

(Top 3 inches reserved for recording data)

**MORTGAGE
by Business Entity**

**Minnesota Uniform Conveyancing Blanks
Form 20.1.2 (2006)**

MORTGAGE REGISTRY TAX DUE: \$1,622.84

DATE: March 15, 2012

☐ CHECK IF APPLICABLE: NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, ENFORCEMENT OF THIS MORTGAGE IN MINNESOTA IS LIMITED TO A DEBT AMOUNT OF \$705,582.50 UNDER CHAPTER 287 OF MINNESOTA STATUTES.

THIS MORTGAGE ("**Mortgage**") is given by TOTI HOLDINGS, LLC, a Minnesota limited liability company, as mortgagor ("**Borrower**"), to THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF RAMSEY, MINNESOTA, a public body politic and corporate under the laws of the State of Minnesota, as mortgagee ("**Lender**").

WITNESSETH, that to secure the payment of Seven Hundred Sixty-two Thousand Three Hundred Dollars (\$762,300.00) with interest thereon (the "**Indebtedness**") as set forth in that certain Promissory Note dated on or about the date hereof, executed by Borrower in favor of Lender (the "**Note**"), Borrower hereby mortgages to Lender, with power of sale, the real property in Anoka County, Minnesota, legally described as follows: Lot 4, Block 1, COR ONE

Check here if all or part of the described real property is Registered (Torrens)

together with all hereditaments and appurtenances belonging thereto (the "**Property**"), subject to the following exceptions:

1. Covenants, conditions, restrictions (without effective forfeiture provisions) and declarations of record, if any;
2. Reservations of minerals or mineral rights by the State of Minnesota, if any;
3. Utility and drainage easements which do not interfere with present improvements;
4. Applicable laws, ordinances and regulations;
5. The lien of real estate taxes and installments of special assessments not yet due and payable; and
6. The liens or encumbrances listed on Exhibit A attached hereto and made as part hereof ("**Permitted Encumbrances**").

Borrower covenants with Lender as follows:

(a) **Repayment of Indebtedness.** If Borrower (a) pays the Indebtedness to Lender according to the terms of the Note and all renewals, extensions, and modifications thereto, final payment of which is due on September 14, 2012; (b) pays interest on the Indebtedness as provided in the Note; (c) repays to Lender, at the times and with interest as specified, all sums advanced in protecting the lien of this Mortgage, if any; and (d) keeps and performs all the covenants and agreements contained herein, then Borrower's obligations under this Mortgage will be satisfied, and Lender will deliver an executed satisfaction of this Mortgage to Borrower. It is Borrower's responsibility to record any satisfaction of this Mortgage at Borrower's expense.

(b) **Statutory Covenants.** Borrower makes and includes in this Mortgage the following covenants and provisions set forth in Minn. Stat. 507.15, and the relevant statutory covenant equivalents contained therein are hereby incorporated by reference:

- (i) To warrant the title to the Property;
- (ii) To pay the Indebtedness as herein provided;
- (iii) To pay all taxes;
- (iv) That the Property shall be kept in repair and no waste shall be committed;
- (v) To pay principal and interest on prior mortgages (if any).

(c) **Additional Covenants and Agreements of Borrower.** Borrower makes the following additional covenants and agreements with Lender:

(a) Borrower shall keep all buildings, improvements, and fixtures now or later located on all or any part of the Property (collectively, the "**Improvements**") insured against loss by fire, lightning, and such other perils as are included in a standard all-risk endorsement, and against loss or damage by all other risks and hazards covered by a standard extended coverage insurance policy, including, without limitation, vandalism, malicious mischief, burglary, theft, and if applicable, steam boiler explosion. Such insurance shall be in an amount no less than the full replacement cost of the Improvements, without deduction for physical depreciation. If any of the Improvements are located in a federally designated flood prone area, and if flood insurance is available for that area, Borrower shall procure and maintain flood insurance in amounts reasonably satisfactory to Lender. Borrower shall procure and maintain liability insurance against claims for bodily injury, death, and property damage occurring on or about the Property in amounts reasonably satisfactory to Lender and naming Lender as an additional insured, all for the protection of the Lender.

(b) Each insurance policy required pursuant to Paragraph 3(a) must contain provisions in favor of Lender affording all right and privileges customarily provided under the so-called standard mortgagee clause. Each policy must be issued by an insurance company or companies licensed to do business in Minnesota and acceptable to Lender. Each policy must provide for not less than ten (10) days written notice to Lender before cancellation, non-renewal, termination, or change in coverage. Borrower will deliver to Lender a duplicate original or certificate of such insurance policies and of all renewals and modifications of such policies.

(c) If the Property is damaged by fire or other casualty, Borrower must promptly give notice of such damage to Lender and the insurance company. In such event, the insurance proceeds paid on account of such damage will be applied to payment of the amounts owed by Borrower pursuant to the Note, even if such amounts are not otherwise then due, unless Borrower is permitted to make an election as described in the next paragraph. Such amounts first will be applied to unpaid accrued interest and next to the principal to be paid as provided in the Note in the inverse order of their maturity. Such payment(s) will not postpone the due date of the installments to be paid pursuant to the Note or change the amount of such installments. The balance of insurance proceeds, if any, will be the property of Borrower.

(d) Notwithstanding the provisions of Paragraph 3(c), and unless otherwise agreed by Borrower and Lender in writing, if (i) Borrower is not in default under this Mortgage (or after Borrower has cured any such default); (ii) the mortgagees under any prior mortgages do not require otherwise; and (iii) such damage does not exceed ten percent (10%) of the then assessed market value of the Improvements, then Borrower may elect to have that portion of such insurance proceeds necessary to repair, replace, or restore the damaged Property (the "**Repairs**") deposited in escrow with a bank or title insurance company qualified to do business in Minnesota, or such other party as may be mutually agreeable to Lender and Borrower. The election may only be made by written notice to Lender within sixty (60) days after the damage occurs; and the election will only be permitted if the plans, specifications, and contracts for the Repairs are approved by Lender, which approval shall not be unreasonably withheld, conditioned, or delayed. If such a permitted election is made by Borrower, Lender and Borrower shall jointly deposit the insurance proceeds into escrow when paid. If such insurance proceeds are insufficient for the Repairs, Borrower shall, before the commencement of the Repairs, deposit into such escrow sufficient additional money to insure the full payment for the Repairs. Even if the insurance proceeds are unavailable or are insufficient to pay the cost of the Repairs, Borrower shall at all times be responsible to pay the full cost of the Repairs. All escrowed funds shall be disbursed in accordance with sound, generally accepted, construction disbursement procedures. The costs incurred or to be incurred on account of such escrow shall be deposited by Borrower into such escrow before the commencement of the Repairs. Borrower shall complete the Repairs as soon as reasonably possible and in a good and workmanlike manner, and in any event the Repairs shall be completed by Borrower within one (1) year after the damage occurs. If, following the

completion of and payment for the Repairs, there remains any undisbursed escrow funds, such funds shall be applied to payment of the amounts owed by Borrower under the Note in accordance with Paragraph 3(c).

(e) If all or any part of the Property is taken in condemnation proceedings instituted under power of eminent domain or is conveyed in lieu thereof under threat of condemnation, the money paid pursuant to such condemnation or conveyance in lieu thereof must be applied to payment of the amounts due by Borrower to Lender under the Note as set forth in Paragraph 3(c), even if such amounts are not then due to be paid.

(f) Borrower will not commence construction of any new Improvements on the Property unless and until Borrower repays in its entirety the Indebtedness to Lender and Lender delivers to Borrower a Satisfaction of this Mortgage.

(g) Borrower will pay all dues, fees or assessments, if any, which are due and payable by Borrower to any homeowners or similar association as a result of the Property's inclusion therein.

(h) Borrower will pay any other expenses and attorneys' fees incurred by Lender pursuant to the Note or as reasonably required for the protection of the lien of this Mortgage.

(d) **Payment by Lender.** If Borrower fails to pay any amounts to be paid hereunder to Lender or any third parties, or to insure the Improvements, and deliver the policies as required herein, Lender may make such payments or secure such insurance. The sums so paid shall be additional Indebtedness, bear interest from the date of such payment at the same rate set forth in the Note, be an additional lien upon the Property, and be immediately due and payable upon written demand. This Mortgage secures the repayment of such advances.

(e) **Default.** In case of default (i) in the payment of sums to be paid under the Note or this Mortgage, when the same becomes due, (ii) in any of the covenants set forth in this Mortgage, (iii) under the terms of the Note, or (iv) under any addendum attached to this Mortgage, Lender may declare the unpaid balance of the Note and the interest accrued thereon, together with all sums advanced hereunder, immediately due and payable without notice, and Borrower hereby authorizes and empowers Lender to foreclose this Mortgage by judicial proceedings or to sell the Property at public auction and convey the same in fee simple in accordance with Minn. Stat. Ch. 580, and out of the monies arising from such sale, to retain all sums secured hereby, with interest and all legal costs and charges of such foreclosure and the maximum attorneys' fees permitted by law, which costs, charges, and fees Borrower agrees to pay.

(f) **Governing Law; Severability.** This Mortgage shall be governed by the laws of Minnesota. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision.

7. **Binding Effect.** The terms of this Mortgage will run with the Property and bind the parties hereto and their successors in interest.

8. **No Improvements or Lienable Work.** Lender and Borrower acknowledge and agree that the Property is currently vacant and unimproved. Prior to Borrower's satisfaction of this Mortgage by payment in full of the Indebtedness, Borrower may not engage any third party to (a) perform any engineering or land surveying services with respect to the Property; (b) contribute to the improvement of the Property by performing labor or furnishing skill, materials or machinery to the Property; or (c) take any other action or provide any other service or thing which may give rise to a lien against the real property under Minnesota Statutes, Chapter 514, unless prior to the commencement of any such actions or the delivery of any such materials, Borrower provides Lender with documentation, satisfactory to Lender in Lender's sole and absolute discretion, legally sufficient to waive and release any claims the party providing the services, labor, skill, materials or machinery may have to assert a lien against the Property pursuant to Minnesota Statutes, Chapter 514.

[Signature page follows.]

IN WITNESS WHEREOF, Borrower has caused these presents to be executed as of the date first written above.

Borrower: TOTI HOLDINGS, LLC, a Minnesota limited liability company

By: _____

Name: Brian R. Wings

Its: Chief Manager

State of Minnesota)
) ss
County of _____)

This instrument was acknowledged before me on March 15, 2012, by Brian R. Wings as Chief Manager of TOTI Holdings, LLC, a Minnesota limited liability company, on behalf of the company.

(Seal, if any)

Title (and Rank):_____

My commission expires:_____

THIS INSTRUMENT WAS DRAFTED BY:
Briggs and Morgan, P.A. (SGA)
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2157

EXHIBIT A

(Permitted Encumbrances)

1. Building, zoning and subdivision statutes, laws, ordinances and regulations;
2. Reservations of minerals or of mineral rights in favor of the State of Minnesota, if any;
3. The lien of real estate taxes and special assessments not yet due and payable;
4. The Final Plat of COR ONE and any dedicated drainage and utility easements shown thereon;
5. A reservation of a right of reverter in favor of Grantor pursuant to which title to the Property will revert to and re-vest in Grantor if (i) Grantee defaults in the performance of Grantee's obligations under any mortgage to which Grantor has subjected Grantor's rights under this right of reverter and the mortgagee commences proceedings to foreclose the mortgage; or (ii) Grantee fails to substantially complete the construction of a three-story 120,000 square foot senior care facility consisting of approximately 80 units, for assisted living and memory care, on the property Grantor conveys to Grantee by this deed on or before the date two years from the date of this deed, or if this deed not dated prior to recording, the date this deed is first recorded in the Anoka County land records. If Grantor is delayed in completing construction of the above referenced improvements as a result of acts of God, including, but not limited to, floods, ice storms, blizzards, tornadoes, landslides, lightening and earthquakes (but not including rain, snow or windstorms that constitute reasonably anticipated weather conditions for the geographic area); riots, insurrections, war or civil disorder affected the performance of the work; blockades; power or other utility failures; fires or explosions; labor strikes or labor shortages; or shortages of materials and Grantee promptly notifies Grantor of the occurrence of such conditions, the two year period provided for in the preceding sentence shall be extended for a number of days equal to the number of days that the condition persists and a reasonable period for recovery and restoration thereafter. For purposes of the right of reverter, the improvements will be substantially complete when they are eligible for receipt of a certificate of occupancy;
6. The right of access dedicated to the County of Anoka onto County State Aid Highway No. 83, County Road No. 56 and County Road No. 116 as shown on the plat of Ramsey Town Center Addition, filed as Document No. 455705 on December 31, 2003; and
7. Easement for drainage purposes in favor of the City of Ramsey over portion of the Northwest Quarter of the Northwest Quarter, Section 28, Township 32, Range 25 described in Final Certificate filed as Anoka County Recorder Document No. 1359406 on July 24, 1998.