

Healthcare Regulatory Agreement – Master Tenant
Section 232

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

OMB Approval No. 2502-0605
(exp. 11/30/2022)

Public reporting burden for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The information is being collected to obtain the supportive documentation that must be submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. Response to this request for information is required in order to receive the benefits to be derived from the National Housing Act Section 232 Healthcare Facility Insurance Program. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

Warning: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802).

Recording Requested by:

After Recording Return to:

Project Name: _____

FHA Project No.: _____

Project Location: _____

Lender: _____

Original Principal Amount of Note: _____

Date of Note: _____

Originally endorsed for insurance under Section:

This Regulatory Agreement – Master Tenant (this “**Agreement**”) is entered into as of [____], between _____, a _____ organized and existing under the laws of _____, whose address is _____, its successors, heirs, and assigns (jointly and severally) (“**Master Tenant**”) and the United States Department of Housing and Urban

Development, acting by and through the Secretary, his or her successors, assigns or designates (“HUD”).

This Agreement shall continue during such period of time as HUD shall be the owner, holder or insurer of the Note. Upon satisfaction of such Note, as evidenced by the discharge or release of the Borrower’s Security Instrument, this Agreement shall automatically terminate. However, notwithstanding such termination, Master Tenant shall remain responsible for any violations of this Agreement which occurred prior to termination.

Definitions:

Any capitalized terms used but not defined herein shall have the meaning given them in the Borrower’s Security Instrument, as defined below.

“**Borrower**” shall mean [_____] the Borrower in connection with the Project and a party to the Borrower’s Security Instrument. Borrower is sometimes referred to in the Loan Documents or in Program Obligations as the “**Owner**” or the “**Mortgagor.**”

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

“**Borrower’s Regulatory Agreement**” means that certain Healthcare Regulatory Agreement – Borrower dated as of [_____] **OR** substantially even date herewith], relating to the Project, and made by Borrower for the benefit of HUD.

“**Borrower’s Security Instrument**” means that certain Healthcare [*Mortgage, Deed of Trust, Deed to Secure Debt, or other designation*], Assignment of Leases, Rents and Revenue, and Security Agreement, made by the Borrower, relating to the Project.

“**Business Day**” means any day other than a Saturday or a Sunday, a Federal holiday or holiday in the state where the Project is located or other day on which the Federal government or the government of the state where the Project is located is not open for business. When not specifically designated as a Business Day, the term “**day**” shall refer to calendar day.

“**Healthcare Facility**” means that portion of the Project operated on the Land as a Nursing Home, Intermediate Care Facility, Board and Care Home, Assisted Living Facility, and/or any other healthcare facility authorized to receive mortgage insurance pursuant to Section 232 of the National Housing Act, as amended, including any commercial space included in the facility.

“**Healthcare Facility Working Capital**” means current assets of the Healthcare Facility minus current liabilities of the Healthcare Facility, pursuant to Generally Accepted Accounting Principles, and as HUD Program Obligations may further clarify or define.

“**Loan Documents**” means this Agreement, the Borrower’s Regulatory Agreement, the Operator’s Regulatory Agreement, and all other agreements, instruments, and documents which are now existing or are in the future required by, delivered to, and/or assigned to Lender and/or HUD in connection with or related to the Project, whether executed or delivered by or on behalf of Borrower, Operator, or Master Tenant, as the same may be amended from time to time, provided that neither the Borrower-Operator Agreement nor Master Lease shall be considered a Loan Document.

“**Master Lease**” means that certain [*Master Lease title*], relating to the leasing of, *inter alia*, the Healthcare Facility by Borrower to Master Tenant.

“**Master Tenant Security Agreement**” means that certain Master Tenant Security Agreement dated as of substantially even date herewith, relating to the Project, and made by Master Tenant to Lender.

“Operator” means [____], the operator of the Healthcare Facility, pursuant to that certain [Borrower-Operator Agreement], by and between Operator and Master Tenant.

“Operator’s Regulatory Agreement” means that certain Healthcare Regulatory Agreement - Operator, relating to the Project and entered into by Operator for the benefit of HUD.

“Project” means any and all assets of whatever nature or wherever situated related to the Loan known by the FHA project number listed on the first page of this Agreement, including without limitation the Mortgaged Property, the Healthcare Facility, any Improvements, and any collateral owned by the Operator securing the Loan.

“Reasonable Operating Expenses” means expenses that arise from the operation, maintenance and routine repair of the Project, including all payments and deposits required under this Agreement and any Loan Document, and comply with the requirements of 24 CFR 232.1007, or successor regulation.

NOW THEREFORE, in consideration of HUD’s consent to the leasing of the aforesaid Healthcare Facility by Borrower to Master Tenant and in order to comply with the requirements of the National Housing Act and the Regulations adopted by HUD pursuant thereto, Master Tenant agrees to the terms of this Agreement for itself, its successors, heirs and assigns, in connection with the operation of the Healthcare Facility, the Mortgaged Property, and the Project operated thereon.

1. SUBORDINATION.

The Master Lease shall be subject and subordinate to this Agreement, the Master Tenant Security Agreement, the Borrower’s Security Instrument, the Borrower’s Regulatory Agreement, and the Operator’s Regulatory Agreement. Master Tenant shall make payments under the Master Lease when due, and such payments shall be sufficient to allow Borrower to pay all Borrower’s required Loan payments, including without limitation, any payments to reserves for taxes or insurance, payments to replacement reserves, payments to debt service reserves, and to fund any maintenance and/or repairs for which the Borrower has responsibility. If at the end of any calendar year, or any fiscal year if the Project operates on the basis of a fiscal year, payments under the Master Lease have not been sufficient to pay for the above items, the Borrower and Master Tenant upon request in writing from HUD shall renegotiate the amounts due under the Master Lease so that such amounts shall be sufficient to pay for such items.

2. APPROVED USE; PERMITS AND APPROVALS.

(a) As used herein, "**Approved Use**" means the use of the Project for the operation of a Healthcare Facility as a _____ [insert type of facility] with _____ [beds/units] [of which not less than _____ [beds/units] are [to be] in use] and such other uses as may be approved in writing from time to time by HUD based upon a request made by the Borrower, Operator, or Master Tenant, but excluding any uses that are discontinued with the written approval of HUD. Master Tenant shall ensure that use of the Healthcare Facility is in accordance with the Approved Use.

- (b) As used herein, "**Permits and Approvals**" means and includes all certificates of need, bed authority, provider agreements, licenses, permits and approvals reasonably necessary to operate the Healthcare Facility or to fund the operation of the Project for the Approved Use. The security interests granted pursuant to the Master Tenant's Security Agreement referred to in paragraph 15 hereof shall constitute, to the extent permitted by law, a first lien upon all of Master Tenant's rights, titles and interest, if any, in the Permits and Approvals. However, in the event of either a monetary or other default under this Agreement, the Borrower's Regulatory Agreement, any other regulatory agreement made for the benefit of HUD relating to the Project, or any note or security instrument with respect to the Project that is insured or held by HUD, Master Tenant shall cooperate in any legal and lawful manner necessary or required to permit the continued operation of the Healthcare Facility for the Approved Use including, as determined by HUD, in consultation with the Lender, the necessary conveyance, assignment or transfer of Permits and Approvals. For the intents and purposes herein, Master Tenant hereby irrevocably nominates and appoints HUD, and with HUD's prior written approval, the Lender, their respective successors and assigns of both each in its own capacity, as Master Tenant's attorney-in-fact coupled with an interest to do all things that any such attorney-in-fact deems to be necessary or appropriate in order to facilitate the continued operation of the Healthcare Facility for the Approved Use, including but not limited to the power and authority to provide any and all information and data, pay such fees as may be required, and execute and sign in the name of the Master Tenant, its successors or assigns, any and all documents, as may be required by any Governmental Authority exercising jurisdiction over the Project. The Master Tenant will not alter or terminate, or suffer or permit the alteration, relinquishment or termination of any Permit or Approval that is issued or held in the name of Master Tenant or Operator without the prior written consent of HUD. In the event that any such alteration, relinquishment or termination is proposed, upon learning of such proposed alteration, relinquishment or termination, Master Tenant will advise HUD and Lender promptly.
- (c) Except as otherwise provided below or in Program Obligations, Master Tenant shall electronically deliver, within two (2) Business Days after Master Tenant's receipt thereof, to the assigned HUD personnel and Lender, copies of any and all notices, reports, surveys and other correspondence (regardless of form) received by Master Tenant from any Governmental Authority that includes any statement, finding or assertion that (i) Master Tenant, the Healthcare Facility, or any portion of the Project is or may be in violation of (or default under) any of the Permits and Approvals or any governmental requirements applicable thereto, (ii) any of the Permits and Approvals are to be terminated, limited in any way, or not renewed, (iii) any civil money penalty is being imposed with respect to the Healthcare Facility, or (iv) Master Tenant, the Operator, the Healthcare Facility, or any portion of the Project is subject to any governmental investigation or inquiry involving

fraud. Master Tenant shall also deliver to the Project's HUD-assigned personnel and Lender, simultaneously with delivery thereof to any governmental authority, any and all responses given by or on behalf of Master Tenant to any of the foregoing and shall provide to the HUD personnel and Lender, promptly upon request, such information regarding any of the foregoing as HUD or Lender may request. Unless otherwise requested by HUD, the reporting requirement of this provision shall not encompass regulators' communications relating solely to licensed nursing facility surveys where the most severe citation level is at the "G" level or its equivalent (pursuant to CMS State Operations Manual, Chapter 7, as may hereafter be edited or updated, or any successor guidance) unless a citation at such level is either (i) unresolved from the two most recent consecutive prior surveys, or (ii) is a repeat violation having the same citation number. Moreover, unless otherwise requested by HUD or Lender, the initial communication from the Operator pursuant to this paragraph shall be a notice by email to the Lender describing the conduct cited, the scope and duration of remedy(ies) imposed, and the timelines for corrective actions. Then, unless otherwise requested by HUD or Lender, the next communication from the Operator shall be notification that the citations have been cleared by the issuing regulatory agency. The receipt by HUD and/or Lender of notices, reports, surveys, correspondence and other information shall not in any way impose any obligation or liability on HUD, Lender or their respective agents, representatives or designees to take (or refrain from taking) any action, and HUD, Lender and their respective agents, representatives and designees shall have no liability for any failure to act thereon or as a result thereof.

- (d) The Master Tenant shall at all times maintain, or cause to be maintained, in full force and effect the Permits and Approvals. Without the prior written consent of HUD, Master Tenant shall not convey, assign, encumber, transfer, relinquish or alienate from the Project any of the Permits or Approvals. The Master Tenant shall ensure that the Healthcare Facility is at all times operated in accordance with the requirements of the Permits and Approvals, and that none of the Permits and Approvals is placed at risk of suspension, revocation, rescission, termination or limitation, as evidenced by, without limitation, any communication from regulatory or funding entities so indicating.

3. CONDITION OF MORTGAGED PROPERTY.

- (a) Master Tenant shall maintain, or cause to be maintained, in decent, safe, and sanitary condition and good repair the Healthcare Facility and any other parts of the Project for which the Master Tenant is responsible for maintaining pursuant to the Master Lease.
- (b) Master Tenant shall not remodel, reconstruct, add to, or demolish, without the prior written consent of HUD, any part of the Project or subtract from any real or personal property of the Project, except in the ordinary course of business.

- (c) Master Tenant shall not use (or allow the Operator to use) any portion of the Project for any purpose except the Approved Use.
- (d) To the extent of the authority it has retained under the Borrower-Operator Agreement, Master Tenant shall permit HUD and/or Lender to conduct a physical inspection of the Healthcare Facility at any reasonable time upon reasonable notice.

4. RISK MANAGEMENT PROGRAM.

In accordance with Program Obligations, Master Tenant shall implement and maintain, or cause Operator to implement and maintain, a risk management program which incorporates a real-time incident reporting and tracking system that informs Operator's and Master Tenant's senior management of all incidents with the potential to expose the Operator to liability for personal injury or other damages. Each incident must be reviewed by Operator's appropriately-trained professional staff, and such staff must follow-up on incidents as necessary. The risk management program must include appropriate training for Operator's staff.

5. NOTICE OF VIOLATION AND EVENT OF DEFAULT.

- (a) Upon any violation of any provision of this Agreement by Master Tenant, HUD may give written notice thereof to Master Tenant, with a copy to Borrower and Lender. Master Tenant shall have thirty (30) days to cure, or cause to be cured, any such violation, provided that HUD shall extend such thirty (30) day period by such time as HUD may reasonably determine is necessary to correct the violation for so long as, HUD determines, in its reasonable discretion, that: (i) Borrower is timely satisfying all payment obligations in the Loan Documents; (ii) none of the Permits or Approvals is at substantial and imminent risk of being terminated; (iii) such violation cannot reasonably be corrected during such thirty (30) day period, but can reasonably be corrected in a timely manner, and (iv) Master Tenant commences to correct such violation during such thirty (30) day period and thereafter diligently and continuously proceeds to correct such violation, or cause such corrective action to be commenced and diligently pursued. If upon the expiration of such cure period, the violation is not cured to HUD's satisfaction, HUD may, without further notice, declare an Event of Default. Upon declaring an Event of Default, HUD may:
 - 1. Terminate, or cause the termination of, the Master Lease, seek the appointment of a receiver for the Healthcare Facility, terminate any Borrower-Operator Agreement, and/or require the Master Tenant to immediately procure a replacement operator (including an interim operator where appropriate); and/or
 - 2. Apply to any court, state or federal, for specific performance of this Agreement, for an injunction against any violation of the Agreement, or for such other relief as may be appropriate.

Notwithstanding any other provisions of this agreement, if HUD determines at any time that any of the Permits and Approvals are at substantial and imminent risk of being terminated, suspended or otherwise restricted, if such termination, suspension, or other restriction would have a materially adverse effect on the Project, including without limitation, HUD's determination that there is a substantial risk that deficiencies identified by applicable state and/or federal regulatory and/or funding agencies cannot be cured in such manner and within such time periods as would avoid the loss, suspension, or diminution of any Permits and Approvals that would have a materially adverse effect on the Project, or if HUD determines at any time that the health and safety of the residents of the Healthcare Facility are at substantial and imminent risk, then HUD may immediately (without thirty (30) days' notice) declare a default under this Agreement and may immediately proceed to take actions pursuant to subsections (a)(1) and/or (a)(2) above.

- (b) Master Tenant acknowledges that the viable operation of the Healthcare Facility, and thus the preservation of the security for the Borrower's Security Instrument, depends upon timely satisfaction of debts incurred related to the operation of the Healthcare Facility. In addition to fully complying with any payment obligations in the Master Lease, Master Tenant shall timely pay (or cause Operator to pay) all debts incurred related to the operation of the Healthcare Facility, provided, Master Tenant and/or Operator may withhold payments of amounts due vendors for operational expenses that Master Tenant or Operator, in good faith, dispute.
- (c) In the event that Master Tenant receives a written notice from HUD or Lender (i) stating that a default exists under the Borrower Regulatory Agreement, the Borrower Security Instrument or any note or security instrument with respect to the Project that is insured or held by HUD, and (ii) directing Master Tenant to make future payments due under the Master Lease to HUD or Lender, Master Tenant shall thereafter make all future payments under the Master Lease to HUD or Lender as so directed.
- (d) Master Tenant shall use all commercially reasonable efforts to enforce its rights against Operator in the event of a default under the Borrower-Operator Agreement to avoid a mortgage insurance claim.

6. TRANSFERS; CHANGE IN CONTROL; MASTER LEASE AMENDMENTS.

- (a) Without the prior written consent of HUD, there shall be no change in or transfer of
 - (i) the management, operation, or control of the Project or the Healthcare Facility, or
 - (ii) any change in the ownership or control of the Master Tenant, except as set forth in Program Obligations.

(b) The Master Lease shall not be terminated prior to the expiration date thereof or assigned without the prior written approval of HUD. In the event of any assignment of the Master Lease, as a condition to such assignment, the assignee shall execute and deliver a regulatory agreement in form and substance satisfactory to HUD. The Master Lease shall not be amended without the prior written approval of HUD if such amendment would (i) reduce the rent or other payments due thereunder, (ii) materially increase the obligations of the Borrower or the rights of the Master Tenant, (iii) materially decrease the rights of the Borrower or the obligations of the Master Tenant, or (iv) alter any provision of the Master Lease that HUD required to be included therein. Copies of all amendments to the Master Lease shall be promptly furnished to HUD and the Lender.

7. MANAGEMENT AGREEMENTS.

No management agreement(s) may be executed concerning the Healthcare Facility or any portion of the Project (“**Management Agreement**”), unless such Management Agreement is approved by HUD. Any such Management Agreement shall contain a provision that, in the event HUD issues any notice of violation or default under this Agreement, the Operator’s Regulatory Agreement, or the Borrower’s Regulatory Agreement, the Management Agreement(s) shall be subject to termination without penalty upon written request of HUD. Upon such request, Master Tenant shall immediately arrange to terminate the Management Agreement(s) within a period of not more than thirty (30) days and shall make arrangements satisfactory to HUD for the continuing proper management of the Healthcare Facility and the Project.

8. PROHIBITION OF CERTAIN FEES.

Master Tenant shall not charge and shall not permit Operator to charge, any resident of the Healthcare Facility an admission fee, key fee, finders’ fee, continuing care retirement community fee, life-care fee or similar fee pursuant to any agreement to furnish residential units or services to persons making such payments.

9. SECURITY DEPOSITS AND OTHER FEES.

Master Tenant shall not require as a condition of occupancy or leasing of any unit in the Healthcare Facility, any consideration or deposit, provided that Master Tenant may require, or may cause Operator to require, the prepayment of the first month’s rent plus a security deposit in an amount not in excess of one month’s rent, to guarantee the performance of any tenant lease terms. Master Tenant may charge certain application processing fees such as credit check or criminal background fees or pet deposits, but not deposits or fees for service or assistance animals.

10. SUBLEASES.

Master Tenant shall not lease or sublease the Project or any part thereof without the prior written consent of HUD.

11. COMMERCIAL (NON-RESIDENTIAL) LEASES.

No portion of the Project shall be leased for any commercial purpose or use without receiving HUD's prior written approval as to terms, form and amount, except as permitted in the Operator's Regulatory Agreement. Master Tenant shall deliver an executed copy of any commercial lease to HUD.

12. AUDITS AND INSPECTIONS.

All portions of the Project, including without limitation all Mortgaged Property and any other equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other papers relating to the operation of the Healthcare Facility shall at all times be maintained in reasonable condition for proper audit and subject to examination and inspection at any reasonable time by HUD, the Lender, or the duly authorized agents of either. Master Tenant shall keep, or cause to be kept, copies of all written contracts or other instruments which affect the Project, all or any of which may be subject to inspection and examination by HUD or its duly authorized agents. The obligations of Master Tenant under this paragraph shall be limited to the extent necessary in order for Master Tenant to comply with applicable laws regarding the confidentiality of resident/patient medical records and information.

13. NON-DISCRIMINATION.

There shall be full compliance with the provisions of (i) any federal, state or local laws prohibiting discrimination in housing on the basis of race, color, national origin, religion, sex, familial status or disability; and (ii) the Regulations of the Federal Housing Administration providing for non-discrimination and equal opportunity in housing. It is understood and agreed that failure or refusal to comply with any such provisions shall be a proper basis for HUD to take any corrective action it may deem necessary including, but not limited to, the refusal to consent to a further renewal of the Master Lease between the Borrower and the Master Tenant, the rejection of applications for FHA mortgage insurance and the refusal to enter into future contracts of any kind with which Master Tenant is affiliated; and further, if Master Tenant is a corporation or any other type of business association or organization which may fail or refuse to comply with the

aforementioned provisions, HUD shall have a similar right of corrective action (i) with respect to any individuals who are officers, directors, trustees, managers, partners, associates or principal shareholders of Master Tenant; and (ii) with respect to any other type of business association, or organization with which the officers, directors, trustee, managers, partners, associates or principal stockholders of Master Tenant may be identified.

14. BOOKS, ACCOUNTS, AND FINANCIAL REPORTS.

- (a) Master Tenant shall keep, or shall cause to be kept, the books and accounts of the operation of the Healthcare Facility in accordance with Program Obligations, to the extent not inconsistent with state requirements, which would allow for the audit of the Project.
- (b) Except as otherwise approved by HUD, Master Tenant must deposit, or cause to be deposited, all revenue generated or otherwise received in connection with the Healthcare Facility, in an operating account, for the benefit of the Project, or in a general collection account maintained for Operator and affiliated operators, provided deposits to such general collection account can be traced to the applicable facility that generated such deposit. If HUD determines that such deposits cannot be reliably and readily so traced, HUD may direct the Master Tenant to deposit such funds in a segregated operating account. Additionally, HUD may direct that any general collection account include funds only from facilities having FHA-insured loans and encompassed within the Master Lease. The account must be with a financial institution whose deposits are insured by an agency of the federal government, provided that an account held in an institution rated by the Government National Mortgage Association may have a balance that exceeds the amount to which such insurance is limited. Funds generated by the operation of the Healthcare Facility may be transferred to one or more central disbursement or other accounts in which such funds are commingled with other funds, provided that a complete and accurate accounting of such funds (including deposits and disbursements) is maintained at all times.
- (c) Master Tenant shall submit, or cause to be submitted, to HUD and Lender, on a quarterly and year-to-date basis (or more frequently if specified by HUD), prepared and certified by an authorized representative or agent of Master Tenant, such financial reports relating to the Healthcare Facility (including, but not limited to, financial statements, accounts receivable, aging reports and occupancy reports) in the formats and at such times as may be required by HUD, including without limitation any consolidated statements if required by HUD. Such reports must be submitted no later than sixty (60) days after the period covered by the reports, except for reports relating to the final quarter of each year, which shall be submitted no later than ninety (90) days after end of

the fiscal year. Such reports are subject to the sanctions contained in 18 U.S.C. Sections 1001, 1010, and 1012.

- (d) If Master Tenant (or any direct or indirect parent of Master Tenant) is required to provide an audited financial statement to any lender, Master Tenant shall simultaneously provide copies of such audited financial statements to HUD and Lender. If HUD has reason to believe that any certified statements submitted on behalf of the Master Tenant may be unreliable (for example, indicate a likely prohibited use of project funds), or are not presented in a manner that is consistent with Program Obligations, HUD may, on a case-by-case basis require financial statements from the Master Tenant which have been certified by an independent public accountant, at the Master Tenant's expense, and such certified financial statement must be delivered to HUD within ninety (90) days after HUD requests such items from Master Tenant.
- (e) If a quarterly/year-to-date financial statement relating to the Healthcare Facility demonstrates negative Healthcare Facility Working Capital as defined by HUD, or if such required statement is not timely submitted, then until a current quarterly/year-to-date financial statement demonstrates positive Healthcare Facility Working Capital, or until otherwise authorized by HUD, funds derived from or in connection with the operation of that facility may not be distributed for any purpose other than making payments due pursuant to the Borrower-Operator Agreement and/or Master Lease, making payments required to be made under the Loan Documents, making payments pursuant to any accounts receivable financing approved by HUD, and making payments for Reasonable Operating Expenses.
- (f) At the request of HUD, Master Tenant shall give specific answers, satisfactory to HUD, to questions posed from time to time relating to income, assets, liabilities, contracts, operation, and condition of the Healthcare Facility, and shall provide to HUD copies of all books, contracts, records, documents and other papers relating to the Healthcare Facility from time to time as HUD may request.
- (g) Master Tenant acknowledges that the financial information referenced above is necessary for HUD to review from time to time, given the risk inherent in the operation of the Healthcare Facility, and given the necessity of the Master Tenant's financial and operational stability in order to ensure timely payment of amounts due under the Master Lease essential to the Borrower's debt service.

15. UNIFORM COMMERCIAL CODE/LIENS.

Except as otherwise approved in writing by HUD, Master Tenant shall grant to Lender and HUD a first lien security interest in all of Master Tenant's rights to

personal property of Master Tenant used in the operation of the Healthcare Facility or the Project as additional security for the obligations of the Borrower under the Note, Borrower's Security Instrument, and Borrower's Regulatory Agreement, and the Master Tenant's obligations under this Agreement. Such security interest shall be evidenced by such security agreement(s) as Lender and/or HUD may require in connection therewith. Master Tenant shall execute and deliver, or cause to be executed and delivered, such deposit account control agreements as may be required by Lender and/or HUD. Master Tenant shall not allow any such required deposit account control agreements, sweep agreements, or other such required agreements, to be revoked or rescinded at any time without Lender's prior written consent. Master Tenant hereby authorizes each of the Lender and HUD to file such UCC financing statements and continuation statements as either of them may deem to be necessary or appropriate in connection with the foregoing security interest. Except as provided in this paragraph 15, without the prior written approval of Lender and HUD, Master Tenant shall not be permitted to grant or permit any other liens on any of the property related to the Project.

16. Master Tenant shall ensure that all goods and services, if any, purchased or acquired by Master Tenant in connection with the Project are Reasonable Operating Expenses, except as otherwise allowed by HUD.

17. PROFESSIONAL LIABILITY INSURANCE.

Master Tenant shall maintain, and/or cause to be maintained, professional liability insurance that complies with Program Obligations. Annually, upon such time periods as set forth in Program Obligations, Master Tenant shall provide, or cause to be provided, to HUD and Lender, a certification of compliance with such professional liability insurance requirements, as approved by HUD.

18. TRANSFER OF OPERATIONS.

Master Tenant agrees that, in the event that HUD requires a replacement operator pursuant to the Operator's Regulatory Agreement, or terminates the Master Lease in accordance with this Agreement, Master Tenant shall cooperate with such actions and shall take all actions necessary to (i) provide for an orderly transition to the replacement operator of licensed operations with applicable Medicare and Medicaid certifications intact, (ii) maintain normal operations, (iii) avoid displacement of residents, and (iv) transfer all transferable provider agreements to the replacement operator(s), as applicable. Master Tenant hereby agrees to waive any termination fees and penalties due to Master Tenant relating to such termination or transfer actions.

19. NOTICE.

All notices, demands and other communications (“**Notice**”) under or concerning this Agreement shall be in writing. Each Notice shall be addressed to the intended recipients at their respective addresses set forth herein, and shall be deemed given on the earliest to occur of (1) the date when the Notice is received by the addressee; (2) the first or second Business Day after the Notice is delivered to a recognized overnight courier service, with arrangements made and payment of charges for next or second Business Day delivery, respectively; or (3) the third Business Day after the Notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested.

Any Notice hereunder shall be addressed as follows:

Master Tenant: [Insert Address] [REDACTED]

HUD: [Insert Address] [REDACTED]

Lender: [Insert Address] [REDACTED]

20. ACCOUNTS RECEIVABLE FINANCING.

No accounts receivable or receipts from any Healthcare Facility may be pledged without prior written approval of Lender and HUD of the terms of such financing and the forms evidencing and securing such financing. In the event that Lender and HUD grant such approval, (i) the holder(s) of such lien shall enter into an Intercreditor Agreement with Lender and/or HUD in such form and upon such terms as consented to by Lender and HUD, and (ii) Master Tenant shall agree to comply with the terms required by Lender and HUD in connection therewith.

21. This document may be executed in counterparts.

22. The legal description of the Land is attached hereto as Exhibit A.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date first herein above written.

Master Tenant hereby certifies that the statements and representations contained in this instrument and all supporting documentation thereto are true, accurate, and complete and that each signatory has read and understands the terms of this instrument. This instrument has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring the Loan, and may be relied upon by HUD as a true statement of the facts contained therein.

MASTER TENANT

(Insert appropriate signature block)



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, acting by and through the **Secretary**:

By: _____
Name: _____

Authorized Agent
Office of Residential Care Facilities

NOTICE: THIS DOCUMENT MUST HAVE A LEGAL DESCRIPTION ATTACHED AND BE EXECUTED WITH ALL FORMALITIES REQUIRED FOR RECORDING A DEED TO REAL ESTATE (i.e., NOTARY/ ACKNOWLEDGEMENT, SEAL, WITNESS OR OTHER APPROPRIATE FORMALITIES).