

**Supplemental Master
Lease Addendum**
Section 232/Section 241(a)

**U.S. Department of Housing
and Urban Development**
Office of Residential
Care Facilities

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THIS HUD ADDENDUM TO MASTER LEASE (this “**Addendum**”), dated as of _____20__ is attached to and made a part of that certain [insert name of master lease agreement] (the “**Master Lease**”), dated as of _____20__ entered into by *those entities identified as Landlords on Schedule 1* (each, individually, a “**Landlord**”, and collectively, the “**Landlords**”, provided that, where the context allows, a singular reference to Landlord in this Addendum shall refer jointly, severally and collectively to the Landlords as set forth herein); and [INSERT NAME OF MASTER TENANT] (“**Master Tenant**”), and amends and/or supplements the Master Lease. For so long as HUD is the holder or insurer of any indebtedness secured by one or more of the Healthcare Facilities (as defined herein), the provisions of this Addendum shall apply to the Master Lease. In the event of any conflict between the terms of this Addendum and the Master Lease, the terms of this Addendum shall govern and control.

1. Definitions. The following terms shall have the meanings specified below:

“**Approved Use**” means the use of each Healthcare Facility, as set forth on Schedule 1, and such other uses as may be approved in writing from time to time by HUD based upon a request made by a Landlord, Master Tenant or an Operator, but excluding any uses that are discontinued with the written approval of the HUD.

“**Borrower-Operator Agreement**” means any agreement relating to the management and operation of the Healthcare Facility by and between or Master Tenant and Operator, including any Sublease.

“**CON**” means collectively all Certificates of Need and Certificate of Need rights under Healthcare Requirements authorizing and permitting the use of each Healthcare Facility as a skilled nursing or long-term care facility, as applicable.

“**Cross-Default Guaranty**” has the meaning set forth in Section 5.

“**FF&E**” means furnishings, fixtures and equipment of all kinds used in connection with the Healthcare Facility, including additions, substitutions and replacements thereto.

“**FHA**” means the Federal Housing Administration.

“First Borrower Regulatory Agreement” has the meaning set forth in the Security Instrument.

“First Lender” has the meaning set forth in the Borrower’s Security Instrument.

“First Loan” means the HUD-insured loan in the original principal amount of \$_____, made by First Lender to Landlord, secured by the Healthcare Facility, as such Loan may be amended, increased or decreased.

“First Mortgage Documents” has the meaning set forth in the Borrower’s Security Instrument.

“First Operator’s Regulatory Agreement” has the meaning set forth in the Borrower’s Security Instrument.

“First Operator’s Security Agreement” has the meaning set forth in the Borrower’s Security Instrument.

“First Security Instrument” has the meaning set forth in the Borrower’s Security Instrument.

“Healthcare Facilities” means the healthcare facilities listed on [*Schedule 1 – insert reference to healthcare facility schedule, which schedule shall be attached to this Master Lease Addendum and shall include at least the following information for each facility: name of landlord, name of facility, address of facility, operator name, type of facility, number of licensed units/beds, and the county and state where the facility is located,*] as the same may be amended from time to time. Each facility listed on such schedule is a **“Healthcare Facility.”**

“Healthcare Requirements” shall mean, relating to each Healthcare Facility, all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions or agreements, in each case, pertaining to or concerned with the establishment, construction, ownership, operation, use or occupancy of the Healthcare Facility or any part thereof as a healthcare facility, and all material permits, licenses, authorizations and regulations relating thereto, including all material rules, orders, regulations and decrees of and agreements with healthcare authorities pertaining to the Healthcare Facility.

“HUD” means the U.S. Department of Housing and Urban Development.

“Landlord Regulatory Agreement” means ~~each~~ a Supplemental Healthcare Regulatory Agreement–Borrower entered into by and between a Landlord and HUD, acting by and through the Secretary, his or her successors, assigns or designates with respect to each Healthcare Facility and any riders, amendments and supplements thereto.

“Lender” means [ENTER NAME OF FHA LENDER], and any future holder of the Security Instrument(s).

“Loan Documents” means the First Mortgage Documents, each Landlord Regulatory Agreement, Security Instrument, Note, Master Tenant Regulatory Agreement, Operator Regulatory Agreement, Operator Security Agreement, Master Tenant Security Agreement, Cross-Default Guaranty, Subordination/SNDA, and any and all other documents now or in the future required by and/or assigned to HUD and/or the Lender in connection with any of the Loans, whether executed by or on behalf of any Landlord, Master Tenant, or Operator, as the same may be amended from time to time, provided that the Master Lease and any Borrower-Operator Agreement, and any amendments thereto, shall not be considered Loan Documents.

“Loan(s)” means the First Loan, the Supplemental Loan and the FHA-insured loans in the original principal amounts as set forth on Schedule 2 attached hereto and incorporated herein, each made by Lender to a Landlord, secured by one or more Healthcare Facility, as such Loan may be amended, increased or decreased.

“Master Tenant Regulatory Agreement” means each Supplemental Healthcare Regulatory Agreement-Master Tenant entered into by and between the Master Tenant and HUD, acting by and through the Secretary, his or her successors, assigns or designates with respect to each Healthcare Facility and any riders, amendments and supplements thereto.

“Operator” means, any entity that has entered into a Sublease (or other equivalent agreement) as an Operator with the Master Tenant, and such entity’s successors and assigns.

“Operator Regulatory Agreement” means each Supplemental Healthcare Regulatory Agreement-Operator entered into by and between each Operator and HUD with respect to each Healthcare Facility and any riders, amendments and supplements thereto.

“Operator Security Agreement” means each Supplemental Operator Security Agreement between each Operator and Lender with respect to the Healthcare Facility and any amendments or supplements thereto.

“Program Obligations” means (1) all applicable statutes and any regulations issued by HUD pursuant thereto that apply to the Project, including all amendments to such statutes and regulations, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and mortgagee letters that apply to the Project, and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in this Addendum rather than add or delete provisions from such document. Handbooks, guides, notices, and mortgagee letters are available on HUD’s official website (<http://www.hud.gov/offices/adm/hudclips/index.cfm>), or a successor location to that site.

“Rent” means any and all rent, including base rent, additional rent, and all other such charges paid by an Operator pursuant to its Borrower-Operator Agreement, and any such

amounts payable by Master Tenant under the Master Lease to one or more Landlords, with respect to one or more Healthcare Facilities.

“Security Instrument(s)” means those certain Supplemental Healthcare [Mortgage, Deed of Trust, Deed to Secure Debt, Security Deed or other Designation as appropriate in Jurisdiction], Assignment of Leases, Rents and Revenue and Security Agreement, from the Landlord in favor of the Lender with respect to the Project securing the Loans, and any amendments and supplements thereto.

“Sublease” means a lease by which Master Tenant subleases one or more Healthcare Facilities subject to the Master Lease to an Operator, as now or hereafter amended, and/or renewed or extended.

“Subordination Agreement/SNDA” means either the Subordination Agreement or the Subordination Non-Disturbance and Attornment Agreement (whichever is applicable) executed by Landlord, Lender, Master Tenant and Operator as to the Healthcare Facility subleased by that particular Operator from the Master Tenant.

“Supplemental Loan” means the HUD-insured supplemental loan in the original principal amount of \$_____, made by Lender to Landlord, secured by the Healthcare Facility, as such Loan may be amended, increased or decreased.

2. Compliance with Program Obligations.

a. The parties to this Addendum intend that the Master Lease comply with all Program Obligations. The Master Tenant agrees to comply, and to cause each Operator to comply, with all applicable Program Obligations and the Loan Documents. The Master Tenant further agrees that the Master Lease and all Subleases will be part of the collateral pledged by Landlord to First Lender, Lender and HUD as security for the Loan. The Master Tenant agrees that it will not take any action which would violate any applicable Program Obligations or any of the Loan Documents.

b. In the event of any conflict between the terms and provisions of this Master Lease and/or the Sublease and any applicable Program Obligations or the Loan Documents, the Program Obligations and Loan Documents shall control in all respects. Landlords and Master Tenant agree that no provision of this Master Lease and/or the Subleases shall modify any obligation of Landlords or Master Tenant or Operator under the Loan Documents. Landlords and Master Tenant acknowledge that HUD’s acceptance of this Master Lease and/or any Subleases in connection with the closing of the Loans shall in no way constitute HUD’s consent to arrangements which are inconsistent with Program Obligations. This Master Lease and any Subleases are subject to all Program Obligations.

3. Modification. Neither the provisions of this Addendum nor the provisions of the Master Lease or any Sublease may be amended, except to increase the rent or other payments due to Lessor, without the express prior written consent of HUD, First Lender and the Lender. None of the Healthcare Facilities may be released from the Master Lease, nor may the Master Lease, or any of the Subleases, be terminated without the express prior written consent of HUD, First Lender and the Lender, and in accordance with the provisions of the Subordination Agreement/SNDA, as applicable.

4. Single, Indivisible Lease. The Master Lease constitutes one indivisible lease of the Healthcare Facilities and not separate leases governed by similar terms. The Healthcare Facilities constitute one economic unit, and the Rent and all other provisions have been negotiated and agreed to based on a demise of all of the Healthcare Facilities to Master Tenant as a single, composite, inseparable transaction, and the Rent and all other provisions would have been substantially different had separate leases or a divisible lease been intended. Except as expressly provided in this Master Lease for specific, isolated purposes (and then only to the extent expressly stated), all provisions of this Master Lease apply equally and uniformly to all of the Healthcare Facilities as one unit. An Event of Default under the Master Lease with respect to any Healthcare Facility is an Event of Default under the Master Lease as to all of the Healthcare Facilities. The parties intend that the provisions of this Master Lease shall at all times be construed, interpreted and applied so as to carry out their mutual objective to create an indivisible lease of all of the Healthcare Facilities, and in particular but without limitation, that for purposes of any assumption, rejection or assignment of this Master Lease under 11 U.S.C. § 365, this is one indivisible and non-severable lease and executory contract dealing with one legal and economic unit, and that this Master Lease must be assumed, rejected or assigned as a whole with respect to all (and only as to all) of the Healthcare Facilities. No Healthcare Facility may be released from the Master Lease except with the prior written approval of HUD.

5. Cross-Default Guaranty of Subtenants. Master Tenant agrees to cause all Operators to execute a Cross-Default Guaranty of Subtenants (the “**Cross-Default Guaranty**”) in favor of Master Tenant, in the HUD-approved format, by which each Operator guarantees performance of all obligations of all other Operators under all of the Subleases. Master Tenant further agrees to assign and hereby assigns such Cross-Default Guaranty to the Lender.

6. Payments and Impounds. Landlords and Master Tenant each acknowledges and agrees that the Rents and other amounts payable pursuant to this Master Lease or any Sublease are, and shall at all times be, sized so as to allow for proper maintenance of all of the Healthcare Facilities, and to enable each Landlord to meet its debt service obligations, and all related expenses, in connection with its Loan and the Healthcare Facilities. **[INCLUDE EACH AS APPLICABLE]:** Without limiting the generality of the foregoing, the Master Tenant agrees to pay, as additional rent, when due all premiums for (i) FHA mortgage insurance, (ii) liability insurance and full coverage property insurance on the Healthcare Facility, and (iii) all other insurance coverage required under the Loan Documents, and/or Program Obligations. Unless the Lender and the applicable Landlord agree otherwise in writing, the Master Tenant shall be responsible for funding all escrows and impounds for taxes, reserves for replacements, FHA mortgage insurance premiums, and other insurance premiums as may be required by the Lender, First Lender and/or HUD.

7. Rental Payments. Subject to the rights of the Lender and to HUD consent thereto, Landlords reserve the right, as set forth herein, to adjust and reallocate the amount of Rent allocated to each Healthcare Facility covered by this Master Lease as set forth on Schedule 2 to this Addendum, so long as the total aggregate amount of Rent for all of the Healthcare Facilities shown thereon is not decreased. Landlords may adjust and reallocate the amounts of Rent for the purposes of maximizing reimbursements from the Medicaid or Medicare programs, and/or preventing a default under the Loan Documents, provided that Landlords obtain Master

Tenant's prior consent, which consent shall not be unreasonably withheld, and so long as the total amount of Rent for all of the Healthcare Facilities in the aggregate shall not be decreased.

8. Compliance with HUD Insurance Requirements. The Master Tenant agrees to procure and maintain, and cause the Operators to procure and maintain, the insurance coverages required pursuant to the Loan Documents and Program Obligations. Annually, Master Tenant shall provide, or cause each Operator to provide, to First Lender and Lender, a Certification of Compliance with HUD's professional liability insurance requirements. Insurance proceeds and the proceeds of any condemnation award or other compensation paid by reason of a conveyance in lieu of the exercise of such power, with respect to a Healthcare Facility or any portion thereof shall be applied in accordance with the terms of the Loan Documents and Program Obligations. The decision to repair, reconstruct, restore or replace the Healthcare Facility following a casualty or condemnation shall be subject to the terms of the Loan Documents and Program Obligations.

9. Ownership of the FF&E, and Transfer of Personal Property

a. Master Tenant agrees that during the term of the Master Lease and/or Sublease, as applicable, Master Tenant shall not remove and shall not permit any Operator to remove, any FF&E from a Healthcare Facility, except in the ordinary course of business.

b. At the termination of the Master Lease and/or Sublease, as applicable, the Landlords shall have the right to purchase the Master Tenant's or Operator's personal property located at the applicable Healthcare Facility at book value. To the extent any of the personal property is subject to an equipment lease, the Landlords shall have the right to cause Master Tenant or Operators to pay in full all obligations under such equipment leases, or to assume some or all of such equipment leases at Landlords' sole cost and expense and at no additional liability to Master Tenant. Master Tenant shall sign and deliver or cause Operator to sign or deliver, as applicable, to Landlords any document that may be reasonably necessary to transfer any leased property back to the Landlords.

10. Provider Agreements. Master Tenant shall require that each Operator shall be responsible for obtaining and maintaining any necessary provider agreements with Medicaid, Medicare and other governmental third-party payors. Master Tenant shall ensure that each Operator agrees to furnish HUD, First Lender and Lender with copies of all such provider agreements and any and all amendments promptly after execution, and additionally, promptly upon request.

11. Subletting and Assignment.

a. Neither the Master Lease nor any sublease shall be assigned or subleased in whole or in part (including any transfer of title or right to possession and control of any Healthcare Facility, or of any right to collect fees or Rents), without the prior written approval of HUD. The prior written approval of HUD shall be required for (a) any change in or transfer of the management, operation, or control of any of the Healthcare Facilities or (b) any change in the ownership of the Master Tenant that requires HUD approval under HUD's Program Obligations. Landlords and Master Tenant acknowledge that any proposed assignee or sublessee will be required to execute, as applicable, a Supplemental Master Tenant Regulatory Agreement or Supplemental Operator Regulatory Agreement

and a Supplemental Master Tenant Security Agreement or Supplemental Operator Security Agreement, and any and all documents required by HUD and/or First Lender with respect to the First Mortgage Documents, each in form and substance satisfactory to HUD, as a prerequisite to any such approval. Any assignment or subletting of any Healthcare Facility made without such prior approval shall be null and void.

b. Master Tenant acknowledges that each Landlord is assigning the Master Lease to the First Lender and Lender, to further secure that Landlord's obligations to First Lender and Lender under the applicable Loan Documents. Master Tenant acknowledges that each of First Lender and Lender is authorized to exercise all rights and remedies available to Landlord as First Lender and Lender may determine are reasonably necessary to cure a default by Landlord under any Loan Documents.

12. HUD/FHA Not Subject to Indemnification Requirements. Notwithstanding any other provision or term contained in this Master Lease, in the event of an assignment of the Master Lease to HUD or FHA, neither HUD nor FHA shall have any indemnification obligations under this Master Lease or any of the Subleases. In addition, any payment obligations of HUD or FHA pursuant to this Master Lease shall be limited to actual amounts received by HUD or FHA, and otherwise not prohibited by applicable law or regulation, including without limitation, the Anti-Deficiency Act, 31 U.S.C. § 1341 et seq.

13. Notices to First Lender, Lender and HUD of Default by Landlord. Master Tenant and Landlords agree to copy First Lender, Lender and HUD on all notices of default. Such copies shall be provided to First Lender, Lender and HUD at the same time and in the same manner as provided by Master Tenant or Landlords to the other party. Each of First Lender and Lender shall have the right, but not the obligation, to cure (or cause to be cured) any default by Landlords under this Master Lease. For the purpose of effecting such cure, Master Tenant grants the First Lender and Lender such period of time as may be reasonable to enable First Lender and Lender to cure (or cause to be cured) any default, in addition to the time given to Landlords to cure the default. In the event of any act or omission of Landlords which would give Master Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Master Lease, or to claim a partial or total eviction, Master Tenant shall not exercise such right (i) until it has given written notice of such act or omission to First Lender, Lender and HUD, and (ii) unless such act or omission shall be one which is not capable of being remedied by Landlords or First Lender and Lender within a reasonable period of time, until a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice and following the time when First Lender and Lender shall have become entitled under the Loan Documents in connection therewith, as the case may be, to remedy the same (which reasonable period shall in no event be less than the period to which Landlords would be entitled under this Master Lease or otherwise, after similar notice, to effect such remedy).

14. Transfer of Operations. Upon the expiration or earlier termination of the Master Lease for any reason whatsoever, the Master Lease shall become and be construed as an absolute assignment for purposes of vesting in Landlords (or Landlords' designees) all of Master Tenant's right, title, and interest in and to the following, to the extent assignable by law: (A) the licenses, any Medicare or Medicaid provider agreements and any CON, (B) all documents, charts, personnel records, patient records, and other documents relating to the Healthcare Facilities or operations at the Healthcare Facilities, (C) all existing agreements with residents of the

Healthcare Facilities, and any guarantors of such agreements, and any and all patient trust fund accounts and (D) all other assignable intangible property not enumerated above that is now or in the future used in connection with the operation of the Healthcare Facilities. Master Tenant shall sign and deliver to Landlords any documents that may be reasonably necessary to transfer the foregoing to Landlords.

15. First Master Tenant and Operator Regulatory Agreements, First Master Tenant and Operator Security Agreements, Master Tenant and Operator Regulatory Agreements, Master Tenant and Operator Security Agreements. At the time of the closing of each Loan, the Master Tenant agrees to execute a Master Tenant Regulatory Agreement and a Master Tenant Security Agreement, and to cause each Operator to execute the applicable Operator Regulatory Agreement and the applicable Operator Security Agreement, and other applicable documents evidencing the Lender's security interest in the collateral of the Master Tenant and each Operator. The Master Tenant agrees to comply with its obligations under the First Master Tenant Regulatory Agreement, Master Tenant Regulatory Agreement, First Master Tenant Security Agreement and the Master Tenant Security Agreement, and agrees that a default by the Master Tenant under the Master Tenant Regulatory Agreement or Master Tenant Security Agreement shall be deemed to be a default of this Master Lease. Therefore, pursuant to Program Obligations and the terms of the Master Tenant Regulatory Agreement, upon any event of default of the Master Tenant Regulatory Agreement or any event of default of any Operator Regulatory Agreement relating to any Healthcare Facility, upon the completion of any applicable notice and cure periods, Landlords shall immediately upon written request from HUD terminate this Master Lease without any penalty to Landlords.

16. Master Tenant Cooperation. Master Tenant agrees to cooperate with Landlords in providing, and upon request by Landlords, First Lender, Lender, or HUD, Master Tenant shall provide or cause its Operators to provide, such documents, information, financial reports, and other items as may be required by First Lender, Lender or HUD. When applicable, Master Tenant agrees to execute, and cause the Operators to execute, subordination agreements in form and substance required by First Lender, Lender or HUD. Master Tenant further agrees to cooperate with Landlords and with its lender(s) who are processing and will be making Loans to Landlords.

17. Compliance with Healthcare Requirements. Master Tenant shall use, or shall cause the Operators to use, the Healthcare Facilities solely for Approved Uses and for no other purposes. On or before the master lease commencement date, Master Tenant or Operators shall have acquired, and thereafter Master Tenant or Operators, shall maintain all licenses, certificates, accreditations, approvals, permits, variances, waivers, provider agreements and other authorizations needed to operate the Healthcare Facilities for Approved Uses.

18. Counterpart Signatures. This Addendum may be executed in counterparts.

19. This Addendum shall be governed by the laws of the State of **[Insert governing law from Master Lease]** without giving effect to conflicts of laws principles.

20. Third Party Beneficiaries. HUD and Lender are not parties to this Addendum and have no obligations hereunder; however, HUD and Lender are third party beneficiaries for the sole purpose of enforcing their rights hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum effective as of the date first herein above written.

MASTER TENANT:

[insert appropriate signature block]

LANDLORDS:

[insert appropriate signature block]

Schedule 1

LIST OF HEALTHCARE FACILITIES AND APPROVED USES.

Insert schedule of Healthcare Facilities, which schedule shall include at least the following information for each Healthcare Facility: name of landlord, name of Healthcare Facility, address of Healthcare Facility, operator name, type of Healthcare Facility, number of licensed units/beds, and the county and state where the Healthcare Facility is located.

Schedule 2

LOANS

(Insert description of each Loan- for each Healthcare Facility: name of Healthcare Facility, name of Landlord, principal loan amount, Rent attributable to Healthcare Facility.)