

2012 058698

2012 AUG 29 AM 9:24

MICHAEL R. FAJMAN
RECORDER

ASSIGNMENT OF RENTS AND SUBLEASES

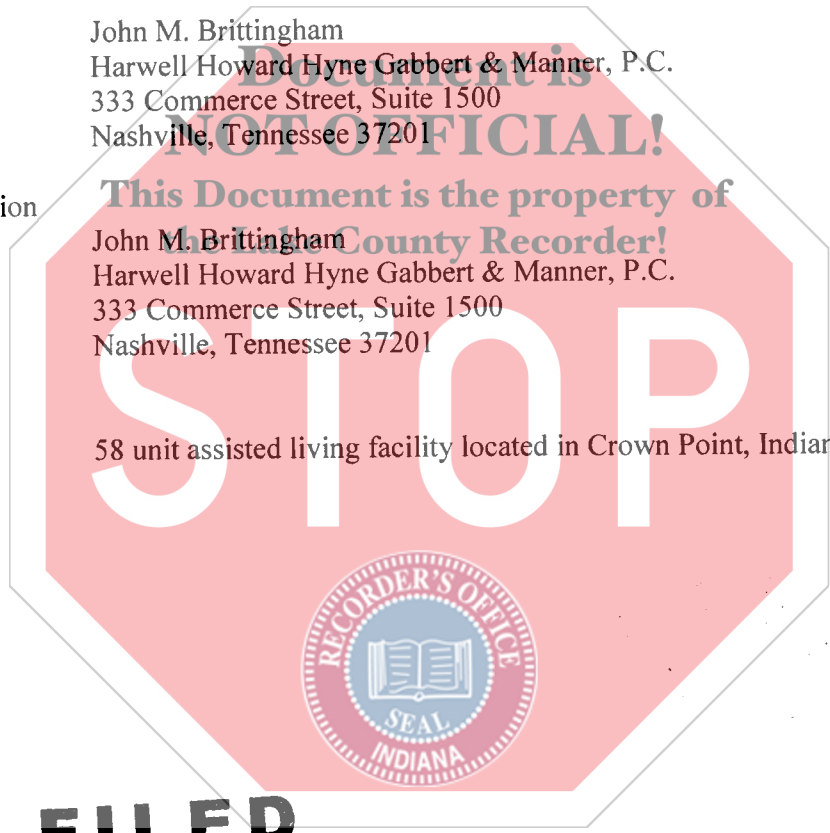
Assignor: Bickford Master II, L.L.C., a Kansas limited liability company

Assignee: NHI-Bickford RE, LLC, a Delaware limited liability company

Prepared by: John M. Brittingham
Harwell Howard Hyne Gabbert & Manner, P.C.
333 Commerce Street, Suite 1500
Nashville, Tennessee 37201

After Registration Return To: John M. Brittingham
Harwell Howard Hyne Gabbert & Manner, P.C.
333 Commerce Street, Suite 1500
Nashville, Tennessee 37201

Real Property Description: 58 unit assisted living facility located in Crown Point, Indiana



FILED

013958

AUG 24 2012

**PEGGY HOLINGA KATONA
LAKE COUNTY AUDITOR**

503900-02

1726112857
26.00
~~1726112857~~
42

ASSIGNMENT OF RENTS AND SUBLEASES

BICKFORD OF CROWN POINT, LLC

THIS ASSIGNMENT OF RENTS AND SUBLEASES (this "Assignment") is made as of this 31st day of July, 2012 by BICKFORD MASTER II, L.L.C., a Kansas limited liability company ("Assignor"), whose address is 13795 S Mur-Len Road, Suite 301, Olathe, Kansas 66062, to and for the benefit of NHI-BICKFORD RE, LLC, a Delaware limited liability company ("Assignee"), whose address is 222 Robert Rose Drive, Murfreesboro, Tennessee 37129.

WITNESSETH:

WHEREAS, Assignee owns the real property described on Exhibit A attached hereto (the "Property");

WHEREAS, Assignee, as Landlord, and Assignor, as Tenant, have entered into that certain Master Lease dated November 19, 2009, as amended by the First Amendment To Master Lease dated June 29, 2010, and the Second Amendment to Master Lease of approximate even date herewith (Said Master Lease, as now or hereafter amended, is hereinafter collectively referred to as the "Master Lease"), whereunder Assignee has leased to Assignor the Property together with the equipment, fixtures, furnishings and other property interests located thereon and relating thereto; and

WHEREAS, the Master Lease requires that Assignor pay Base Rent to Assignee, Additional Charges and other amounts which may become due pursuant to the Master Lease or Capital Improvement Reserve Agreement; and

WHEREAS, the Master Lease requires the Assignor, as Tenant, to assign to Assignee the rentals and other payments which Assignor is to receive pursuant to that Sublease Agreement of even date herewith between Assignor and Bickford of Crown Point, LLC for sublease of the Property (the "Sublease") to secure the payment of Base Rent and other amounts and obligations of Assignor as Tenant; and

WHEREAS, Assignor is willing to assign the Subleases and rents thereunder to Assignee as security for the Obligations, as defined.

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants hereinafter set forth, the parties hereby agree as follows:

1. Definitions. Capitalized terms not otherwise defined in this Assignment, including its preamble, recitals and exhibits, shall have the meanings set forth in the Master Lease. All capitalized terms shall be equally applicable to the singular and plural forms thereof and to any gender form thereof.

2. Assignment Clauses. Assignor, intending to be legally bound and in consideration of the premises, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, does hereby sell, assign, transfer and set over unto

Assignee all right, title and interest of Assignor in and to all rents payable to Assignor under the Subleases, and all right, title, and interest of Assignor in and to any and all the Subleases, and any and all amendments, modifications, extensions, replacements and renewals thereof, and including all security deposits or interests therein now or hereafter held by Assignor and the benefit of all guarantees executed in connection with any of the Subleases. It is intended by Assignor that this assignment constitutes a present, absolute and unconditional assignment and not an assignment for additional security only; however, until an Event of Default occurs under the Master Lease, Assignor shall have a revocable license to receive, collect and enjoy the rents and issues payable under the Subleases.

3. Obligations. This Assignment secures and shall secure the payment of all (i) Base Rent and Additional Charges due or to become due under the Master Lease, (ii) all amounts due or to become due for the Cap Ex Account pursuant to the Capital Improvement Reserve Agreement and (iii) any and all other amounts for which Assignor is or may become liable to Assignee under the Master Lease.

For purposes of this Assignment, all such obligations secured by this Assignment shall be referred to as "Obligations".

4. Representations. Assignor represents and warrants to Assignee that (i) it has made no prior assignment or pledge of the rents assigned hereby or of the Assignor's interest in any of the Subleases; and (ii) no default exists in any of the Subleases and there exists no state of facts which, with the giving of notice or passage of time, or both, would constitute a default under any of the Subleases.

5. Negative Covenants of Assignor. Assignor, without first obtaining the written consent of Assignee, shall not (i) consent to the cancellation or surrender of any Sublease; (ii) modify any Sublease to shorten the unexpired term thereof, or to decrease the amount of the rent payable thereunder; (iii) collect rents from any Sublease for more than one (1) month in advance; (iv) enter into any new Sublease without the prior written consent of Assignee; or (v) assign, convey or otherwise transfer any of Assignor's interest in the Subleases.

6. Affirmative Covenants of Assignor. Assignor will at its sole cost and expense (i) faithfully perform the covenants of Assignor as lessor under any present and future Subleases; (ii) transfer and assign to Assignee any and all Subleases subsequently entered into, upon the same terms and conditions as are herein contained, and make, execute and deliver to Assignee upon demand any and all instruments required to effectuate such transfer and assignment; and (iii) deliver to Assignee within thirty (30) days after notice and demand by Assignee, estoppel letters or certificates from any Subtenant under a Sublease, in form and substance satisfactory to Assignee.

7. Agreements of Assignor.

(a) This Assignment shall not operate to place responsibility for the control, management, care or repair of the Property upon Assignee, and Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under the Subleases, or under or by reason of this Assignment, and Assignor

shall and does hereby agree to indemnify and to hold Assignee harmless of and from any and all liability, loss or damage which it may or might incur under the Subleases or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertaking on its part to perform or discharge any of the terms, covenants or agreements contained in the Subleases, except any such claims or demands resulting from the acts or actions of Assignee. Should Assignee incur any such liability, loss or damage under the Subleases or under or by reason of this Assignment, or in the defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, then Assignor shall reimburse Assignee therefor, with interest at the Lease Rate, immediately upon demand.

(b) Nothing herein contained shall be construed as constituting Assignee a "mortgagee in possession" in the absence of the taking of actual possession of the Property by Assignee pursuant to the provisions hereinafter contained. In the exercise of the powers herein granted Assignee, no liability shall be asserted or enforced against Assignee, all such liability being expressly waived and released by Assignor.

(c) Upon any default of Assignor under the Master Lease, Assignee may notify any Subtenant that payment of future rents under the Sublease shall be made directly to Assignee without the necessity for further consent by Assignor; and Assignor hereby waives all right, claim or demand it may now or hereafter have against any such Subtenant by reason of such payment of rent to Assignee or compliance with other requirements of Assignee pursuant to this Assignment.

(d) Assignor hereby irrevocably appoints Assignee as Assignor's true and lawful attorney in fact with full power of substitution and with full power for Assignee in its own name and capacity or in the name and capacity of Assignor, from and after the occurrence and during the continuance of an Event of Default, as defined in the Master Lease, to receive and give complete acquittances for any and all rents, issues, income and profits accruing from the Property, and at Assignee's discretion to file any claim or take any other action or proceeding and make any settlement of any claims in its own name or otherwise, which Assignee may deem necessary or desirable in order to collect and enforce the payment of the rents, issues, income and profits. Tenants of the Property are hereby expressly authorized and directed to pay any and all amounts due Assignor pursuant to the Subleases directly to Assignee or such nominee as Assignee may designate in writing delivered to and received by such tenants, who are expressly relieved of any and all duty, liability or obligation to Assignor in respect of all payments so made.

8. Default. Upon, or at any time after, (i) default in the performance of any covenant or agreement herein or (ii) an Event of Default, as defined in the Master Lease, the license granted to Assignor in Section 1 hereof shall automatically be revoked, and Assignee may, at its option, and without regard to the value of the Property or the adequacy of the security for the indebtedness, either in person or by agent, with or without bringing any action or proceeding, or by a receiver to be appointed by a court, enter upon, take possession of, manage and operate the Property or any part thereof, do any acts which Assignee deems proper to protect the Property and the Subleases, and either with or without taking possession of the Property in the name of Assignor or in its own name, sue for or otherwise collect and receive such rents and issues,

including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including, but not being limited to, reasonable attorneys' fees, management fees and brokers' commissions, upon the Obligations, in such priority or proportion as Assignee, in its sole discretion, shall deem proper. Assignee reserves, within its own reasonable discretion, the right to determine the method of collection and the extent to which enforcement of collection of delinquent rents shall be prosecuted, and shall not be accountable for more money than it actually receives from the Property. The entering upon and taking possession of the Property or the collection of such rents, issues, income and profits and the application thereof, as aforesaid, shall not cure or waive any default under the Master Lease. Assignor agrees that it will facilitate in all reasonable ways Assignee's collection of such rents and will, upon request by Assignee, promptly execute a written notice to each tenant directing the tenant to pay rent to Assignee.

9. Assignee's Right to Exercise Remedies. No remedy conferred upon or reserved to Assignee herein is intended to be exclusive of any other remedy or remedies, and each and every such remedy herein contained shall be cumulative and concurrent and shall be in addition to every other remedy existing at law or in equity or by statute. The remedies may be pursued singly, successively or together against Assignor or the Property at the sole discretion of Assignee. No delay or omission of Assignee to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein, and every power and remedy given by this Assignment to Assignee may be exercised from time to time as often as may be deemed expedient by Assignee.

10. Notices. All notices, demands and requests given or required to be given by either party hereto shall be delivered in accordance with the Master Lease.

11. Miscellaneous.

(a) This Assignment may not be modified, amended, discharged or waived orally, but only by an agreement in writing and signed by the party against whom enforcement of any such modification, amendment, discharge or waiver is sought.

(b) The covenants of this Assignment shall bind Assignor, the successors and assigns of Assignor, all present and subsequent encumbrances, tenants and subtenants of the Property or any part thereof, but shall not be binding on any assisted living residents occupying the building, and shall inure to the benefit of Assignee, its successors and assigns.

(c) In the event any one or more of the provisions contained in this Assignment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of Assignee, not affect any other provision of this Assignment, but this Assignment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

(d) This Assignment shall be governed by and construed in accordance with the laws of the State where each Property is located (without regard to its conflict of law principles).

(e) ASSIGNOR AND ASSIGNEE (BY ITS ACCEPTANCE OF THIS ASSIGNMENT) HEREBY KNOWINGLY, WILLINGLY AND IRREVOCABLY WAIVES

ITS AND THEIR RIGHTS TO DEMAND A JURY TRIAL IN ANY ACTION OR PROCEEDING INVOLVING THIS ASSIGNMENT OR ANY RELATIONSHIP BETWEEN ASSIGNEE AND ASSIGNOR. ASSIGNOR WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THE FOREGOING WAIVERS WITH ITS LEGAL COUNSEL AND HAS KNOWINGLY AND VOLUNTARILY WAIVED ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, THIS SECTION MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

[SIGNATURES APPEAR ON FOLLOWING PAGE]



IN WITNESS WHEREOF, Assignor has executed this Assignment as of the date first hereinabove written.

ASSIGNOR:

BICKFORD MASTER II, L.L.C.

By: 

Name: Brian Heinrichs
Title: Executive Vice President

STATE OF KANSAS)
COUNTY OF JOHNSON)

Before me, Donna R. Moss, a Notary Public of said County and State, personally appeared Brian Heinrichs, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the Authorized Agent (or other officer authorized to execute the instrument) of Bickford Master II, L.L.C., the within named bargainor, a Kansas limited liability company, and that he/she as such authorized agent executed the foregoing instrument for the purposes therein contained, as the free act and deed of said limited liability company.

Witness my hand and seal this 1st day of August, 2012.


DONNA R. MOSS

Notary Public:

My Commission Expires: 12/27/2014

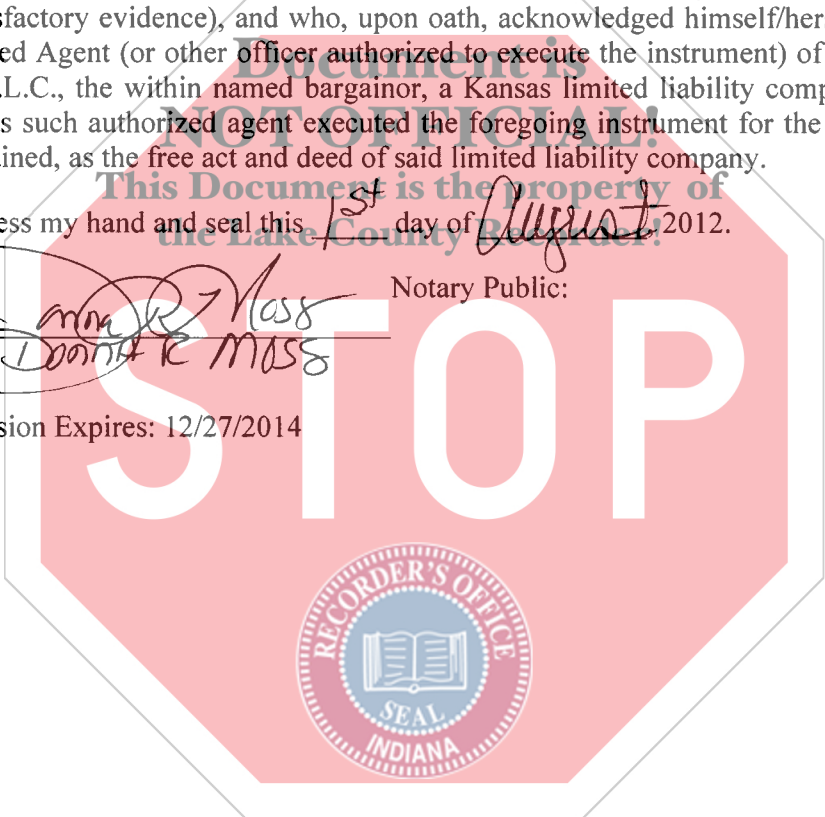


EXHIBIT A

REAL PROPERTY

BICKFORD OF CROWN POINT, LLC

LOT 15 IN BEACON HILL- PHASE TWO, AS SUBDIVISION OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 34 NORTH, RANGE 8, ACCORDING TO THE PLAT THEREOF RECORDED JULY 03, 2012 AS DOCUMENT 2012-043864, LAKE COUNTY, INDIANA.

