

SECOND AMENDMENT TO AMENDED AND RESTATED GROUND LEASE AGREEMENT

THIS SECOND AMENDMENT TO THE AMENDED AND RESTATED GROUND LEASE AGREEMENT ("Second Amendment") is made and entered into as of this ____ day of _____, 2024 ("Effective Date") by and between TOWN OF PALM BEACH, FLORIDA, a political subdivision of the State of Florida ("Town") and CRE FUND AT OKEECHOBEE BOULEVARD, LLC, a Florida limited liability company ("Tenant"). This Second Amendment is joined by AHS RESIDENTIAL, LLC ("Guarantor").

RECITALS

A. Town and Tenant entered into that certain Amended and Restated Ground Lease Agreement dated August 12, 2021 ("Amended and Restated Lease"). The Amended and Restated Lease is for premises ("Premises") that include the Property located at 5976 Okeechobee Blvd., West Palm Beach, Florida. Tenant's obligations under the Amended and Restated Lease are subject to that certain Completion Guaranty executed by Guarantor on July 28, 2021 ("Completion Guaranty") and that certain Payment Guaranty and Guaranty of Continuing Obligations executed by Guarantor on July 28, 2021 ("Payment Guaranty").

B. Town and Tenant entered into that certain First Amendment to Amended and Restated Ground Lease dated as of February 17, 2022 ("First Amendment") for the purpose of extending the BSRA Date, for the purpose of waiving Tenant's termination rights under the Amended and Restated Lease for failure to obtain the BSRA, and for the other purposes set forth therein. The Amended and Restated Lease as affected by the First Amendment are together referred to herein as the "Lease". Capitalized terms herein but not otherwise defined shall have the meaning given to such terms in the Lease unless otherwise specifically indicated or unless the context clearly indicates to the contrary.

C. Tenant delivered the Extension Deposit in the amount of \$350,000.00 to the Town, as provided in Paragraph 3.07(D)(2) of the Amended and Restated Lease, thereby extending the Remediation Plan Outside Approval Date to December 31, 2023.

D. Tenant delivered written notice dated December 30, 2023 confirming satisfaction of the requirements for the Outside Approval Date and waiving its termination rights under Paragraph 3.07(D) of the Amended and Restated Lease. Furthermore, Tenant has agreed to waive its termination rights under Paragraph 3.08(D) of the Amended and Restated Lease, although Tenant will not have obtained all Final Approvals on or prior to the Outside Termination Date, as required by Paragraph 3.08 of the Amended and Restated Lease.

E. Tenant has requested that the Town (i) agree to modify the Annual Base Rent Schedule set forth in Paragraph I of Exhibit "C" to the Amended and Restated Lease, (ii) extend the Town's right to terminate the Lease under Paragraph 3.08(D) due to Tenant's inability to obtain all Final Approvals, (iii) establish the Date of Beneficial Occupancy, and (iv) agree to adjustments to the Required Security Amount for the Remediation Bond set forth in Paragraph 3.07(E) of the Amended and Restated Ground Lease.

F. The Amended and Restated Lease currently provides that Annual Base Rent for the first Lease Year is in the amount of \$867,618.00, plus sales tax thereon, and that monthly payments are in the amount of \$72,301.50, plus sales tax thereon. The \$350,000.00 Extension Deposit has been applied to Annual Base Rent for the first Lease Year in the amount of \$334,250.00 and sales tax in the amount of \$15,750.00. Accordingly, the remaining balance of Annual Base Rent for the first Lease Year is \$533,368.00, plus sales tax thereon ("First Lease Year Remaining Balance").

G. The Town and Tenant desire to enter into this Second Amendment for the purpose of making certain agreed upon modifications to the terms of the Lease referenced in Recital E herein, and for the other purposes set forth in this Second Amendment.

NOW, THEREFORE, in consideration of the foregoing, and the sum of \$1.00 the receipt of which is conclusively acknowledged and which the parties stipulate to be good and sufficient consideration,

1. Incorporation of Recitals; Defined Terms. The foregoing recitals are true and correct and are hereby incorporated into this Second Amendment to the same extent as if fully set forth herein. Capitalized but undefined terms herein shall be defined under the Lease.

2. Annual Base Rent Schedule and Letter of Credit. The schedule of Annual Base Rent set forth in Paragraph I of Exhibit "C" to the Amended and Restated Ground Lease is hereby amended to provide as follows:

A. The definition of Lease Year set forth in Paragraph 2.43 of the Amended and Restated Lease is hereby amended to provide that the first Lease Year shall be from February 1, 2024 through January 31, 2025, and each successive Lease Year shall be from February 1 through January 31 of the next calendar year. For example, the second Lease Year is from February 1, 2025 through January 31, 2026.

B. So long as the Lease remains in full force and effect and so long as Tenant is not in default under the Lease beyond any applicable notice, grace or cure period, Landlord agrees to defer the, First Lease Year Remaining Balance, namely \$533,368.00, plus sales tax thereon, as set forth below.

(1) Tenant shall pay the First Lease Year Remaining Balance Rent in twelve (12) equal monthly installments, on or before the first day of each calendar month, without notice, demand, holdback or setoff and together with Tenant's monthly payments of Annual Base Rent for the fifth Lease Year. Accordingly, the schedule of Annual Base Rent set forth as Exhibit "C" to the Amended and Restated Ground Lease is hereby amended to provide that Annual Base Rent for the fifth Lease Year commencing on February 1, 2028 and ending on January 31, 2029, shall be in the amount of \$1,400,986.00, plus sales tax, payable in equal monthly installments in the amount of \$116,748.83, plus sales tax thereon.

(2) Any unpaid balance of the First Lease Year Remaining Balance shall be immediately due and payable in the event that Tenant is in default under the Lease beyond any applicable notice, grace or cure period.

C. Pursuant to Paragraph 5.05 of the Amended and Restated Lease, within ten (10) Business Days from the Date of Beneficial Occupancy, the Tenant is to deliver to the Town, a Payment Guaranty and a Letter of Credit in an amount equal to \$867,618.00. The Town hereby agrees that Tenant shall not be required to deliver the Letter of Credit until February 1, 2025 provided, however, that the due date for the Payment Guaranty shall not be deferred.

3. Date of Beneficial Occupancy. The definition of Date of Beneficial Occupancy set forth in Paragraph 3.01 of the Amended and Restated Lease is hereby amended to February 1, 2024.

4. Bond. The Town and Tenant hereby ratify and confirm the terms of Paragraph 3.07(E) of the Amended and Restated Ground Lease pertaining to the reduction of the amount of the Remediation Bond or other acceptable form of security ("Rehabilitation Security") during the Site Rehabilitation Process. For the avoidance of doubt, the reduction procedures shall apply so long as Tenant is not in default under the terms of the Lease beyond any applicable notice, grace or cure period including, without limitation, the requirement that Tenant diligently pursues the Site Rehabilitation Process, once commenced, until completion.

A. Following the procedures set forth in the Paragraph 3.07(E) of the Amended and Restated Ground Lease and subject to the foregoing contingencies, the Town Manager will reasonably approve and execute such documents that may be required to reduce the Rehabilitation Security based on the percentage of completion of the Site Rehabilitation Process, so that the amount of the Rehabilitation Security, at all times, is at least one hundred twenty percent (120%) of the cost to complete the Site Rehabilitation Process.

B. The thresholds for reduction of the Rehabilitation Security prior to completion shall occur when the Site Rehabilitation Process is fifty percent (50%) complete and seventy-five percent (75%) complete.

5. Final Approvals. Tenant hereby agrees to waive its right to terminate the Lease by the Outside Termination Date due to its failure to obtain all Final Approvals by such deadline. The Town hereby acknowledges that Tenant will not have obtained all Final Approvals by the Outside Termination Date and hereby waives its right to terminate the Lease by such deadline; provided, however, that if Tenant has not obtained all Final Approvals and confirmed the same to the Town in writing on or before March 1, 2025 (“Extended Outside Termination Date”), the Town may terminate the Lease by sending written notice to Tenant no later than thirty (30) days after the expiration of the Extended Outside Termination Date.

6. Benefit and Binding Effect. This Second Amendment shall be binding upon, and inure to the benefit of, the parties to this Second Amendment, their legal representatives, successors, and permitted assigns.

7. Conflict. In the event of any conflict between the terms of the Amended and Restated Lease and this Second Amendment, this Second Amendment shall control.

8. Counterparts. This Second Amendment may be executed in counterparts, each of which shall be deemed an original and all of which shall together constitute but one agreement.

9. Ratification. Except as modified by this Second Amendment, the Amended and Restated Lease shall otherwise remain unmodified and in full force and effect. Tenant hereby ratifies and confirms the terms of the Amended and Restated Lease as modified by this Second Amendment. Tenant certifies that it has no offsets, defenses, or claims with respect to its obligations under the Amended and Restated Lease as affected by this Second Amendment.

10. Execution by PDF and Electronic Means. The parties agree that this Second Amendment shall be binding upon the parties when the signatures of Town and Tenant are exchanged in portable document format (PDF) as attachments to electronic mail messages or with their electronic signatures affixed. The exchange of original documents shall not be required.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the date and year first above written.

TOWN

TOWN OF PALM BEACH, FLORIDA, a political
subdivision of the State of Florida

By: _____
Name:
Title:

Attest: _____
City Clerk

TENANT

CRE FUND AT OKEECHOBEE BOULEVARD,
LLC, a Florida limited liability company

DocuSigned by:
Ricardo Blas
By: _____
Name: Ricardo Blas
Title: Authorized Representative

JOINDER OF GUARANTOR

Guarantor hereby joins in this Second Amendment for the purpose of consenting to the terms and conditions of the foregoing Second Amendment and for the purpose of confirming that the Completion Guaranty and the Payment Guaranty remain in full force and effect without claim or defense of any nature whatsoever.

AHS RESIDENTIAL, LLC, a Florida limited liability company

By: _____
Name: Carlos E. Gonzalez
Title: Authorized Representative