS: 117,610.588 Sq. Ft. 2.7000 Acres

Exhibit A

NAME OF FIRST DEBTOR (1A OR 1B) ON RELATED FINANCING STATEMENT

|                                                         |            |             |        |
|---------------------------------------------------------|------------|-------------|--------|
| ORGANIZATION'S NAME<br><b>SAUCON VALLEY MANOR, INC.</b> |            |             |        |
| INDIVIDUAL'S LAST NAME                                  | FIRST NAME | MIDDLE NAME | SUFFIX |

NAME OF FIRST SECURED PARTY (3A OR 3B) ON RELATED FINANCING STATEMENT

|                                                                  |            |                     |
|------------------------------------------------------------------|------------|---------------------|
| ORGANIZATION'S NAME<br><b>M&amp;T REALTY CAPITAL CORPORATION</b> |            |                     |
| INDIVIDUAL'S LAST NAME                                           | FIRST NAME | MIDDLE NAME, SUFFIX |

**EXHIBIT B TO UCC FINANCING STATEMENT**

All of the following described property and interests in property, whether now in existence or hereafter arising, and relating to, situated or located on or used or usable in connection with the maintenance and/or operation of the property described in Exhibit A (hereafter referred to as the "Premises").

(a) All fixtures, furniture, equipment and other goods and tangible personal property of every kind and description whatsoever now or hereafter located on, in or at the Premises, including, but not limited to, all lighting, laundry, incinerating and power equipment; all engines, boilers, machines, radiators, motors, furnaces, compressors and transformers; all power generating equipment; all pumps, tanks, ducts, conduits, wire, switches, electrical equipment, and fixtures, fans and switchboards; all telephone equipment; all piping, tubing and plumbing equipment and fixtures; all heating, refrigeration, air-conditioning, cooling, ventilating, sprinkling, water, power, waste disposal and communications equipment, systems and apparatus; all water coolers and water heaters; all fire prevention, alarm and extinguishing systems and apparatus; all cleaning equipment; all lift, elevator and escalator equipment and apparatus; all partitions, shades, blinds, awnings, screens, screen doors, storm doors, exterior and interior signs, gas fixtures, stoves, ovens, refrigerators, garbage disposals, dishwashers, kitchen and laundry fixtures, utensils, appliances and equipment, cabinets, mirrors, mantles, floor coverings, carpets, rugs, draperies and other furnishings and furniture now or hereafter installed or used or usable in the operation of any part of the buildings, structures or improvements erected or to be erected in or upon the Premises and every replacement thereof, accession thereto, or substitution therefor, whether or not all of the above are now or hereafter acquired or attached to the Premises in any manner;

(b) All articles of tangible personal property not otherwise described herein which are now or hereafter located in, attached to or used in, on or about the buildings, structures or improvements now or hereafter located, placed, erected, constructed or built on the Premises and all replacements thereof, accessions thereto, or substitution therefor, whether or not the same are, or will be, attached to such buildings, structures or improvements in any manner;

(c) All rents, leases, income, revenues, issues, profits, royalties and other benefits arising or derived or to be derived from, or related to, directly or indirectly, the Premises, whether or not



any of the property described in this item (c) constitutes accounts, chattel paper, documents, general intangibles, instruments or money;

(d) All awards now or hereafter made ("Awards") with respect to the Premises as a result of (i) the exercise of the power of condemnation or eminent domain, or the police power, (ii) the alteration of the grade of any street, or (iii) any other injury or decrease in the value of the Premises (including, but not limited to, any destruction or decrease in the value by fire or other casualty), whether or not any of the property described in this item (d) constitutes accounts, chattel paper, documents, general intangibles, instruments, investment property, deposit accounts, or money;

(e) All land surveys, plans and specifications, drawings, briefs and other work product and other papers and records now or hereafter used in the construction, reconstruction, alteration, repair or operation of the Premises;

(f) All licenses, permits, certificates and agreements for the provision of property or services to or in connection with, or otherwise benefiting, the Premises, any nursing home license, assisted living facility license, any and all Medicaid/Medicare Provider Agreements, and any other license necessary for the provision of services at the Premises; however, the Secured Party disclaims a security interest in such of the property described in this item (f) to the extent that a security interest in such property may not be granted to the Secured Party without the forfeiture of the rights of the Debtor (or any assignee of the Debtor) or a default resulting thereunder.

(g) All funds, monies, securities and other property held in escrow, lock boxes, depository or blocked accounts or as reserves and all rights to receive (or to have distributed to the Debtor) any funds, monies, securities or property held in escrow, lock boxes, depository or blocked accounts or as reserves, including, but not limited to, all of Debtor's rights (if any) to any funds or amounts in that certain reserve funds and/or residual receipts accounts created under the Regulatory Agreement required by the Secretary of Housing and Urban Development or the Federal Housing Administration Commissioner;

(h) All accounts, accounts receivable, general intangibles, chattel paper, instruments, documents, inventory, goods, cash, bank accounts, certificates of deposits, securities, insurance policies, letters of credit, deposits, judgments, liens, causes of action, warranties, guaranties and all other properties and assets of the Debtor, tangible or intangible, whether or not similar to the property described in this item (h). As used herein, the term "accounts receivable" shall include (i) all healthcare insurance receivables, including, but not limited to Medicaid and Medicare receivables, Veterans Administration or other governmental receivables, private patient receivables, and HMO 10 receivables; (ii) any payments due or to be made to the Debtor relating to the Premises or (iii) all other rights of the Debtor to receive payment of any kind with respect to the Premises;

(i) All books, records and files of whatever type or nature relating to any or all of the property or interests in property described herein or the proceeds thereof, whether or not written, stored electronically or electromagnetically or in any other form, and whether or not such books, records, or files constitute accounts, equipment or general intangibles.

(j) Any and all security or other deposits which have not been forfeited by any tenant under any lease; and

(k) All products and proceeds of any and all of the property (and interests in property) described herein, including, but not limited to, proceeds of any insurance, whether or not in the form of original collateral, accounts, contract rights, chattel paper, general intangibles, equipment, fixtures, goods, securities, leases, instruments, inventory, documents, deposit accounts or cash.

7

File Number: 2012121705499  
Date Filed: 12/13/2012 08:00 AM  
Carol Aichele  
Secretary of the Commonwealth

**UCC FINANCING STATEMENT**  
FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

M. BURR KEIM COMPANY  
2021 ARCH STREET  
PHILADELPHIA, PA 19103

Commonwealth of Pennsylvania  
UCC1 Initial Filing 7 Page(s)



T1234867044

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME  
**SAUCON TRUST, U/T/A DATED OCTOBER 1, 2007**

OR

1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

**1050 MAIN STREET HELLERTOWN PA 18055 USA**

1d. SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 1e. TYPE OF ORGANIZATION 1f. JURISDICTION OF ORGANIZATION 1g. ORGANIZATIONAL ID#, if any

**PENNSYLVANIA** ☒ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

2d. SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 2e. TYPE OF ORGANIZATION 2f. JURISDICTION OF ORGANIZATION 2g. ORGANIZATIONAL ID#, if any

☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME  
**M&T REALTY CAPITAL CORPORATION**

OR

3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

**25 SOUTH CHARLES STREET, 17TH FLOOR BALTIMORE MD 21201 USA**

4. This FINANCING STATEMENT covers the following collateral:

See Exhibit A attached hereto for a description of the real estate to which certain of the collateral relates.

See Exhibit B attached hereto for a description of the collateral.

Either Secured Party, acting alone, is authorized to file continuation statements with respect to this financing statement.

5. ALTERNATIVE DESIGNATION (if applicable): ☐ LESSOR/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ A.G. LIEN ☐ NON-UCC FILING

6. ☐ This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable) 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (optional) ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA

Department of State, Pennsylvania Saucun Valley Manor, FHA Project No. 034-22096



**UCC FINANCING STATEMENT ADDENDUM**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

OR  
9a. ORGANIZATION'S NAME  
**SAUCON TRUST, U/T/A DATED OCTOBER 1, 2007**

9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME -- insert only one name (11a or 11b) -- do not abbreviate or combine names

11a. ORGANIZATION'S NAME  
OR  
11b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

11c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

11d. SEE INSTRUCTIONS ADD. INFO. ORGANIZATION DEBTOR 11a. TYPE OF ORGANIZATION 11f. JURISDICTION OF ORGANIZATION 11g. ORGANIZATIONAL ID #, if any ☐ NONE

12. ☒ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME -- insert only one name (12a or 12b)

OR  
12a. ORGANIZATION'S NAME  
**U. S. Department of Housing and Urban Development, c/o Office of Healthcare Programs**  
12b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

12c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
**451 7<sup>th</sup> Street S.W. Washington DC 20410 USA**

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ de-extracted collateral, or is filed as a ☐ future filing

14. Description of real estate:

**See Exhibit A attached hereto for a description of the real estate to which certain of the collateral relates.**

**Project Name: Saucon Valley Manor  
Project No.: 034-22096**

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

15. Additional collateral description

**See Exhibit B attached hereto.**

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY  
☐ Filed in connection with a Manufactured-Home Transaction--effective 30 years  
☐ Filed in connection with a Public-Finance Transaction--effective 30 years

|                                                                |            |             |        |
|----------------------------------------------------------------|------------|-------------|--------|
| NAME OF FIRST DEBTOR (1A OR 1B) ON RELATED FINANCING STATEMENT |            |             |        |
| ORGANIZATION'S NAME                                            |            |             |        |
| <b>SAUCON TRUST, U/T/A DATED OCTOBER 1, 2007</b>               |            |             |        |
| INDIVIDUAL'S LAST NAME                                         | FIRST NAME | MIDDLE NAME | SUFFIX |
|                                                                |            |             |        |

|                                                                       |            |                     |
|-----------------------------------------------------------------------|------------|---------------------|
| NAME OF FIRST SECURED PARTY (3A OR 3B) ON RELATED FINANCING STATEMENT |            |                     |
| ORGANIZATION'S NAME                                                   |            |                     |
| <b>M&amp;T REALTY CAPITAL CORPORATION</b>                             |            |                     |
| INDIVIDUAL'S LAST NAME                                                | FIRST NAME | MIDDLE NAME, SUFFIX |
|                                                                       |            |                     |

**EXHIBIT A TO UCC FINANCING STATEMENT**

**(Attached hereto and incorporated by reference herein)**

**LEGAL DESCRIPTION**

UNIT 1 of Condos at Saucon Valley Manor, also known as Saucon Valley Condominium, according to the Declaration of Condominium of Saucon Valley Condominium, also known as Condos at Saucon Valley Manor, as recorded on December 8, 2006 in the Office of the Recorder of Deeds in and for Northampton County, Pennsylvania in Record Book 2006-1 at page 507467

Together with an undivided interest of 40% of, in and to the Common Elements of the said CONDOS AT SAUCON VALLEY MANOR.

Together with an easement upon Unit 2 for encroachment of improvements and entry facilities, and dedicated parking, as provided in the Declaration of Condominium of CONDOS AT SAUCON VALLEY MANOR (see Exhibit B, page 3 of the Declaration)  
BEING Northampton County, Pennsylvania Tax Parcel Q7SW2A-1-3-0715

Being more fully bounded as set forth on attached page



DESCRIPTION OF 1050 MAIN STREET

ALL THAT CERTAIN lot or tract of land situated on the west side of Main Street (S.R. 412) in the Borough of Hellertown, County of Northampton, and Commonwealth of Pennsylvania, being known as 1050 Main Street, also being Unit One on the Condominium Declaration Plan for Condos at Saucon Valley Manor, said plan recorded in the Northampton County Recorder of Deeds Office in Map Book Volume 20065 Page 759, bounded and described as follows to wit:

BEGINNING at the intersection formed by the westerly right of way line of Main Street with the northerly curb line of Sycamore Avenue; thence along the said northerly curb line of Sycamore Avenue

1. South 86°47'33" West 266.09 feet; thence-in and through land now or formerly of Abraham R. Atiyeh D.B.V. 2000-1 Page 14351 the following three courses and distances;
2. North 03° 14'23" West 59.03 feet;
3. North 86° 41'33" East 18.00 feet;
4. North 03° 13'52" West 411.34 feet to the southerly right of way line of Thomas Avenue; thence along the same
5. North 86° 48'59" East 247.48 feet to the westerly right of way line of Main Street; thence along the same
6. South 03° 18'24" East 470.30 feet to the place of beginning.

CONTAINS: 117,610.588 Sq. Ft. 2.7000 Acres

Exhibit A

|                                                                         |            |             |        |
|-------------------------------------------------------------------------|------------|-------------|--------|
| NAME OF FIRST DEBTOR (1A OR 1B) ON RELATED FINANCING STATEMENT          |            |             |        |
| ORGANIZATION'S NAME<br><b>SAUCON TRUST, U/T/A DATED OCTOBER 1, 2007</b> |            |             |        |
| INDIVIDUAL'S LAST NAME                                                  | FIRST NAME | MIDDLE NAME | SUFFIX |
|                                                                         |            |             |        |

|                                                                       |            |                     |
|-----------------------------------------------------------------------|------------|---------------------|
| NAME OF FIRST SECURED PARTY (3A OR 3B) ON RELATED FINANCING STATEMENT |            |                     |
| ORGANIZATION'S NAME<br><b>M&amp;T REALTY CAPITAL CORPORATION</b>      |            |                     |
| INDIVIDUAL'S LAST NAME                                                | FIRST NAME | MIDDLE NAME, SUFFIX |
|                                                                       |            |                     |

**EXHIBIT B TO UCC FINANCING STATEMENT**

All of the following described property and interests in property, whether now owned or existing or hereafter acquired, arising or created:

a. All fixtures, equipment and other goods and tangible personal property of every kind and description whatsoever now or hereafter located on, in or at the premises described in Exhibit A to this UCC Financing Statement (the "Premises"), including, but not limited to, all lighting, laundry, incinerating and power equipment; all engines, boilers, machines, motors, furnaces, compressors and transformers; all power generating equipment; all pumps, tanks, ducts, conduits, wire, switches, electrical equipment and fixtures, fans and switchboards; all telephone equipment (except that telephone equipment leased from a telephone company); all piping, tubing, and plumbing equipment and fixtures; all heating, refrigeration, air-conditioning, cooling, ventilating, sprinkling, water, power, waste disposal and communications equipment, systems and apparatus; all water coolers and water heaters; all fire prevention, alarm, and extinguishing systems and apparatus; all cleaning equipment; all lift, elevator and escalator equipment and apparatus; all partitions, shades, blinds, awnings, screens, screen doors, storm doors, exterior and interior signs, gas fixtures, stoves, ovens, refrigerators, garbage disposals, dishwashers, kitchen and laundry fixtures, utensils, appliances and equipment, cabinets, mirrors, mantles, floor coverings, carpets, rugs, draperies and other furnishings and furniture now or hereafter installed or used or usable in the operation of any part of the buildings, structures or improvements erected or to be erected in or upon the Premises and every replacement thereof, accession thereto, or substitution therefor, whether or not the same are now or hereafter attached to the Premises in any manner;

b. All articles of tangible personal property not otherwise described herein which are now or hereafter located in, attached to or used in, on or about the buildings, structures or improvements now or hereafter located, placed, erected, constructed or built on the Premises and all replacements thereof, accessions thereto, or substitution therefor, whether or not the same are, or will be, attached to such buildings, structures or improvements in any manner;

c. All rents, leases, lease contracts, lease agreements, income, revenues, issues, profits, royalties and other benefits arising or derived or to be derived from, or related to, directly or indirectly, the Premises, whether or not any of the property described in this item (c) constitutes accounts, chattel paper, documents, general intangibles, instruments, investment property, deposit accounts or money;

d. All awards now or hereafter made ("Awards") with respect to the Premises as a result of (i) the exercise of the power of condemnation or eminent domain, or the police power, (ii) the alteration of the grade of any street, or (iii) any other injury or decrease in the value of the Premises (including, but not limited to, any destruction or decrease in the value by fire or other casualty), whether or not any of the property described in this item (d) constitutes accounts, chattel paper, documents, general intangibles, instruments, investment property, deposit accounts or money;

e. All land surveys, plans and specifications, drawings, briefs and other work product of the Debtor or its employees, contractors or agents, and other papers and records now or hereafter used in the construction, reconstruction, alteration, repair or operation of the Premises;

f. All licenses, permits, certificates and agreements for the provision of property or services to or in connection with, or otherwise benefiting, the Premises, including, but not limited to, nursing home and/or assisted living facility licenses, certificates of need, "bed authority" and Medicare and Medicaid provider agreements; however, the Secured Party disclaims a security interest in such of the property described in this item (f) to the extent that a security interest in such property may not be granted to the Secured Party without the forfeiture of the rights of the Debtor (or any assignee of the Debtor) or a default resulting thereunder;

g. Any and all funds, monies, securities, and other property held in escrow or as reserves, and all rights to receive (or to have distributed to the Debtor) any funds, monies, securities, or other property held in escrow or as a reserve, including, but not limited to, all of Debtor's rights (if any) to any and all funds or amounts held in reserves or accounts created under the Regulatory Agreement, including, but not limited to, replacement reserve accounts and residual receipts accounts;

h. All of the Debtor's accounts (including, but not limited to, health-care-insurance receivables and other accounts receivable), general intangibles (including, but not limited to, payment intangibles, tax refunds, tax refund claims and low income housing tax credits, if any, applicable to the Premises), chattel paper (including, but not limited to, tangible chattel paper and electronic chattel paper), leases, lease contracts, lease agreements, instruments, documents, inventory, as-extracted collateral, cash, money, deposit accounts, lock boxes, blocked accounts, certificates of deposit, investment property, insurance policies, letter-of-credit rights, judgments, liens, causes of action, warranties, guaranties, supporting obligations, and all other properties and assets of the Debtor, tangible or intangible, whether or not similar to the property described in this item (h) or elsewhere in this Exhibit B;

i. All books, records and files of whatever type or nature relating to any or all of the property or interests in property described herein or the proceeds thereof, whether or not written,



stored electronically, optically or electromagnetically or in any other form, and whether or not such books, records, or files constitute accounts, equipment or general intangibles;

j. All current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights-of-way, strips and gores of land, streets, alleys, roads, waters, watercourses, and appurtenances related to or benefiting the Premises, and all rights-of-way, streets, alleys and roads which may have been or in the future may be vacated;

k. All contracts, options and other agreements for the sale of the Premises or the improvements thereon, entered into by the Debtor now or in the future, including cash or securities or other security deposited to secure performance by the parties of their obligations, and all construction contracts, architectural and engineering agreements and management contracts now or in the future existing pertaining to the construction, rehabilitation, development, repair, operation, ownership, equipping or management of the Premises;

l. Any and all rights of Debtor in tenant security deposits which have not been forfeited by any tenant under any lease;

m. All names under or by which any part of the Premises may be operated or known, and all trademarks, trade names, and goodwill relating to any part of the Premises;

n. The interest of the Debtor in and to any and all funds and monies created or established and held pursuant to any indenture of trust or similar instrument authorizing the issuance of bonds or notes for the purpose of financing the Project located upon the Premises; and

o. All rights, titles and interests of the Debtor under any and all security agreements now or hereafter entered into by the Debtor with any lessee of all or any portion of the Premises and all of the Debtor's rights, titles and interests in the collateral described therein.

p. All products and proceeds of any and all of the property (and interests in property) described herein, including, but not limited to, proceeds of any insurance, whether or not in the form of original collateral, accounts, contract rights, chattel paper, general intangibles, equipment, fixtures, goods, investment property, letter-of-credit rights, leases, lease contracts, lease agreements, instruments, inventory, documents, deposit accounts, supporting obligations or cash proceeds.

# EXHIBIT F



LEASE AGREEMENT  
DATED AND EFFECTIVE AS OF August 14, 2008

By and Between  
WHITEHALL FIDUCIARY, LLC,  
AS TRUSTEE OF WHITEHALL TRUST  
u/t/a dated August 1, 2007,  
a Pennsylvania Trust, as Owner and Lessor

and

WHITEHALL MANOR, INC.,  
a Pennsylvania corporation, as Lessee

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LEASE AGREEMENT

This LEASE AGREEMENT, (the "Lease Agreement"), is made and dated as of August 14, 2008, by and between WHITEHALL FIDUCIARY, LLC, AS TRUSTEE OF WHITEHALL TRUST w/t/a dated August 1, 2007 (the "Owner"), a Pennsylvania Trust, by and through its Trustee, Whitehall Fiduciary LLC, having its principal office at 1177 Sixth Street, Whitehall, PA 18052;

A N D

WHITEHALL MANOR, INC., (the "Lessee"), a Pennsylvania corporation, having its principal office at 1177 Sixth Street, Whitehall, PA., 18052.

WHEREAS, the Owner desires to lease to the Lessee the Leased Premises (hereinafter defined) on the terms and conditions set forth herein; and

NOW THEREFORE, in consideration of the foregoing Recitals and other good and valuable consideration, and intending to be legally bound, the Owner and Lessee hereby agree as follows:

ARTICLE I

DEFINITIONS

The Owner and the Lessee hereby mutually covenant and agree as follows:

1.01 Definitions.

(a) The following terms shall have the meanings specified below:

"Capital Additions" means property of any kind acquired, constructed or rehabilitated by the Owner or Lessee which is used or useful in connection with the Leased Premises and which is properly chargeable to the plant or property account under generally accepted accounting principles including, without limitation, land, easements, rights-of-way, leaseholds, other interests in real property, personal property, equipment, replacements of property retired or rendered obsolete, and permanent additions and betterments.

"Department of Public Health" means the Pennsylvania Department of Public Welfare.

"Event of Default" means any of the events described in Section 7.01 of this Lease Agreement.

"FHA" means the Federal Housing Administration.

"Fiscal Year" means the twelve month period hereby designated by the Owner and the Lessee for financial reporting purposes beginning on the first day of January in any calendar year and ending on the thirty-first day of December of such calendar year.

"Gross Revenues" means all revenues, receipts, income and other moneys at any time received by or on behalf of the Lessee from the operation of the Leased Premises, including, without limitation, revenues derived from the operation of the Leased Premises and all rights to receive the same whether in the form of accounts receivable, contract rights, chattel paper, instruments or other rights, and the proceeds thereof, and any insurance thereon, whether now existing or hereafter coming into existence and whether now owned or held or hereafter acquired by the Lessee, but excluding the proceeds of any loans to the Lessee and partnership contributions and insurance proceeds and eminent domain awards.

"HUD" means the U.S. Department of Housing and Urban Development.

"HUD Requirements" means Section 232 of the National Housing Act of 1934, as amended; any and all regulations now or hereafter adopted pursuant to such Section 232; and any and all HUD rules, requirements and/or handbooks now or hereafter applicable to the Leased Premises.

"Indemnified Parties" means the Lender, the Owner and any person who "controls" the Owner within the meaning of Section 15 of the Securities Act of 1933, as amended; any member, officer, director, official, employee, agent, general partner, limited partner and attorney of the Owner or the Lender; and their respective executors, administrators, heirs, successors and assigns (excluding the Lessee).

"Leased Premises" means all the land located at, and known and identified as Unit 1 of Whitehall Manor Condominium, as Declared by Declaration of Condominium dated August 13, 2008 and recorded in the Office of the Recorder of Deeds in and for Lehigh County, Pennsylvania, said premises being situate in the Township of Whitehall, Lehigh County, Pennsylvania, and more particularly described in Exhibit A attached to this Lease Agreement, together with any additions thereto and substitutions therefor and any buildings, improvements, betterments, fixtures, equipment, furnishings, and other property, real or personal, now existing or at any time acquired, constructed or located thereon, including any Capital Additions.

"Lease Term" means the duration of the term created in this Lease Agreement as specified in Section 2.02.

"Lender" means M&T Realty Capital Corporation, and any future holder of the Mortgage.

"Lessee Regulatory Agreement" means the Regulatory Agreement-Nursing Homes entered into by and between the Lessee and HUD with respect to the Leased Premises.



"Lessee Security Agreement" means that certain Lessee Security Agreement between Lessee and Lender with respect to the Leased Premises securing the Mortgage Loan, and any amendments or supplements thereto.

"Mortgage" means that certain Mortgage from the Owner to the Lender with respect to the Leased Premises securing the Mortgage Loan, and any amendments and supplements thereto.

"Mortgage Loan" means the FHA-insured mortgage loan in the original maximum principal amount of up to \$15,788,700.00 made by Lender to the Owner, secured, in part, by the Leased Premises, as the same may be amended, increased or decreased.

"Mortgage Loan Documents" means the Lessee Regulatory Agreement, the Owner Regulatory Agreement, the Mortgage, the Security Agreement, the Mortgage Note evidencing the Mortgage Loan executed by the Owner in favor of the Lender, the Lessee Security Agreement entered into by and between the Lessee and Lender with respect to the Leased Premises, and any and all other documents required by HUD and/or the Lender in connection with the Mortgage Loan.

"Operating Expenses" means all expenses required in operating and maintaining the Leased Premises, including, in each case, without limitation, (i) expenses of operation of the Leased Premises, including utilities, maintenance, repair, alteration, insurance and inspection expenses, (ii) expenses of professional, managerial, supervisory, administrative, engineering, architectural, legal, auditing and consulting services, (iii) sums payable to any Person, which sums, under generally accepted accounting principles, constitute expenses of operation and maintenance, and (iv) all taxes, assessments and other governmental charges, including, without limitation, property, franchise and excise taxes, but excluding taxes levied on income and/or profits of the Owner and/or Lessee. Operating Expenses shall exclude Rent. Operating Expenses shall also include deductibles relating to casualty losses of a part of the Property and shall also include all regular and special assessments due to the condominium association of which the Leased Premises forms a part.

"Owner Regulatory Agreement" means the Regulatory Agreement entered into by and between the Owner and HUD with respect to the Leased Premises.

"Person" means any natural person, corporation, partnership, limited liability company, trust, agency or other entity.

"Rent" means the payments of rent in respect of the Leased Premises required pursuant to Section 4.02.A of this Lease Agreement.

"Security Agreement" means that certain Security Agreement between Owner and Lender with respect to the Leased Premises securing the Mortgage Loan, and any amendments and supplements thereto.

(b) Words importing persons shall include firms, associations and corporations, and words importing the singular number shall include the plural number and vice versa.



## ARTICLE II

### LEASE OF LEASED PREMISES; TERM OF LEASE

2.01 Lease of Leased Premises. The Owner hereby leases to the Lessee, and the Lessee hereby leases from the Owner, the Leased Premises on the terms and conditions set forth in this Lease Agreement.

2.02 Term of Lease. The Lease Term for the Leased Premises shall commence on the date hereof and shall expire on August 31, 2018, or such earlier date as may be hereinafter provided. In addition, the Lessee shall have the option to extend the Lease Term for three (3) successive periods of five (5) years each upon the terms and conditions contained herein, upon written notice to the Owner given not later than one hundred eighty (180) days prior to the expiration of the initial Lease Term or extended Lease Term, as the case may be.

2.03 Subordination. This Lease Agreement is and shall be subject and subordinate to the Mortgage and other Mortgage Loan Documents; to all renewals, modifications, consolidations, replacements and extensions thereof; to all substitutions therefor; and to all future mortgages upon the Leased Premises and/or other security interests in or to the Leased Premises and any other items which are herein leased to Lessee or which, pursuant to the terms hereof, become a part of the Leased Premises or are otherwise deemed to become the property of Owner or to remain upon the Leased Premises at the end of the Term; and to each advance made or hereafter to be made under any of the foregoing. This Section 2.03 shall be self-operative and no further instrument of subordination shall be required. The Lessee agrees to execute and deliver promptly any and all certificates, agreements and other instruments that the Owner or Lender may reasonably request in order to confirm such subordination. If the Lender shall succeed to the interest of the Owner, then this Lease Agreement shall terminate, or, at the option of the Lender, this Lease Agreement shall nevertheless continue in full force and effect, in which case the Lessee shall and does hereby agree to attorn to the Lender and to recognize the Lender as its landlord under the terms of this Lease Agreement. Any agreements entered into by the Lessee for provision of services to the Leased Premises or the granting of easements, rights of way or other allowances of use or placement of CATV, utilities or other items are, and shall always be, subordinate to (i) the rights of Owner, and (b) the Mortgage and other Mortgage Loan Documents and all other mortgages and security interests now or hereafter encumbering the Leased Premises and/or the property of which it forms a part.

If this Lease Agreement or the Rent due hereunder is assigned to the Lender as collateral security for the Mortgage Loan, the Lender shall not be deemed to have assumed any of the Owner's obligations under this Lease Agreement solely as a result of such assignment. The Lender to whom this Lease Agreement has been so assigned shall be deemed to have assumed such obligations only if (i) by the terms of the instrument of assignment the Lender specifically elects to assume such obligations, or (ii) Lender has (a) foreclosed its mortgage, (b) accepted a deed in lieu thereof, or (c) taken possession of the Leased Premises by entry or otherwise. Even if the Lender so assumes the obligations of the Owner under this Lease Agreement, the Lender will be liable for breaches under this Lease Agreement only to the extent such breaches occur



during the period of ownership by the Lender after foreclosure (or after any conveyance by a deed in lieu of foreclosure) and then only to the extent of Lender's interest in the Leased Premises. The Lessee hereby consents to the assignment of this Lease Agreement as provided in the Mortgage.

2.04 Quiet Enjoyment. The Owner covenants and agrees with the Lessee that so long as the Lessee is in compliance with its obligations under this Lease Agreement, including the payment of the Rent and the other payments required under this Lease Agreement and the observance and performance of all the terms, covenants, and conditions on the Lessee's part to be observed and performed, and subject to the provisions of Section 2.03 of this Lease Agreement, the Lessee may peaceably and quietly have, hold and enjoy the Leased Premises for the Lease Term, subject to easements, agreements, restrictions, and covenants of record. The foregoing is subject to the rights reserved to Owner and/or the Declarant and/or others in the Declaration Condominium for the Property of which the Leased Premises is a part.

2.05 Ownership of Capital Improvements. Any and all buildings and improvements now existing and/or hereafter erected on the Leased Premises; any betterments made to the Leased Premises; any and all personal property, equipment, furniture, fixtures, computers, accessories and supplies of all kinds now or hereafter located on and/or used in connection with the Leased Premises; and all additions, substitutions, and replacements thereto during the Lease Term (hereinafter collectively called "Personal Property") shall be owned by the Owner, Lessee hereby conveying any and all such Personal Property to Owner:

Lessee agrees not to remove any Personal Property from the Leased Premises except to replace such Personal Property with other similar items of equal or greater quality and value, which items shall immediately become and remain the property of the Owner.

2.06 No Personal Liability. No recourse under or upon any obligation, covenant or agreement of this Lease Agreement or for any claim based thereon or otherwise in respect thereof, shall be had against any partner (general or limited), member, manager, officer, director, shareholder or employee, trustee, as such, past, present or future, of the Owner or of any successor entity, either directly or through the Owner, at law or in equity, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty, or otherwise; it being expressly understood that no such personal liability whatever shall attach to, or is or shall be incurred by, any such Person, under or by reason of the obligations, covenants or agreements contained in this Lease Agreement or implied herefrom; and that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such Person under or by reason of the obligations, covenants or agreements contained in this Lease Agreement, or implied herefrom, are hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Lease Agreement.

### ARTICLE III

#### HUD REQUIREMENTS



3.01 Precedence of Article III. For so long as, and only for so long as, HUD is the holder or insurer of any indebtedness secured by the Leased Premises, the provisions of this Article III shall apply to this Lease Agreement, notwithstanding anything herein to the contrary. This Article III shall not be amended without the prior written consent of HUD and the Lender.

3.02 Assignment and Subletting. This Lease Agreement shall not be assigned, in whole or in part (including any transfer of title or right to possession and control of the Leased Premises, or of any right to collect fees or rents), without the prior approval of HUD. Owner and Lessee acknowledge that any proposed assignee will be required to execute a Lessee Regulatory Agreement with HUD as a prerequisite to any such approval. Any consent by Owner to any sublease by the Lessee of the Leased Premises or any portion thereof may be given only upon compliance with the Mortgage Loan Documents and applicable HUD Requirements.

3.03 Compliance With HUD Requirements and Terms of Mortgage Loan Documents. The Lessee agrees to comply with all HUD Requirements that are applicable to the Leased Premises. The Lessee agrees that it will not take any action which would violate any applicable provision of any of the Mortgage Loan Documents.

In the event of any conflict between the terms and provisions of this Lease Agreement and any applicable HUD Requirements or the Mortgage Loan Documents, the HUD Requirements and Mortgage Loan Documents shall control in all respects. Owner and Lessee agree that no provision of this Lease Agreement shall modify any obligation of Owner or Lessee under the Mortgage Loan Documents. Owner and Lessee acknowledge that HUD's acceptance of this Lease Agreement in connection with the closing of the Mortgage Loan shall in no way constitute HUD's consent to arrangements which are inconsistent with HUD Requirements. This Lease Agreement is subordinate and subject to the Mortgage Loan Documents and to all HUD Requirements.

3.04 Acknowledgment. Owner and Lessee each acknowledges and agrees that the Rent and other amounts payable by Lessee under this Lease Agreement (including Rent, additional rent and all other sums payable under this Lease Agreement) are sufficient to properly maintain the Leased Premises, and to enable the Owner to meet its debt service obligations and related expenses in connection with the Mortgage Loan and the Leased Premises. Owner and Lessee each acknowledges and agrees that the terms and provisions of this Lease Agreement are comparable to the terms and provisions of leases of comparable facilities in the market.

3.05 License; Bed Authority. Owner and Lessee agree not to undertake or acquiesce to any modification to the assisted living facility license with respect to the Leased Premises or to any "bed authority" related thereto without the prior written approval of HUD.

3.06 Financial Statements. Lessee agrees to furnish HUD and Lender copies of its annual financial statements with respect to the Leased Premises within sixty (60) days after the close of Lessee's fiscal year or such longer period as may be permitted by HUD.



3.07 Medicaid and Medicare. Lessee shall be responsible for obtaining and maintaining all necessary licensure, and provider agreements for Medicaid and Medicare residents in the event the Leased Premises has a dual certification. Lessee agrees to furnish HUD and Lender with copies of all such provider agreements.

3.08 State Licensure Requirements. Lessee shall ensure that the Leased Premises meets all state licensure requirements and standards at all times.

3.09 MAP Guide Requirements. Owner and Lessee acknowledge and agree that this Lease Agreement complies with applicable requirements of Section 3.9.G of the Multifamily Accelerated Processing Guide dated May 17, 2000, as the same may have been amended, promulgated by the Office of the Assistant Secretary for Housing – FHA Commissioner.

3.10 Execution of Lessee Regulatory Agreement by Lessee. At the time of the closing of the Mortgage Loan, the Lessee agrees to execute the Lessee Regulatory Agreement. The Lessee agrees to comply with its obligations under the Lessee Regulatory Agreement, and agrees that a default by the Lessee under the Lessee Regulatory Agreement shall be deemed to be a default under this Lease Agreement.

3.11 Management Contract Requirements. The Lessee agrees not to enter into any management contract involving the Leased Premises unless such management contract shall contain provisions that, in the event of default under the Owner Regulatory Agreement or the Lessee Regulatory Agreement, the management agreement shall be subject to termination upon not more than thirty (30) days notice without penalty upon written request of HUD. Upon such HUD termination request, the Lessee shall immediately arrange to terminate the contract within a period of not more than thirty (30) days and shall make arrangements satisfactory to HUD for continuing proper management of the Leased Premises.

3.12. Inspections. The Lessee agrees that upon reasonable request, the Lender and/or HUD and their designees and representatives may exercise all rights of examination and inspection that are afforded to the Owner under Section 5.08 of this Lease Agreement.

3.13 Insurance. The Lessee agrees to procure and maintain, or cause to be procured and maintained, the insurance coverages required pursuant to the Mortgage Loan Documents and/or applicable HUD Requirements, including HUD Notices 04-01 and 04-15. Insurance proceeds shall be applied in accordance with the terms of the Mortgage Loan Documents and applicable HUD Requirements. The decision to repair, reconstruct, restore or replace the Leased Premises shall be made by the Owner, subject to the terms of the Mortgage Loan Documents and applicable HUD Requirements.

3.14 Certain Payments. The Lessee agrees to pay, as Additional Rent, when due all premiums for (i) FHA mortgage insurance, (ii) liability insurance and full coverage hazard insurance on the Leased Premises, and (iii) all other insurance coverages required under the Mortgage Loan Documents and/or applicable HUD Requirements, and to treat such payments as Operating Expenses. Unless the Lender and Owner agree otherwise, the Lessee shall be

responsible for funding all escrows for taxes, reserves for replacements, mortgage insurance premiums, and/or other insurance premiums as may be required by the Lender and/or FHA,

3.15 Eminent Domain. The proceeds of any condemnation award or other compensation paid by reason of a conveyance in lieu of the exercise of such power, with respect to the Leased Premises or any portion thereof shall be applied in accordance with the terms of the Mortgage Loan Documents and applicable HUD Requirements.

3.16 Ownership of Capital Improvements. Lessee agrees to execute any and all documents as may be required by Lender or HUD to confirm the provisions of Section 2.05 and/or further effect the transfer of title to the Owner as provided in Section 2.05.

#### ARTICLE IV

##### RENTALS: APPLICATION OF GROSS REVENUES

4.01 General Obligation. This Lease Agreement is a general obligation of the Lessee.

4.02 Rental Payments.

A. The Lessee agrees to pay to the Owner during the Lease Term, as Rent for the Leased Premises, the sum of One Million Two Hundred Thousand and No/100 Dollars (\$1,200,000.00) per year. Payments of Rent shall be due in advance in equal monthly installments of One Hundred Thousand and No/100 Dollars (\$100,000.00) on the first day of each month. If the Lessee fails to make any monthly payment of Rent within fifteen (15) days after the due date thereof, the Owner may, at its option, impose a late charge upon the Lessee in an amount not to exceed five percent (5.0%) of the Rent so delinquent.

B. The Lessee agrees to pay to (or on behalf of) the Owner all payments to the reserve for replacements which are required to be made pursuant to the terms of the Owner Regulatory Agreement.

4.03 Security Interest In Gross Revenues. As security for the Rent and all other payments due to the Owner under the terms of this Lease Agreement, the Lessee grants to and creates in the Owner a security interest in the Gross Revenues, but the existence of such security interest shall not prevent the expenditure, deposit or commingling of Gross Revenues by the Lessee so long as all payments required under this Lease Agreement are made when due, nor prevent the write-off of any uncollectable accounts or bad debts. In the event of default by the Lessee under the terms and conditions of this Lease Agreement, beyond any applicable notice and cure periods, the Owner, without limitation of any other rights or remedies available to it and with any required consent of the Department of Public Health, shall have the right to appoint a receiver to collect the Gross Revenues and manage payments from such funds as permitted from time to time by the Department of Public Health, if applicable.



4.04 Obligations Unconditional. The obligations of the Lessee to make payments of Rent and all other payments required under this Lease Agreement shall be absolute and unconditional, without defense or set-off by reason of any default or other reason whatsoever, including by the Owner under this Lease Agreement or under any other agreement between the Lessee and the Owner or the Lender, and, except as may be expressly provided herein, such payments shall not be decreased, abated, postponed, or delayed for any reason whatsoever, including, without limitation, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Leased Premises, the taking by condemnation of any part of the Leased Premises, commercial frustration of purpose, failure of the Owner to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or connected with this Lease Agreement, or failure of any resident or occupant of the Lessee to pay the fees, rentals or other charges owed to the Lessee, and irrespective of whether or not any such resident or occupant of the Lessee receives either partial or total reimbursement as a credit against such payment, it being the intention of the parties that the payments required of the Lessee under this Lease Agreement will be paid in full when due without any delay or diminution whatsoever.

4.05 Net Lease. This Lease Agreement is intended to be an entirely "net" lease, intending hereby to impose the burden of payment of all costs and expenses related to the use and occupancy of the Leased Premises upon the Lessee. The Lessee agrees to pay when due all real estate and personal property taxes and special assessments assessed or imposed upon the Leased Premises or which may be charged to the Owner in connection with the Leased Premises and treat such payments as Operating Expenses. The Lessee agrees also to pay when due all payments required by Section 3.14 of this Lease Agreement (during periods in which Article III is operative), and premiums for liability insurance and full coverage hazard insurance on the Leased Premises, and to treat such payments as Operating Expenses. The Lessee agrees also to pay when due all other Operating Expenses. Notwithstanding the foregoing, the Lessee shall not be liable for any federal, state or local income taxes which may be assessed against the Owner.

## ARTICLE V

### COVENANTS AND REPRESENTATIONS OF THE LESSEE

5.01 Maintenance and Operation of Leased Premises. The Lessee covenants that during the Lease Term of this Lease Agreement, it shall:

A. pay or cause to be paid all costs of operating the Leased Premises including, without limitation, all charges for water, electricity, light, heat or power, sewage, telephone and other utility service, rendered or supplied during the Lease Term; all water, water meter, and sewer rents, rates, and charges; and any and all other governmental levies, fees, rents, assessments, or taxes and charges;

B. at its own cost or expense keep and maintain, or cause to be kept and maintained, in good repair and condition (excepting reasonable wear and tear), the Leased

Premises and all additions and improvements thereto, excluding any rebuilding or restoration following damage to or destruction or condemnation of all or part of the Leased Premises;

C. make all repairs, renewals, replacements and improvements to the Leased Premises in order to maintain adequate service and quality resident care;

D. not commit or suffer any waste of any of the Leased Premises;

E. maintain in good standing its license to operate the Leased Premises as an assisted living facility and any other licenses or permits required to operate the Leased Premises as a licensed facility; and promptly comply, unless contested in good faith, with any and all requests and recommendations of the Department of Public Health and its representatives with respect to the operation of the Leased Premises, in providing care to residents;

F. comply with all applicable requirements of Titles XVIII and XIX of the Social Security Act, and the rules and regulations thereunder, as the same may now or hereafter be in effect, in order to maintain its status in good standing as a provider of health care services under such Titles;

G. upon receipt, promptly furnish the Owner with copies of any inspection reports made by the Department of Public Health or the United States Department of Health and Human Services, and promptly undertake to correct any deficiencies noted in such inspection reports regarding its operation of the Leased Premises as an assisted living facility; and

H. promptly inform the Owner of any decisions on behalf of the Department of Public Health as to a change in status of any certificate or license affecting the Lessee's operation of the Leased Premises as an assisted living facility.

5.02 Maintenance of Entity Existence. The Lessee agrees that during the Lease Term (unless this Lease Agreement is assigned in accordance with its terms, in which event this Section shall apply to such assignee), it will maintain its entity existence, will continue to be a corporation organized under the laws of the Commonwealth of Pennsylvania, will promptly pay all taxes assessed against it or any of its assets by any federal, state or local governmental authority, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it.

5.03 Management. The Lessee agrees at all times during the Lease Term of this Lease Agreement to employ or cause to be employed a qualified management firm and/or qualified administrator to supervise the operation of the Leased Premises, who shall be experienced in the management and operation of facilities of the nature and size of the Leased Premises, and who shall be subject to the approval of the Owner (and HUD, in accordance with Section 3.11, during periods in which Article III is operative).



5.04 Payment of Lawful Taxes and Charges; Discharge of Liens.

A. The Lessee agrees to pay all taxes and assessments or other municipal or governmental charges of any kind whatsoever that may at any time be lawfully imposed, levied or assessed upon or in respect of the Lessee's income, operations, assets or property, including the Leased Premises, or any part thereof, when the same shall become due, including any machinery, equipment or related property installed or brought by the Lessee therein or thereon, and all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Leased Premises; provided, that with respect to special assessments or other governmental charges that lawfully may be paid in installments over a period of years, the Lessee shall be obligated to pay only such installments as are required to be paid during the term of this Lease Agreement. Notwithstanding the foregoing, the Lessee shall not be liable for any federal, state or local income taxes which may be assessed against the Owner.

B. The Lessee may, at its own expense and in good faith, contest any such taxes, assessments, charges, claims or demands and, in the event of any such contest, may, with the approval of the Owner (and HUD, in accordance with Section 3.12.A, during periods in which Article III is operative), permit the taxes, assessments, charges, claims and demands so contested to remain unpaid during the period of such contest and may appeal therefrom.

5.05 Compliance With Law.

A. The Lessee covenants, represents and warrants that at all times during the term of this Lease Agreement:

(1) all actions heretofore and hereafter taken by the Lessee with respect to the Leased Premises, including all repairs, additions, alterations or improvements thereto, have been and will at all times be in compliance in all material respects with all applicable requirements of federal, state and local laws, ordinances, rules, regulations and orders, and with all applicable requirements of any agency, board, or commission created under the laws of the state where the Leased Premises are located, or any other duly constituted public authority, and any requirement of an insurance company so long as such company is providing insurance in respect to the Lessee or the Leased Premises; and

(2) it shall not take any action which would cause the Leased Premises to be in violation of such laws, ordinances, rules, regulations or orders.

B. Notwithstanding any provision of this Lease Agreement, the Lessee shall have the right to contest in good faith any law, ordinance, rule, regulation or order, provided that such action is promptly and diligently pursued, and the Lessee agrees to keep the Owner informed as to the status of such contest and provided further that such action does not, in the Owner's judgment materially adversely affect the Lessee's ability to operate the Leased Premises and pay the Rent.

5.06 Additions and Alterations. Except where an emergency situation exists:



A. The Lessee shall not, without the prior written approval of the Owner, which will not be unreasonably withheld or delayed, make any alterations, changes, replacements, improvements and additions of a structural nature to the Leased Premises;

B. The Lessee agrees not to permit any alienation, removal, demolition, substitution, improvement, alteration or deterioration of the Leased Premises or any other act which might impair or reduce the usefulness or value thereof or the Owner's interest therein; and

C. The Lessee agrees to comply with all applicable requirements of law with respect to such alterations, changes, replacements, improvements and additions.

(And Lessee shall also comply with Section 3.12.B during periods in which Article III is operative.)

5.07 Financial and Other Restrictions. So long as this Lease Agreement remains in effect, (and, as to the records required hereunder, for a period of one year thereafter), the Lessee agrees to:

A. Keep proper books of record and account in which full, true and correct entries will be made of all its business transactions in accordance with generally accepted accounting principles;

B. Make payment of all indebtedness incurred in the ordinary course of the Lessee's business within the times provided under the terms of such indebtedness and make payments of all taxes, governmental charges and/or payments in lieu of taxes promptly (unless the Lessee is contesting the validity thereof in good faith);

C. Provide to the Owner annual financial statements with respect to the Leased Premises, prepared by a certified public accountant or firm of certified public accountants acceptable to the Owner (and which meet the requirements of Section 3.06 during periods in which Article III is operative); and

D. With reasonable promptness provide to the Owner any other data and information which may be reasonably requested from time to time.

5.08 Inspections. The Lessee agrees that upon reasonable request, the Owner and its designees and representatives may at all reasonable times, upon reasonable notice, subject to the rights of patients, residents and tenants, if any, examine and inspect the Leased Premises. The Lessee will, on the request of the Owner, promptly make available for inspection by the Owner and its designees and representatives copies of all of the Lessee's correspondence, books, records and other documentation relating to the Leased Premises, but excepting communications between the Lessee and its attorneys. The Lessee agrees to maintain accounting records for the Leased Premises in accordance with its customary practice, separate from any general accounting records which the Lessee may maintain in connection with the Lessee's general business activities. The

Lessee agrees that the Owner and its designees and representatives shall, at any reasonable time, have access to and the right to examine all accounting records of the Lessee which relate directly or indirectly to the Leased Premises. (See also Section 3.13 during periods in which Article III is operative.)

5.09 Assignment and Subletting. Except as set forth in this Section 5.09, the Lessee may not assign this Lease Agreement or sublease the Leased Premises or any portion thereof without the prior written consent of the Owner (and HUD, in accordance with Section 3.02, during periods in which Article III is operative). The Lessee shall be permitted to enter into leases and other possession and use agreements in the nature of assisted living rental, lease and/or services agreements with individual persons in the ordinary course of its operations.

5.10 Indemnification Concerning the Leased Premises.

A. The Lessee covenants and agrees, at its expense, to pay and to indemnify and save the Indemnified Parties harmless of, from and against, any and all claims, damages, demands, expenses, liabilities, and losses of every kind, character, and nature asserted by or on behalf of any person arising out of, resulting from, or in any way connected with, the condition, use, possession, conduct, management, operation, or leasing of the Leased Premises or any part thereof, except for any claim, damage, demand, expense, liability or loss arising out of the negligence or willful misconduct of the party seeking indemnity.

B. If any action is brought against any Indemnified Party based upon any of the above and in respect to which indemnity may be sought against the Lessee, the Indemnified Party involved may request in writing that the Lessee assume the defense thereof, including the employment of counsel selected by the Lessee satisfactory to such Indemnified Party (as reasonably determined), the payment of all costs and expenses and the right to negotiate and consent to settlement. Any one or more of the Indemnified Parties shall have the right to employ separate counsel at the sole cost and expense of such Indemnified Party in any such action, to participate in the defense thereof. The Lessee shall not be liable for any settlement of any such action effected without its consent, which consent shall not be unreasonably withheld nor delayed, but if settled with the consent of the Lessee or if there be a final judgment for the plaintiff in any such action, the Lessee agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment.

C. The Lessee shall have the right to obtain insurance, if available, against the risks which it has undertaken in paragraph A of this Section, and to treat the cost of such insurance as a part of Operating Expenses.

5.11 Representations of the Lessee. The Lessee represents and warrants as follows:

A. Due Organization. The Lessee is a corporation, duly organized, validly existing and in good standing under the laws of Pennsylvania, and is duly authorized and qualified to operate this type of facility in the Commonwealth of Pennsylvania. The Lessee has powers adequate for the execution, delivery and performance of its obligations under this Lease



Agreement and for carrying on the business now conducted by it and contemplated in connection with the Leased Premises. The execution and delivery of, and the performance by the Lessee of its obligations under this Lease Agreement have been duly authorized by all appropriate action by the Lessee, and this Lease Agreement constitutes the valid and binding obligations of the Lessee, enforceable in accordance with its terms, except as enforceability may be subject to the exercise of judicial discretion in accordance with general equitable principles and to applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted to the extent that the same may be constitutionally applied.

B. Legal Proceedings. There is no action, suit, proceeding (including, without limitation, any condemnation proceeding or proceeding in the nature of bankruptcy or for reorganization or arrangement), or investigation at law or in equity before or by any court or public board or body, pending or, to the knowledge of the Lessee after due investigation, threatened, against the Lessee or the Leased Premises, nor, to the best knowledge of the Lessee, any basis therefor, wherein an unfavorable decision, ruling or finding would, in any material respect, adversely affect the business, assets or condition (financial or otherwise) of the Lessee or the Leased Premises or the transactions contemplated by this Lease Agreement, or which in any way would adversely affect the validity of this Lease Agreement.

C. Compliance With Law; Consents. The Lessee is not in violation of any term or provision of its organizational documents or in violation of any term or provision of any mortgage, lease, agreement or other instrument which is material to its business or assets, or of any judgment, decree, governmental order, statute, rule or regulation by which it is bound or to which it or any of its assets is subject. The execution, delivery and performance of and compliance with this Lease Agreement will not violate or constitute a default under the organizational documents of the Lessee or of any term or provision of any mortgage, lease, agreement or other instrument, or of any judgment, decree, governmental order, statute, rule or regulation by which the Lessee is bound or to which any of its assets is subject. No approval by, authorization of, or filing with any federal, state, or local or other governmental commission, board, or agency or other governmental authority is necessary in connection with the execution and delivery of this Lease Agreement by the Lessee.

D. The Facility.

(1) The Lessee agrees to operate the Leased Premises as an assisted living facility.

(2) In the occupancy, maintenance, improvement and operation of the Leased Premises, the Lessee shall at all times comply in all respects with all applicable building, zoning and land use, environmental protection, sanitary, safety and other laws, rules and regulations, and shall not permit a nuisance thereon.

E. The foregoing representations and assurances are made for the benefit of the Owner, the Lender and HUD and not for the benefit of any other third party.

ARTICLE VI

INSURANCE AND CONDEMNATION

6.01 Insurance Coverage and Terms.

A. The Lessee agrees to procure and maintain, or cause to be procured and maintained, commercial general liability insurance and property insurance coverages with respect to the Leased Premises (and, during such periods as applicable, the insurance required under Section 3.14 of this Lease Agreement), naming the Owner and the Lender as additional insureds.

B. In the event that the Lessee fails to maintain any insurance as provided in this Section 6.01, the Owner may, at its option and upon such notice to the Lessee as is reasonable under the circumstances, procure and maintain such insurance. The Lessee agrees and covenants to pay any amounts so advanced therefor by the Owner, together with interest thereon at the prime rate of interest published in the Wall Street Journal plus five percent (5.0%), from the date thereof.

6.02 Insurance Proceeds. In the event of damage or destruction to the Leased Premises, the decision to repair, reconstruct, restore or replace the Leased Premises shall be made by the Owner (and in accordance with Section 3.14, during periods in which Article III is operative).

6.03 Eminent Domain. Subject to Section 3.16 (during periods in which Article III is operative), the proceeds of any condemnation award or other compensation paid by reason of a conveyance in lieu of the exercise of such power, with respect to the Leased Premises or any portion thereof shall be the property of Owner. The Lessee shall, however, be entitled to recover any amounts payable to it for moving expenses, loss of personal property, and the like so long as they do not affect Owner's award.

ARTICLE VII

DEFAULT AND REMEDIES

7.01 Events of Default. Each of the following shall be an "Event of Default" under this Lease Agreement:

A. If payment of any amount due under Section 4.02 of this Lease Agreement is not made when it becomes due and payable and if such payment remains unpaid for a period of fifteen (15) days; or

B. If the Lessee shall:



1. admit in writing its inability to pay its debts as they become due, or
2. file a petition to be adjudicated a voluntary bankrupt in bankruptcy or a petition to otherwise take advantage of any federal or state bankruptcy or insolvency law, or
3. make an assignment for the benefit of its creditors or seek a composition with its creditors, or
4. consent to the appointment of a receiver of itself or of the whole or any substantial part of the Leased Premises, or

C. If (i) the Lessee shall, upon an involuntary petition under any section or chapter of the federal bankruptcy laws filed against it, be adjudicated a bankrupt; or (ii) a court of competent jurisdiction shall enter an order or decree appointing a trustee or receiver (interim or permanent) or appointing the Lessee a debtor-in-possession, with or without the consent of the Lessee, of the whole or any substantial part of the Leased Premises, or of the Gross Revenues, or approving a petition filed against the Lessee seeking reorganization or an arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any legal subdivision thereof; and such adjudication, order or decree is not dismissed or vacated within a period of sixty (60) days from the date thereof; or

D. If the Lessee defaults in the due and punctual performance or observance of any other representation, agreement or covenant in this Lease Agreement and such default continues for thirty (30) days after written notice requiring the same to be remedied has been given by the Owner.

7.02 Remedies. Upon or after the occurrence of any Event of Default, the Lessee, upon demand of the Owner, shall forthwith surrender to the Owner the actual possession of the Leased Premises and the Owner may enter and take possession of the Leased Premises and may exclude the Lessee, its agent and employees wholly therefrom. Upon or after the occurrence of any Event of Default the Owner may, upon notice, do any or all of the following at the Lessee's risk:

A. Re-enter and take possession of the Leased Premises or any portion thereof without terminating this Lease Agreement, and lease the Owner's interest in such Leased Premises for the account of the Lessee to any other party, holding the Lessee liable for the difference between (i) the net proceeds to Owner from such re-leasing and (ii) the rent and other amounts payable by the Lessee and due under this Lease Agreement, including the expenses of Owner and Lender, including reasonable attorneys' fees, incurred in connection with such default.

B. Terminate the Lease Term, exclude the Lessee from possession of the Leased Premises and lease the Owner's interest in the Leased Premises for the account of the



Lessee, to any other party, holding the Lessee liable for all rents and other amounts due under this Lease Agreement and not paid by such other party.

C. Take whatever action at law or in equity may appear necessary or desirable to collect the payment then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Lease Agreement.

7.03 Cumulative Rights; No Implied Waiver. No remedy conferred upon or reserved to the Owner by this Lease Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity or by statute. No waiver by the Owner of any obligations, agreements or covenants under this Lease Agreement shall be deemed a waiver of any subsequent breach, and no delay or omission to exercise any right or power shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

#### ARTICLE VIII

##### MISCELLANEOUS

8.01 Surrender of Possession. Except as otherwise expressly provided in this Lease Agreement, at the expiration or earlier termination of the Lease Term, the Lessee agrees to surrender possession of the Leased Premises peacefully and promptly to the Owner in as good a condition as at the commencement of the Lease Term, loss by fire or other casualty covered by insurance, condemnation, or ordinary wear, tear, and obsolescence excepted.

8.02 Successors and Assigns. This Lease Agreement shall inure to the benefit of and shall be binding upon the Owner, the Lessee and their respective successors and assigns.

8.03 Severability. In the event any provision of this Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Lease Agreement.

8.04 Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

8.05 Notices. All notices or other communications provided for in this Lease Agreement shall be in writing and shall be delivered personally to, or sent by certified or registered mail or recognized overnight delivery service to the respective offices of the Owner and the Lessee as set forth on the first page of this Lease Agreement, or such other address as may have been previously specified in a notice given in accordance with this Section 8.05.

The Owner or Lessee may from time to time designate other representatives or addresses with respect to receipt of notices or other communications.

8.06 Headings. The Article and Section headings in this Lease Agreement are inserted for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease Agreement.

8.07 Non-Waiver. It is understood and agreed that nothing contained in this Lease Agreement shall be construed as a waiver on the part of the parties, or any of them, of any right not explicitly waived in this Lease Agreement.

8.08 Amendments. This Lease Agreement shall not be amended without the prior written consent of the Owner and Lessee and no such amendment shall be effective unless the same shall be in writing and executed by both parties hereto.

8.09 No Recording. Neither party shall record this Lease Agreement. At the request of Lessee or Owner, the parties shall execute and record a memorandum of lease.

8.10 Estoppel Certificates. The Lessee agrees that upon request by Owner, it will execute and deliver to the Owner, and/or to such third party as is designated by the Owner, a statement in writing certifying (a) that (except as may be otherwise specified by the Lessee) (i) this Lease Agreement is in full force and effect and unmodified and has not been assigned by Lessee, (ii) the Lessee is not in default under this Lease Agreement, and (iii) to the best of Lessee's knowledge, the Owner is not in default under this Lease Agreement, and (b) as to such other factual matters as the Owner may reasonably request about this Lease Agreement.

8.11 Governing Law. The internal laws of the State of Pennsylvania shall govern as to the interpretation, validity and effect of this Lease Agreement, without regard to such state's choice of law principles.

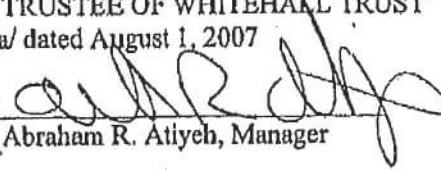
8.12 Entirety of Agreement. This Lease Agreement embodies the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes all prior leases, agreements, correspondence, arrangements and understandings relating to the subject matter hereof.

IN WITNESS WHEREOF, the Owner and the Lessee have signed this Lease Agreement as of the date first above written.

OWNER:

WHITEHALL FIDUCIARY, LLC,  
AS TRUSTEE OF WHITEHALL TRUST  
u/v/a/ dated August 1, 2007

By:

  
Abraham R. Atiyeh, Manager

LESSEE:

WHITEHALL MANOR, INC.

By:

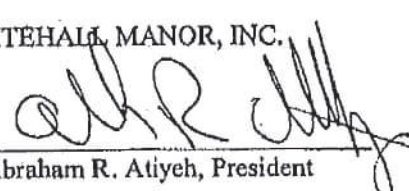
  
Abraham R. Atiyeh, President



EXHIBIT A

UNIT 1 OF WHITEHALL MANOR CONDOMINIUM, according to the Declaration of Condominium of Whitehall Manor Condominium dated August 13, 2008 recorded in the Office of the Recorder of Deeds of Lehigh County, Pennsylvania as its Document ID # 7494518.

PARCEL ID NO. 5498 9378 8632-1

Together with an undivided interest of 50% of, in and to the Common Elements of the said WHITEHALL MANOR CONDOMINIUM.



FIRST AMENDMENT  
Dated and Effective As Of January 1, 2010  
To The  
LEASE AGREEMENT  
Dated and Effective As Of August \_\_\_\_, 2008  
By and Between  
WHITEHALL TRUST,  
a Pennsylvania Trust, as Owner and Lessor  
and  
WHITEHALL MANOR, INC.,  
a Pennsylvania corporation, as Lessee

**FIRST AMENDMENT TO LEASE AGREEMENT**

This FIRST AMENDMENT TO LEASE AGREEMENT, (the "First Amendment"), is made and dated as of January 1, 2010, by and between WHITEHALL TRUST, (the "Owner"), a Pennsylvania Trust, by and through its Trustee, Whitehall Fiduciary LLC, having its principal office at 1177 Sixth Street, Whitehall, PA 18052;

AND

WHITEHALL MANOR, INC., (the "Lessee"), a Pennsylvania corporation, having its principal office at 1177 Sixth Street, Whitehall, PA., 18052.

WHEREAS, the Owner and Lessee desire to amend the Lease dated August \_\_, 2008 between Owner and Lessee (the "Lease") for those certain premises known as Unit 1 of Whitehall Manor Condominium, (the "Leased Premises") on the terms and conditions set forth herein; and

WHEREAS, the terms of this Addendum shall be effective as of the date shown above, subject to the obtaining approval as required by the terms of the Mortgage encumbering the Leased Premises.

NOW THEREFORE, in consideration of the foregoing Recitals and other good and valuable consideration, and intending to be legally bound, the Owner and Lessee hereby agree as follows:

1. Section 4.02(A) of the Lease is amended and restated as follows:

"A. The Lessee agrees to pay to the Owner during the Lease Term, as Rent for the Leased Premises, the sum of One Million Nine Hundred Fifty Thousand (\$1,950,000.00) per year. Payments of Rent shall be due (a) in advance in equal monthly installments of One Hundred Thousand Dollars (\$100,000.00) on the first day of each month, each due without setoff and without prior notice or demand, and (b) the remainder of \$750,000.00 to be paid on or before December 31 of the then current calendar year, in one or more partial installments, as Lessee shall elect, provided however that the full Base Rental of \$1,950,000.00 is paid in full by December 31 of each year.

"A.1. Additionally, all other items set forth as Rent or Additional Rent under the Lease and all obligations of the Lessee are herein considered to be Rent and those additional items are due as set forth in the Lease. If the Lessee fails to make any monthly payment of Rent within fifteen (15) days after the due date thereof, the Owner may, at its option, impose a late charge upon the Lessee in an amount not to exceed

ten percent (10%) of the Rent so delinquent for each calendar month of delinquency.

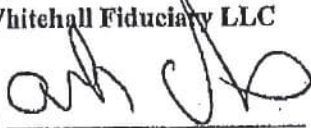
2. No other portions of the Lease are amended or modified.
3. Lessee hereby acknowledges the validity of the Lease and confirms that there are no defenses, setoffs or other claims which it has or could assert under the Lease.
4. Lessee hereby ratifies and reaffirms the rights to confess judgment against Lessee as set forth in the Lease as if fully set forth herein at length.
5. The amendment set forth herein is subject to approval by the Secretary of Housing and Urban Development pursuant to the terms of the Mortgage encumbering the Leased Premises, and this amendment shall be void and of no force or effect if the said approval is not granted, and in such event, the Lease shall remain in full force and effect as if this First Amendment to Lease Agreement was never executed.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have executed this First Amendment to Lease Agreement effective as of January 1, 2010.

WHITEHALL TRUST

By: Whitehall Fiduciary LLC

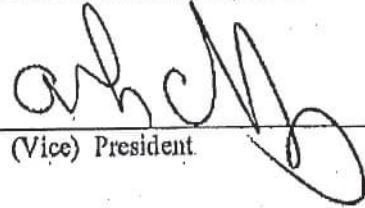
By:



Abraham Atiyeh, Manager

WHITEHALL MANOR, INC.

By:



(Vice) President

SECOND AMENDMENT  
Dated and Effective As Of January 1, 2012,  
To The  
LEASE AGREEMENT  
Dated on or about August, 2008  
By and Between  
WHITEHALL FIDUCIARY, LLC,  
AS TRUSTEE OF WHITEHALL TRUST  
u/t/a dated August 1, 2007, as Owner and Lessor

and

WHITEHALL MANOR, INC.,  
a Pennsylvania corporation, as Lessee



**SECOND AMENDMENT TO LEASE AGREEMENT**

This SECOND AMENDMENT TO LEASE AGREEMENT, (the "Second Amendment"), is made and dated as of January 1, 2012 by and between **WHITEHALL FIDUCIARY, LLC, AS TRUSTEE OF WHITEHALL TRUST u/t/a dated August 1, 2007**, a trust organized and existing under the laws of the Commonwealth of Pennsylvania (the "Owner") having its principal office at 1177 Sixth Street, Whitehall, PA 18052;

AND

**WHITEHALL MANOR, INC.**, (the "Lessee"), a Pennsylvania corporation, having its principal office at 1177 Sixth Street, Whitehall, PA., 18052.

WHEREAS, the Owner and Lessee desire to amend the Lease dated on or about August, 2008 between Owner and Lessee (the "Original Lease") and the First Amendment to Lease Agreement dated as of January 1, 2010, together with this Second Amendment to Lease Agreement being herein called the "Lease", for those certain premises known as Unit 1 of Whitehall Manor Condominium, (the "Leased Premises") on the terms and conditions set forth herein; and

WHEREAS, Owner is refinancing the Mortgage Loan relating to the Premises, and the conditions for such loan require amendment of the Original Lease as amended by the First Amendment and Lessee is agreeable to such modifications; and

WHEREAS, Owner and Lessee agree that the terms of this Addendum shall be effective as of the date shown above.

NOW THEREFORE, in consideration of the foregoing Recitals and other good and valuable consideration, and intending to be legally bound, the Owner and Lessee hereby agree as follows:

1. Section 2.02 of the Lease is amended and restated as follows:

2.02 Term of Lease. The Lease Term for the Leased Premises commenced on August 19, 2008 and shall expire on August 31, 2018, or such earlier date as may be hereinafter provided. In addition, the Lessee shall have the option to extend the Lease Term for three (3) successive periods of five (5) years each upon the terms and conditions contained herein, upon written notice to the Owner given not later than one hundred eighty (180) days prior to the expiration of the initial Lease Term or extended Lease Term, as the case may be.

2. Section 4.02(A) of the Lease is amended and restated as follows:

"A. The Lessee agrees to pay to the Owner during the Lease Term, as Rent for the Leased Premises, the sum of One Million Six Hundred Sixty Eight Thousand (\$1,668,000.00) per year. Payments of Rent shall be due (a) in advance in equal monthly installments of Eighty Thousand Dollars (\$80,000.00) on the first day of each month, each due without setoff and without prior notice or demand, and (b) the remainder of Seven Hundred Eight Thousand (\$708,000.00) Dollars to be paid on or before December 31 of the then current calendar year, in one or more partial installments, as Lessee shall elect, provided however that the full Base Rental of \$1,668,000.00 is paid in full by December 31 of each year.

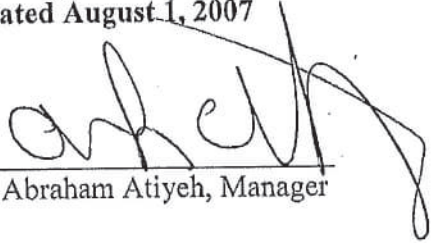
"A.1 Additionally, all other items set forth as Rent or Additional Rent under the Lease and all obligations of the Lessee are herein considered to be Rent and those additional items are due as set forth in the Lease. If the Lessee fails to make any monthly payment of Rent within fifteen (15) days after the due date thereof, the Owner may, at its option, impose a late charge upon the Lessee in an amount not to exceed ten percent (10%) of the Rent so delinquent for each calendar month of delinquency."

3. Owner and Lessee agree that the terms of the HUD Addendum to Operating Lease, which is attached hereto as Exhibit "A" and incorporated herein by reference, are a part of this Lease and that Owner and Lessee shall be bound thereby.
4. Other than as set forth in Sections 1 and 2 of this Second Amendment to Lease Agreement, there are no other changes to the Original Lease or the First Amendment to Lease.
5. Lessee hereby acknowledges the validity of the Lease and confirms that there are no defenses, setoffs or other claims which it has or could assert under the Lease.
6. Lessee hereby ratifies and reaffirms the rights to confess judgment against Lessee as set forth in the Original Lease as if fully set forth herein at length and ratified and affirmed herein at length.

[Signature page follows]

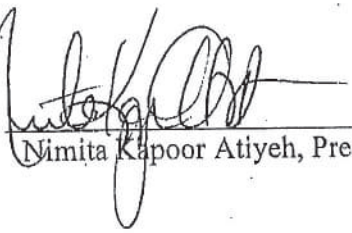
IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have executed this Second Amendment to Lease Agreement effective as of January 1, 2012.

**WHITEHALL FIDUCIARY, LLC,**  
**AS TRUSTEE OF WHITEHALL TRUST**  
u/t/a dated August 1, 2007

By: 

Abraham Atiyeh, Manager

**WHITEHALL MANOR, INC., a**  
Pennsylvania corporation

By: 

Nimita Kapoor Atiyeh, President



## EXHIBIT A

### HUD ADDENDUM TO OPERATING LEASE

This Addendum is attached to and made a part of that certain Operating Lease Agreement dated on or about August, 2008, as amended by the First Amendment to Lease dated as of January 1, 2010, and the Second Amendment to Lease dated as of January 1, 2012, all entered into by Owner/Lessor and Lessee (the "Operating Lease"), and amends and/or supplements the Operating Lease. In the event of a conflict between the terms of this Addendum and the Operating Lease, the terms of this Addendum shall govern and control. Capitalized terms used herein but not defined shall have the meanings set forth in the Operating Lease.

### DEFINITIONS

The following terms shall have the meanings specified below:

"FF&E" means furnishings, fixtures and equipment of all kinds used in connection with the Leased Premises, including additions, substitutions and replacements thereto.

"FHA" means the Federal Housing Administration.

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

"HUD" means the U.S. Department of Housing and Urban Development.

"HUD Program Requirements" means all applicable statutes and regulations, including all amendments to such statutes and regulations, as they become effective, and all applicable requirements in HUD handbooks, notices and mortgagee letters that apply to the Leased Premises, including all updates and changes to such handbooks, notices and mortgagee letters that apply to the Leased Premise, except that changes subject to notice and comment rulemaking shall become effective upon completion of the rulemaking process.

"Leased Premises" means all the land located at, and known and identified as Unit 1 of Whitehall Manor Condominium, said premises being situated in the Township of Whitehall, Lehigh County, Pennsylvania, and more particularly described in Exhibit "B" attached to this Second Amendment to Lease Agreement dated as of January 1, 2012, together with any additions thereto and substitutions thereof, and any buildings, improvements, betterments, all FF&E and other property, real or personal, now existing or at any time acquired, constructed or located thereon, and all easements and other rights appurtenant thereto.

"Lender" means M&T Realty Capital Corporation, and any future holder of the Mortgage.

"Lessee" means Whitehall Manor, Inc.

"Lessee Regulatory Agreement" means the Regulatory Agreement-Nursing Homes entered into by and between the Lessee and FHA with respect to the Leased Premises and any riders, amendments and supplements thereto.



"Lessee Security Agreement" means that certain Lessee Security Agreement between Lessee and Lender with respect to the Leased Premises and any amendments or supplements thereto.

"Material Term" is a term in a loan or security agreement that:

- 1) extends the maturity date of the loan;
- 2) adds guarantors to the loan;
- 3) releases guarantors from the loan;
- 4) adds borrowers to the loan;
- 5) adds an interest reserve to the loan;
- 6) amends the interest rate payable on the outstanding principal balance of the loan;
- 7) increases or decreases the principal amount of the loan;
- 8) adds collateral as additional security for the loan; and/or
- 9) amends or expands the type of obligations secured by the loan.

"Mortgage" means that certain mortgage or deed of trust from the Owner/Lessor in favor of the Lender with respect to the Leased Premises securing the Mortgage Loan, and any amendments and supplements thereto.

"Mortgage Loan" means the FHA-insured mortgage loan in the original maximum principal amount of up to \$15,788,700.00 made by Lender to the Owner/Lessor, secured, in whole or in part, by the Leased Premises, as the same may be amended, increased or decreased.

"Mortgage Loan Documents" means the Owner/Lessor Regulatory Agreement, the Mortgage, the Promissory Note evidencing the Mortgage Loan executed by the Owner/Lessor in favor of the Lender, the Security Agreement, the Lessee Regulatory Agreement, the Lessee Security Agreement, and any and all other documents required by HUD and/or the Lender in connection with the Mortgage Loan.

"Owner/Lessor" means Whitehall Fiduciary LLC, Trustee of the Whitehall Trust.

"Owner/Lessor Regulatory Agreement" means the Regulatory Agreement entered into by and between the Owner/Lessor and HUD with respect to the Leased Premises and any riders, amendments and supplements thereto.

"Security Agreement" means that certain Security Agreement between Owner/Lessor and Lender with respect to the Leased Premises and any amendments and supplements thereto.

#### HUD REQUIREMENTS

1. Precedence of Addendum. For so long as HUD is the holder or insurer of any indebtedness secured by the Leased Premises, the provisions of this Addendum shall apply to this Lease. In the event of any conflict between any provision of this Addendum and any other provision of this Lease, the provision of this Addendum shall be controlling. This Addendum shall not be amended without the prior written consent of HUD and the Lender.

#### 2. Compliance With HUD Program Requirements and Terms of Mortgage Loan Documents.

(a) The Lessee agrees to comply with all applicable HUD Program Requirements and the Mortgage Loan Documents. The Lessee further agrees that this lease will be part of the collateral pledged by Owner/Lessor to Lender & HUD. The Lessee agrees that it will not take



any action which would violate any applicable HUD Program Requirements or any of the Mortgage Loan Documents.

(b) In the event of any conflict between the terms and provisions of this Lease Agreement and any applicable HUD Program Requirements or the Mortgage Loan Documents, the HUD Program Requirements and Mortgage Loan Documents shall control in all respects. Owner/Lessor and Lessee agree that no provision of this Lease shall modify any obligation of Owner/Lessor or Lessee under the Mortgage Loan Documents. Owner/Lessor and Lessee acknowledge that HUD's acceptance of this Lease in connection with the closing of the Mortgage Loan shall in no way constitute HUD's consent to arrangements which are inconsistent with HUD Program Requirements. This Lease is subject to all HUD Program Requirements.

3. Subordination.

(a) This Lease is and shall be subject and subordinate to the Mortgage and other Mortgage Loan Documents; to all renewals, modifications, consolidations, replacements and extensions thereof; to all substitutions thereof; and to all future mortgages upon the Leased Premises and/or other security interests in or to the Leased Premises and any other items which are herein leased to Lessee or which, pursuant to the terms hereof, become a part of the Leased Premises or are otherwise deemed to become the property of Owner/Lessor or to remain upon the Leased Premises at the end of the term; and to each advance made or hereafter to be made under any of the foregoing. This Section shall be self-operative and no further instrument of subordination shall be required. Without limiting the foregoing, the Lessee agrees to execute and deliver promptly any and all certificates, agreements and other instruments that the Owner/Lessor, Lender or HUD may reasonably request in order to confirm such subordination. Unless the Lender shall have agreed otherwise, if the Lender or another person or entity shall succeed to the interest of the Owner/Lessor by reason of foreclosure or other proceedings brought by Lender in lieu of or pursuant to a foreclosure, or by any other manner (Lender or such other person or entity being called a "Successor"), then this Lease shall terminate, or, at the option of the Successor, this Lease shall nevertheless continue in full force and effect, in which case the Lessee shall and does hereby agree to attorn to the Successor and to recognize the Successor as its landlord under the terms of this Lease.

(b) Agreements for provision of services to the Leased Premises or the granting of easements, rights of way or other allowances of use or placement of CATV, utilities or other items are, and shall always be, subordinate to (i) the right of Owner/Lessor, and (ii) the Mortgage and other Mortgage Loan Documents and all other mortgages and security interests now or hereafter encumbering the Leased Premises and/or the property of which it forms a part. Lessee must obtain HUD written approval prior to entering into any telecommunications services agreement and/or granting of any easements.

4. FF&E. Lessee agrees that (a) except leases of FF&E entered into in the ordinary course of business with third-party lessees and property of tenants and residents of the Leased Premises, all FF&E located on the Leased Premises at the date of the Lease is and shall be the property of the Owner/Lessor, and (b) any FF&E acquired by Owner/Lessor or Lessee during the term of this Lease remaining on the Leased Premises at the termination of the Lease shall be and/or become the property of the Owner/Lessor. Lessee agrees, during the term of the Lease,



not to remove any FF&E from the Leased Premises, except to replace such FF&E with other similar items of equal or greater quality and value.

5. Payments. Owner/Lessor and Lessee each acknowledges and agrees that the rent and other amounts payable by Lessee under this Lease (including rent, additional rent and all other sums payable under this Lease) are sufficient to properly maintain the Leased Premises, and to enable the Owner/Lessor to meet its debt service obligations and related expenses in connection with the Mortgage Loan and the Leased Premises.

(a) Without limiting the generality of the foregoing, the Lessee agrees to pay, as additional rent, when due all premiums for (i) FHA mortgage insurance, (ii) liability insurance and full coverage property insurance on the Leased Premises, and (iii) all other insurance coverage required under the Mortgage Loan Documents and/or applicable HUD Program Requirements.

(b) Unless the Lender and Owner/Lessor agree otherwise, the Lessee shall be responsible for funding all escrows for taxes, reserves for replacements, mortgage insurance premiums and/or other insurance premiums as may be required by the Lender and/or HUD.

6. Lessee Regulatory Agreement and Lessee Security Agreement. At the time of the closing of the Mortgage Loan, the Lessee agrees to execute the Lessee Regulatory Agreement and the Lessee Security Agreement, and other applicable documents evidencing the Lender's security interest in the collateral of the Lessee. The Lessee agrees to comply with its obligations under the Lessee Regulatory Agreement and the Lessee Security Agreement, and agrees that a default by the Lessee under the Lessee Regulatory Agreement or Lessee Security Agreement shall be deemed to be a default under this Lease.

7. Management Contract Requirements. The Lessee agrees not to enter into any management contract involving the Leased Premises unless such management contract complies with applicable HUD Program Requirements and contains provisions that, in the event of default under the Owner/Lessor Regulatory Agreement or the Lessee Regulatory Agreement, the management agreement shall be subject to termination upon not more than thirty (30) days notice without penalty upon written request of HUD. Upon such HUD termination request, the Lessee shall immediately arrange to terminate the contract within a period of not more than thirty (30) days and shall make arrangements satisfactory to HUD for continuing proper management of the Leased Premises.

8. Licenses; Bed Authority. Lessee shall ensure that the Leased Premises meets all state licensure requirements and standards at all times. Owner/Lessor and Lessee agree not to undertake or acquiesce to any modification to any license with respect to the Leased Premises or to any "bed authority" related thereto without the prior written approval of HUD.

9. Governmental Receivables. Lessee shall be responsible for obtaining and maintaining all necessary provider agreements with Medicaid, Medicare and other governmental third party payors. Lessee agrees to furnish HUD and Lender with copies of all such provider agreements and any and all amendments thereto promptly after execution thereof.



10. Financial Statements and Reporting Requirements. Lessee agrees to furnish HUD and Lender copies of its annual financial statements with respect to the Leased Premises, prepared in compliance with the requirements of the Lessee Regulatory Agreement, within ninety (90) days after the close of Lessee's fiscal year or such longer period as may be permitted by HUD. Lessee agrees to submit to HUD and Lender copies of all other financial reports as specified in the Lessee Regulatory Agreement.

11. Inspections. The Lessee agrees that upon reasonable request, the Lender, HUD and their respective designees and representatives may at all reasonable times, upon reasonable notice, subject to the rights of patients, residents and tenants, examine and inspect the Leased Premises. The Lessee will, on the request of the Lender and/or HUD, promptly make available for inspection by the Lender and/or HUD, and their designees and representatives, copies of all of the Lessee's correspondence, books, records and other documentation relating to the Leased Premises, excepting communications between the Lessee and its attorneys. The Lessee agrees to maintain accounting records for the Leased Premises in accordance with its customary practice and the Lessee Regulatory Agreement, separate from any general accounting records which the Lessee may maintain in connection with the Lessee's other activities. The Lessee agrees that the Lender and/or HUD, and their designees and representatives, shall at any reasonable time, have access to and the right to examine all accounting records of the Lessee which relate directly or indirectly to the Leased Premises. The obligations of Lessee under this Section shall be limited to the extent necessary in order for Lessee to comply with applicable laws regarding the confidentiality of resident/patient medical records and information.

12. Insurance; Casualty; Condemnation. The Lessee agrees to procure and maintain, or cause to be procured and maintained, the insurance coverage required pursuant to the Mortgage Loan Documents and/or applicable HUD Requirements, including HUD Notices H 04-01 and H 04-15. Insurance proceeds and the proceeds of any condemnation award or other compensation paid by reason of a conveyance in lieu of the exercise of such power, with respect to the Leased Premises or any portion thereof shall be applied in accordance with the terms of the Mortgage Loan Documents and applicable HUD Program Requirements. The decision to repair, reconstruct, restore or replace the Leased Premises following a casualty or condemnation shall be subject to the terms of the Mortgage Loan Documents and applicable HUD Requirements.

13. Assignment of Operating Lease and Subletting of the Leased Premises. This Lease shall not be assigned or subleased by Lessee, in whole or in part (including any transfer of title or right to possession and control of the Leased Premises, or of any right to collect fees or rents), without the prior written approval of HUD. The prior written approval of HUD shall be required for (a) any change in or transfer of the management, operation, or control of the project or (b) any change in the ownership of the lessee that requires HUD approval under the Department's previous participation approval requirements. Owner/Lessor and Lessee acknowledge that any proposed assignee will be required to execute a Lessee Regulatory Agreement and a Lessee Security Agreement, each in form and substance satisfactory to HUD, as a prerequisite to any such approval. Any assignment or subletting of the Leased Premises made without such prior approval shall be null and void. This restriction on subletting does not apply to Lessee's leasing of individual units or beds to patient / residents.



14. Accounts Receivable (AR) Financing. The Lessee shall not pledge its accounts receivable or receipts to an accounts receivable lender for any loan without the prior written approval of the Lender and HUD. In the event that the Lender and HUD grant such approval; (i) the holder(s) of such lien shall enter into an Intercreditor and a Rider to Intercreditor Agreement with the AR Lender and Lender on such terms and conditions as may be required by HUD; and (ii) Lessee shall agree to comply with the requirements imposed by the Lender and HUD in connection therewith. Until such approved loan is paid in full, the written approval of HUD is required for any proposed modifications, extensions, renewals or amendments to a Material Term of the AR loan or the security agreement, prior to the effective date of such amendments.

15. Termination of Lease. The Lease shall not be terminated prior to its expiration date without the prior written approval of HUD. If HUD becomes Mortgagee, Mortgagee in Possession, or Successor, HUD can terminate the Lease (A) for any violation of the Lease that is not cured within any applicable notice and cure period given in the Lease, (B) for any violation of the Lessee Regulatory Agreement or other HUD Program Requirements or Health Care Requirements that is not cured within thirty (30) days after receipt by Lessee of written notice of such violation or (C) if HUD, as a result of the occurrence of either of the events described in the foregoing items (A) or (B), is required to advance funds for the operation of the facility located on the Leased Premises.

16. Master Lease. Projects proposed for FHA financing under the Section 232 program that are affiliated by common ownership among Mortgagors and/or Lessee/Operator entities must receive written approval from HUD, and may be required to use a Master Lease between the Mortgagor/Landlord and the Master Tenant/Subtenant/Operator. The Master Lease and the HUD Master Lease Subordination Agreement or Master Lease Subordination Non Disturbance Agreement shall be approved by HUD and the Mortgagee. The Master Lease shall only contain Mortgagors and Operators of FHA-insured projects.

17. Notwithstanding any other terms contained in the Lease, in the event of an assignment of the Lease to HUD or FHA, neither HUD nor FHA shall have any indemnification obligations under the Lease. In addition, any payment obligations of HUD or FHA pursuant to the Lease shall be limited to actual amounts received by HUD or FHA, and otherwise not prohibited by applicable law or regulation, including without limitation, the Anti Deficiency Act, 31 U.S.C. § 1341 et seq.

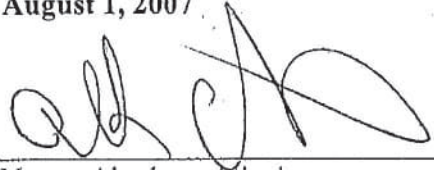
[signature page follows...]

SIGNATURE PAGE  
FOR  
HUD ADDENDUM TO OPERATING LEASE

In witness whereof, the undersigned has executed and delivered this Addendum as of the date first above set forth.

OWNER/LESSOR:

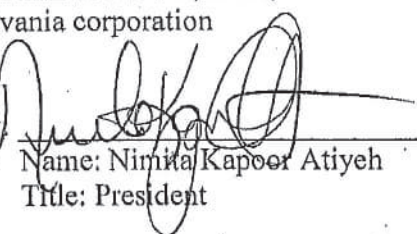
WHITEHALL FIDUCIARY, LLC,  
AS TRUSTEE OF WHITEHALL TRUST  
u/t/a dated August 1, 2007

By: 

Name: Abraham Atiyeh  
Title: Manager

LESSEE:

WHITEHALL MANOR, INC.,  
a Pennsylvania corporation

By: 

Name: Nimita Kapoor Atiyeh  
Title: President

**EXHIBIT B**

**LEGAL DESCRIPTION**

UNIT 1 OF WHITEHALL MANOR CONDOMINIUM, according to the Declaration of Condominium of Whitehall Manor Condominium dated August 13, 2008 recorded in the Office of the Recorder of Deeds of Lehigh County, Pennsylvania as its Document ID # 7494518.

PARCEL ID NO. 5498 9378 8632-1

Together with an undivided interest of 50% of, in and to the Common Elements of the said WHITEHALL MANOR CONDOMINIUM.



**THIRD AMENDMENT TO LEASE AND**  
**MEMORANDUM OF LEASE EXTENSION**

This Third Amendment to Lease and Memorandum of Lease Extension is effective as of August 31, 2018 by and between **WHITEHALL TRUST**, herein called Landlord;

A N D

**WHITEHALL MANOR, INC.**, herein called Tenant.

*Witnesseth:*

*Whereas*, Landlord and Tenant are parties to the Lease dated August, 2008, which was amended by First Amendment to Lease, made and dated as of January 1, 2012, and Second Amendment to Lease, made and dated as of January 1, 2012, (collectively and as amended herein called the "Lease"), by which Landlord has leased to Tenant the real property and improvements thereon situate on Unit 1 of Whitehall Manor Condominium; and

*Whereas*, Landlord and Tenant have agreed that Tenant has exercised its option to extend the Term of the Lease for a period of Five (5) Years as allowed by the Lease; and

*Whereas*, the parties desire that this Third Amendment to Lease and Memorandum of Lease Extension be executed to memorialize the election by Tenant of its exercise of the first of the three (3) extension options granted to Tenant under the Lease.

NOW, THEREFORE, the parties hereto, intending to be legally bound, and for other good and valuable consideration, do hereby agree as follows:

1. The above recitals are incorporated herein, and form a part hereof.
2. Tenant has exercised the privilege to extend the Term for 5 years, such that the original termination date of August 31, 2018 is now agreed to be August 31, 2023.
3. All other terms and conditions of the Lease (as amended through and including the Second Amendment), are ratified and affirmed.
4. Tenant expressly ratifies and affirms the rights granted to Landlord to confess judgment against Tenant as if the same were fully set forth herein at length. Tenant has knowingly and voluntarily granted the warrants of attorney and waivers of rights and authorization for confession of judgment.

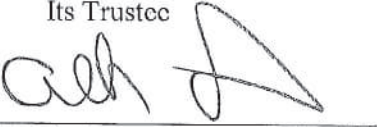


5. Tenant certifies that it has no claims against Landlord, and that Tenant has no knowledge of any default by Landlord under the Lease or other claim which it does, or could, have against Landlord.

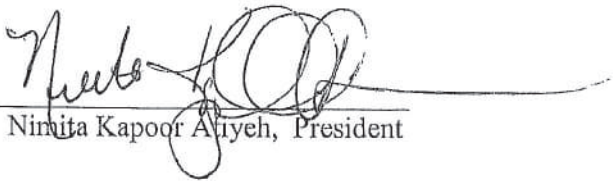
IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have executed this Third Amendment to Lease and Memorandum of Lease Extension, intending to be legally bound effective as of August 31, 2018.

**WHITEHALL TRUST ("Landlord")**

By: Whitehall Fiduciary LLC,  
Its Trustee

By:   
Abraham Atiyeh,  
Manager of Trustee

**WHITEHALL MANOR, INC. ("Tenant")**

By:   
Nimita Kapoor Atiyeh, President

**FOURTH AMENDMENT TO LEASE AND  
MEMORANDUM OF LEASE EXTENSION**

This Fourth Amendment to Lease and Memorandum of Lease Extension is effective as of September 21, 2023 by and between **WHITEHALL TRUST**, herein called Landlord;

AND

**WHITEHALL MANOR, INC.**, herein called Tenant.

*Witnesseth:*

*Whereas*, Landlord and Tenant are parties to the Lease dated August, 2008, which was amended by First Amendment to Lease, made and dated as of January 1, 2012, and Second Amendment to Lease, made and dated as of January 1, 2012, and a Third Amendment made August 31, 2018, (collectively and as amended herein called the "Lease"), by which Landlord has leased to Tenant the real property and improvements thereon situate on Unit 1 of Whitehall Manor Condominium; and

*Whereas*, Tenant has made improvements to the Premises; and

*Whereas*, Landlord and Tenant have agreed that Tenant has exercised its option to extend the Term of the Lease for a period of Five (5) Years as allowed by the Lease, and that the terms of such lease extension were orally modified as of September 21, 2023 as more fully set forth herein; and

*Whereas*, the parties desire that this Fourth Amendment to Lease and Memorandum of Lease Extension be executed to memorialize the election by Tenant of its exercise of the second of the three (3) extension options granted to Tenant under the Lease, and to memorialize the modification of terms of the Lease as set forth herein.

NOW, THEREFORE, the parties hereto, intending to be legally bound, and for other good and valuable consideration, do hereby agree as follows:

1. The above recitals are incorporated herein, and form a part hereof.
2. Tenant has exercised the privilege to extend the Term for 5 years, such that the modified termination date of August 31, 2023, and to allow for the calculation on a calendar year basis, is now agreed to be December 31, 2028.
3. Tenant has made repairs and also arranged for other work to be performed to maintain the condition of the Premises.

4. Landlord and Tenant also have agreed to waive all past due rental and any obligations of Tenant or Landlord not performed by one or both through September 21, 2023, and hereby waive and release all unpaid sums and all performance not fully and timely provided.

- a. Tenant waives any rights to refund or for calculation of overpayment previously made.
- b. Tenant waives any right to payment for improvements made and any repairs or remodeling performed, other than any insurance coverage payments or proceeds as may be available.
- c. This Fourth Amendment is a full waiver and release of all defaults, deficient performance and any other obligation of Landlord or of Tenant which has arisen or could have been asserted at any time through and including the date hereof.

5. Landlord and Tenant also have agreed that Tenant shall have two (2) additional extension periods of five (5) years, each, and that any renewal may be exercised by notice from Tenant to Landlord given not less than 90 days prior to the end of the then current termination date of the then current lease extension.

6. Landlord and Tenant have agreed to the following modifications of the Lease:

- a. Base Rental
  - i. For the period through December 31, 2024, no Base Rental shall be due.
  - ii. For the remainder of the current renewal Term (i.e. calendar years 2025, 2026, 2027 and 2028) Base Rent shall be the greater of (i) One Hundred Twenty Thousand (\$120,000.00) Dollars or (ii) Twenty-five (25%) percent of the net operating profit of Tenant from the operation of a personal care home at the Premises [reduced by all capital expenditures and by payment for any real property obligation which Tenant may elect to pay, and by uncollected accounts receivable or bad debt] for each calendar year of the Term, limited to the sum of Three Hundred Thousand (\$300,000.00) per annum, to be paid on April 30 of the year following the calendar year for which the calculation shall be made; and
  - iii. Base Rental for each calendar year of the Renewal Terms (i.e. Calendar years starting after December 31, 2028 shall be the greater of (i) Two Hundred Forty Thousand (\$240,000.00)



Dollars or (ii) Twenty-five (25%) percent of the net operating profit of Tenant from the operation of a personal care home at the Premises [reduced by all capital expenditures and by payment for any real property obligation which Tenant may elect to pay and by uncollected accounts receivable or bad debt] during a calendar year, limited to the sum of Five Hundred Thousand (\$500,000.00) per annum. Base Rental shall be due on April 30 of the year following the calendar year for which the calculation shall be made; and

- b. Tenant shall pay all charges for electric, water and sewer services provided to the Premises prior to the same being made a lien upon the Premises; and
- c. Tenant shall pay the premiums for one or more insurance policies to provide (i) property casualty insurance for the Premises and (ii) general liability insurance for the Premises; and
- d. Repairs to the Premises as are required to maintain the Premises in the condition required for lawful operation of a personal care home.

7. The obligations of Landlord and/or Tenant under any Regulatory Agreement and all agreements, security interests and other rights, privileges, obligations or performance required under any Regulatory Agreement or other agreement made with the United States Department of Housing and Urban Development ("USHUD") or anyone required by, for or concerning USHUD or arising under any obligation with, concerning or associated with USHUD (collectively "HUD Obligations"), are hereby terminated and void as of September 20, 2023. Any past violations or continuing violation of the terms or conditions of any HUD Obligations are hereby waived and released.

8. All other terms and conditions of the Lease (as amended through and including the Third Amendment and the oral amendment memorialized hercin), are ratified and affirmed.

9. This Agreement is effective as of September 21, 2023 notwithstanding a later date of execution.



IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have executed this Fourth Amendment to Lease and Memorandum of Lease Extension, intending to be legally bound effective as of September 21, 2023.

**WHITEHALL TRUST ("Landlord")**

By: Whitehall Fiduciary LLC, its Trustee

By:   
Abraham Atiyeh, its Manager

**WHITEHALL MANOR, INC.  
("Tenant")**

By:   
Nimita Kapoor Atiyeh, President