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2011-011191

Klamath County, Oregon



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10/07/2011 12:51:36 PM

Fee: \$97.00

WHEN RECORDED MAIL TO:

John Spencer Stewart
Stewart Sokol & Gray LLC
2300 SW 1st Avenue, Suite 200
Portland, OR 97201

**ADDENDUM TO HEATING AND
COOLING WATER SUPPLY AGREEMENT**

Addendum to Heating and Cooling Water Supply Agreement (this "Addendum") is made and entered into as of the __rd day of July, 2011 (the "Execution Date") to be effective as of the 24th day of December, 2010 (the "Effective Date"), by and between PFRS Crystal Terrace Corp., a Michigan corporation ("Seller") and Marquis Companies I, Inc. ("Marquis") and Plum Ridge Care Community, LLC, an Oregon limited liability company ("PRCC") (Marquis and PRCC are collectively referred to herein as "Buyers").

COVER SHEET

**ADDENDUM TO HEATING AND
COOLING WATER SUPPLY AGREEMENT**

First American Title Ins. Co. has recorded this instrument by request as an accommodation only, and has not examined it for regularity and sufficiency or as to its effect upon the title to any real property that may be described therein.

Addendum to Heating and Cooling Water Supply Agreement

This Addendum to Heating and Cooling Water Supply Agreement (this "Addendum") is made and entered into as of the ___rd day of July, 2011 (the "Execution Date") to be effective as of the 24th day of December, 2010 (the "Effective Date"), by and between PFRS Crystal Terrace Corp., a Michigan corporation ("Seller") and Marquis Companies I, Inc. ("Marquis") and Plum Ridge Care Community, LLC, an Oregon limited liability company ("PRCC") (Marquis and PRCC are collectively referred to herein as "Buyers").

A. Seller and Buyers are parties to that Heating and Cooling Water Supply Agreement entered between the Parties and effective on or about December 23, 2009 (the "Agreement"). Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Agreement.

B. The original Term of the Agreement expired on December 23, 2010 (the "Expiration Date").

C. Seller and Buyers have been agreeing to monthly extensions of the Agreement since December 23, 2010, and are interested in extending the Term of the Agreement for a longer period of time.

D. Seller has negotiated an agreement with Oregon Institute of Technology ("OIT") to obtain access to its geothermal well "byproduct" for heating purposes. Seller makes no guaranty as to the length of time it will have access to geothermal byproduct from OIT, as OIT reserves the right to terminate the connection based on conditions outside of Seller's control. Seller expects to achieve efficiencies and savings once it switches from natural gas to geothermal byproduct as its source for Hot Water Energy which it is prepared to pass on to Buyers under the terms of the Agreement.

E. Section 22 of the Agreement provides that it can only be amended or modified by written instrument signed by Seller and Buyers.

NOW, THEREFORE, in consideration of the foregoing premises and the covenants and promises of the parties set forth below, the parties extend and amend the Agreement as follows:

1. Term:

(a) The reference to the "Term" in Paragraph 2.1 is hereby replaced with the phrase "Initial Term."

(b) The last sentence of Paragraph 2.1 is deleted in its entirety and the following is inserted in lieu thereof: The parties agree that effective as of December 24, 2010 the Initial Term of the Agreement shall be extended for an additional ten (10) years, such that the new expiration date of the Agreement shall be December 23, 2020 (the "Extended Term"), subject to earlier termination as provided in Paragraph 15 of this Agreement.

(c) Provided that the Agreement is not earlier terminated as provided in Paragraph 15, from and after the expiration of the Extended Term, this Agreement shall automatically renew for one additional ten (10) year term, such that the new expiration date of the Agreement shall be December

23, 2030 (the "Renewal Term"), subject to earlier termination as provided in Paragraph 15 of this Agreement

(d) Hereinafter the Initial Term, the Extended Term and the Renewal Term, if applicable, shall be collectively referred to as the "Term."

(e) Except as otherwise provided in Paragraph 15, all Parties, and their successors and assigns, agree to be bound for the duration of the Term, and may not terminate this Agreement or their rights or obligations under this Agreement during the Term.

2. Price:

Paragraph 3.1.1 of the Agreement is supplemented as follows:

"During the Extended Term, and while Seller is producing Hot Water Energy solely from geothermal byproduct, without the use of its natural gas boilers, the Hot Water Energy Price shall be as follows: the "Geothermal Hot Water Energy Price" = (Therms consumed) x (.90) x (the price per Therm of natural gas, as published by Avista Utilities under schedule 420). During the Renewal Term, the Geothermal Hot Water Energy Price formula may be adjusted upward to reflect adjustments in the price of geothermal byproduct purchased from OIT or any other supplier of such byproduct. Should the price per therm of Geothermal Hot Water Energy be adjusted upward during the Renewal Term (from the Geothermal Hot Water Energy Price formula stated above) to a price per therm that is more than 100% of the price per Therm of natural gas, as published by Avista Utilities under schedule 420 (instead of 90%, as stated above), then Buyers may, at its option, terminate the Renewal Term of this Agreement by providing written notice to Seller (the "Option Notice") within 60 days of Seller's first notice to Buyers of the price increase, or within 60 days of any subsequent further price increase, if any. Any Option Notice which Buyers may elect to deliver pursuant to this Paragraph 3.1.1 shall specify the effective date of termination, which shall be no earlier than six months, nor later than one year, from the date such Option Notice is provided to Seller (the "Termination Date"). If Buyers deliver an Option Notice, and the Agreement is terminated, then from and after the Termination Date Seller shall have no obligation to supply hot or cold water energy to Buyers.

"In the event that geothermal energy becomes unavailable to Seller, or while Seller is otherwise providing Hot Water Energy from its natural gas boilers alone, the Hot Water Energy Price will remain as stated in the Agreement (the "Natural Gas Hot Water Energy Price"). While Seller is using a mixture of gas and geothermal energy sources to provide Hot Water Energy, the price will be the Geothermal Hot Water Energy Price, plus a surcharge (the "Surcharge") to compensate Seller for the additional cost of natural gas.

"The Surcharge will be calculated as follows: "Surcharge" = (Total Therms of gas consumed by boiler burners to be calculated as an estimation of burner consumption per minute and time in use) x (the price per therm of natural gas, as published by Avista Utilities under schedule 420) x (.67 to account for only Plum Ridge's share of the energy produced) x (.325 to charge only for the difference in price between geothermal and natural gas). During the Renewal Term, the Surcharge formula may be adjusted upward to reflect adjustments in the price of geothermal byproduct purchased from OIT or any other supplier of such byproduct, which would cause a greater difference in price between geothermal and natural gas energy."

3. Termination:

Paragraph 15.1 of the Agreement is deleted in its entirety and the following inserted in lieu thereof:

This Agreement may be terminated prior to the expiration of the Term: (i) by Seller for the reasons set forth in Section 9.1; (ii) by exercise of the Buyer's option to terminate the Renewal Term set forth in Section 3.1.1, (iii) by Seller in the event that Buyer's energy needs increase beyond current levels, such that Seller cannot supply the energy needed without additional capital expenses; or (iv) by either Seller or Buyer in the event that either Seller's or Buyer's facility on either party's property is not occupied or used as a care or retirement facility for a period of one year, excluding periods of non-use due to construction or renovation. "Use" as a care or retirement facility shall mean occupied and open to the public for that purpose.

4. Release of Marquis:

The rights and obligations of Marquis under this Agreement shall be terminated effective as of the date set forth in a written notice from Marquis to Seller advising Seller that it no longer has any right to sublease and operate Plum Ridge under the terms of that Sublease and Option to Purchase Agreement dated November 7, 2002, as amended to the date hereof or as hereafter amended, extended, renewed or renegotiated (the "Sublease"), by and between Marquis and PRCC or its successors or assigns (a "Marquis Termination Event"), it being understood and agreed that Marquis has advised Seller that, as of the Execution Date, the term of the Sublease expires on September 30, 2016; provided, however, that a Marquis Termination Event shall not serve as a termination of this Agreement or of the rights or obligations of PRCC, or its successors or assigns, under this Agreement.

5. Counterparts:

This Addendum may be executed in any number of counterparts, all of which when taken together with the original Agreement shall constitute one agreement binding on all parties.

6. Entirety:

This Addendum represents the entire and final agreement of the parties hereto with respect to the subject matter hereof. Except as expressly modified herein, all terms and conditions of the Agreement remain in effect through the end of the extended Term.

7. Recording:

The parties declare that this Addendum shall be a covenant that runs with the land as to the property interests of both Buyers and Seller, throughout the Term. Buyers shall be free to record this Agreement in the land records of Klamath County, Oregon.

The parties have executed this Agreement on the Execution Date to be effective as of the Effective Date.

BUYERS:

PLUM RIDGE CARE COMMUNITY, LLC
3723 Fairview Industrial Drive SE
Salem, OR 97302
Facsimile No: _____

By: WILLAMETTE PROPERTY
HOLDINGS, LLC
Its Sole Member

By: 

Its Sole Member

SELLER:

PFRS CRYSTAL TERRACE CORP.
1000 Town Center Drive,
Klamath Falls, OR, 97601
Facsimile No: _____

By: _____

Its: _____

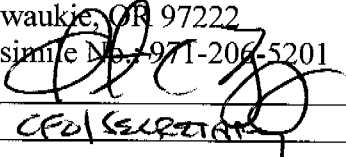
MARQUIS COMPANIES I, INC.

4560 SE International Way, Suite 1000
Milwaukie, OR 97222
Facsimile No.: 971-206-5201

By: _____

Its: _____

<p>BUYERS:</p> <p>PLUM RIDGE CARE COMMUNITY, LLC 3723 Fairview Industrial Drive SE Salem, OR 97302 Facsimile No: _____</p> <p>By: WILLAMETTE PROPERTY HOLDINGS, LLC Its Sole Member</p> <p>By: _____ Its _____</p>	<p>SELLER:</p> <p>PFRS CRYSTAL TERRACE CORP. 1000 Town Center Drive, Klamath Falls, OR, 97601 Facsimile No: <u>317-963-3263</u></p> <p>By: <u>[Signature]</u> Its: <u>PRESIDENT</u></p>
<p>MARQUIS COMPANIES I, INC.</p> <p>4560 SE International Way, Suite 1000 Milwaukie, OR 97222 Facsimile No.: 971-206-5201</p> <p>By: _____ Its: _____</p>	

<p>BUYERS:</p> <p>PLUM RIDGE CARE COMMUNITY, LLC 3723 Fairview Industrial Drive SE Salem, OR 97302 Facsimile No: _____</p> <p>By: WILLAMETTE PROPERTY HOLDINGS, LLC Its Sole Member</p> <p>By: _____ Its _____</p>	<p>SELLER:</p> <p>PFRS CRYSTAL TERRACE CORP. 1000 Town Center Drive, Klamath Falls, OR, 97601 Facsimile No: _____</p> <p>By: _____ Its: _____</p>
<p>MARQUIS COMPANIES I, INC.</p> <p>4560 SE International Way, Suite 1000 Milwaukie, OR 97222 Facsimile No: 503-971-2065 By:  Its: <u>CFO / SUPERVISOR</u></p>	

ACKNOWLEDGEMENTS

STATE OF MICHIGAN)
)ss.
COUNTY of _____)

This instrument was acknowledged before me on the _____ day of _____, 2009 by _____, as _____ of PFRS Crystal Terrace Corp., a Michigan corporation.

Notary Public in and for the State of _____

My Commission Expires: _____

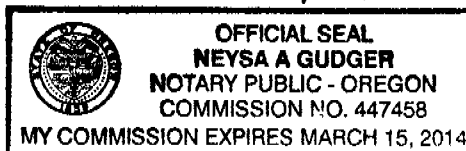
STATE OF OREGON)
)ss.
COUNTY of Multnomah)

This instrument was acknowledged before me on the 31st day of August, 2009 by Michael A. Grammer the sole member of Willamette Property Holdings, LLC, which is the sole member of Plum Ridge Care Community, LLC

Notary Public in and for the State of Oregon

My Commission Expires: 3/15/14

STATE OF OREGON)
)ss.
COUNTY of _____)



This instrument was acknowledged before me on the _____ day of _____, 2009 by _____, as _____ of Marquis Companies I, Inc.

Notary Public in and for the State of Oregon

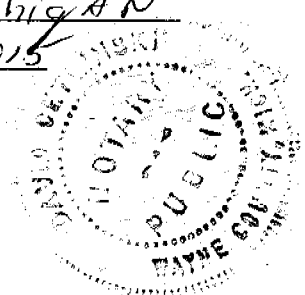
My Commission Expires: _____

ACKNOWLEDGEMENTS

STATE OF MICHIGAN)
)ss.
COUNTY of Wayne)

This instrument was acknowledged before me on the 26th day of August, ~~2009~~ 2011 by JAMES MOORE, as President of PFRS Crystal Terrace Corp., a Michigan corporation.

DAVID Cetlinski
Notary Public in and for the State of MICHIGAN
My Commission Expires: 9-16-2015



STATE OF OREGON)
)ss.
COUNTY of _____)

This instrument was acknowledged before me on the _____ day of _____, 2009 by _____ the _____ of Willamette Property Holdings, LLC, which is the sole member of Plum Ridge Care Community, LLC

Notary Public in and for the State of Oregon
My Commission Expires: _____

STATE OF OREGON)
)ss.
COUNTY of _____)

This instrument was acknowledged before me on the _____ day of _____, 2009 by _____, as _____ of Marquis Companies I, Inc.

Notary Public in and for the State of Oregon
My Commission Expires: _____

ACKNOWLEDGEMENTS

STATE OF MICHIGAN)
)ss.
COUNTY of _____)

This instrument was acknowledged before me on the _____ day of _____, 2009 by _____
_____ as _____
_____ of PFRS Crystal Terrace Corp., a Michigan corporation.

Notary Public in and for the State of _____

My Commission Expires: _____

STATE OF OREGON)
)ss.
COUNTY of _____)

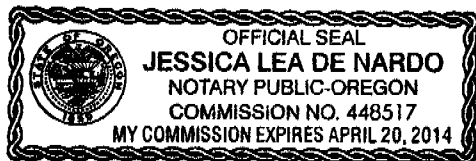
This instrument was acknowledged before me on the _____ day of _____, 2009 by _____
_____ the _____ of Willamette Property Holdings, LLC, which is the
sole member of Plum Ridge Care Community, LLC

Notary Public in and for the State of Oregon

My Commission Expires: _____

STATE OF OREGON)
)ss.
COUNTY of Clackamas)

This instrument was acknowledged before me on the 16 day of August, ²⁰¹¹ ~~2009~~ ^{JLD} by
Steve Fogg, as CFO of Marquis Companies I, Inc.



Jessica Lea De Nardo

Notary Public in and for the State of Oregon

My Commission Expires: 4/20/14

EXHIBIT A
THE CRYSTAL TERRACE PROPERTY
LEGAL DESCRIPTION

Real property in the City of Klamath Falls, County of Klamath, State of Oregon, described as follows:

PARCEL A:

A parcel of land situated in the SE 1/4 NE 1/4 of Section 20, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Parcel 1 of Land Partition 62-00 filed in Klamath County, Oregon

PARCEL B:

Easement as disclosed in Agreement for Reciprocal Access Easement, recorded June 8, 2001 in Volume M-01 on page 27242, records of Klamath County, Oregon.

APN: R428059

**EXHIBIT B
THE PLUM RIDGE PROPERTY
LEGAL DESCRIPTION**

ADKINS

27314

CONSULTING
ENGINEERS, INC.

Engineers ▲ Planners ▲ Surveyors

**PROPERTY DESCRIPTION FOR PLUM RIDGE CARE CENTER
EXCLUDING PORTION OF MWMC PARKING LOT
AND INCLUDING SIDEWALK ENCROACHMENT**

A tract of land situated in the SW¼ NE¼ of Section 20, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being a portion of Blocks 6, 7 and 8 and vacated Hilltop Street and vacated Foothill Boulevard, McLoughlin Heights subdivision, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, and more particularly described as follows:

Commencing at the northeast corner of McLoughlin Heights; thence South 0°46'00" West along the east boundary of McLoughlin Heights 100.00 feet to the true point of beginning of this description; thence continuing South 0°46'00" West along the east boundary of McLoughlin Heights 572.30 feet to the north boundary of vacated Foothill Boulevard; thence 40.57 feet along the arc of a 20.00 foot radius curve to the right (the long chord of which bears South 58°53' West 33.97 feet); thence North 63°00'00" West along the north boundary of Foothill Boulevard 104.35 feet; thence 482.81 feet along the arc of a 774.83 foot radius curve to the left (the long chord of which bears North 80°51'03" West 475.03 feet); thence leaving said road boundary North 20°39'40" East 504.11 feet; thence South 89°21'00" East 420.87 feet to the true point of beginning, TOGETHER WITH the northerly one-half of vacated Foothill Boulevard abutting the southerly boundary of the above described parcel;

ALSO INCLUDING Lots 8, 9, 10, 11, 12, 13, 14 and 15 of Block 6 of McLoughlin Heights subdivision, TOGETHER WITH the southerly one-half of vacated Foothill Boulevard abutting the northerly boundary of said Lots 8, 9, 10, 11, 12, 13, 14 and 15 of Block 6;

EXCEPTING THEREFROM Lots 8, 9, 10, 11, 12, 13, 14 and 15 of Block 6 of McLoughlin Heights subdivision, TOGETHER WITH the southerly one-half of vacated Foothill Boulevard abutting the northerly boundary of said Lots 8, 9, 10, 11, 12, 13, 14 and 15 of Block 6;

ALSO EXCEPTING THEREFROM the following described parcel: Commencing at the NE 1/16 corner of Section 20, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being the northeast corner of McLoughlin Heights subdivision; thence along the east boundary of said McLoughlin Heights and the east line of the SW¼ NE¼ of said Section 20 South 0°46'00" West 100.00 feet to the northeast corner of that parcel described as Parcel 1 in Deed Volume M91, Page 13596, Records of Klamath County, Oregon; thence along the northerly boundary of said parcel North 89°21'00" West 420.87 feet to the northwest corner of said parcel; thence South 20°39'40" West 504.11 feet to the southwest corner of that parcel described in Deed

Exhibit B
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2950 Shasta Way • Klamath Falls, Oregon 97603 • (541) 884-4666 • FAX (541) 884-5335

Klamath Falls • Medford • Alturas



27315

Pg. 2

Volume M75, Page 8321, Records of Klamath County, Oregon and the True Point of Beginning for this description; thence South 08°42'06" East 25.00 feet to the centerline of vacated Foothill Boulevard; thence following said centerline along the arc of a 749.83 foot radius non-tangent curve to the right 82.06 feet, the long chord of which bears South 84°26'01" West 82.02 feet; thence leaving said centerline North 09°10'20" West 12.82 feet; thence South 80°17'48" West 17.62 feet; thence North 09°32'02" West 17.40 feet; thence South 80°54'52" West 63.92 feet to the point of beginning;

ALSO EXCEPTING THEREFROM the following described portion of Parcel 1 of Deed Volume M91, Page 13596, Records of Klamath County, Oregon,: Beginning at a point on the east boundary of McLoughlin Heights which bears South 0°46'00" West 100.00 feet from the northeast corner thereof, said point being the northeast corner of said Parcel 1 of Deed Volume M91, Page 13596; thence North 89°21'00" West along the north line of said parcel 420.87 feet to the northwest corner thereof; thence South 20°39'40" West along the westerly line of said parcel 173.00 feet to a point; thence along the southerly line of said parcel South 86°54'35" East 274.87 feet; thence leaving said southerly line North 15°01'01" East 28.90 feet; thence North 72°20'55" East 13.09 feet; thence South 69°41'02" East 99.96 feet; thence South 24°30'18" East 3.74 feet to the southerly line of said Parcel 1; thence South 86°54'35" East to a point on the east line of said parcel; thence North 0°46'00" East along said east line 183.00 feet to the point of beginning;

1047-28
March 7, 2001

Exhibit B
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