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PUD DEVELOPMENT AGREEMENT

BETWEEN THE

VILLAGE OF HARTLAND

AND

3LP HARTLAND SENIOR LLC

EFFECTIVE DATE:

[_____], 2024

INDEX

[TO BE ADDED ONCE COMPLETE]

EXHIBIT LIST

Exhibit 1	Property Legal Description
Exhibit 2	CSM
Exhibit 3	Senior Living Parcel Legal Description
Exhibit 4	Architectural Plans and Specifications
Exhibit 5	Dedicated Improvements
Exhibit 6	Civil Engineering Plans
Exhibit 7	[Intentionally Omitted] ¹
Exhibit 8	[Intentionally Omitted]
Exhibit 9	Private Hydrant Maintenance Agreement
Exhibit 10	Storm Water Management, Facility Maintenance and Easement Agreement
Exhibit 11	Landscape Plans and Specifications
Exhibit 12	Property Declaration
Exhibit 13	Lighting Plan
Exhibit 14	Walking Path and Fire Access Road
Exhibit 15	Walking Path Easement Agreement

¹ Note to Village: we deleted because, unlike Hartland Quarry, we don't have ongoing environmental and geotechnical issues that require future plans.

20 **PUD DEVELOPMENT AGREEMENT**

21 THIS PUD DEVELOPMENT AGREEMENT (“Agreement”) is made, effective as of the
22 date of the recording of this Agreement (as provided in Section XVI.A. below) (the “Effective
23 Date”), by and between the VILLAGE OF HARTLAND, a Wisconsin Municipality (“Village”),
24 and 3LP HARTLAND SENIOR LLC, a Wisconsin limited liability company (“Developer” and,
25 collectively, with the Village, the “Parties” and each a “Party”).

26 **RECITALS**

27 WHEREAS, Developer intends to acquire approximately 3.76 acres of land in the Village
28 that is a portion of Lot 2 of CSM 12091 on Campus Drive, which full Lot 2 is more fully identified
29 in the attached Exhibit 1, which is hereby incorporated by reference (the “Property”); and

30 WHEREAS, in order to proceed with the planned development described herein,
31 Developer and the owner of the Property need to obtain approval from the Village to divide the
32 Property by a recorded certified survey map (the “CSM” Exhibit 2) to be recorded by Developer
33 and the owner of the Property prior to the recording of this Agreement and which CSM will divide
34 the Property to create Lot 2 (the “Senior Living Parcel”) and Outlot 1 (“Outlot 1”); and

35 WHEREAS, Developer seeks to develop the Senior Living Parcel by constructing a senior
36 housing continuum of care facility, comprised of not more than 120 senior housing units (the
37 “Senior Living Project”) to be located on the Senior Living Parcel legally described in Exhibit 3
38 attached hereto; and

39 WHEREAS, Developer requested that the Senior Living Parcel be rezoned as a Planned
40 Development Overlay with underlying zoning of RM-1 under of the Village Code of Ordinances;
41 and

42 WHEREAS, the Village conducted a public hearing concerning the work to be done with
43 respect to the Senior Living Parcel, and the rezoning of the Senior Living Parcel on [October 14,
44 2024]; and

45 WHEREAS, the Senior Living Parcel was approved for rezoning subject to recordation on
46 [October 28, 2024] as RM-1 with PUD overlay; and

47 WHEREAS, Developer has provided plans and specifications for the Senior Living Project
48 (attached hereto and incorporated by reference as Exhibit 4) and such plans and specifications as
49 approved by the Architectural Board and Plan Commission are hereafter generally referred to as
50 the “Plans and Specifications” but are more specifically listed and indexed on Exhibit 4; and

51 WHEREAS, the Architectural Board and Plan Commission, at its meetings dated [October
52 21, 2024], recommended approval of Developer’s Plans and Specifications, the CSM, and
53 regrading and rezoning of the Senior Living Parcel; and

54 WHEREAS, the Architectural Board and Plan Commission has further recommended
55 approval of the Senior Living Project conditioned upon entry by the Village and Developer into a
56

57 Development Agreement and its approved recording as required by this contract as allowed by
58 Section 46-809(c) of the Village Code of Ordinances; and

59 WHEREAS, the Village is requiring that, as conditions of development approval, that
60 Developer install certain improvements listed in the attached Exhibit 5 that are to be provided by
61 Developer and dedicated to the Village upon completion as listed on Exhibit 5 (the “Dedicated
62 Improvements”); and

63 WHEREAS, on [October 28, 2024], the Village Board approved the CSM and
64 conditionally approved Developer’s Plans and Specifications on the Senior Living Parcel, grading
65 and installation of permanent comprehensive storm water improvements, the private roads, internal
66 private water and private sanitary sewer systems, and Storm/Surface Water System all as more
67 particularly described in Exhibit 4 to this Agreement, contingent on Developer and the Village
68 entering into this Agreement and further subject to the terms, conditions, and provisions of this
69 Agreement, all subject to the CSM being recorded and Developer obtaining title to the Senior
70 Living Parcel in fee simple as an absolute contractual preconditions before the recording of this
71 Agreement against the Senior Living Parcel.

72 **AGREEMENT**

73 NOW, THEREFORE, the Village and Developer acknowledge and agree that, in
74 consideration of the granting of approval of the Senior Living Project by the Village Board, for
75 One Dollar (\$1), and the representations by Developer, the mutual promises set forth herein, and
76 other good and valuable consideration, the receipt and sufficiency of which is hereby
77 acknowledged, the Parties hereby agree as follows:

78 **ARTICLE I**
79 **RECITALS**

80 The recitals set forth above are hereby incorporated and fully made part of this Agreement.

81 **ARTICLE II**
82 **REMOVAL OF EXISTING STRUCTURES/EROSION CONTROL**

83 A. Erosion Control. Developer shall install and maintain Wisconsin Department of
84 Natural Resources (“WDNR”) approved erosion control methods in accordance with its WDNR
85 Notice of Intent permit as well as Village issued erosion control permit during any ground
86 disturbing activities on the Property. Developer and all of its successors in interest or assigns shall
87 thereafter provide and maintain erosion control in accordance with the SWM Agreement in
88 perpetuity.

89 B. Authorizations. Developer shall acquire all necessary permits and authorizations,
90 including but not limited to Village sewer and water lateral disturbance permits, to accomplish
91 any work requiring such authorizations and permits, at Developer’s sole cost and expense. Further,
92 Developer shall comply in all material respects with the approved Plans and Specifications,
93 including, but not limited to, those attached hereto as Exhibits 4 thru 15 for the Project.

94 C. Utility Readiness. All earthwork activities with respect to applicable underground
95 utilities on the Senior Living Parcel and Outlot 1 shall be completed to subgrade in manner
96 commensurate with beginning any utility construction work, such that the earthwork will
97 commence at the entry point to Outlot 1 and must have installed control and hydrant valves
98 sufficient the Project prior to Developer proceeding with vertical construction.

99 D. Restoration. All areas of the Property on which construction is not actively ongoing
100 that have been disturbed by Developer's construction activities shall be restored to a grade
101 compatible with the overall SWM Plan (as hereinafter defined) and vegetated within thirty (30)
102 days of the cessation of any grading on such parcel, weather permitting.
103

104 **ARTICLE III** **IMPROVEMENTS**

105 Developer hereby agrees that, upon undertaking any land disturbing activities for the
106 Senior Living Project on the Property, Developer shall construct the following improvements in
107 substantial accordance with the Plans and Specifications as follows:

108 A. Buildings. Developer shall build a four (4) story continuum of care senior living
109 facility in one phase. Construction by Developer shall be in substantial accordance with the Plans
110 and Specifications set forth in Exhibit 4 to be completed within twenty-four (24) months from the
111 first issuance of the building permit for the Senior Living Project improvements. For purposes of
112 calculating permissible unit density for the Senior Living Project, the aggregate square footage of
113 Outlot 1 and the Senior Living Parcel shall be taken into account; provided, however, that prior to
114 conveyance of the Senior Living Parcel to Developer and recordation of this Agreement, the owner
115 of the Property shall record against the entire Property a declaration in the form attached as Exhibit
116 12 (the "Property Declaration"). The Property Declaration shall prohibit development of additional
117 improvements on Outlot 1 to the extent such improvements would, when combined with the
118 improvements on the Senior Living Parcel, violate Village restrictions on the density of Outlot 1
119 and the Senior Living Parcel in the aggregate.

120 B. Sanitary Sewer.

121 1. Developer shall construct, install, and furnish a completed private sanitary
122 sewer system for the Senior Living Project in substantial accordance with the Plans and
123 Specifications set forth in Exhibit 6. The Senior Living Project sanitary sewer improvements
124 located on the Property shall be private improvements and may be connected to the Village
125 sanitary sewer system subject to testing/inspection and the dedication of connecting
126 components, if any, to the Village's sewer system, at the sole discretion of the Village and
127 at the sole expense of Developer.

128 2. As a condition of obtaining any plumbing permit(s) pertaining to the Senior
129 Living Project, Developer shall acquire for the Senior Living Project and submit to the
130 Village evidence of Wisconsin Department of Safety and Professional Services approval
131 and submit a copy of documents evidencing same to the Village Engineer prior to
132 commencing the installation of the private sanitary sewer system.

133 3. As a condition of obtaining any plumbing permit(s) pertaining to the Senior
134 Living Project, Developer shall obtain prior approval for the Senior Living Project from the
135 Del-Hart Sewerage District (“D-H SD”) and submit a copy of such documents evidencing
136 same acceptable to the Village Engineer and the Village Public Works Director.

137 4. All work on any private sanitary sewer/plumbing shall be in accordance
138 with “Standard Specifications for Sewer and Water Construction in Wisconsin” and the
139 applicable specifications and standards required by D-H SD.

140 5. Developer shall be responsible for payment of the connection and permit
141 charges associated with said private sanitary sewer system for the Senior Living Project.

142 6. Developer shall, at its sole expense, furnish one set of “as-built” plans for
143 all installed private sanitary sewer system elements; including location and elevation of
144 laterals at the connection points together with an electronic file copy of said plans
145 compatible with the Village’s GIS software. Developer shall be responsible for any costs
146 of integrating said GIS data into the Village’s GIS database, not to exceed \$2,500 in the
147 aggregate for all GIS integration under this Agreement.

148 C. Water Service.

149 1. Developer shall be solely responsible to provide sufficient water service
150 from the Village of Hartland Water Utility to the Senior Living Project in accordance with
151 all applicable provisions of law and the applicable Wisconsin Administrative Code
152 provisions, regulations and Hartland ordinances and Hartland Water Utility requirements.
153 The Parties acknowledge and agree that the above-described water service is subject to
154 approval by the Village of Hartland Water Utility. Developer shall be responsible for the
155 installation of all internal private water lines within the Senior Living Project and for
156 connecting to any main that may proceed within any Village of Hartland right of way. The
157 plans for all water mains intended to provide water to any portion of the Property shall be
158 approved by the Village of Hartland and the proposed main locations are contemplated to
159 be as shown on Exhibit 6 attached hereto. Developer shall dedicate to the Village connecting
160 components, if any, at the sole discretion of the Village, at the sole expense of Developer.

161 2. The primary connection point to the Village Water Utility water main shall
162 be as depicted on Exhibit 6. The primary connection point will have a master meter pit. The
163 public water main shall extend to the gate valves on the public side of the meter pit at the
164 sole expense of the Developer. The water lateral connected to the water main, meter pit,
165 valves and hydrants on the private side of said gate valve will all be privately owned. The
166 meter in the meter pit will be provided by and owned by the Village of Hartland and shall
167 be paid for by the Village.

168 3. Developer shall, at its sole expense, furnish one set of “as-built” plans of
169 the water system provided by Developer under this Agreement together with survey
170 coordinate locations for bend, valves, meter pits, fire hydrants, and other structures and
171 components provided by Developer under this Agreement, both on and off the Property,
172 together with an electronic data file for integration into the Village’s GIS database.

173 Developer shall be responsible for the actual costs of integration of said data into the
174 Village’s GIS database, not to exceed \$2,500 in the aggregate for all GIS integration under
175 this Agreement.

176 4. As a condition of the issuance of the occupancy permit, Developer shall
177 construct, install, furnish, and provide fire suppression systems for the Senior Living Project
178 to the extent required by and in accordance with plans and specifications approved by the
179 State of Wisconsin as provided in the Plans and Specifications attached as Exhibit 4.

180 D. The occupancy permit shall not be processed or issued unless a Private Hydrant
181 Maintenance Agreement has been executed and recorded in the form attached hereto as Exhibit 9,
182 and until the water distribution system servicing the Senior Living Project improvements have been
183 satisfactorily connected to the Village system as determined by the Village Engineer.

184 E. Storm/Surface Water System.

185 1. Developer shall construct, install, furnish, and provide facilities for storm
186 and surface water drainage management for the Senior Living Parcel and Outlot 1 (the
187 “SWM System”) in substantial accordance with the Plans and Specifications set forth in
188 Exhibit 6 or as may need to be modified to be in accordance with all applicable State,
189 Federal, and Village statutes, regulations, ordinances, and D-H SD regulations and the
190 Storm Water Management Plan agreed to by Developer and the Village (the “SWM Plan”)
191 and incorporated into a Storm Water Management, Facility Maintenance and Easement
192 Agreement in the form attached hereto as Exhibit 10 (the “SWM Agreement”) to be entered
193 into by Developer prior to commencement of construction of the Senior Living Project.

194 2. The SWM System shall be a private improvement and will not be dedicated
195 to the Village.

196 3. The Village shall have no obligation to issue any occupancy permits until
197 the SWM System has been inspected by the Village Engineer and deemed to have been
198 installed in substantial accordance with the Plans and Specifications or any needed
199 modifications/amendments of same in the opinion of the Village Engineer to address any
200 deficiency of the storm and surface drainage system to perform in accordance with the
201 design criteria in the SWM Agreement approved by the Village Engineer.

202 4. Developer shall, at its sole expense, furnish one set of “as-built” plans of
203 the SWM System provided by Developer under this Agreement together with survey
204 coordinate locations for manholes, inlets, and other structures and components provided by
205 Developer under this Agreement, both on and off the Senior Living Parcel, together with an
206 electronic data file for integration into the Village’s GIS database. Developer shall be
207 responsible for the actual costs of integration of said data into the Village’s GIS database,
208 not to exceed \$2,500 in the aggregate for all GIS integration under this Agreement.

209 5. Developer, together with its successors and assigns shall be responsible for
210 the inspection on not less than an annual basis, perpetual maintenance, operation, and
211 replacement of all storm/surface water facilities or components as required under the SWM

212 Agreement WHICH CAN BE ENFORCED BY THE VILLAGE ENGINEER, PUBLIC
213 WORKS DIRECTOR OR BUILDING INSPECTOR INDEPENDENTLY.

214 F. Landscaping.

215 1. Developer shall seed and otherwise landscape the Senior Living Parcel and
216 Outlot 1 in substantial accordance and pursuant to Developer's Plans and Specifications set
217 forth in Exhibit 11.

218 2. Developer shall provide and plant on the Senior Living Parcel and Outlot 1
219 all trees/shrub plantings of the size and species, and at the locations, identified in
220 Developer's Plans and Specifications set forth in Exhibit 11, provided, however, that
221 Developer may substitute larger size plantings of the same species. Following the planting
222 of said trees and shrubs, Developer shall water and maintain said trees and shrubs on the
223 Senior Living Parcel and Outlot 1 to ensure their survival for not less than twelve (12)
224 months from the date of substantial completion of the Senior Living Project. In the event
225 any tree(s) or shrub(s) fails to survive twelve (12) months following its planting, Developer
226 shall replace said tree(s) or shrub(s) with substantially like kind of species and size that said
227 trees or shrubs should have been at the time of replacement at its sole expense.

228 G. Roads and Parking.

229 1. Developer shall grade, construct, and surface private roads, driveways, and
230 parking areas for the Senior Living Project on the Senior Living Parcel and Outlot 1 as
231 shown on, and in substantial accordance with the Plans and Specifications set forth in
232 Exhibit 6.

233 2. Direct vehicular access to the Senior Living Parcel from public streets shall
234 be only via Campus Drive and over and through Outlot 1 as shown on, and in substantial
235 accordance with, the Plans and Specifications set forth on Exhibit 6. The Senior Living
236 Parcel shall be the beneficiary of a cross access, parking and maintenance, and utilities
237 easement pursuant to the Property Declaration.

238 3. Exterior Lighting and Signage. Developer shall provide and install exterior
239 lighting and signage for the Senior Living Parcel and Outlot 1 in substantial accordance
240 with the Plans and Specifications set forth in Exhibit 13. Developer, together with its
241 successors and assigns shall bear all electrical and operational expenses for all lighting on
242 the Senior Living Parcel.

243 H. Permits. The Village is prepared to grant Developer the permits and authorizations
244 required to complete the Senior Living Project, provided Developer complies with all the
245 requirements for the issuance of such permits and authorizations.

246 I. Pathways/Fire Access Lane.

247 1. Developer agrees that the Village is requiring the installation and
248 maintenance of an asphalt walking path for the Senior Living Project in substantial
249 accordance with the Plans and Specifications set forth in Exhibit 14 (the "Walking Path").

250 2. Developer shall grant an easement to the public and enforceable by the
251 Village on, over and across the Walking Path in substantially the form as set forth on
252 Exhibit 15 which shall be recorded prior to beginning construction of the Senior Living
253 Project.

254 3. Developer may promulgate reasonable rules and regulations for the use of
255 the Walking Path, including, without limitation, restricting or prohibiting night time usage
256 and prohibiting littering, blocking or obstructing the Walking Path.

257 4. The Village shall have no responsibility to enforce any promulgated rules
258 and regulations pertaining to the Walking Paths within the Senior Living Project, but shall
259 be required to enforce any trespassing or other behavior related Village ordinance(s) that it
260 would enforce or otherwise address on any other owner's private property in the Village.

261 5. Developer agrees that the Village is requiring the installation and
262 maintenance of a fire access road for the Senior Living Project in substantial accordance
263 with the Plans and Specifications set forth in Exhibit 14 (the "Fire Access Road").

264 6. Developer, together with its successors and assigns shall maintain, repair
265 and replace the Walking Path and the Fire Access Road, including snow and ice removal,
266 so they are useable and can, in the sole judgment of the Village Fire Chief, fully sustain the
267 weight of multiple fire vehicles in the event of a call for services during all seasons.
268

269 **ARTICLE IV**
DEDICATION AND TRANSFER OF OFF-SITE DEDICATED IMPROVEMENTS

270 A. Transfer to Village. Subject to all of the other provisions of this Agreement and
271 the Exhibits attached, Developer shall, without charge to the Village, upon completion of any
272 Dedicated Improvements, which term expressly excludes any utility distribution components
273 situated on or off the Property, unconditionally give, grant, convey and fully dedicate the same to
274 the Village, its successors and assigns, forever, free and clear of all encumbrances whatsoever,
275 together with, including without limitation, all structures, mains, conduits, pipes, lines, machinery,
276 equipment and appurtenances which may in any way be a part of such Dedicated Improvements
277 and *together with any and all necessary easements for access thereto.*

278 At the time of recording of this Agreement, Developer shall provide the Village with a title
279 commitment and a deed as satisfactory evidence of the commitment to issue title insurance
280 reflecting Developer's full ownership of the Senior Living Parcel. To the extent not paid by the
281 seller from whom Developer acquires the Senior Living Parcel, Developer shall also pay, or cause
282 to be paid when due, any transfer taxes that arise as a result from said dedication(s).

283 B. Notice and Acceptance. Developer shall notify the Village in writing of the
284 completion of the Dedicated Improvements described on Exhibit 5. Within thirty (30) days of the
285 date of such notice, the Village shall inspect and/or re-inspect as necessary any Dedicated
286 Improvement described in Developer's notice and prepare and deliver to Developer a written
287 punch list of repairs necessary to bring such improvements into substantial conformance with the
288 Plans and Specifications. Upon Developer's written notice to the Village that all punch list repairs
289 for all such Dedicated Improvements are complete, and following satisfactory completion of any

290 applicable re-inspection, the Village shall within fifteen (15) days following the date of such notice
291 and subject to inspection and approval of the Village, by resolution, accept the dedication of all
292 completed Dedicated Improvements. Simultaneous with the acceptance by the Village of any
293 public sanitary sewer or public water improvement on the Property, Developer shall, at its sole
294 expense, furnish to the Village one set of “as built” plans for the applicable sanitary sewer
295 improvement in an electronic format acceptable to the Village.

296 C. Construction Warranty for Dedicated Improvements. Developer warrants that all
297 materials and workmanship furnished by Developer for the Dedicated Improvements shall remain
298 in good and sound condition for and during a period of twelve (12) months from the date after
299 final acceptance by the Village of each Dedicated Improvement.

300 D. Obligation to Repair. Developer shall make or cause to be made, at its own
301 expense, any and all repairs which may become necessary under and by virtue of Developer’s
302 warranty and leave the Dedicated Improvements in good and sound condition, except to the extent
303 intentionally or negligently caused by the Village, its agents, employees, or third-party contractors.

304 E. Notice of Repair. If during a warranty period, the Dedicated Improvements shall,
305 in the reasonable and professional opinion of the Village Engineer in his/her discretion, require
306 any repairs or replacements which in his/her reasonable judgment are necessitated by reason of
307 settlement of foundation, structure or backfill, or other defective workmanship and/or materials,
308 Developer shall, upon written notification by the Village Engineer of the necessity for such repairs,
309 make such repairs, at its own cost and expense. In the event Developer fails to make such repairs
310 within a reasonable time after written notice has been sent as provided herein, or fails to start work
311 within thirty (30) days, except in an emergency, after such written notice, weather permitting, the
312 Village may cause such work to be done, but has no obligation to do so, either by contract or
313 otherwise. Developer shall, within thirty (30) days of being invoiced by the Village, pay any
314 excess cost or expense actually incurred in the correction process. If Developer fails to make
315 payment within said thirty (30) days, the Village may impose a special charge against the Property
316 pursuant to Wis. Stat. § 66.0627, as subsequently amended from time-to-time.

317 F. Maintenance Prior to Acceptance.

318 1. Developer shall maintain the Dedicated Improvements until such time as
319 they are accepted by the Village. This maintenance shall include routine maintenance, such
320 as dust suppression, crack filling, and the like.

321 2. In cases where emergency maintenance is required, such as sewer blockages
322 within the boundaries of the Property or on Dedicated Improvements, the Village retains
323 the right, after first attempting to work directly with Developer and Developer’s contractors
324 and agents, to complete the required emergency maintenance in a timely fashion and shall
325 have authority to impose a special charge against the Property pursuant to Wis.
326 Stat. §66.0627.

327 3. All improvements to be dedicated to the Village under this Agreement shall
328 be maintained by Developer until they are accepted so they substantially conform to the

329 applicable Plans and Specifications attached as exhibits to this Agreement at the time of
330 their acceptance by the Village.

331
332 **ARTICLE V**
MISCELLANEOUS REQUIREMENTS

333 A. Facilities to Be Placed Underground. All newly installed facilities associated with
334 the transmission/delivery of electrical, telephone, gas, water and communications services shall
335 be underground. Normal and customary above-ground facility components such as transformers,
336 service pedestals, gas vents and the like approved in writing by the Village Engineer in his
337 reasonable discretion are permissible. Coordination of installation as shown on the Plans and
338 Specifications shall be the responsibility of Developer.

339 B. Manner of Performance. Developer shall cause all construction called for by this
340 Agreement to be carried out and performed in a good and workmanlike manner consistent with
341 current best practices in the construction of senior housing facilities in the southeastern Wisconsin
342 area.

343 C. Authorizations. Developer hereby agrees to obtain all necessary authorizations and
344 approvals from all governmental authorities, including but not limited to the Village and State of
345 Wisconsin, prior to the start of construction, demolition, and/or regulated abatement. Developer
346 shall be solely responsible for payment of all applicable authorization fees and costs.

347 D. Locations/Existing Public Utilities. Developer agrees that the locations of existing
348 Village sanitary sewer, water main, and storm water facilities as indicated on the approved Plans
349 and Specifications and any other Village records are approximate locations only. Each party is
350 solely responsible for definitively locating the other parties' existing facilities in the field, and no
351 party hereto shall bear any liability if any of said facilities are not located as may be contained in
352 the approved Plans and Specifications and any other Village records. The Parties hereto shall take
353 commercially reasonable steps so as to not interfere with the existing facilities of any other party.

354 E. Pre-Demolition, Pre-Construction and Construction Meetings. Developer and its
355 general contractor(s) shall attend pre-demolition and pre-construction meetings and construction
356 meetings not more than once weekly as requested by Village staff prior to conducting demolition
357 and construction and during construction of the Senior Living Project.

358
359 **ARTICLE VI**
TIME

360 A. Commencement and Completion. Developer shall complete, or cause the
361 completion of, the following aspects of the improvements of the Senior Living Parcel, all in
362 compliance with the requirements of this Agreement, and in accordance with the following Senior
363 Living Project schedules:

364 1. Commencement of Senior Living Project. Developer shall commence
365 demolition and construction of the Senior Living Project no later than twelve (12) months
366 after the Effective Date.

367 2. Completion of SWM System. Except for punch list items relating to such
368 improvements which shall be diligently pursued to completion thereafter by Developer, not
369 later than substantial completion of the Senior Living Project improvements and prior to
370 any occupancy permit being issued for the Senior Living Project.

371 3. Completion of Senior Living Project landscaping. Developer shall complete
372 all Senior Living Project landscaping, in accordance with the Plans and Specifications,
373 within four (4) months of certificate of occupancy of the Senior Living Project
374 improvements; provided that such period will be extended if completion is delayed due to
375 inadvisability of landscaping due to the typical seasonal weather during any of such four (4)
376 month period.

377 4. Completion of Senior Living Project Improvements. Developer shall
378 complete all Senior Living Project improvements within twenty-four (24) months of the
379 issuance of a building permit for the Senior Living Project improvements.

380 B. Improvements. Time is of the essence as to all timelines set forth in this Agreement.
381 Subject to Section VI.D. of this Agreement, upon the failure of Developer to meet one or more
382 deadlines specified in this Agreement, in the event Developer has commenced the Senior Living
383 Project, the Village may (but is not required to) restore the Property to grade and stabilize the
384 Property to achieve a dust-free, erosion proof condition. This Section shall be construed to
385 preclude the Village's authority to remove any building constructed by Developer on the Property
386 solely due to Developer's failure to meet one or more timelines specified in this Agreement unless
387 Developer has substantially ceased construction activity on the Senior Living Project for more
388 than twelve (12) calendar months. In the event the Village performs work on the Property under
389 this Section, the Village may charge Developer one hundred and seven and one-half (107.5%) of
390 the actual costs incurred by Village in restoring the Property to grade and stabilizing the Property
391 to a dust-free, erosion-proof condition. If Developer or its successor in interest fails to pay such
392 invoice, the Village shall have the right to assess a special charge against the Property, or any
393 portion thereof, under Wis. Stat. § 66.0627 as subsequently amended from time-to-time.

394 C. Solely at the discretion of the Village, Developer may be deemed to have forfeited
395 its rights under this Agreement to construct the improvements set forth in the Plans and
396 Specifications upon occurrence of any one or more of the following events:

397 1. Developer fails to commence construction within the times permitted under
398 of this Agreement, as applicable; or

399 2. Developer fails to obtain all required building permit(s) following the
400 recording date of this Agreement with the Waukesha County Register of Deeds Office (the
401 "Recording Date") on or before twelve (12) months after the Effective Date.

402 D. Cause of Delay and Notice of Default.

403 1. If delay in completion of any improvements on the Property described in
404 this Agreement is caused or contributed to by labor disputes, casualties, acts of God or the
405 public enemy, governmental embargo restrictions, shortages of fuel, labor or materials,
406 pandemics, epidemics, public health related issues, riots, public insurrection, action or

407 non-action of public utilities or of local, state or federal governments, agencies or
408 departments affecting the work or other causes beyond Developer’s reasonable control, then
409 the time of completion of such improvement shall be extended for the additional time caused
410 by such delay.

411 2. Developer shall give written notice to the Village Engineer within thirty
412 (30) calendar days of the first occurrence and each subsequent occurrence of each claimed
413 delaying event together with full substantiation that the event qualifies for the granting of
414 additional time under this Section. Failure by Developer to provide written notice within
415 the time provided hereunder shall constitute a waiver by Developer of any right or
416 entitlement to any extension under the terms of this Section.

417
418 **ARTICLE VII**
PAYMENT OF VILLAGE FEES

419 A. Reimbursement. Developer agrees to reimburse the Village for its planning,
420 engineering, and inspection of the Senior Living Project and for its legal work negotiating and
421 enforcing this Agreement and the other agreements associated with this Agreement. Village shall
422 keep a detailed accounting of such costs and bill Developer at the rates contracted by the Village
423 for such services.

424 B. Upfront Fees. Developer shall pay to the Village within thirty (30) days after a
425 receipt of an invoice and reasonable supporting documentation therefore:

426 1. The Village’s reasonable engineering and legal expenses incurred with
427 respect to this Agreement in an aggregate amount not to exceed \$30,000 (the “Cap”). THE
428 VILLAGE SHALL ALSO BE ENTITLED TO BILL FOR ALL SERVICES WITH
429 RESPECT TO THE MONITORING OR ENFORCEMENT OF THIS AGREEMENT,
430 AND THE CAP SHALL NOT APPLY TO SUCH SERVICES.

431 2. The Developer hereby acknowledges and agrees that there are municipal
432 sanitary sewer, water connection and other impact, reserve capacity, or similar municipal
433 impact fees due or owing as a result of the Senior Living Project (collectively “Fees”), all
434 of which shall be paid prior to the issuance of the building permit for the Senior Living
435 Project.

436 3. Developer acknowledges that it shall be responsible for the full payment of
437 all applicable building permit fees and all applicable D-H SD fees prior to the issuance of
438 the building permit for the Senior Living Project.

439 C. Permit Fees. Developer shall be responsible for payment of all applicable
440 municipal permit or related fees set forth in the Village Code of Ordinances or any fee schedule
441 adopted and used by the Village and the costs of all inspections of the Senior Living Project.

442 **ARTICLE VIII**
443 **INDEMNIFICATION AND INSURANCE**
444

445 A. Indemnification. In addition to, and not to the exclusion or prejudice of, any
446 provisions of this Agreement or documents incorporated herein by reference, Developer, or its
447 successors in interest, shall INDEMNIFY AND SAVE HARMLESS the Village, its officers,
448 agents and employees, and shall defend the same from and against any and all liability, claims,
449 loss, damages, interest, actions, suits, judgments, costs, expenses, attorneys' fees, and the like,
450 which result from or arise in the course of, out of, or as a result of the performance, mis-
451 performance, or nonperformance of Developer's obligations under this Agreement or Developer's
452 negligent construction of improvements covered thereby until the granting of the occupancy permit
453 pertaining to the Senior Living Project. The language of this Article VIII notwithstanding,
454 Developer shall have no obligation to indemnify, save harmless or defend the Village to the extent
455 of liability, claims, loss, damages, interest, actions, suits, judgments, costs, expenses, attorneys'
456 fees, and the like resulting from negligent or intentional acts of the Village, its officers, agents, or
457 employees. In every case where Developer is obligated to indemnify and save harmless the
458 Village, its officers, agents and employees, if judgment is rendered against the Village, its officers,
459 agents, or employees and notice and opportunity to defend was given to Developer of the pendency
460 of the suit within ten (10) days after service of the summons and complaint on the Village, such
461 judgment shall be conclusive upon Developer not only as to the amount of damages, but also as to
462 its liability to the Village and/or its officers, agents, and employees.

463 B. Insurance. Developer shall maintain and cause its general contractor(s) and all
464 subcontractors to maintain at all times and naming the Village, its officers, employee and agents
465 as additional insureds, until one year following the granting by the Village of the final occupancy
466 permit for the Senior Living Project, insurance with minimum limits and coverage as shown below:

467 1. Worker's Compensation, including Occupational Disease, Insurance
468 meeting the statutory requirements of the State of Wisconsin, and Employer's Liability
469 insurance in an amount of at least One Million Dollars (\$1,000,000).

470 2. Comprehensive Liability Insurance providing limits for bodily injury and
471 personal injury of One Million Dollars (\$1,000,000) per occurrence with an aggregate of
472 Two Million Dollars (\$2,000,000). The policy must include the Village and its agents,
473 officers and employees as "additional insureds" and provide premises, operations, elevators,
474 damage, blanket contractual covering indemnities within contract documents, products and
475 completed operations coverage and be endorsed as "primary and non- contributory" to any
476 insurance of the additional insured, except from their negligence.

477 3. Comprehensive Automobile Liability Insurance, on occurrence basis,
478 covering all owned, non-owned, and hired vehicles with limits of liability equal to those set
479 forth in Section VIII.B.2. above.

480 4. Developer shall furnish the Village policy declarations and endorsements
481 evidencing additional insureds to policies covering the above-recited insurance
482 requirements. All policy endorsements must state that notice of any material change in
483 coverage, non-renewal, or cancellation will be provided to the Village thirty (30) days prior

484 to the effective date of any such change, non-renewal, or cancellation. The form of the
485 policy endorsements will be subject to the approval of the Village Manager or his designee.
486 The policy endorsements shall be delivered prior to the commencement of any ground
487 disturbing construction pursuant to this Agreement. PRESENTMENT OF PROOF OF THE
488 COMPLETE PROCUREMENT OF THE COVERAGE INDICATED IN THIS ARTICLE
489 VIII IN THE FORM OF DECLARATIONS AND ENDORSEMENTS SHALL BE A
490 PRECONDITION TO THE ISSUANCE OF ANY PERMITS. AN ACORD 25 SHALL
491 NOT BE DEEMED ACCEPTABLE PROOF. PROOF OF THE RENEWAL OF SUCH
492 COVERAGE SHALL BE PRESENTED AS SOON AS AVAILABLE AND PRIOR TO
493 THE EXPIRATION OF ANY PERIOD OF COVERAGE FOR ANY TYPE OF
494 INSURANCE.

495 5. It is understood and agreed that the insurance coverage and limits required
496 above shall not limit the extent of Developer's responsibilities and liabilities pursuant to
497 this Agreement or imposed by law.
498

499 **ARTICLE IX**
GENERAL CONDITIONS AND REGULATIONS

500 All the provisions of the Village Code of Ordinances relating to use and development of
501 land, as amended from time-to-time, are incorporated herein by reference to the extent then
502 applicable, and all such provisions shall bind the parties hereto and be a part of this Agreement as
503 fully as if set forth at length herein. This Agreement and all work and improvements required
504 hereunder shall be performed and carried out in accordance with the customary or better practices
505 in the construction industry for Class A senior living facilities in southeastern Wisconsin subject
506 to and in accordance with said ordinances and this Agreement.
507

508 **ARTICLE X**
AMENDMENTS

509 The Village Board and Developer, by mutual consent, may amend this Agreement only
510 upon entry into a subsequent written agreement approved at a meeting of the Village Board of
511 Trustees for the Village of Hartland. The Village Board shall not, however, consent to an
512 amendment until after first having received a recommendation from the Village Plan Commission
513 in accordance with applicable Village ordinances.
514

515 **ARTICLE XI**
NOTICE

516 Any notice given hereunder shall be in writing and personally delivered, mailed by
517 registered or certified mail, return receipt requested, or delivered via overnight courier: To the
518 Village: Village Clerk, Sandy Policello, Wisconsin 210 Cottonwood Avenue, Hartland, Wisconsin
519 53029, and to Developer: 3LP Hartland Senior LLC, c/o Three Leaf Partners LLC, 504 W. Juneau
520 Avenue, Milwaukee, Wisconsin 53203, Attention: Matt Burow and John Ford, with a copy to
521 Derek Taylor at the same address. Any party may, by notice as provided above, designate a
522 different address from time to time. Any such notice shall be effective on the date of receipt.

523

**ARTICLE XII
DEFAULT BY DEVELOPER**

524

525 A. The failure of the Village to insist in any one or more instances upon performance
526 of, or compliance with any term or condition of this Agreement shall not be construed as a waiver
527 of future performance. The obligations of Developer with respect to such term, covenant, or
528 condition shall continue in full force and effect.

529 B. In addition to any other remedies otherwise provided under this Agreement or the
530 Village Code of Ordinances, the Village shall have the right to withhold inspections and/or permits
531 for the Senior Living Project and/or to bring an action in the Circuit Court for Waukesha County
532 for violation(s) of this Agreement and shall be entitled to recover reasonable attorneys’ fees from
533 the defaulting Developer and any contractor in violation of any Village ordinance or this
534 Agreement.

535

**ARTICLE XIII
TRANSFER OF OWNERSHIP AND PAYMENT IN LIEU OF TAXES**

536

537 Under no circumstance may the Senior Living Parcel become exempt from general
538 property taxes, including a change in the taxable status of the Developer, without the owner entity
539 having first entered into an agreement with the Village to make an annual payment in lieu of taxes
540 (“PILOT Agreement”) for an amount not less than the assessed tax value of the Senior Living
541 Parcel times the annually approved Village mill rate for each year with the additional condition
542 that no portion of the Senior Living Project may be conveyed to any other subsequent tax exempt
543 owner at any time without a similar PILOT Agreement being executed. **The limitation of this**
544 **Section XIII shall be a covenant running with the land and shall survive in perpetuity so**
545 **long as the building constructed for the Senior Living facility exists.**

546

**ARTICLE XIV
MISCELLANEOUS PROVISIONS**

547

548 A. The Parties acknowledge and represent that this Agreement is the subject of
549 negotiation by all parties and that both parties together shall be construed to be the drafter hereof
550 and this Agreement shall not be construed against any party individually as drafter.

551 B. Nothing in this Agreement shall be construed to create an employer/employee
552 relationship, joint employer, a joint venture or partnership relationship, or a principal/agent
553 relationship between the Village and Developer.

554 C. This Agreement shall not be construed to abridge or waive the Village’s authority
555 under Wis. Stats. §§ 61.35 and 62.23.

556 D. Developer shall be solely financial responsible for all trash, garbage and waste
557 hauling from all of the units, buildings and grounds of the Senior Living Project and shall contract
558 directly for such services. Developer warrants that all of its private streets and access areas to the
559 waste/garbage collection points within the Senior Living Project have been designed to adequately
560 support the weight of heavy vehicles and equipment such as waste collection trucks and all likely
561 firefighting vehicles.

562 E. The parties hereby acknowledge that this Agreement imposes on them, and their
563 respective officers, agents, and employees, and successors and assigns a duty of good faith and
564 fair dealing.

565 F. Except as otherwise expressly provided in this Agreement, all guarantees,
566 agreements, representations, and warranties made herein shall survive the execution of this
567 Agreement and as applicable, the completion of the Senior Living Project. This Agreement shall
568 be binding upon and inure to the benefit of the Parties their respective heirs, personal
569 representatives, executors, or successors and assigns.

570 G. Developer represents and warrants that it is a duly organized and validly existing
571 limited liability company under the laws of the State of Wisconsin and that the execution and
572 performance of this Agreement has been duly authorized by resolution or other required action.

573 H. This Agreement shall be recorded in accordance with Article XVI, hereafter, with
574 the Register of Deeds for Waukesha County.

575 I. All time periods referred to in this Agreement shall be calculated on the basis of
576 consecutive calendar days.

577 J. Developer and any successor owners of the Senior Living Parcel may collaterally
578 assign the rights and obligations provided in this Agreement to any construction lender or to other
579 lenders with respect to the Senior Living Project and/or the Senior Living Parcel. Any such lender
580 shall have the right to cure any default by Developer hereunder within forty-five (45) days of
581 delivery of notice of such default from the Village to such lender or, if such default cannot
582 reasonably be cured within that time frame, such longer period as may be reasonably necessary to
583 accomplish such cure so long as such lender begins such cure within the forty-five (45) day period
584 and diligently pursues it to completion.

585 K. Within ten (10) days after request therefor, the Village agrees to provide an estoppel
586 certificate to Developer, its lenders, or any proposed purchaser of all or any part of the Property,
587 or its lenders, stating that Developer is not in default hereunder or if Developer is in default
588 hereunder setting forth any such defaults.

589 L. In the event that any term or provision of this Agreement is determined to be invalid
590 or unenforceable for any reason, then the other terms and provisions of this Agreement shall not
591 be affected thereby and said terms and provisions shall remain in full force and effect, unless to do
592 so would be inequitable to either party hereto.

593 M. THE TERMS AND CONDITIONS CONTAINED HEREIN ARE INTENDED BY
594 THE DEVELOPER AND THE VILLAGE TO CONSTITUTE A COVENANT RUNNING
595 WITH THE LAND AND SHALL BE ENFORCIBLE AGAINST THE DEVELOPER, OR
596 AFTER THE TRANSFER OF OWNERSHIP OF THE SENIOR LIVING PARCEL TO
597 DEVELOPER'S SUCCESSORS OR ASSIGNS. IT IS NOT THE INTENT OF THE VILLAGE
598 OR DEVELOPER THAT THERE BE A LEGAL TERMINATION OF THIS CONTRACT
599 BECAUSE ONCE THE OBLIGATIONS TO CONSTRUCT THE SENIOR LIVING PROJECT,
600 IN STRICT CONFORMITY WITH THE APPROVED PLANS AND SPECIFICATIONS AS
601 CONTAINED IN THIS AGREEMENT, HAVE BEEN ACHIEVED, NEW OBLIGATIONS ON

602 THE PART OF THE DEVELOPER OR ITS SUCCESSOR(S) OR ASSIGN(S) ARISE, FIRST
603 WITH RESPECT TO DEDICATIONS AND THEN WARRANTY OBLIGATIONS AND THEN
604 FOLLOWED BY ONGOING MAINTENANCE AND REPAIR OBLIGATIONS REQUIRING
605 REGULAR PERFORMANCE OF OBLIGATIONS WITH RESPECT TO INSPECTION AND
606 MAINTENANCE TASKS WHICH NEED TO BE PERFORMED SO LONG AS THE SENIOR
607 LIVING PROJECT BUILDING EXISTS. BY WAY OF EXAMPLE, BUT NOT BY WAY OF
608 LIMITATION, THERE WILL ALWAYS BE ONGOING OBLIGATIONS TO INSPECT AND
609 MAINTAIN THE STORM WATER SYSTEM, THE PUBLIC PEDESTRIAN PATHWAY
610 SYSTEM, AND THE FIRE ACCESS ROAD.

611

ARTICLE XV

612 EXCULPATION OF VILLAGE ELECTED OFFICIALS IN PERSONAL CAPACITY

613 The parties mutually agree that the President and Village Clerk of the Village of Hartland,
614 entered into and are signatory to this Agreement solely in their official capacity and not
615 individually, and shall have no personal liability or responsibility hereunder; and personal liability
616 as may otherwise exist, being expressly released and/or waived.

617

ARTICLE XVI

618 RECORDATION AND TERMINATION

619 A. Recordation. This Agreement shall only be effective as of the Effective Date upon
620 the execution of this Agreement **and its recordation** with the Register of Deeds for Waukesha
621 County by the Parties; provided, however, that the Exhibits to this Agreement shall not be recorded
622 but rather shall be maintained on file with the Village. Upon its execution, the original of this
623 Agreement and all of its Exhibits shall be held by the Village in trust until its recordation and
624 return to the Village for its retention.

625 B. Termination. If Developer has not acquired title to the Senior Living Parcel by
626 June 1, 2025, this Agreement shall automatically terminate and the parties shall have no rights or
627 obligations hereunder, except Developer's obligation to reimburse any fees then owed to the
628 Village pursuant to Article VII, which obligation shall survive any such termination.

629

630

[Signatures on Following Pages]

EXHIBIT 1
PROPERTY LEGAL DESCRIPTION

[To be provided]

TAX KEY NO: HAV 0423981056

EXHIBIT 2
CERTIFIED SURVEY MAP (CSM)

[See attached]

EXHIBIT 3
SENIOR LIVING PARCEL LEGAL DESCRIPTION

EXHIBIT 4
ARCHITECTURAL PLANS & SPECIFICATIONS

[See attached]

EXHIBIT 5
DEDICATED IMPROVEMENTS

1. The water main from and including each gate valve on the Village side of the meter pit.
2. The section of the water main within the public right of way.
3. Cross walk and sidewalk curb ramps within the public right of way.
4. Driveway apron within the public right of way.

EXHIBIT 6
CIVIL ENGINEERING PLANS

[See attached]

EXHIBIT 7
[INTENTIONALLY OMITTED]

EXHIBIT 8
[INTENTIONALLY OMITTED]

EXHIBIT 9
PRIVATE HYDRANT MAINTENANCE AGREEMENT

[See attached]

EXHIBIT 10
STORM WATER MANAGEMENT, FACILITY MAINTENANCE AND EASEMENT
AGREEMENT

[See attached]

EXHIBIT 11
LANDSCAPE PLANS AND SPECIFICATIONS

[See attached]

EXHIBIT 12
PROPERTY DECLARATION

[See attached]

EXHIBIT 13
LIGHTING PLAN

[See attached]

EXHIBIT 14
WALKING PATH AND FIRE ACCESS ROAD

[See attached]

EXHIBIT 15
WALKING PATH EASEMENT AGREEMENT

[See attached]