

AMENDED AND RESTATED PAYMENT IN LIEU OF TAXATION AGREEMENT

THIS AMENDED AND RESTATED PAYMENT IN LIEU OF TAXATION AGREEMENT ("PILOT Agreement"), is effective as of the 29th day of December, 2016 by and between SPT IVEY 61 EMERALD MOB LLC, a Delaware limited liability company having a mailing address of 591 West Putnam Avenue, Greenwich, Connecticut 06830 ("Company") and COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having its principal offices at One Cablevision Center, Ferndale, New York 12734 ("Agency").

RECITALS

WHEREAS, Title 1 of Article 18-A of the General Municipal Law of the State of New York ("Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York ("State"); and

WHEREAS, the Enabling Act authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease any or all of its facilities at such rentals and on such other terms and conditions as it deems advisable; and

WHEREAS, pursuant to and in connection with the provisions of the Enabling Act, Chapter 560 of the Laws of 1970 of the State (collectively referred to as the "Act") created the Agency which is empowered under the Act to undertake the providing, financing and leasing of the facility described below; and

WHEREAS, on or about June 1, 2003, CRH Realty I, LLC ("CRH Realty") presented an application to the Agency, a copy of which is on file at the office of the Agency, whereby the Agency undertook a project which consisted of the (i) acquisition, construction, equipping and installation of a medical office complex intended to house a multi-specialty practice consisting of approximately 80,784 square feet ("Building") situate on two (2) parcels of real estate consisting of approximately 17.34 acres located in the Emerald Corporate Center along Rock Hill Drive in the Town of Thompson, County of Sullivan, State of New York and identified on the Town of Thompson tax map as Section 35, Block 1, Lot 9.2 and Section 35, Block 1, Lot 9.3 ("Land") and related facilities; (ii) acquired and installed thereon and therein certain furniture, fixtures, machinery, equipment and tools ("Equipment"); (iii) constructed improvements to the Building,

the Land and the Equipment (collectively, the Building and the Land are referred to as either the "Facility" or the "Project"); and

WHEREAS, in order to induce CRH Realty to develop the Facility, effective June 1, 2003, the Agency at the request of CRH Realty acquired title to the Land from Emerald Corporate Center Economic Development Corporation and entered into a leaseback of the Land from the Agency to CRH Realty; and

WHEREAS, CRH Realty, on behalf of the Agency and as the Agency's agent, acquired, constructed, equipped and installed the Facility in accordance with the plans and specifications presented to the Agency; and

WHEREAS, on or about September 5, 2013, CRH Realty (via its affiliate) requested the Agency consent to the transfer of fee title to the Facility to CRH Realty and that the existing sale/leaseback between the Agency and CRH Realty be restructured to a lease/leaseback between the Agency and GA HC REIT II 61 Emerald NY MOB, LLC ("REIT 61") with the understanding that REIT 61 simultaneously enter into a new twenty (20) year lease with Crystal Run Healthcare LLP ("CR Healthcare") (collectively, the "2013 Transaction Restructure"); and

WHEREAS, by Termination of Lease entered into on or about September 19, 2013, the Lease from the Agency to CRH Realty was terminated and contemporaneously with the termination of the Lease, the Agency transferred fee title to the Facility to CRH Realty by Quitclaim Deed dated September 19, 2013, which deed was recorded in the Office of the Clerk of Sullivan County as Instrument No. 2013-7413; and

WHEREAS, by Bargain and Sale Deed dated September 20, 2013, CRH Realty transferred fee title to the Facility to REIT 61, which deed was recorded in the Office of the Clerk of Sullivan County as Instrument No. 2013-7414; and

WHEREAS, on September 20, 2013, pursuant to a Lease to Agency, REIT 61 leased the Facility to the Agency, which lease was memorialized of record by a Memorandum of Lease to Agency dated September 20, 2013, which memorandum was recorded in the Office of the Clerk of Sullivan County as Instrument No. 2013-7415; and

WHEREAS, on September 20, 2013, pursuant to a Leaseback to Company, the Agency leased back the Facility to REIT 61, which leaseback was memorialized of record by a Memorandum of Leaseback to Company dated September 20, 2013, which memorandum was recorded in the Office of the Clerk of Sullivan County as Instrument No. 2013-7416; and

WHEREAS, on or about September 20, 2013, REIT 61 and the Agency entered into a Payment in Lieu of Tax Agreement which shall become effective on February 15, 2018, it being contemplated that for all tax periods from and after the date of the 2013 Transaction Restructure and before those tax periods controlled by the taxable status of March 1, 2018, that the Project would be taxable for ad valorem real property tax levies; and

WHEREAS, the transaction documents entered into by the Agency and REIT 61 at the time of the 2013 Transaction Restructure (collectively, the "2013 Transaction Documents") required the Agency to consent to the transfer of in excess of fifty (50%) percent of the voting interests in REIT 61; and

WHEREAS, at the time of the 2013 Transaction Restructure, the sole member of REIT 61 was GA HC REIT II Tiger Eye NY MOB Portfolio, LLC ("REIT Tiger Eye"); the sole member of REIT Tiger Eye was Griffin-American Healthcare REIT II Holdings, LP ("REIT Holdings LP"); and the general partner of REIT Holdings LP was Griffin-American Healthcare REIT II, Inc. "Griffin-American"); and

WHEREAS, prior to conveyance of fee title to the Land by the Agency to CR Realty on September 19, 2013, the Project benefitted from an exemption from ad valorem real estate tax as contemplated by General Municipal Law 874 and Real Property Tax Law §412a; and

WHEREAS, the exemption from ad valorem real estate tax terminated upon the transfer of fee title to the Land to CR Realty since following that transfer the Agency had no interest in the Project; and

WHEREAS, following the transfer of fee title in the Land to REIT 61, REIT 61 leased the Facility to CR Healthcare pursuant to that certain Master Lease Agreement between GA HC REIT II 95 CRYSTAL RUN NY MOB, LLC, GA HC REIT II 300 CRYSTAL RUN NY MOB, LLC, GA HC REIT II 1 RYKOWSKI NY MOB, LLC, GA HC REIT II 109 RYKOWSKI NY MOB, LLC, GA HC REIT II 61 EMERALD NY MOB, LLC and GA HC REIT II 155 CRYSTAL RUN NY MOB, LLC (collectively, as Landlord) and CR Healthcare, as Tenant ("Master Lease"); and

WHEREAS, the Master Lease provides that CR Healthcare shall pay all real estate taxes levied against or relating to the Facility directly to the applicable taxing jurisdictions; and

WHEREAS, the Agency and the Company deem it necessary and proper to execute this PILOT Agreement making provision for payments in lieu of taxes by CR Healthcare for the benefit of the County, Town of Thompson ("Town") and Monticello Central School District ("School") (collectively referred to as the "Taxing Jurisdictions") for the tax periods governed by the March 1, 2018 taxable status day and thereafter during the time frame the Agency is involved with the Project; and

WHEREAS, CR Realty made PILOT Payments to the Agency pursuant to the Payment in Lieu of Tax Agreement, dated June 1, 2003 for all periods through and including the payout due on December 15, 2013; and

WHEREAS, CR Realty and the Agency contemplated that the Project will not benefit from an exemption from ad valorem real property taxes from the date hereof through the tax periods governed by the March 1, 2017 taxable status day (2017-2018 School tax; 2018 County

and Town tax); and

WHEREAS, all agreements of the Agency and the Company relating to payments in lieu of taxes for tax periods governed by the March 1, 2018 taxable status day (2018-2019 School tax; 2019 County and Town tax) through the period provided for herein shall be governed by this PILOT Agreement; and

WHEREAS, on or about November 25, 2014, the Agency consented to the transfer of in excess of fifty (50%) percent of the voting interest in REIT 61 as contemplated by the merger of Griffin-American and North Star Realty Finance Corp. ("NorthStar Realty"); and

WHEREAS, contemporaneously with the merger of Griffin-American and NorthStar Realty, the Agency joined in the execution of a mortgage of the Facility in favor of Citigroup Global Markets Realty Corp., JPMorgan Chase Bank, National Association, Barclays Bank PLC and Column Financial, Inc. (collectively, the "Lenders") securing a loan in the original principal amount of Thirty-Three Million Two Hundred Eighteen Thousand Five Hundred and 00/100 (\$33,218,500.00) Dollars ("REIT 61 to Citigroup Mortgage"); and

WHEREAS, at the time of recording of the REIT 61 to Citigroup Mortgage, mortgage recording tax in the amount of Three Hundred Thirty-Two Thousand One Hundred Eighty-Five and 00/100 (\$332,185.00) Dollars was paid to the Sullivan County Clerk; and

WHEREAS, by letter dated October 18, 2016, REIT 61 requested the Agency consent to the transfer of the Facility to the Company; and

WHEREAS, by Resolution No. 33-16 duly adopted on November 2, 2016, the Agency consented to the transfer; and

WHEREAS, by Application for Financial Assistance received November 16, 2016, the Company has requested that the existing lease/leaseback transaction between REIT 61 and the Agency be restructured to a lease/leaseback between the Company and the Agency ("2016 Transaction Restructure"); and

WHEREAS, by Resolution No. 38-16 duly adopted on November 28, 2016, the Agency consented to and authorized the transfer of fee title and partially granting and partially denying the request for a mortgage recording tax abatement.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual terms, conditions, limitations and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed as follows:

1. Exemption Application. Prior to the March 1, 2018 taxable status day and effective as of that date the Agency shall file with the Town Assessor an application for exemption from ad valorem real estate taxes ("Exemption Application").

2. Agreement to make Payments in Lieu of Taxes. In the event the Exemption Application results in issuance of a tax exemption for the Facility, for tax periods governed by the March 1, 2018 taxable status day and thereafter, (commencing with the 2018-2019 School tax and the 2019 County and Town tax) so long as the Agency has an interest in the Facility, the Company agrees to pay or cause to be paid annually to the Agency at One Cablevision Center, Ferndale, New York 12734, or at such other addresses as shall be designated from time to time by the Agency, annual payments in lieu of taxes ("PILOT Payments") computed in accordance with this PILOT Agreement.
3. Computation of PILOT Payments. PILOT Payments shall be made in the amounts and in the manner contemplated by this ¶3 on account of the following premises located in the Town:

Section - Block - Lot
35 - 1 - 9.2
35 - 1 - 9.3

- (a) Total Value Subject to PILOT. The total value subject to PILOT ("TVSP") shall be the following amounts for the following years:

Payment Date	Land Value	Building Value	Exemption Percentage	Exemption Amount	Building Value Net Exemption	Total Value Subject to PILOT
January 31, 2019	\$433,500	\$11,220,000	15.00%	\$1,683,000	\$9,537,000	\$9,970,500
January 31, 2020	\$433,500	\$11,220,000	12.50%	\$1,402,500	\$9,817,500	\$10,251,000
January 31, 2021	\$433,500	\$11,220,000	10.00%	\$1,122,000	\$10,098,000	\$10,531,500
January 31, 2022	\$433,500	\$11,220,000	7.50%	\$841,500	\$10,378,500	\$10,812,000
January 31, 2023	\$433,500	\$11,220,000	5.00%	\$561,000	\$10,659,000	\$11,092,500
January 31, 2024	\$433,500	\$11,220,000	2.50%	\$280,500	\$10,939,500	\$11,373,000

- (b) Calculation of Annual PILOT Payment. The calculation of the annual PILOT Payments shall be made as follows:
- (i) The TVSP shall be multiplied by the equalization rate as defined in ¶3(c) hereof; and
 - (ii) The annual PILOT Payment shall be determined by multiplying the amount derived in ¶3(b)(i) hereof by the tax rates identified in ¶3(d) hereof.

- (c) Equalization Rate. For the purposes of determining the amount of the PILOT Payment, the equalization rate shall be the equalization rate for the Town used by the County to allocate and levy County taxes in connection with the January 1st tax roll immediately preceding the due date of the PILOT Payment. In the event that the equalization rate shall exceed one-hundred (100%) percent, the equalization rate used in determining the amount of the PILOT Payment shall be one-hundred (100%) percent.
- (d) Tax Rates. For the purposes of determining the amount of the PILOT Payment, the tax rates for each Taxing Jurisdiction shall mean the last rate used for levy of taxes by each such jurisdiction. For County and Town purposes, the tax rates used to determine the PILOT Payment shall be the tax rates relating to the calendar year in which the PILOT Payment is due. For school district purposes, the tax rates used to determine the PILOT Payment shall be the rate relating to the School tax year that began in the calendar year prior to the year in which the PILOT Payment is due. The chart that follows sets forth the years of the overall six (6) year period governed by this PILOT Agreement; the date that a PILOT Payment is due; and the appropriate tax periods utilized in determining the tax rates for computing the PILOT Payment.

Year	Payment Date	School Fiscal Year Beginning	County/Town
1	January 31, 2019	July 1, 2018	January 1, 2019
2	January 31, 2020	July 1, 2019	January 1, 2020
3	January 31, 2021	July 1, 2020	January 1, 2021
4	January 31, 2022	July 1, 2021	January 1, 2022
5	January 31, 2023	July 1, 2022	January 1, 2023
6	January 31, 2024	July 1, 2023	January 1, 2024

The final PILOT payment provided for under this PILOT Agreement which is due on January 31, 2024 is attributable to the 2023-2024 school and 2024 County and Town tax years. The termination date (February 15, 2024) of the Lease Agreement of even date herewith has been selected solely for the purpose of permitting the Assessor of the Town, to place the subject real property back on the assessment roll prior to the March 1, 2024 taxable status date, which taxable status date governs the 2024-2025 School and 2025 County and Town tax years. The termination of the Lease Agreement on February 15, 2024 is not intended to be deemed a transfer of title or acquisition of property as referred to in or envisioned by Real Property Tax Law §520 which would permit the Assessor of the Town to assess such real property and subject it to taxation for the unexpired portion of the 2023-2024 School and 2024 County and Town tax years. Such action by the Assessor would not be consistent with the intent and spirit of this PILOT Agreement, by which the final PILOT payment to be made on January 31, 2024 is intended to constitute the sole payment to be made by the Company in lieu of real property taxes which would otherwise be due and payable for the 2023-2024 school and 2024 County and Town tax periods.

4. Other Agreements Relating to PILOT Payments. The Agency shall remit to the Taxing Jurisdictions amounts received hereunder within thirty (30) days of receipt and shall allocate the PILOT Payments among the Taxing Jurisdictions in the same proportion as normal taxes would have been allocated but for the Agency's involvement.
5. Additional Payments. In addition to the PILOT Payments, if any, to be made by the Company to the Agency pursuant to this PILOT Agreement, the Company shall pay or cause to be paid to the Agency all special assessments, special ad valorem levies, and any other charges for which the Agency shall be liable and for which it is not wholly exempt from taxation. Such payments shall be made within ten (10) days after the date upon which a bill shall be rendered by the Agency to the Company. Such charges shall be paid without adjustment, exemption or other deduction provided; in each case, however, to the Company's right to obtain exemption and credits, if any, which would be afforded a private owner of the Facility. The Company hereby authorizes the Agency to request that any Taxing Jurisdiction bill the Company directly for all special assessments, special ad valorem levies and any other charges for which the Agency shall be liable and for which it is not wholly exempt from taxation. In the event the Company is directly billed for such charges, the Company shall pay such charges within the time in which such statement or bill may be paid without interest or penalty.
6. Determination of Total Value Subject to PILOT. The Agency and the Company have agreed upon the Total Value Subject to PILOT of the Facility. Such valuation was made without regard to the actual cost of construction of improvements to be made at the Facility.
7. Valuation of Additions to the Facility. If there shall be an addition constructed to the Building, or if there shall be any additional buildings or other structures constructed on the Land, the Company shall promptly notify the Agency of such addition ("Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans, specifications, and any other relevant information that the Agency may request. Upon the earlier of substantial completion of the Addition, or the issuance of a Certificate of Occupancy, there shall be an increase in the Total Value Subject to PILOT. The Agency shall notify the Company of any proposed increase in the Total Value Subject to PILOT caused by such Addition. Absent an agreement to the contrary, the Total Value Subject to PILOT of any Addition shall be valued at \$118.00 per square foot.
8. Employment Obligations. The Facility has been leased by the Company to CR Healthcare pursuant to the terms and conditions of the Master Lease. The Company does not anticipate any Company employees to work at the Facility. CR Healthcare presently occupies the Facility and contemplates such occupancy to continue beyond the term of the Agency's involvement with the Project and beyond the term of this PILOT Agreement. Accordingly, the Employment Obligations of this Section 8 shall be obligations of CR Healthcare so long as CR Healthcare is a tenant under the Master Lease.

(a) Employment Goals.

- (i) Employment Goal Definitions: For the purposes of this PILOT Agreement, the following terms shall have the meaning set forth in each definition:
- (1) "Employee" shall mean a person first employed by CR Healthcare at the Facility on or after June 1, 2003.
 - (2) "Full-Time Equivalent Employee" or "FT" shall mean an employee who works forty (40) hours in any seven (7) day period at the Facility.
 - (3) "Base Compensation" shall be determined in accordance with the provisions of the Fair Labor Standards Act.
 - (4) "At the Facility" shall mean that an FT is employed primarily at the Facility.
- (ii) FT Employment Goals: CR Healthcare agrees that an FT-employment goal of one (100) hundred jobs shall be maintained for the 2018 FT Employment Year (as defined below) and thereafter throughout the term of this PILOT Agreement.

CR Healthcare shall file with the Agency not later than November 1, 2018 and on November 1st of each year thereafter a statement certified under oath setting forth the actual FT's employed at the Facility for the preceding October 1st to September 30th period (each a "FT Employment Year"). Such statement shall contain such additional information as the Agency may reasonably request. CR Healthcare shall make available to the Agency such information as it may request to verify the information provided to the Agency, including but not limited to State and federal employment tax forms and payroll records. "Actual average FT-employment" shall be determined by adding the actual FTEs employed in each month of the applicable FT Employment Year and dividing such sum by twelve (12).

- (iii) Computation of PILOT Payment In Accordance with ¶3(b), If FT Goals Not Attained: In the event the FT goal is not attained with respect to the FT Employment Year preceding any PILOT Payment due date, the amount due ("Adjusted PILOT Payment") shall be the amount calculated in ¶3(b) hereof, plus an amount equal to the tax calculated as if an the Agency was not involved with the Project, less the amount calculated in ¶3(b), times the percentage:

- (1) the numerator of which is equal to one (100) hundred minus the actual average FT employment for the prior calendar year, and
- (2) the denominator of which is one (100) hundred.

By way of example, if (i) the actual average FT employment is for the 2019-2020 FTE Employment Year is seventy-five (75); (ii) the Town equalization rate used by the County to allocate 2020 taxes is 100% percent; (iii) the Town combined school, county and town rate relating to the September 1, 2019 School tax and January 1, 2020 county and town tax bills is \$35.00 per \$1,000.00 of assessed value; (iv) the assessed value of the Facility is \$15,000,000.00; and (v) the taxes calculated as if the Agency was not involved with the Project was \$525,500.00, then the Adjusted PILOT Payment due the Taxing Jurisdictions would be computed as follows:

PILOT Payment

$$\text{PILOT Payment} = \text{PILOT Payment Formula}$$

$$\$358,785.00 = \$433,500 + \$11,220,000 - (\$11,220,000 \times 12.5\%) \times 100\% \times \$35.00/1000$$

Tax without Agency Involvement

$$\text{Taxes} = \text{Assessed Value} \times \text{Tax Rates}$$

$$\$525,500.00 = \$15,000,000 \times \$35.00/1000$$

Adjusted PILOT Payment

$$\text{Adjusted PILOT Payment} = \text{PILOT Payment Formula} + (\text{taxes} - \text{PILOT Payment Formula}) \times \text{Percentage of Underemployment}$$

$$\$400,378.75 = \$358,785.00 + (\$525,000.00 - \$358,785.00) \times 25\%$$

In no event shall the Adjusted PILOT Payment exceed the amount payable if the Facility were subject to taxation.

- (b) Job Posting and Hiring Requirements. CR Healthcare agrees that it shall comply with the provisions of General Municipal Law §858(b) which requires that unless otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of projects of the Agency shall be listed with the administrative entities of the service delivery area created by the Federal Job Training Partnership Act (P.L.No. 97-300) serving the County and the State Department of Labor Community Services Division. Except as otherwise provided by collective bargaining contracts or agreement, CR Healthcare will first consider for new employment opportunities persons eligible to participate in the Federal Job Training Partnership (P.L.No. 97-300) program who shall be referred

by administrative entities of the service delivery area servicing the County or by the State Department of Labor Community Services Division.

CR Healthcare acknowledges that it is not now bound by the provisions of collective bargaining contracts or agreements which limit or restrict the listing of such employment opportunities or from giving first consideration to persons eligible to participate in job training partnership act programs. CR Healthcare agrees not to enter into any collective bargaining contracts or agreements that create such restriction or limitation, unless the union or employee organization with which CR Healthcare shall negotiate a collective bargaining contract or agreement has a bona fide program for apprenticeship in such union or has a comparable program for providing employment opportunities to persons eligible to participate in such Job Training Partnership Act Programs under apprenticeship programs conducted by such union or employee organization. CR Healthcare agrees that any agreement which creates or imposes or changes any such restriction or limitation shall be first submitted to the Agency for review prior to ratification of such Agreement. CR Healthcare shall provide the Agency with copies of collective bargaining contracts or agreements hereinafter executed.

CR Healthcare shall submit to the Agency a statement detailing the manner in which CR Healthcare has complied with the provisions of this section of this PILOT Agreement. Such statement (together with documentation of each such referral and plan of hiring) shall be made under oath and shall be submitted no later than November 1st (or such other date as the parties shall agree) of each year of this PILOT Agreement. After an audit by the Agency and a determination that there has been a failure for a period of two (2) years to list such job opportunities as herein provided or to hire and retain persons eligible for Job Training Partnership Act Programs without a reason for the failure to do so shall give rise to a presumption of intentional non compliance with the provision of this section.

- (c) Equal Opportunity Requirements. CR Healthcare shall be in compliance with the County "Equal Opportunity Policy Statement," providing equal employment opportunity without regard to age, race, religion, creed, color, and other non-merit factors in compliance with State and federal laws.
- (d) Defaults and Remedies Relating to Employment Obligations. The following remedies shall apply to Employment Obligation defaults:
 - (i) Employment Goal Filing: If CR Healthcare shall fail to file a certification of FT's employed prior to the time such statement is required to be filed with the Agency, the Agency may make the calculation of the PILOT Payment based on no FTEs for the affected year and the amount so calculated shall be paid. If CR Healthcare thereafter files such a statement and the filing results in a determination that CR Healthcare has made an overpayment, the Agency shall refund to CR Healthcare an amount equal to ninety (90%) percent of the overpayment, less the actual costs incurred by the Agency to enforce this provision of this PILOT Agreement. In the

Agency's sole discretion, such refund may be applied as a credit against the next succeeding PILOT Payment.

- (ii) Employment Eligibility Requirements: If CR Healthcare fails to provide information reasonably requested by the Agency necessary to determine the eligibility of one or more persons to be considered as a FTE, the Agency may, upon fifteen (15) days notice to CR Healthcare, compute the PILOT Payment as if the person(s) were not eligible FTEs. No calculation so made shall be subject to recomputation.
 - (iii) Compliance with Other Hiring Requirements: If CR Healthcare shall fail to comply with the Job Posting and Hiring Act requirements set forth in ¶8(b) or the Equal Opportunity requirements set forth in ¶8(c), the Agency, upon fifteen (15) days notice to CR Healthcare, may disallow in the calculation of the PILOT Payment any FTEs hired in violation of the foregoing requirements.
 - (iv) Intentional Non-Compliance: In the event of a finding by the Agency of intentional non-compliance with the Job Posting and Hiring requirements set forth on ¶8(b), or the Equal Opportunity requirements set forth in ¶8(c), the Agency may compute the PILOT Payment by adjusting the exemption amount to the level of exemption the Project would have received if eligible for exemption under RPTL §485-b.
 - (v) Continuous Underemployment: If CR Healthcare shall fail for a period of two (2) consecutive years to employ at least twenty-five (25) FTEs for each year, the Agency may compute the PILOT Payment by computing the PILOT Payment without the exemption set forth in the chart in ¶3(a). Such an adjustment shall relate to the exemption level only, and not the valuation of the Project.
 - (vi) Payment Required: Timely payment of all amounts due shall be made by CR Healthcare notwithstanding any dispute related to the calculation of the PILOT Payment.
 - (vii) Condition Precedent to Suit: It shall be a condition precedent to the institution of any action or proceeding by CR Healthcare against the Agency with respect to the calculation of any amount claimed to be due the Agency that all amounts claimed to be due shall have been paid to the Agency by CR Healthcare prior to the institution of such action or proceeding.
- (e) In the event that the Master Lease is terminated and the Company enters into a replacement master lease with a master tenant approved by the Agency, such master tenant shall be responsible for complying with the provisions of this

Section 8, and all references to "CR Healthcare" in this Section 8 shall be deemed to refer to the replacement master tenant.

9. Company Representations and Warranties. The Company represents and warrants to the Agency as of the date hereof that:
- (a) The Company is duly authorized under all applicable provisions of law to enter into and perform this PILOT Agreement. The Company's entry into and performance of this PILOT Agreement will not violate any applicable provisions of law and, except as otherwise disclosed to the Agency and its counsel, will not result in a breach of or a default under any agreement of instrument to which the Company is a party and will not result in the creation of any lien, charge or encumbrance upon any of the assets of the Company under any such agreement or instrument.
 - (b) The Company is not a party to any agreement or subject to any restriction (including without limitation any agreement among or between its members) that materially and adversely effects its business assets or financial condition.
 - (c) When executed, this PILOT Agreement will be a valid and binding obligation of the Company.
10. The Company's Right to Challenge. Except as otherwise provided in this PILOT Agreement, the Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this PILOT Agreement, as if and to the same extent as if the Agency was not involved with the Project.
- Except as otherwise provided in this PILOT Agreement, the Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Agency was not involved with the Project, with respect to the assessed value of the Facility by any of the Taxing Jurisdictions and shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment.
11. Transfer of Facility to the Company. In the event that the Facility is transferred from the Agency to the Company, and the Company is ineligible for a continued tax exemption under some other tax incentive program, or any available exemptions result in a payment to the Taxing Jurisdictions in excess of the payment computed pursuant to this PILOT Agreement, the Company shall pay, no later than the next tax lien date (plus any applicable grace period), to each of the Taxing Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemptions provided for herein, to the extent such taxes and assessments are due for the period from and after the date of transfer or loss of eligibility. In the event that a

transfer occurs after a tax status date for real property tax, PILOT Payments for any tax which is paid in arrears under the PILOT shall continue to be due and owing.

12. Termination of Agreement. To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the Company's obligations hereunder shall, to such extent, be amended. In the event that the Lease Agreement and Leaseback Agreement are terminated, this PILOT Agreement shall also terminate.
13. Event of Default. During the term of this PILOT Agreement, the following shall be an event of default:
 - (a) The failure to make PILOT Payments within the time allowed for payment, time being of the essence;
 - (b) The happening of an Event of Default under the Lease Agreement;
 - (c) The adjudication of the Company as a bankrupt and the failure to vacate, set aside or terminate such adjudications within ninety (90) days thereafter;
 - (d) The failure of the Company to pay the amounts required to be paid pursuant to Sections 2.6 or 3.3 or 3.7 of the Lease Agreement and such failure shall have continued for a period of ten (10) days after the Agency gives written notice of such failure to the Company;
 - (e) The appointment by any court of a receiver or trustee to take possession of all, or substantially all, of the assets of the Company which said appointment shall not have been discharged within a period of ninety (90) days after the filing of same;
 - (f) The making by the Company of an assignment for the benefit of creditors;
 - (g) The abandonment of the Facility by the Company for a period of thirty (30) consecutive days or more, unless such abandonment is caused by fire or other catastrophe, war, terrorist act, act of God or governmental order or decree without fault of the Company contributing thereto; provided, however, that in the event of fire or other catastrophe, if the Company elects within ninety (90) days from the happening of such event to reconstruct the Facility same shall not constitute a default;
 - (h) The attachment, execution or other seizure of all or substantially all of the assets of the Company, which such attachment, execution or other seizure is not discharged within a period of sixty (60) days after the date of levy; or
 - (i) The failure, refusal or neglect of the Company to perform, keep or observe any of the terms, covenants and agreements herein contained on the part of the Company

to be performed, kept or observed, which failure continues for more than thirty (30) days after written notice from the Agency.

14. Remedies on Default in Payment; Termination. Upon the happening of any event of default as defined in ¶13(a) and (b) hereof, the Agency may immediately terminate this PILOT Agreement by giving written notice of termination to the Company and without prejudice or limitation as to all other rights or remedies herein and/or under law or in equity. Such termination may be accomplished by conveying title to the Land by terminating the Lease Agreement and Leaseback Agreement, all as determined by the Agency, and the recording of terminations of the memoranda of Lease Agreement and Leaseback Agreement in the Sullivan County Clerk's Office shall be deemed to be delivery thereof. The Company hereby appoints the Chairman, Executive Director or Chief Executive Officer of the Agency as its attorney-in-fact for the limited purpose of signing any forms which must necessarily accompany the terminations in order for the terminations to be recorded. The Company acknowledges that the foregoing appointment is coupled with an interest and is irrevocable.
15. Remedies On Other Defaults; Termination. Upon the happening of any event of default as defined in ¶13(c - i) hereof, after thirty (30) days written notice to the Company specifying the event of default, if the default shall not be remedied within such thirty (30) day period or such other longer period as specified in 13(c)(e)(g), (h) and (i) (or if, with reasonable diligence the default cannot be remedied within such thirty (30) day period, then within such extended period as may be reasonably required therefor) the Agency, at its option, may take any action hereinafter set forth and all such remedies shall be cumulative and not exclusive:
- (a) Recover damages for the breach of any covenant or condition hereof;
 - (b) Seek an injunction to bar any actual or threatened violation or breach of this PILOT Agreement;
 - (c) Seek any other remedy authorized by law or in equity;
 - (d) Terminate this PILOT Agreement, without prejudice or limitation as to all other rights or remedies herein and/or under law or in equity. Such termination may be accomplished by terminating the Lease Agreement and Leaseback Agreement, and the recording of terminations of the memoranda of lease evidencing the foregoing Lease Agreement and Leaseback Agreement in the Sullivan County Clerk's Office shall be deemed to be delivery thereof. The Company hereby appoints the Chairman of the Agency as its attorney-in-fact for the limited purpose of signing any forms which must necessarily accompany the terminations in order for the terminations to be recorded.

Notwithstanding anything to the contrary set forth herein, any breaches or defaults under Section 8 of this PILOT Agreement shall be governed solely by Section 8(d) of this PILOT Agreement, and the remedies set forth in Section 8(d) shall be the sole remedies in connection with such defaults.

16. Legal Fees on Default. If the Agency shall be required to take any action to enforce this PILOT Agreement or to collect any amount due hereunder, the Company shall be liable to pay, in addition to any other costs and expenses incurred by the Agency, its reasonable legal fees and the reasonable fees of any experts, accountants, or other professionals retained by it, without regard to whether the Agency shall have instituted any lawsuit or action at law or in equity in any court or before anybody, provided such expenses were actually and necessarily incurred.
17. Late charges. If any PILOT Payment is not made by the due date, or if any other payment required to be made hereunder is not made when due by the last day of any applicable cure period, the Company shall pay penalties and interest as provided herein. With respect to PILOT Payments, if said payment is not received by the due date, the Company shall pay, in addition to the PILOT Payment, a late charge equal to five percent (5%) of the amount due plus interest on said payment equal to one percent (1%) per month or fraction thereof until the PILOT Payment, penalty and interest is paid in full. With respect to all other payments due hereunder, if said payment is not received when due or by the last day of any applicable cure period, the Company shall pay, in addition to said payment, the greater of (a) a late charge equal to five (5%) percent of the amount due plus interest on said payment equal to one (1%) percent per month or fraction thereof until said payment, penalty and interest is paid in full; or (b) penalties and interest which would have been incurred had payments made hereunder been made to the Taxing Jurisdictions.
18. Indemnification. The Company shall indemnify, defend and hold the Agency (and its executive director, directors, officers, members, agents, employees, servants and their successors, representatives and assigns) harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever in relation to the Project, including out-of-pocket expenses incurred by the Agency (and its executive director, directors, officers, members, agents, employees, servants and their successors, representatives and assigns) in defending any claim, suit or action which may result as a result of the foregoing; provided, however the Company shall have no responsibility with respect to liability resulting from the agency's gross negligence or intentional misconduct. The foregoing indemnities shall apply notwithstanding the breach of a statutory obligation or the application of any rule of comparative apportioned liability. The foregoing obligations of the Company shall remain in full force and effect after the termination of this Lease Agreement.
19. No Recourse, Special Obligation. Notwithstanding anything to the contrary contained herein, the obligations and agreements of the Agency contained herein and in any other agreement executed by the Agency and in any other instrument or document supplemental thereto executed in connection therewith shall be deemed the obligation and agreements of the Agency, and not of any director, officer, member, agent, employee or representative of the Agency in his or her individual capacity, and the executive director, directors, officers, members, agents, employees and representatives of the Agency shall not be liable personally thereon or be subject to any personal liability or

accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State, the County, or any of the Taxing Jurisdictions, and neither the State, County, or any other Taxing Jurisdictions shall be liable thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute a limited obligation of the Agency payable solely from revenues derived from the sale of the Facility.

The obligations and agreements of the Company contained herein and any other instrument or document executed in connection herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Company, and not of any member, direct or indirect beneficial owners, affiliates, partners, shareholders, officers, directors, agents, employees or representatives of the Company in his or their individual capacity, and the members, direct or indirect beneficial owners, affiliates, partners, shareholders, officers, directors, agents and employees or representatives of the Company shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

20. General Provisions.

- (a) Notices. All notices provided for by this PILOT Agreement shall be made in writing, and shall be deemed to have been given on the date of delivery if personally served on the party to whom notice is to be given, or on the next day after mailing if mailed to the party to whom notice is to be given by overnight courier of national reputation providing evidence of receipt and properly addressed, or on the third day after mailing if mailed to the party to whom notice shall be given by First Class, Certified mail, postage prepaid and properly addressed to the following:

If to the Agency:

County of Sullivan Industrial Development Agency
One Cablevision Center
Ferndale, New York 12734
Attn: Chief Executive Officer

with a copy to:

GARIGLIANO LAW OFFICES, LLP
449 Broadway
P.O. Drawer 1069
Monticello, New York 12701-1069
Attn: Agency Counsel

To the Company:

SPT IVEY 61 EMERALD MOB LLC
591 West Putnam Avenue
Greenwich, Connecticut 06830

with a copy to:

SPT IVEY 61 EMERALD MOB LLC
c/o Starwood Property Trust
591 West Putnam Avenue
Greenwich, Connecticut 06830
Attention: Andrew J. Sossen

and

Kirkland & Ellis LLP
601 Lexington Ave.
New York, New York 10022
Attn: Travis Fleming, Esq.

- (b) Assignment. This PILOT Agreement may not be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits hereunder without the prior written consent of the Agency, which consent may be withheld by the Agency in its sole and absolute discretion.
- (c) Binding Effect. This PILOT Agreement shall inure to the benefit of and shall be binding upon the Agency, the Company and its respective permitted successors and assigns.
- (d) Waiver. No waiver of any of the provisions of this PILOT Agreement shall be deemed to or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.
- (e) Severability. If any provision of this PILOT Agreement shall be determined to be illegal and unenforceable by any court of law or any competent governmental or other authority, the remaining provisions shall be severable and enforceable in accordance with its terms so long as this PILOT Agreement without such terms or provisions does not fail of its essential purpose or purposes. The parties will negotiate in good faith to replace any such illegal or unenforceable provision or provisions with suitable substitute provisions which will maintain the economic purposes and intentions of this PILOT Agreement.
- (f) Governing Law, Venue. This PILOT Agreement shall be governed by and construed in accordance with the laws of the State of New York. The parties hereby designate a court of proper jurisdiction located in the

County of Sullivan, New York as the exclusive venue for resolution of any disputes which may arise under or by reason of this PILOT Agreement.

- (g) Survival of Obligations. The obligations of the Company to make the PILOT Payments and all of the Company's indemnification obligations shall survive any termination or expiration of this PILOT Agreement.
- (h) Section Headings Not Controlling. The headings of the several sections in this PILOT Agreement have been prepared for convenience of reference only and shall not control, affect the meaning or be taken as an interpretation of any provision of this PILOT Agreement.
- (i) Entire Agreement. This PILOT Agreement together with the Lease to Agency and Leaseback Agreement sets forth the entire agreement and understanding between the parties relating to the subject matter hereof and supersedes all prior discussions and negotiations between them. This PILOT Agreement may not be amended in any respect, except by a written amendment expressly referring to this PILOT Agreement and executed by the parties to be bound thereby.
- (j) Counterparts. This PILOT Agreement may be executed in any number of counterparts and it shall be sufficient that the signature of each party appear on one or more such counterparts. All counterparts shall collectively constitute a single agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Company and the Agency have caused this PILOT Agreement to be executed in its respective names, all as of the date first above written.

SPT IVEY 61 EMERALD MOB LLC
By: Starwood Property Trust, Inc., Sole Member

By: _____

Name: Andrew Sossen

Title: Vice President

COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY

By: Edward T. Sykes, Executive Director

Crystal Run Healthcare LLP joins in this PILOT Agreement for the purpose of acknowledging and agreeing to Section 8 hereof.

CRYSTAL RUN HEALTHCARE LLP

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the Company and the Agency have caused this PILOT Agreement to be executed in its respective names, all as of the date first above written.

SPT IVEY 61 EMERALD MOB LLC
By: Starwood Property Trust, Inc., Sole Member

By: _____

Name: _____

Title: _____

COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY



By: Edward T. Sykes, Executive Director

Crystal Run Healthcare LLP joins in this PILOT Agreement for the purpose of acknowledging and agreeing to Section 8 hereof.

CRYSTAL RUN HEALTHCARE LLP

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the Company and the Agency have caused this PILOT Agreement to be executed in its respective names, all as of the date first above written.

SPT IVEY 61 EMERALD MOB LLC

By: _____

Name: _____

Title: _____

COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY

By: Edward T. Sykes, Executive Director

Crystal Run Healthcare LLP joins in this PILOT Agreement for the purpose of acknowledging and agreeing to Section 8 hereof.

CRYSTAL RUN HEALTHCARE LLP

By: _____

Name: _____

Title: _____

STATE OF New York
COUNTY OF Orange)ss:

On the 15th day of December in the year 2016 before me, the undersigned, a Notary Public in and for said State, personally appeared Hal Tertelbaum, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Cynthia P. Schady
Notary Public

CYNTHIA P. SCHADY
Notary Public, State of New York
Commission No. 4866719
Qualified in Orange County
Commission Expires August 11 2018

STATE OF NEW YORK)
COUNTY OF SULLIVAN)ss:

On the ____ day of December in the year 2016 before me, the undersigned, a Notary Public in and for said State, personally appeared Edward T. Sykes, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

WALTER F. GARIGLIANO
Notary Public, State of New York
Sullivan County Clerk #4
Commission Expires June 30, 2018

STATE OF _____)
COUNTY OF _____)ss:

On the ____ day of December in the year 2016 before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public