



200801240085

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1:43PM

Document Title: AGREEMENT

Reference Number: 200203130113

Grantor(s): ☐ additional grantor names on page ____

1. MT. VERNON MEDICAL INVESTORS LLC
- 2.

Grantee(s): ☐ additional grantee names on page ____

1. MT VERNON OPERATIONS LLC
- 2.

Abbreviated legal description: ☐ full legal on page(s) ____

Assessor Parcel / Tax ID Number: ☐ additional tax parcel number(s) on page ____

340420-4-004-0000

I, DEBRA A. NELSON, am hereby requesting an emergency non-standard recording for an additional fee provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document. Recording fee is \$42.00 for the first page, \$1.00 per page thereafter per document. In addition to the standard fee, an emergency recording fee of \$50.00 is assessed. This statement is to become part of the recorded document.

Signed

Dated

JANUARY 24 2008

RECORD AND RETURN TO:

UCC Direct Services
187 WOLF RD, SUITE 101
ALBANY, NY 12205

MMW

13235520-1

RECORD AND RETURN TO:

Regulatory Agreement Nursing Homes

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

Project Number	127-22014	Mortgagee	Capital Funding Group, Inc.
Amount of Mortgage Note	\$6,865,300	Date	2 / 1 / 2002
Mortgage Recorder (State)	Washington	County	Skagit
		Date	3 / 13 / 2002
Instrument No. 200203130113		Page	

This Agreement entered into this as of the 1st day of January, 2006, between **Mt. Vernon Operations, LLC, a Tennessee limited liability company**, whose address is **3570 Keith Street, Cleveland, Tennessee 37312** (hereinafter referred to as Lessee) and the undersigned Federal Housing Commissioner, (hereinafter called Commissioner).

In consideration of the consent of the Commissioner to the leasing of the aforesaid project by **Mt. Vernon Medical Investors, LLC, a Tennessee limited liability company**, Mortgagor, and in order to comply with the requirements of the National Housing Act and the Regulations adopted by the Commissioner pursuant thereto, Lessee agrees for themselves itself, their successors, heirs and assigns, that in connection with the mortgaged property and the project operated thereon and so long as the Contract of Mortgage Insurance continues in effect, and during such further period of time as the Commissioner shall be the owner, holder or reinsurer of the mortgage, or during any time the Commissioner is obligated to insure a mortgage on the mortgaged property:

- (1) The lease, a copy of which is attached hereto as Exhibit B, shall be subject and subordinate to the mortgage securing the note or other obligation endorsed for insurance by the commissioner;
- (2) Lessee shall make payments under lease when due;
- (3) Payments by the lessee to the lessor shall be sufficient to pay all mortgage payments including payments to reserves for taxes, insurance, etc., payments to the Reserve for Replacements, and to take care of necessary maintenance. If at the end of any calendar year, or any fiscal year if the project operates on the basis of a fiscal year, payments under the lease have not been sufficient to take care of the above items, the lessor and lessee upon request in writing from the Commissioner shall renegotiate the amounts due under the lease so that such amounts shall be sufficient to take care of such items; the Commissioner shall be furnished by the lessee, within thirty days after being called upon to do so, with a financial report in form satisfactory to the Commissioner covering the operations of the mortgaged property and of the project; *
- (4) The lessee shall not sublease the project or any part thereof without the consent of the Commissioner;
- (5) The lessee shall at all times maintain in full force and effect all licenses from the State or other licensing authority to operate the project as nursing home, but the owner shall not be required to maintain such licenses;
- (6) Lessee shall maintain in good repair and condition any parts of the project for the maintenance of which lessee is responsible under the terms of the lease;
- (7) Lessee shall not remodel, reconstruct, add to, or demolish any part of the mortgaged property or subtract from any real or personal property of the project;
- (8) Lessee shall not use the project for any purpose except the operation of a nursing home;
- (9) If a default is declared by the Commissioner under the provisions of Paragraph 10 of the Regulatory Agreement entered into by the lessor-mortgagor and the Commissioner dated as of February 1, 2002, a copy of notice of default having been given to the lessee, the lessee will thereafter make all future payments under the lease to the Commissioner;
- (10) The lease may be cancelled upon thirty days written notice by the Commissioner given to the lessor and the lessee for a violation of any of the above provisions unless the violation is corrected to the satisfaction of the Commissioner within said thirty day period.

- (11) The Commissioner must approve any change in or transfer of ownership of the lessee entity, and any change in or transfer of the management operation, or control of the project. **
- (12) The lessee shall not reduce or expand, allow to be reduced or expanded, or cause the expansion or reduction of the bed capacity of the project without the consent of the Commissioner. Any change in the bed capacity shall violate this Regulatory Agreement. ***
- (13) The lessee shall not enter into any management contract involving the project, unless such shall contain a provision that, in the event of default under the Regulatory Agreement as recited in paragraph 9 (above) of this Agreement, the management agreement shall be subject to termination without penalty upon written request of the Commissioner. Upon such 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 the Commissioner for continuing proper management of the project.
- (14) The mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and subject to examination and inspection at any reasonable time by the Commissioner or his duly authorized agents. Lessee shall keep copies of all written contracts or other instruments which affect the mortgaged property, all or any of which may be subject to inspection and examination by the Commissioner or his/her duly authorized agents.
- (15) There shall be full compliance with the provisions of (1) Any State or local laws prohibiting discrimination in housing on the basis of race, color, creed or national origin; and (2) with the Regulations of the Federal Housing Administration providing for non-discrimination and equal opportunity in housing. It is understood and agreed that failure or refusal to comply with any such provisions shall be a proper basis for the Commissioners to take any corrective action he may deem necessary including, but not limited to, the refusal to consent to a further renewal of the lease between the mortgagor-lessor and the lessee, the rejection of applications for FHA mortgage insurance and the refusal to enter into future contracts of any kind with which the lessee is identified; and further, if the lessee is a corporation or any other type of business association or organization which may fail or refuse to comply with the aforementioned provisions, the Commissioner shall have a similar right of corrective action (1) with respect to any individuals who are officers, directors, trustees, managers, partners, associates or principal stockholders of the lessee; and (2) with respect to any other type of business association, or organization with which the officers, directors, trustees, managers,

partners, associates or principal stockholders of the lessee may be identified.

THIS AGREEMENT SHALL SUPERSEDE AND REPLACE THAT CERTAIN REGULATORY AGREEMENT NURSING HOMES RECORDED ON [DATE OF RECORDING] IN [INSERT NAME OF RECORDING OFFICE AND BOOK AND PAGE OR INSTRUMENT NUMBER]

See Exhibit A for legal description of the Property.

[Insert each of the following asterisked items, or similar items, only if in the original Regulatory Agreement. All such additions to the form should be exactly as in the original Regulatory Agreement.]

*Lessee must submit annual financial statements, Facility Operating Statements (Revenue & Expenses) and Medicare Cost Reports and Medicaid Cost Reports (if applicable) to the Commissioner or its designee within sixty days of the close of the Project's fiscal year.

**All future Lessees must execute a Regulatory Agreement

*** Any modifications (additions, deletions or major improvements) in the bed authority of this nursing home insured under Section 232 must be approved by HUD to protect FHA's security in the project

SEE SIGNATURE PAGE ATTACHED HERETO AND MADE A PART HEREOF.

Instructions to Closing Attorney
Regulatory Agreement – form HUD-92466-NHL
Nursing Homes – Section 232

This Regulatory Agreement must be executed by the Lessee and the Commissioner and recorded before the Note is endorsed for insurance.

Note that there is space left on the back of the printed form for proper execution of the instrument.



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The execution by the Commissioner and by the Lessee must be in accordance with the requirements of the jurisdiction where the project is located and must permit the instrument to be recorded.

The Agreement is to be executed in the name of the Commissioner. It will be signed for the Commissioner by the Field Office Manager or authorized agent who endorses the Note for insurance.

Recording must be at the expense of the mortgagor-owner or lessee.

Sufficient space is left on the back for the insertion of any necessary additional provisions. Any changes in the Agreement and any substantial additions shall receive the prior approval of the Assistant Secretary for Housing.

A copy of the Commissioner-approved lease shall be attached to this Regulatory Agreement. If the lease has already been filed or recorded, re-recording will be unnecessary, and a copy of the recorded lease (with recording data) will be attached following recording of the form HUD-82466-NHL.

The Agreement must be executed by the Lessee prior to execution by the Commissioner.



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IN WITNESS WHEREOF, the Lessee and Secretary have executed this Regulatory Agreement as of the day and year first above written.

WITNESS:

MT. VERNON OPERATIONS, LLC,
a Tennessee limited liability company

By: **Developers Investment Company, Inc.,**
Corporate Manager

By: Cindy S. Cross
Cindy S. Cross, Vice President

David M. Mumford
David L. Cornelius

STATE OF TENNESSEE:
COUNTY OF BRADLEY:

On this 1st day of January, 2006, before me appeared Cindy S. Cross, to me personally known, who, being by me duly sworn, did say that he/she is the Vice President of Developers Investment Company, Inc., which is the Corporate Manager of **MT. VERNON OPERATIONS, LLC**, a limited liability company organized under the laws of the State of Tennessee, and he/she did sign and acknowledge the foregoing instrument in the name and on behalf of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

Janine E. Sipe
NOTARY PUBLIC
My Commission Expires: 6/10/09



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IN WITNESS WHEREOF, the Lessee and Secretary have executed this Regulatory Agreement as of the day and year first above written.

WITNESS:

Secretary of Housing and Urban Development

By: Mark A. Flynn

Name: Mark A. Flynn

Title: Director, Seattle MF Program Center

STATE OF Washington
COUNTY OF King

On this 6th day of December, 2007, before me appeared Mark A. Flynn, to me personally known, who, being by me duly sworn, did say that he/she is a duly appointed HUD/FHA official and the person who executed the foregoing instrument and acknowledged the same to be his/her free and voluntary act and deed as a duly appointed HUD/FHA official for and on behalf of the **Secretary of Housing and Urban Development**.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

Patricia R. West

NOTARY PUBLIC

My Commission Expires: 11/19/10



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THIS INSTRUMENT WAS PREPARED BY
AND AFTER RECORDING MAIL TO:

Stan Hildebrand, Esquire
c/o Life Care Centers of America, Inc.
3570 Keith Street, NW
Cleveland, TN. 37312



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EXHIBIT A

LEGAL DESCRIPTION

TRACT 1 (LC058):

As to Parcel 1:

Lot 3 of City of Mount Vernon Short Plat No. MV-7-95, as approved January 24, 1996, and recorded January 26, 1996, in Volume 12 of Short Plats, Page 69, under Auditor's File No. 9601260017, records of Skagit County, Washington; being a portion of the Northeast Quarter of the Southeast Quarter of Section 20, Township 34 North, Range 4 East of the Willamette Meridian.

Situated in Skagit County, Washington

TRACT 2 (LC059):

Lot 2 of City of Mount Vernon Short Plat No. MV-7-95, as approved January 24, 1996, and recorded January 26, 1996, in Volume 12 of Short Plats, Page 69, under Auditor's File No. 9601260017, records of Skagit County, Washington; being a portion of the Northeast Quarter of the Southeast Quarter of Section 20, Township 34 North, Range 4 East of the Willamette Meridian.

Situated in Skagit County, Washington



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Skagit County Auditor

LEASE

THIS LEASE AGREEMENT is made as of February 25, 2002, between Mt. Vernon Medical Investors, LLC, a Tennessee limited liability company, located at 3570 Keith Street, N.W., Cleveland, Tennessee 37312 ("Lessor"), and Mt. Vernon Medical Investors Limited Partnership, a Tennessee limited partnership ("Lessee").

WITNESSETH:

1. Property to be Leased. In consideration of the rents and covenants herein stipulated to be paid and performed, Lessor hereby leases to Lessee, and Lessee hereby hires from Lessor, certain property associated with a 105-bed nursing home facility and a 45-bed assisted living facility, located in the City of Mt. Vernon, County of Skagit, State of Washington, described on attached Exhibit A, together with all buildings and appurtenances, fixtures, furnishings, furniture and equipment located thereon, easements or other rights which may now exist or may be hereafter created for the benefit of such property (the "Project").

2. Term.

(a) The term of this Lease shall be for a period of thirty-five (35) years, commencing on the date of this Lease (hereinafter referred to as the "Initial Term"). The term of this Lease shall automatically renew for successive periods of one (1) year each unless, upon at least sixty (60) days prior written notice, Lessor or Lessee notifies the other and HUD (defined below) that it will not so renew the term of this Lease. As used in the Lease, the phrase "term of this lease" shall include the Initial Term and each such renewal, unless the context clearly requires otherwise.

(b) This Lease may be canceled upon thirty (30) days written notice given to the Lessor and Lessee by the Federal Housing Commissioner (the "Commissioner"), in connection with the Contract of Mortgage Insurance with the U.S. Department of Housing and Urban Development ("HUD") for a violation of any of the provisions of the Regulatory Agreement-Nursing Homes entered into by Lessor and Lessee, unless the violation is corrected to the satisfaction of the Commissioner within said thirty (30) day period.

3. Use of Project. Lessee shall, during the continuance of this Lease, occupy and use the Project for the operation of a nursing home facility and assisted living facility and ancillary uses (the "Existing Uses") and for no other purpose without Lessor's prior consent, which consent may be withheld or conditioned unless the consent of HUD is obtained to a modification of the Existing Uses. Lessee shall, at its cost, maintain in full force and effect, and observe and promptly comply with all present and future laws, regulations, and rules applicable to the following:

(a) the license from the State of Washington to operate the Project as a nursing home facility and assisted living facility (the "License");

(b) all Medicaid and Medicare provider agreements associated with the Project ("Provider Agreements"); and

(c) all certificates of need with respect to the Project ("Certificates of Need").

4. Rent.

(a) Lessee agrees to pay Lessor as Base Rent for the Project at such place or places as Lessor may designate from time to time, payable monthly in arrears on or before the last day of each calendar month:

(i) the mortgage payment;

(ii) mortgage insurance payment;



- (iii) replacement reserves;
- (iv) real estate taxes; and
- (v) property insurance.

Further, Lessee shall pay Lessor as additional rent hereunder, within ten (10) days after receipt of an invoice therefore from Lessor, the amount of any accounting or audit fees incurred by Lessor in connection with the Mortgage Loan, the amount of any franchise, excise, income, sales or other taxes incurred by Lessor in connection with the Project, and an amount equal to the overhead, office and general administrative expense incurred by Lessor in connection with the Project.

(b) Amounts due under this Lease shall be sufficient to pay all payments under the note or other obligation endorsed for insurance by the Commissioner, including payments to reserves for taxes, insurance, payments to the reserve for replacements and to take care of necessary maintenance. If at the end of any calendar year, (or any fiscal year if the Lessee operates on a fiscal year basis), payments under this Lease have not been sufficient to take care of the above items, Lessor and Lessee upon request in writing from the Commissioner shall renegotiate the amounts due under this Lease so that such amounts shall be sufficient to take care of such items.

(c) If a default is declared by the Commissioner under the provisions of the Regulatory Agreement entered into by Lessor and Commissioner, a copy of notice of default having been given to Lessee, Lessee shall thereafter make all future payments under this Lease to the Commissioner.

5. Title and Conditions. The Project is leased subject to any state of facts which an accurate survey or physical inspection thereof might show, to all zoning regulations, restrictions, rules and ordinances, building restrictions and other laws and regulations now in effect or hereafter adopted by an governmental authority having jurisdiction, and without representation or warranty of any kind by Lessor, except title.

6. Taxes and Assessments. Lessee agrees to pay or cause to be paid, (or, at Lessor's election, Lessor shall pay, and Lessee shall promptly reimburse Lessor) as the same become due and payable, any increases in taxes and special assessments and municipal or governmental charges, general or special, ordinary and extraordinary, of every kind and nature whatsoever, including interest and penalties which may from time to time be levied, imposed or assessed on the Project in excess of the allowance therefore included in the Base Rent and correspondingly shall be entitled to a decrease in Base Rent if there is any decrease in such taxes, charges and special assessments from the amounts included in the Base Rent. Lessee (by its officers, agents or representatives) may, in good faith and at its own expense, contest the imposition and collection of any tax or assessment of any kind, in the Lessor's name if necessary and, during the period of such contest, the Lessee shall not be deemed to be in default hereunder for failure to pay such contested amount. Copies of receipted tax bills will be delivered to Lessor within sixty (60) days after the due date hereof. In the event the Commissioner requires reserves to be established for any such taxes, Lessee shall make payments to Lessor sufficient to establish and maintain such reserves, which payments shall constitute reserves for such taxes and not additional rent.

7. Repairs and Maintenance. Lessee covenants to keep the Project in good condition and repair and shall deliver the Project to Lessor upon the termination of this Lease in as good condition as when taken, reasonable wear and tear excepted. In the event the Commissioner requires reserves to be established for maintenance or replacements, Lessee shall make payments to Lessor sufficient to establish and maintain such reserves, which payments shall constitute additional rent.

8. Alterations and Additions.

(a) Lessee shall not remodel, reconstruct, add to or demolish any part of the Project or subtract from any real or personal property associated with the Project without the written approval of Lessor and,



to the extent required by any mortgage or other security instrument issued by HUD, the Commissioner. All repairs and additions made by Lessee to the Project shall be and remain the property of Lessor.

(b) Upon termination of the Lease in any manner, Lessor, by its agents, is hereby authorized to enter the Project and to take possession of the same.

9. Liability Insurance; Indemnity. Unless otherwise permitted by Lessor, Lessee, at all times during the term of this Lease, and at its expense, will procure, maintain and keep in force, commercial general liability insurance for claims for personal injury, death or property damage, occurring in or about the Project, with single limit coverage of not less than \$1,000,000.00. Certificates of such insurance will be delivered to Lessor, upon request. The policy or policies of insurance will be issued by a company or companies licensed in the state in which the Project is located and will provide that such policy or policies will not be canceled without the insurance company first giving Lessor written notice thereof at least ten (10) days before such cancellation shall become effective.

Lessee agrees to protect, defend, indemnify and hold harmless Lessor from and against any and all liabilities, losses, damages, claims, demands or judgments of any nature whatsoever arising from any injury to or the death of any person, or damage to property, in any manner growing out of or in connection with the use, nonuse, condition or occupation of the Project or any part thereof, or the ownership, occupancy or use thereof, whether by Lessor, Lessee or any other person, from and after the commencement of the Term hereof until the Project is redelivered to Lessor upon the termination of this Lease, or any extensions thereof.

10. Risk of Loss. During the term of this Lease, the risk of Loss with respect to all risks insurable under a fire and extended coverage insurance policy, together with the risk of loss with respect to all uninsurable losses to the Project which are subject to the control of prevention by Lessee, shall rest upon Lessor.

11. Property Insurance. The Lessor will at all times during the term hereof keep the Project insured against loss or damage by fire, or other reasonably insurable casualty, under policies of insurance with companies of recognized responsibility and credit, in an amount equal to the replacement cost thereof, which policy shall name Lessor's lender as an additional insured. In the event of any loss or damage by fire or other casualty for which any building or improvements on the Project may be insured, all amounts payable upon any policy or policies of insurance shall be paid to the Lessor. Lessor shall as promptly as possible thereafter, except for delays due to acts of God, strikes or other conditions beyond Lessor's reasonable control, proceed to repair, replace and rebuild the same to a value not less than the value existing immediately prior to the occurrence. Rent shall abate for any period that Lessee is unable to occupy the Project to the extent that such occupancy is impaired. In the event the Commissioner requires reserves to be established for insurance, Lessee shall make payments to Lessor sufficient to establish and maintain such reserves, which payments shall constitute reserves and not additional rent. In the event there is any increase or decrease in the cost of property insurance from the amount included in the Base Rent, the Base Rent shall be correspondingly adjusted.

12. Signs. Lessee shall have the right to erect and maintain, at its own expense, signs necessary or appropriate to the conduct of its business. Installation of signs outside the building shall be subject to the prior written approval of Lessor, which approval shall not unreasonably be withheld.

13. Additional Covenants of Lessee.

(a) Lessee agrees to execute a Lessee's Regulatory Agreement (the "Regulatory Agreement") with the Commissioner in form and content acceptable to the Commissioner, and to comply at all times with its terms.

(b) Upon request, Lessee shall provide Lessor with copies of all exit interviews, inspection reports, surveys, administrative hearings and/or court actions, and other documentation relating to the License, the Provider Agreements, the Certificates of Need or Lessee's operations at the Project. Lessee shall notify Lessor



within twenty-four (24) hours after its receipt of any notice from a governmental agency terminating or suspending, or threatening to terminate or suspend, the License, any of the Provide Agreements, or any of the Certificates of Need.

(c) Lessee shall not reduce or expand, allow to be reduced or expanded, or cause the expansion or reduction of the bed capacity of the Project without the consent of Lessor and, to the extent required by any Mortgage or other security instrument insured by HUD, the Commissioner.

(d) Lessor and the Commissioner shall be furnished by Lessee, within thirty (30) days of being called upon to do so, a financial report in form satisfactory to Lessor and the Commissioner covering the operations of the Project.

(e) The Project, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents and other papers relating thereto shall at all times be maintained by Lessee in reasonable condition for proper audit and subject to examination and inspection at any reasonable time by the Commissioner or his/her duly authorized agents in accordance with the provisions of applicable law. Lessee shall keep copies of all written contracts or other instruments which affect the Project, all or any of which may be subject to inspection and examination by the Commissioner or his/her duly authorized agents in accordance with the provisions of applicable law.

(f) Lessee shall not enter into any management contract involving the Project, unless such shall contain a provision that, in the event of default under the Regulatory Agreement entered into between Lessor and the Commissioner, the management agreement shall be subject to termination without penalty upon written request of the Commissioner. Upon such request Lessee shall immediately arrange to terminate the contract within a period of not more than thirty (30) days and shall make arrangements satisfactory to the Commissioner for continuing proper management of the Project.

(g) There shall be full compliance with the provisions of (1) any State or local laws prohibiting discrimination in housing on the basis of race, color, creed, or national origin; and (2) the Regulations of the Federal Housing Administration providing for non-discrimination and equal opportunity in housing. It is understood and agreed that failure or refusal to comply with any such provisions shall be a proper basis for the Commissioner to take any corrective action he may deem necessary including, but not limited to, the refusal to consent to a further renewal of the Lease between Lessor and Lessee, the rejection of applications for FHA mortgage insurance and the refusals to enter into future contracts of any kind with which Lessee is identified, and further, the Commissioner shall have a similar right of corrective action (1) with respect to any individuals who are officers, directors, trustees, managers, partners, associates or principal stockholders of Lessee; and (2) with respect to any other type of business association or organization with which the officers, directors, trustees, managers, partners, associates or principal stockholders of Lessee may be identified.

14. Condemnation. If any building located on the Project shall be appropriated or condemned under power of eminent domain or by any competent authority for any public or quasi-public use or purpose during the term of this Lease, this Lease shall terminate when Lessee can no longer use the Project in the manner herein intended or when possession thereof shall be required by the appropriating or condemning authority, or when legal title to the Project shall vest in the appropriating or condemning authority, whichever shall first occur. In the event of any such condemnation or taking, Lessor shall be entitled to receive the entire award, without deduction therefrom for any estate or interest vested in this Lease in Lessee; provided, however, that Lessor shall not be entitled to any portion of an award made to Lessee for loss or interruption of business or for relocation costs, if such an award is provided for by law or is fixed in the proceedings in which such taking shall occur.

In the event that a part of the Project, other than the building, shall be appropriated or condemned and the part so taken shall substantially interfere with Lessee's business operations, then in such event, Lessee, at any time either prior to or within a period of sixty (60) days after the date when possession of the part of the Project so taken shall be required by the appropriating or condemning authority, may elect to terminate this Lease. In the event



Lessee shall fail to exercise such option to terminate this Lease, rent shall abate only as and in proportion to that part of the Project so taken and if the taking does not affect the licensed capacity of the nursing home / assisted living facilities located on the Project, there shall be no abatement of rent.

15. Assignment and Subletting.

(a) Lessee shall not have the right to assign this Lease or to sublet the Project in whole or in part, without the prior written approval of the Lessor, to the extent required by any mortgage or security instrument insured by HUD, and the Commissioner. Lessee shall not permit any change in or transfer of ownership of Lessee or any change in or transfer of the management operation or control of the Project, without the prior written approval of the Lessor and, to the extent required by any mortgage or security instrument insured by HUD, the Commissioner.

(b) Any permitted assignment of this Lease or the subletting of the Project by Lessee shall not relieve Lessee from liability for rental for the full term or any extension of this Lease, or from any other of Lessee's obligations hereunder, except to the extent specifically provided in the assignment agreement or sublease.

16. Curing of Lessee's Default. If Lessee shall fail to perform any of its obligations hereunder, Lessor may, if it so elects, cure such default at Lessee's expense, and Lessee agrees to reimburse Lessor (as additional rent) for all costs and expenses incurred as a result thereof upon demand.

17. Default. Upon the failure of Lessee to pay the monthly rental specified above and such violation continues for ten (10) days after notice to Lessee that the same is due and payable, or in the event that Lessee violates any other term, covenant or condition of this Lease or if Lessee violates any term, covenant or condition of the Regulatory Agreement, and if such violation continues for thirty (30) days after written notice to Lessee or if such event is not subject to cure within thirty (30) days, then if Lessee shall fail to commence such cure within thirty (30) days and thereafter diligently pursue the remedy of such violation until completion, or in the event any case is commenced by or against Lessee under the provisions of the Federal Bankruptcy Code, and in the event such proceeding is involuntary the same is not stayed or dismissed within ninety (90) days, then and in such case, Lessee's right to possession of the above-described Project and all of its rights under this Lease shall terminate at the option of Lessor, and Lessor shall be afforded any remedies provided at law, in equity, or under this Lease for breach of this Lease by Lessee. Notwithstanding the foregoing, Lessor may immediately pursue its rights and remedies:

(a) if Lessee's default jeopardizes the viability or enforceability of the license, any of the Provider Agreements, or any of the Certificates of Need; or

(b) upon the conclusion by final order adversely to Lessee of any proceedings against Lessee by any governmental authority to revoke the License or any of the Certificates of Need or to decertify the Project from participation in the Medicaid and Medicare reimbursement programs.

Lessor and Lessee agree that upon thirty (30) days' written notice by Capital Funding Group, Inc., its successors and assign ("Mortgagee"), which holds a mortgage from Lessor of even date ("Mortgage") on the Project, or by HUD that Lessor is in default under the Mortgage, Lessee shall pay rent to Mortgage and/or HUD, as directed in the notice from Mortgagee or HUD.

18. Lessor's Right to Mortgage. The Lessor reserves the right to subject and subordinate this Lease at all times to the lien of any mortgage or mortgages now or hereafter placed upon Lessor's interest in said Project or any lease pursuant to which Lessor is leasing the Project (and Lessee agrees to execute any instrument necessary to evidence such subordination), provided in each instance that such Mortgagee agrees not to disturb Lessee's possession of the Project unless and until an event of default by Lessee. This Lease shall be subject and subordinate to the mortgage securing the note or other obligation endorsed for insurance by the Commissioner, provided in each instance that such Mortgagee agrees not to disturb Lessee's possession of the Project unless and



until an event of default by Lessee. Lessee shall attorn to any assignee of or successor to Lessor's interest in this Lease, including, without limitation, the Commissioner upon foreclosure or other enforcement of the mortgage securing the note or other obligation endorsed for insurance by the Commissioner.

19. Covenant of Lessor: Quite Enjoyment. Lessor hereby covenants and agrees:

(a) In the event that the principal or interest upon any mortgage on the Project or any other payments required by such mortgage to be made by Lessor shall at any time be overdue and unpaid Lessee shall have the right, at its option, to pay such principal and interest to the mortgagee and to make all such other payments so in default, together with the interest or penalty, if any, by reason of such default; and in any such case Lessee will be subrogated to and be entitled to enforce all rights of the mortgagee against Lessor, and in addition will be entitled to deduct the amount of any and all such payments from the rent or any other amounts due, or which may become due, under this Lease until the full amount of any and all such payments and interest shall have been deducted and repaid to Lessee.

(b) Lessee, upon performing the covenants herein on Lessee's part to be performed, shall and may peaceably and quietly have, hold and enjoy the Project during the term hereof; and Lessor warrants that Lessor has the full right to lease the Project for the term and in the manner herein provided. Lessor agrees to put Lessee in possession of the Project at the commencement of the Initial Term of this Lease.

20. Holding Over. It is agreed that any holding over by the Lessee upon expiration of the term of this Lease shall operate as an extension of the Lease from month to month only.

21. Successor and Assigns. All warranties, covenants and agreements herein shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns.

22. Notices. All notices and communications hereunder shall be served personally or by certified mail. Notice by mail shall be deemed to be given three (3) business days after being deposited in the United States mail with postage fully paid, certified, return receipt requested, addressed to the other party at its last known address.

23. Memorandum of Lease. At the request of either Lessor or Lessee, the parties hereto shall execute a Memorandum of Lease for recording purposes. Said Memorandum of Lease shall contain a legal description of the Project and a statement of the rights of Lessee under this Lease, and such other provisions as Lessee shall deem it advisable to include.

24. Laws of Tennessee to Govern. This Lease shall be interpreted under the laws of the State of Tennessee. This Lease is intended to comply with the requirements of the National Housing Act and Section 232 thereunder and all regulations promulgated pursuant thereto. If any provision in this Lease is invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining provisions of this Lease, which shall be enforceable to the fullest extent permitted by law.

25. Subordination of Lease to First Mortgage and Regulatory Agreements and Regulation by HUD. The Lease and all estates, rights, options, liens and charges therein contained or created under the Lease are and shall be subject and subordinate to the lien of (i) that certain trust deed (the "Mortgage") on the Landlord's interest in the Real Property in favor of Mortgagee in the original principal amount of \$6,865,300 insofar as it affects the real and personal property on which the Premises form a part, and to all renewals, modifications, consolidations, replacements and extensions thereof, and to all advances made or to be made thereunder, to the full extent of amounts secured thereby and interest thereon, (ii) that certain Regulatory Agreement for Multifamily Housing Projects between Landlord and the U.S. Department of Housing and Urban Development of even date herewith which has been recorded against the Real Property, and (iii) that certain Regulatory Agreement Nursing Homes between Tenant and the U.S. Department of Housing and Urban Development of even date herewith which has also been recorded against the Real Property. The parties to the Lease agree to execute and deliver to Mortgagee



and/or HUD such other instrument or instruments as Mortgagee and/or HUD, or their respective successors or assigns, shall request to effect and/or confirm the subordination of the Lease to the lien of the Mortgage and the above-described Regulatory Agreements. To the extent that any provision of the Lease shall be in conflict with the provisions of the Mortgage, the Regulatory Agreements or any applicable sections of Section 232 of the National Housing Act (as it presently exists) and/or the MAP Guidelines applicable to Section 232 (as they presently exist), the provisions of the Mortgage, the Regulatory Agreements, such sections of Section 232 of the National Housing Act (as they presently exist) and/or the MAP Guidelines applicable to Section 232 (as they presently exist), as the case may be, shall be controlling.

26. Transfer of Operations. Upon the expiration or earlier termination of this Lease for any reason whatsoever (such date being referred to as the "Closing Date"), this Lease shall become and be construed as an absolute assignment for purposes of vesting in Lessor (or Lessor's designee) all of Lessee's right, title, and interest in and to the following, to the extent assignable by law:

- (a) the License;
- (b) each of the Provider Agreements;
- (c) each of the Certificates of Need;
- (d) all documents, charts, personnel records, patient records, and other documents relating to the Project or operations at the Project;
- (e) all existing agreements with residents of the Project and any guarantors of such agreements and any and all patient trust fund accounts;
- (f) all other assignable intangible property not enumerated above that is now or in the future used in connection with the operation of a nursing home and/or assisted living facility at the Project; provided that this section shall in no way operate to transfer or authorize the use of the name "Life Care," "Life Care Center," "American Lifestyles," "The Bridge", or any variant thereof, or any symbols or marks used in connection therewith, after the Closing Date.; and
- (g) at Lessor's option, the business of Lessee as conducted at the Project as a going concern (e.g. the telephone number(s) and name of the business); provided that this section shall in no way operate to transfer or authorize the use of the name "Life Care," "Life Care Center," "American Lifestyles," "The Bridge", or any variant thereof, or any symbols or marks used in connection therewith, after the Closing Date.

Lessee shall sign and deliver to Lessor any documents that may be reasonably necessary to transfer the foregoing to Lessor. If necessary for Lessor to operate the Project, for the period commencing on the Closing Date and ending on the date that Lessor or its designee obtains all appropriate licenses and certifications required to operate the Project as a Medicaid and Medicare certified nursing home, Lessor shall operate the Project under a management agreement with Lessee, with Lessor responsible for all costs of such operation (e.g., taxes, insurance, and maintenance). The assignments contained in this paragraph 26 shall not include any Accounts Receivable of Lessee as defined in paragraph 27 below.

27. Security Interest.

(a) Lessee hereby grants Lessor, its successors and assigns, a continuing, first priority security interest in the following assets of Lessee: (i) the License; (ii) the Provider Agreements and the Certificates of Need; and (iii) the Accounts Receivable relating to the Project (as defined below; collectively, with the License, the Provider Agreements and Certificates of Need, the "Movable Collateral") to secure Lessee's obligations and Lessor's rights under this Lease. Lessee shall sign and deliver to Lessor one or more financing statements to perfect the security interests in the Movable Collateral. Lessor shall have all rights and remedies



available to a secured party under the Uniform Commercial Code, as amended from time to time. Throughout the term of this Lease, Lessee shall not pledge or otherwise grant a security interest in any of the Movable Collateral to a third party without Lessor's and, to the extent required by any mortgage or other security instrument endorsed for insurance by HUD, the Commissioner's prior written consent. As used herein, the term "Accounts Receivable" shall mean any accounts receivable of Lessee relating to the Project or payments due to or to be made to Lessee relating to the Project under or relating to (i) any Provider Agreements relating to the Project, (ii) agreements with or on behalf of patients or residents of the Project, (iii) other similar contracts relating to the Project (or any proceeds thereof), (iv) other rights to receive payment of any kind of Lessee with respect to the Project. Lessor and Lessee acknowledge that Lessor's rights under this Lease, including, but not limited to, this paragraph 27 have been assigned to Mortgagee as security for that certain Mortgage Note dated February 1, 2002 payable by Lessor to the order of Mortgagee.

(b) Notwithstanding anything to the contrary contained above in paragraph (a) or elsewhere in this Lease, Lessee is expressly permitted, from time to time, directly or indirectly, to create or otherwise cause to exist a lien, encumbrance, security interest, or pledge upon the Accounts Receivable, or any portion or interest therein (a "First Priority Lien"), whether to secure any borrowing or other means of financing or refinancing (the "Accounts Receivable Loan"). (The Lender making the Accounts Receivable loan shall be called the "First Priority Lender.") Lessee agrees that, as a condition precedent to the granting of the First Priority Lien, Lessee shall:

- (i) deliver an opinion of counsel to Mortgagee and HUD stating that the loan documents evidencing the Accounts Receivable Loan do not conflict with the Regulatory Agreement or the Regulatory Agreement with the Mortgagor, the Note or the Security Agreement or the applicable HUD rules and regulations and that the loan documents evidencing the Accounts Receivable Loan contain a provision which states that, in the event of any conflict between the provisions of such loan documents and the Note, or the Regulatory Agreements or the Security Agreement, the provisions of the Note, the Regulatory Agreements and the Security Agreement shall control.
- (ii) The Subordination Agreement contemplated by paragraph 27(c) below shall have been delivered to and approved by HUD.

(c) Upon the creation of such First Priority Lien, the security interest of Lessor in such Accounts Receivable (the "Lessor's Lien") shall be subject to and subordinated in lien and in right of payment and junior to the First Priority Lien until all obligations giving rise to such First Priority Lien (including any modifications, extensions, restructurings or refinancings of such obligations) have been satisfied in full. The Lessor authorizes the filing and the termination and refiling of any financing statement to reflect the subordination contained in this paragraph 27. Notwithstanding the foregoing, Lessee and Lessor acknowledge and agree that it will be necessary, in connection with the granting of the First Priority Lien, to either:

- (1) execute a Subordination Agreement by and among Lessee, Lessor, Mortgagee and First Priority Lender, or
- (2) file termination statements terminating the Lessor's Lien; allow the First Priority Lender to file financing statements on the Accounts Receivable and then refile financing statements securing the Lessor's Lien, or
- (3) both of the actions contemplated by (i) and (ii) above.



Lessor, Lessee, Mortgagee and HUD all acknowledge and agree that one or all of the above three options shall be taken in connection with any Accounts Receivable Loan and that Lessee, Lessor, Mortgagee and HUD shall cooperate with each other in connection with the taking of such actions. Lessee agrees that the Subordination Agreement specified in subparagraph 27(b) shall be subject to the approval of HUD.

(d) It is agreed and understood that the subordination set forth in paragraphs (a), (b) and (c) above applies only to the Accounts Receivable and none of the other Movable Collateral, except to the limited extent same are necessary to collect on such First Priority Lien.

[signatures on following page]



IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the day and year first above written.

LESSOR:

MT. VERNON MEDICAL INVESTORS, LLC

By: Cindy A. Cross
Cindy Cross, Vice President/Assistant Secretary

LESSEE:

MT. VERNON MEDICAL INVESTORS LIMITED
PARTNERSHIP, by its corporate general partner,
Developers Investment Company, Inc.

By: Cindy A. Cross
Cindy Cross, Vice President/Assistant Secretary



200801240085

Skagit County Auditor

EXHIBIT A

Legal Description



200801240085
Skagit County Auditor

LEGAL DESCRIPTION

LC-058

LOT 3 OF CITY OF MOUNT VERNON SHORT PLAT NO. MV-7-95, AS APPROVED JANUARY 24, 1996, AND RECORDED JANUARY 26, 1996, IN VOLUME 12 OF SHORT PLATS, PAGE 69, UNDER AUDITOR'S FILE NO. 9601260017, RECORDS OF SKAGIT COUNTY, WASHINGTON; BEING A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 34 NORTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN.

SITUATED IN SKAGIT COUNTY, WASHINGTON.



200801240085
Skagit County Auditor

LEGAL DESCRIPTION

LC-059

LOT 2 OF CITY OF MOUNT VERNON SHORT PLAT NO. MV-7-95, AS APPROVED JANUARY 24, 1996, AND RECORDED JANUARY 26, 1996, IN VOLUME 12 OF SHORT PLATS, PAGE 69, UNDER AUDITOR'S FILE NO. 9601260017, RECORDS OF SKAGIT COUNTY, WASHINGTON; BEING A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 34 NORTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN.

SITUATED IN SKAGIT COUNTY, WASHINGTON.



200801240085
Skagit County Auditor

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