

SECOND AMENDMENT TO GROUND LEASE

This Second Amendment to Ground Lease dated as of _____, 2018 (this "Second Amendment") is made by and between ST. OLAF COLLEGE, a Minnesota nonprofit corporation ("Lessor") and CITY OF NORTHFIELD, a Minnesota municipal corporation ("Lessee").

RECITALS

A. Lessor and Lessee entered into a Ground Lease ("Original Ground Lease") dated November 17, 1999 but effective as of August 30, 2001 and recorded in the Office of the County Recorder, Dakota County, Minnesota on November 28, 2001 as Document No. 1834253.

B. Lessor and Lessee entered into a First Amendment of Ground Lease Declaration of Restrictions and Release of Parcels ("First Amendment") dated January 16, 2018 and recorded in the Office of the County Recorder, Dakota County, Minnesota on February 28, 2018 as Document No. 3239283 modifying the Original Ground Lease.

C. As used in this Second Amendment the term "Ground Lease" means the Original Ground Lease as modified by the First Amendment and as further modified by this Second Amendment.

D. As used in this Second Amendment, "Parcel 1" means the parcel legally described on **Exhibit A** to this Second Amendment.

E. As used in this Second Amendment, "Parcel 2" means the parcel legally described on **Exhibit B** to this Second Amendment.

Lessor and Lessee, for and in consideration of the keeping by the parties of their respective obligations under the Ground Lease, agree as follows:

1. Subsections a., b., and c. of Section 2 of the First Amendment are deleted and are replaced with the following:

- a. Lessor and Benedictine Living Community of Northfield, LLC ("Developer") shall have entered into a Ground Lease (the "Development Agreement") that will provide Developer with the right and obligation to develop and operate a senior housing project on Parcel 1 on terms reasonably acceptable to Lessee, including compliance with Lessee's applicable development review, subdivision, site plan, approval, and permitting processes, all in accordance with Northfield City Code.
- b. Lessor and Developer shall have completed such due diligence as each, in its discretion, wants to complete and shall accept the release of Parcel 1 and Parcel 2 from Lessee "as is, where is", without representation or warranty by Lessee of physical condition, suitability of use, or purpose or title. Completion of such due diligence and acceptance of the release of

Parcel 1 and Parcel 2 shall be conclusively determined to have occurred upon the execution of the Development Agreement.

2. Subsection b. of Section 3 of the First Amendment is amended by adding the following:

provided, however, and subject to Northfield City Code as the same may be amended from time to time, that this covenant and restriction shall not prohibit Developer from providing room and board, memory care, assisted living, and other services to its residents.

3. Subsections f., g., and h of Section 3 of the First Amendment are deleted and are replaced with the following:

- f. Lessee hereby consents to the development of two senior housing projects, the first on Parcel 1 and the second on Parcel 2. Each senior housing project shall be subject to the covenants and restrictions of the First Amendment and to the Lessee's development processes, approvals, permitting, and such other agreements including, but not limited to, City of Northfield Development Agreement, or requirements as are applicable under Northfield City Code or otherwise determined as necessary or appropriate by the City of Northfield in its discretion.
- g. Developer shall commence development of the first senior housing project [as evidenced by a City approved and issued building permit for the senior housing project] no later than August 1, 2018 and shall complete the first senior housing project by no later than December 31, 2020. If Developer does not commence development or complete development of the first senior housing project by the dates provided above herein, Lessee may, at its option, provide an extension for good cause shown by the Developer, and if an extension is granted, such extension (i) shall be to a date certain, and (ii) may be conditioned by Lessee to protect the public interest. If Developer terminates the Developer's development rights with respect to Parcel 1 for any reason or fails to commence development of the senior housing project on Parcel 1 on or before August 1, 2018, Lessee may, in its discretion, recapture Parcel 1 as part of the Demised Premises by further amendment of the Ground Lease, in which event, Lessor shall terminate Developer's right to develop Parcel 1 and Lessee shall have the right to develop and use the recaptured Parcel 1 in accordance with the Original Ground Lease. If Developer fails to complete the senior housing project on Parcel 1 on or before December 31, 2020, or, if an extension has been granted by Lessee, on or before the extended date, Lessee shall be entitled to liquidated damages from Developer in the amount of \$250.00 per day until the senior housing project is completed. Developer shall be deemed to have completed its senior housing project when construction of the senior housing project has reached a point that the

senior housing project can be lawfully occupied for its intended purpose and has received a Certificate of Occupancy from the City of Northfield.

- h. Upon completion of the senior housing project on Parcel 1, Lessee shall furnish to Developer a certificate of completion evidencing the satisfaction or waiver of the requirements of the Ground Lease regarding completion of the senior housing project on Parcel 1.
- i. Developer shall commence development of the second senior housing project [as evidenced by a City approved and issued building permit for the senior housing project] by no later than December 31, 2026. If Developer does not commence development of the second senior housing project by the date provided, Lessee may, at its option, provide an extension for good cause shown by the Developer, and if an extension is granted, such extension (i) shall be to a date certain, and (ii) may be conditioned by Lessee to protect the public interest. If Developer terminates the Developer's development rights with respect to Parcel 2 for any reason or fails to commence development of the senior housing project on Parcel 2 on or before December 31, 2026, Lessee may, in its discretion, recapture Parcel 2 as part of the Demised Premises by further amendment of the Ground Lease, in which event, Lessor shall terminate Developer's right to develop Parcel 2 and Lessee shall have the right to develop and use the recaptured Parcel 2 in accordance with the Original Ground Lease.

4. Section 4 of the First Amendment is deleted and replaced with the following:

Upon the satisfaction of the Conditions Precedent, including the execution of the Development Agreement, Lessor and Lessee shall record a subsequent amendment to the Ground Lease, evidencing the satisfaction or waiver of the Conditions Precedent and releasing Parcel 1 and Parcel 2 from the Ground Lease, which subsequent amendment shall include an amended Exhibit A and Exhibit A-1 describing and depicting the Demised Premises to exclude Parcel 1 and Parcel 2.

5. This Second Amendment is executed for the purpose of modifying the Ground Lease. This Second Amendment shall not be construed to release Parcel 1, Parcel 2, Lessor, or any subsequent lessee or owner of Parcel 1 or Parcel 2 from the regulatory authority of the City of Northfield or the Northfield Code of Ordinances as the same may be amended from time to time.

6. This Second Amendment is incorporated into and made a part of the Ground Lease. All words and phrases defined in the Original Ground Lease as amended by the First Amendment shall, when used in this Second Amendment, have the same meanings ascribed to them in the Original Ground Lease as amended by the First Amendment unless the context clearly requires a different meaning or unless a different definition is provided in this Second

Amendment. Lessor and Lessee affirm that the Ground Lease remains in full force and effect in all its terms and conditions, as amended by this Second Amendment.

SECOND AMENDMENT TO GROUND LEASE SIGNATURE PAGE

IN WITNESS WHEREOF, this Second Amendment to Ground Lease has been executed as of the date and year first above written.

LESSEE:

CITY OF NORTHFIELD

By: _____
Rhonda Pownell, Its Mayor

By: _____
Deb Little, Its City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Rhonda Pownell and Deb Little, the Mayor and City Clerk, respectively, of the City of Northfield, a Minnesota municipal corporation, on behalf of said corporation.

Notary Public

SECOND AMENDMENT TO GROUND LEASE SIGNATURE PAGE

IN WITNESS WHEREOF, this Second Amendment to Ground Lease has been executed as of the date and year first above written.

LESSOR:

ST. OLAF COLLEGE

By: _____
David R. Anderson, its President

By: Janet K. Hanson, its Vice President and
Chief Financial Officer

[illegible]

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by David R. Anderson and Janet K. Hanson, the President and Vice President/Chief Financial Officer, respectively, of St. Olaf College, a Minnesota non-profit corporation, on behalf of said corporation.

Notary Public

This instrument was drafted by:
Fryberger, Buchanan, Smith & Frederick P.A.
302 W. Superior Street, Ste. 700
Duluth, MN 55802
(218) 725-6838
DDM/13967-8

EXHIBIT A

Parcel 1

The North 429.94 feet of the South 1040.85 feet of Outlot A, St. Olaf College North Avenue Development, according to the recorded plat thereof, Dakota County, Minnesota.

EXHIBIT B

Parcel 2

That part of Outlot A, St. Olaf College North Avenue Development, according to the recorded plat thereof, Dakota County, Minnesota, lying north of the south 1040.85 feet of said Outlot A and west of the west line of Lot 1, Block 1, said St. Olaf College North Avenue Development, and its northerly extension