

**EXHIBIT C**

**ADDITIONAL REPRESENTATIONS, WARRANTIES AND  
COVENANTS OF THE BORROWER**

**EXHIBIT C TO FINANCING AGREEMENT**

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**EXHIBITS**

APPENDIX A – FORM OF COMPLIANCE CERTIFICATE

SCHEDULE I – ADDRESSES

## EXHIBIT C TO FINANCING AGREEMENT

This Exhibit C to the Financing Agreement dated as of September 1, 2017 (as amended, modified or restated from time to time, this “*Agreement Exhibit*”), is among the City of Gainesville, Florida (the “*Issuer*”), as Issuer, Oak Hammock at the University of Florida, Inc., a not for-profit corporation organized and existing under the laws of the State of Florida (the “*Borrower*” and, as Obligated Group Representative on behalf of itself and the hereinafter defined Obligated Group Members (the “*Obligated Group Representative*”), as Borrower, and TD BANK, N.A., as Noteholder.

### ARTICLE I

#### DEFINITIONS AND ACCOUNTING TERMS

*Section 1.01. Defined Terms.* In addition to the terms defined elsewhere in this Agreement Exhibit and the Financing Agreement, the following terms shall have the meanings set forth below:

“*Actuarial Study*” means the study dated December 31, 2016, prepared by A.V. Powell & Associates LLC with respect to the Residency Agreements, pricing models and Residents of the Project, as such study is updated or replaced with a new actuarial study pursuant to the terms hereof from time to time.

“*Agreement Exhibit*” has the meaning set forth in the introductory paragraph hereof.

“*Annual Debt Service*” means, for each Fiscal Year, the sum (without duplication) of (1) the aggregate amount of principal and interest becoming due and payable in such Fiscal Year on all Long-Term Indebtedness of the Obligated Group then Outstanding and (2) the aggregate amount of Obligation Payments becoming due and payable in such Fiscal Year (in either case by scheduled maturity, acceleration, mandatory redemption or otherwise), less any amounts of such principal, interest, or Obligations Payments to be paid during such Fiscal Year from (a) the proceeds of MTI Indebtedness deposited in trust for the purpose of paying principal, interest or Obligation Payments or (b) moneys or Government Obligations deposited in trust for the purpose of paying such principal, interest, or Obligated Payments; *provided* that if a Financial Products Agreement has been entered into by any Obligated Group Member with respect to Long Term Indebtedness, interest on such Long Term Indebtedness shall be included in the calculation of Annual Debt Service by including for each Fiscal Year an amount equal to the amount of interest payable on such Long Term Indebtedness in such Fiscal Year at the rate or rates stated in such Long Term Indebtedness plus any Financial Product Payments payable in such Fiscal Year minus and Financial Product Receipts receivable in such Fiscal Year; *provided* that in no event shall any calculation made pursuant to this clause result in a number less than zero being included in the calculation of Annual Debt Service. For purposes of this Agreement Exhibit, capitalized terms used in this definition shall have their respective meanings set forth in the Master Indenture as of the Delivery Date unless amended in accordance with the terms hereof and thereof.

In the event of a conflict between the defined term set forth in this Agreement and the Master Indenture, as amended in accordance with the terms hereof and thereof, the defined term in the Master Indenture shall control.

*“Annual Debt Service Coverage Ratio”* means, for any Fiscal Year, the ratio determined by dividing Income Available for Debt Service by total Annual Debt Service.

*“Anti-Corruption Laws”* means all laws, rules, and regulations of any jurisdiction applicable to the Obligated Group Representative or any other Obligated Group Member or any of their respective subsidiaries or affiliates from time to time concerning or relating to bribery or corruption.

*“Appraisal”* has the meaning set forth in Section 4.02(a) hereof.

*“Audited Financial Statements”* means the audited consolidated balance sheet of the Borrower and its consolidated Affiliates for the Fiscal Year ended December 31, 2016, and the related consolidating statements of income or operations, shareholders’ equity and cash flows for such Fiscal Year of the Borrower and its consolidated Affiliates, including the notes thereto.

*“Authorized Representative”* means, with respect to each Obligated Group Member, its chairman of the board, president, chief executive officer, chief financial officer, executive director, treasurer or any other person designated as an Authorized Representative of such Obligated Group Member by a Certificate of that Obligated Group Member signed by its chairman of the board, president, chief executive officer, chief financial officer or treasurer and filed with the Majority Noteholder.

*“Bank Agreement”* means any credit agreement, liquidity agreement, standby bond purchase agreement, reimbursement agreement, direct purchase agreement (such as a continuing covenant agreement or supplemental bondholder’s agreement), bond purchase agreement, or other agreement or instrument (or any amendment, supplement or other modification thereof) under which, directly or indirectly, any Person or Persons undertake(s) to make payment of or provide funds to make payment of, or to purchase or provide credit enhancement for bonds, notes or other obligations of the Obligated Group.

*“Borrower”* has the meaning set forth in the introductory paragraph hereof.

*“Business Valuation”* means \_\_\_\_\_.

*“Calculation Agent”* has the meaning set forth in the Financing Agreement.

*“Cash and Investments”* has the meaning set forth in the Master Indenture on the date hereof, as such definition may be amended from time to time in accordance with the terms hereof and the Master Indenture.

For purposes of clarity, the Master Indenture definition is as follows: *“Cash and Investments”* means (i) the sum of the following combined assets of the Obligated Group, all

determined in accordance with GAAP: cash and cash equivalents, investments, and funds in the Statutory Reserve Funds; plus (ii) the amounts on deposit in any project fund established for Related Bonds which will be used to pay interest on such Related Bonds, but at all times excluding (a) trustee-held funds established for Related Bonds which will be used to pay principal or interest on such Related Bonds (other than those described in clause (ii) of this definition), including any Debt Service Reserve Fund under the Master Indenture, (b) funds restricted by the donor to a use that would not permit the use of such funds to pay expenses or debt service on MTI Indebtedness of the Obligated Group, and (c) any funds pledged or otherwise subject to a security interest for debt other than the Obligations, as shown on the most recent audited or unaudited financial statements of the Obligated Group. For purposes of this Agreement Exhibit, capitalized terms used in this definition shall have their respective meanings set forth in the Master Indenture as of the Delivery Date unless amended in accordance with the terms hereof and thereof.

In the event of a conflict between the defined term set forth in this Agreement and the Master Indenture, as amended in accordance with the terms hereof and thereof, the defined term in the Master Indenture shall control.

*“CCRC Law”* has the meaning set forth in the Master Indenture.

*“Certificate”, “Statement”, “Request”, “Consent” or “Order”* of any Obligated Group Member means a written certificate, statement, request, consent or order signed in the name of such Obligated Group Member by its Authorized Representative. Any such instrument and supporting opinions or certificates, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or certificate and the two or more so combined shall be read and construed as a single instrument.

*“Compliance Certificate”* means a certificate substantially in form of Appendix A hereto.

*“Days’ Cash on Hand”* has the meaning set forth in the Master Indenture on the date hereof, as such definition may be amended from time to time in accordance with the terms hereof and the Master Indenture.

For purposes of clarity, the Master Indenture definition is as follows: *“Days Cash on Hand”* means, as of each June 30 and December 31, the quotient of (i) Cash and Investments divided by (ii) (A) expenses of the Obligated Group Members for the 12-month period (not including depreciation, amortization, other non-cash expenses and costs incurred by reason of any natural disaster), as determined in accordance with GAAP, divided by (B) 365. In determining the divisor under clause (ii) above, there shall be excluded realized and unrealized investment losses, realized and unrealized losses with respect to Financial Product Agreements, extraordinary losses from the cost of services and losses related to the extinguishment of Long-Term Indebtedness. For purposes of this Agreement Exhibit, capitalized terms used in this definition shall have their respective meanings set forth in the Master Indenture as of the Delivery Date unless amended in accordance with the terms hereof and thereof.



In the event of a conflict between the defined term set forth in this Agreement and the Master Indenture, as amended in accordance with the terms hereof and thereof, the defined term in the Master Indenture shall control.

*“Debtor Relief Laws”* means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

*“Department”* has the meaning set forth in the Master Indenture.

*“DTC”* means The Depository Trust Company.

*“EMMA”* means Electronic Municipal Market Access as provided by the Municipal Securities Rulemaking Board.

*“Entrance Fees”* has the meaning set forth in the Master Indenture.

*“ERISA”* means the Employee Retirement Income Security Act of 1974.

*“ERISA Affiliate”* means any trade or business (whether or not incorporated) under common control with the Obligated Group Representative and any other Obligated Group Member within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

*“ERISA Event”* means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the Obligated Group Representative, any other Obligated Group Member or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Obligated Group Representative, any other Obligated Group Member or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Obligated Group Representative, any other Obligated Group Member or any ERISA Affiliate.

*“Escrowed Entrance Fees”* has the meaning set forth in the Master Indenture.

*“Excess Interest Amount”* has the meaning set forth in Section 2.04 hereof.

“*Financing Agreement*” means the Financing Agreement dated as of September 1, 2017, among the Issuer, the Borrower, and TD Bank, N.A., as the Initial Noteholder.

“*Fiscal Year*” means the period beginning on January 1 of each year and ending on the next succeeding December 31, or any other twelve-month period hereafter designated by the Obligated Group Representative as the fiscal year of the Obligated Group and as permitted by Section 6.30 hereof.

“*FRB*” means the Board of Governors of the Federal Reserve System of the United States, together with any successors thereof.

“*Governing Body*” means, when used with respect to any Obligated Group Member, its board of directors, board of trustees or other board or group of individuals in which all of the powers of such Obligated Group Member are vested (including, to the extent applicable, an executive committee), except for those powers reserved to the corporate membership, if any, of such Obligated Group Member by the articles of incorporation or bylaws of such Obligated Group Member.

“*Governmental Approval*” means an authorization, consent, approval, license, or exemption of, registration or filing with, or report to any Governmental Authority.

“*Gross Revenues*” has the meaning set forth in the Master Indenture on the date hereof, as such definition may be amended from time to time in accordance with the terms hereof and the Master Indenture.

For purposes of clarity, the Master Indenture definition is as follows: “Gross Receipts” means all receipts, revenues, entrance fees, monthly service fees, payments, income and other moneys received or receivable by or on behalf of any Obligated Group Member from any source, whether or not in connection with the ownership or the operation of all or any part of any Obligated Group Member’s Property, including, without limitation, all Entrance Fees (earned and unearned), Monthly Service Fees and all other operating and non-operating revenues, all amounts received or receivable by or for the benefit of any Obligated Group Member under any Financial Products Agreement, and all rights to receive the same whether in the form of accounts receivable, contract rights, chattel paper, instruments and/or general intangibles of any Obligated Group Member and the proceeds thereof, the proceeds of any insurance coverage on and condemnation awards in respect of the Property or any gain on the sale or other disposition of Property; all of the foregoing, whether now existing or hereafter coming into existence and whether now owned or held or hereafter acquired by any Obligated Group Member; and including all gifts, grants, bequests, donations and contributions, except those heretofore or hereafter made, designated at the time of making by the donor or maker as being for certain specified purposes inconsistent with the application thereof to Required Payments and except any income derived therefrom to the extent required by such designation or restriction; *provided* that Gross Revenues shall not include Escrowed Entrance Fees to the extent that the CCRC Law prohibits Escrowed Entrance Fees from being subject to any liens, judgments, garnishments, creditor’s claims or other encumbrances against any Obligated Group Member or any Obligated Group Member’s Property. For purposes of this Agreement Exhibit, capitalized terms used in this definition shall have their respective

meanings set forth in the Master Indenture as of the Delivery Date unless amended in accordance with the terms hereof and thereof.

In the event of a conflict between the defined term set forth in this Agreement and the Master Indenture, as amended in accordance with the terms hereof and thereof, the defined term in the Master Indenture shall control.

*“Health Agency”* means the Agency for Health Care Administration of the State, and its successors as administrators of the Health Law.

*“Health Care Laws”* means all relevant federal and state laws regulating health services or payment, including, but not limited to, Section 1128B(b) and Section 1877 of the Social Security Act, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the Anti-Inducement Law (42 U.S.C. § 1320a-7a(a)(5)), the civil False Claims Act (31 U.S.C. § 3729 *et seq.*), the administrative False Claims Law (42 U.S.C. § 1320a-7b(a)), the exclusion laws (42 U.S.C. § 1320a-7), the civil monetary penalty laws (42 U.S.C. § 1320a-7a), the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §§ 1320d-1320d-8), Medicare, Medicaid, and any other state or federal law, regulation, guidance document, manual provision, program memorandum, opinion letter, or other issuance which regulates kickbacks, patient or program charges, recordkeeping, referrals, the hiring of employees or acquisition of services or supplies from those who have been excluded from government health care programs, quality, safety, privacy, security, licensure, accreditation, or any other aspect of providing health care.

*“Health Care Reportable Event”* means (a) the Borrower and/or any Affiliates becomes subject to any civil or criminal investigations, or any material inquiries, validation reviews, program integrity reviews, reimbursement audits or statements of deficiencies, involving and/or related to its compliance with Health Care Laws; (b) any material exclusion, voluntary disclosure, notice of claim to recover material overpayments, revocation, suspension, termination, probation, restriction, limitation, denial, or non-renewal affecting the Borrower and/or any of its Affiliates with respect to any material Program; or (c) the occurrence of any reportable event under any settlement agreement or corporate integrity agreement involving and/or related to its compliance with Health Care Laws entered into with any Governmental Authority.

*“Health Law”* means, collectively, Chapter 400, Part II (relating to skilled nursing facilities) and Chapter 429, Part I (relating to assisted living facilities), Florida Statutes, the provisions of any and all other Florida Statutes incorporated therein by reference, and the rules and regulations promulgated under any of the foregoing, and any other statute, regulation or rule now or thereafter enacted or promulgated pertaining to the development, construction, marketing, licensing and/or operation of skilled nursing facilities or assisted living facilities in the State or a material portion thereof, in the case of each of the foregoing, as the same may be amended, supplemented and replaced from time to time.

*“Income Available for Debt Service”* has the meaning set forth in the Master Indenture on the date hereof, as such definition may be amended from time to time in accordance with the terms hereof and the Master Indenture.

For purposes of clarity, the Master Indenture definition is as follows: “*Income Available for Debt Service*” means, with respect to any specified period, (a) revenues in excess of expenses (or, in the case of for profit Obligated Group Members, net operating income after taxes) of the Obligated Group Members for such period determined in accordance with GAAP, plus (b) depreciation expense, amortization of financing charges and other non-cash expenses taken into account in determining the revenues over expenses (or in the case of for profit Obligated Group Members, net operating income after taxes) of the Obligated Group Members, plus (c) interest expense (including credit facility fees, periodic marketing fees, and Financial Product Payments) on Long-Term Indebtedness included in the calculation of Annual Debt Service, plus (d) an amount equal to Entrance Fees collected (net of any Refunds), minus (e) Entrance Fees amortized into income and minus (f) any Financial Product Receipts. Under no circumstances shall the above calculation include (1) any unrealized gains or losses on investments or derivative instruments, (2) any extraordinary gains or losses, (3) any gain or loss resulting from (a) the extinguishment of MTI Indebtedness, (b) the sale, exchange or other disposition of assets not made in the ordinary course of business, (c) any discontinued operations or (d) adjustments to the value of assets or liabilities resulting from changes in GAAP, (4) any other non-cash revenues, (5) gifts (and income thereon) subject to restrictions inconsistent with their application to payment of Required Payments and (6) unrealized gains or losses from the write-down, reappraisal or revaluation of assets including investments for “other than temporary” declines in value. For purposes of this Agreement Exhibit, capitalized terms used in this definition shall have their respective meanings set forth in the Master Indenture as of the Delivery Date unless amended in accordance with the terms hereof and thereof.

In the event of a conflict between the defined term set forth in this Agreement and the Master Indenture, as amended in accordance with the terms hereof and thereof, the defined term in the Master Indenture shall control.

“*Indemnified Taxes*” means Taxes other than Excluded Taxes.

“*Indemnitee*” has the meaning set forth in Section 7.04 hereof.

“*Independent Consultant*” has the meaning set forth in the the Master Indenture.

“*Industry Restrictions*” means federal, state or other applicable governmental laws or regulations, including conditions imposed specifically on the Obligated Group Members or the Obligated Group Members’ facilities, or general industry standards or general industry conditions placing restrictions and limitations on the rates, fees and charges to be fixed, charged and collected by an Obligated Group Member or the Obligated Group Members.

“*Initial Noteholder*” means, initially, TD Bank, N.A., and its successors and assigns, and upon the receipt from time to time by the Issuer and the Obligated Group Representative of a notice described in Section 7.06(a) from time to time means the Person designated in such notice as the Initial Noteholder, as more fully provided in Section 7.06(a) hereof.

“*Investment Policy*” means the investment policy of the Borrower and its Affiliates delivered to the Majority Noteholder pursuant to Section 4.01(a)(v) hereof.

“*Investor Letter*” has the meaning set forth in Section 7.06 hereof.

“*Issuer*” has the meaning set forth in the introductory paragraph hereof.

“*Long-Term Indebtedness*” has the meaning set forth in the Master Indenture on the date hereof, as such definition may be amended from time to time in accordance with the terms hereof and the Master Indenture.

For purposes of clarity, the Master Indenture definition is as follows: “*Long-Term Indebtedness*” means MTI Indebtedness having an original maturity greater than one year or renewable at the option of an Obligated Group Member or Obligated Group Members for a period greater than one year from the date of original incurrence or issuance thereof unless, by the terms of such MTI Indebtedness, no MTI Indebtedness is permitted to be outstanding thereunder for a period of at least 20 consecutive days during each calendar year.

In the event of a conflict between the defined term set forth in this Agreement and the Master Indenture, as amended in accordance with the terms hereof and thereof, the defined term in the Master Indenture shall control.

“*Margin Stock*” has the meaning ascribed to such term in Regulation U promulgated by the FRB, as now and hereafter from time to time in effect.

“*Master Indenture Obligation*” has the meaning of the term “Senior Obligation” set forth in the Master Indenture.

“*Material Member*” means any Member of the Obligated Group with 5% or more of the aggregate revenues or unrestricted net assets of the Obligated Group, taken as a whole.

“*Maximum Interest Rate*” means the maximum rate of interest on the relevant obligation permitted by applicable law.

“*Medicaid*” means, collectively, the health care assistance program established by Title XIX of the Social Security Act (42 U.S.C. §§ 1396 *et seq.*) and any statutes succeeding thereto, and all laws, rules, regulations, manuals, orders, guidelines or requirements pertaining to such program including (a) all federal statutes (whether set forth in Title XIX of the Social Security Act or elsewhere) affecting such program; (b) all state statutes and plans for medical assistance enacted in connection with such program and federal rules and regulations promulgated in connection with such program; and (c) all applicable provisions of all rules, regulations, manuals, orders and administrative and reimbursement guidelines and requirements of all government authorities promulgated in connection with such program (whether or not having the force of law), in each case, as the same may be amended, supplemented or otherwise modified from time to time.

“*Medicare*” means, collectively, the health insurance program for the aged and disabled established by Title XVIII of the Social Security Act (42 U.S.C. §§ 1395 *et seq.*) and any statutes succeeding thereto, and all laws, rules, regulations, manuals, orders or guidelines pertaining to such program including (a) all federal statutes (whether set forth in Title XVIII of the Social

Security Act or elsewhere) affecting such program; and (b) all applicable provisions of all rules, regulations, manuals, orders and administrative and reimbursement guidelines and requirements of all governmental authorities promulgated in connected with such program (whether or not having the force of law), in each case, as the same may be amended, supplemented or otherwise modified from time to time.

*“Monthly Service Fees”* has the meaning set forth in the Master Indenture.

*“Mortgaged Property”* means the property subject to the lien of the Senior Mortgage.

*“MTI Indebtedness”* has the same meaning as the term “Indebtedness” set forth in the Master Indenture on the date hereof, as such definition may be amended from time to time in accordance with the terms hereof and the Master Indenture.

For purposes of clarity, the Master Indenture definition of “Indebtedness” is as follows: means any Guaranty (other than any Guaranty by any Obligated Group Member of MTI Indebtedness of any other Obligated Group Member) and any obligation of any Obligated Group Member (1) for borrowed money, (2) with respect to leases which are considered capital leases, or (3) under installment sale agreements, in each case as determined in accordance with generally accepted accounting principles; provided, however, that if more than one Obligated Group Member shall have incurred or assumed a Guaranty of a Person other than an Obligated Group Member, or if more than one Obligated Group Member shall be obligated to pay any obligation, for purposes of any computations or calculations under this Master Indenture such Guaranty or obligation shall be included only one time. Financial Products Agreements shall not constitute MTI Indebtedness. For purposes of this Agreement Exhibit, capitalized terms used in this definition shall have their respective meanings set forth in the Master Indenture as of the Delivery Date unless amended in accordance with the terms hereof and thereof.

In the event of a conflict between the defined term set forth in this Agreement and the Master Indenture, as amended in accordance with the terms hereof and thereof, the defined term “Indebtedness” in the Master Indenture shall control.

*“Multiemployer Plan”* means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Obligated Group Representative, any other Obligated Group Member or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

*“Multiple Employer Plan”* means a Plan which has two or more contributing sponsors (including the Obligated Group Representative, any other Obligated Group Member or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

*“1933 Act”* means the Securities Act of 1933, as amended.

*“Non-Noteholder Transferee”* has the meaning set forth in Section 7.06(c) hereof.

“*Note Counsel*” means Holland & Knight LLP, or any other firm of attorneys nationally recognized on the subject of tax-exempt municipal finance selected by the Obligated Group Representative.

“*Noteholder*” means any Noteholder and each Noteholder Transferee or Non-Noteholder Transferee pursuant to Section 7.06 hereof so long as such Noteholder Transferee or Non-Noteholder Transferee is an owner of Notes, or, with respect to Sections 2.03, 7.04 and 7.05 hereof and Article III hereof, was a Noteholder during the relevant period of time.

“*Noteholder Affiliate*” means, with respect to any Noteholder, any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such the Noteholder. A Person shall be deemed to control another Person for the purposes of this definition if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

“*Noteholder Transferee*” has the meaning set forth in Section 7.06(b) hereof.

[“*Nursing Beds*” means \_\_\_\_\_.]

“*Obligated Group*” has the meaning set forth in the Master Indenture.

“*Obligated Group Member*,” “*Member*” and “*Member of the Obligated Group*” has the meaning set forth in the Master Indenture.

“*Obligated Group Representative*” has the meaning set forth in the Master Indenture.

“*Obligations*” means all amounts payable by the Borrower, and all other obligations to be performed by the Borrower and the other Obligated Group Members, pursuant to this Agreement Exhibit and the other Related Documents (including, without limitation, all obligations of the Borrower to make payments under the Financing Agreement in an amount sufficient to pay principal of and interest on the Notes when due and any amounts to reimburse the Noteholder for any advances or expenditures by it under any of such documents).

“*Officer’s Certificate*” means a certificate signed by an Authorized Representative of the Obligated Group Representative.

“*Organization Documents*” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

*“Other Taxes”* has the meaning set forth in Section 3.05(a) hereof.

*“Parity Debt”* means any Indebtedness evidenced or secured by a Master Indenture Obligation.

*“Patriot Act”* means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107-56 (signed into law October 26, 2001).

*“Pension Funding Rules”* means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Section 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

*“Pension Plan”* means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to by the Obligated Group Representative, or any other Obligated Group Member and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code.

*“Permit”* means any permit, approval, authorization, certification, license, variance, accreditation or permission required from a Governmental Authority under an applicable law or any accrediting organization.

*“Permitted Liens”* has the meaning set forth in the Master Indenture.

*“Plan”* means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of the Obligated Group Representative, any other Obligated Group Member or any ERISA Affiliate or any such Plan to which the Obligated Group Representative, any other Obligated Group Member or any ERISA Affiliate is required to contribute on behalf of any of its employees.

*“Pricing Schedule”* means a pricing schedule of the Obligated Group for Entrance Fees and Monthly Service Fees for each type of Residential Unit, Assisted Living Unit and Nursing Bed, in the form of the price schedule delivered to the Majority Noteholder, as the same may from time to time be amended pursuant to the terms hereof and thereof.

*“Program”* has the meaning set forth in Section 5.05(c) hereof.

*“Property”* has the meaning set forth in the Master Indenture.

*“Property, Plant and Equipment”* has the meaning set forth in the Master Indenture.

*“Rating Agency”* means any of Fitch, Moody’s or S&P, as applicable.



“*Related Parties*” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“*Reportable Event*” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

“*Reservation Agreement*” means a reservation agreement between an Obligated Group Member and a prospective Resident, pursuant to which, in consideration for a reservation deposit, such Obligated Group Member has agreed to reserve a residential unit for occupancy by such prospective Resident under a Residency Agreement to be executed at or about the time such Resident takes occupancy thereof.

“*Residency Agreement*” means a residency agreement between an Obligated Group Member and a Resident, as it may have been or may be amended, pursuant to which, in consideration of the Entrance Fee, Monthly Service Fees and other charges, if any, such Obligated Group Member will provide living accommodations, medical and other care and services, as therein provided.

“*Resident*” means the occupant of a residential unit, an assisted living unit or a nursing bed in any facilities of the Obligated Group Members.

“*Sanctioned Country*” means, at any time, a country or territory which is the subject or target of any Sanctions.

“*Sanctioned Person*” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person controlled by any such Person.

“*Sanctions*” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State.

“*Senior Mortgage*” means the First Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of September 1, 2012, from the Borrower as mortgagor, to the Master Trustee as mortgagee, as originally executed and as the same may be further amended, supplemented, modified or restated from time to time in accordance with the terms hereof and thereof.

“*Senior Obligation No. 4*” means the Oak Hammock at the University of Florida, Inc. Senior Obligation No. 4, issued in favor of the Issuer and assigned to the Initial Noteholder pursuant to the Supplemental Indenture to evidence and secure the payment of the principal and purchase price of and interest on the Series 2017A Note and the Obligations hereunder (other than

the payment of the principal and purchase price of and interest on the Series 2017A Note and the Series 2017B Note).

“*Senior Obligation No. 5*” means the Oak Hammock at the University of Florida, Inc. Senior Obligation No. 5, issued in favor of the Issuer and assigned to the Initial Noteholder pursuant to the Supplemental Indenture to evidence and secure the payment of the principal and purchase price of and interest on the Series 2017B Note and the Obligations hereunder (other than the payment of the principal and purchase price of and interest on the Series 2017A Note and the Series 2017B Note).

“*Site*” means \_\_\_\_\_.

“*State*” means the State of Florida.

“*Statutory Reserve Funds*” means the statutory operating reserve account, the statutory renewal and replacement reserve account and any other accounts and amounts held by the Escrow Agent pursuant to the Escrow Agreement as required by the CCRC Law.

“*Subsidiary*” of a Person means (i) any corporation more than 50% of the outstanding securities having ordinary voting power of which shall at the time be owned or controlled, directly or indirectly, by such Person or by one or more of its Subsidiaries, or (ii) any partnership, limited liability company, association, joint venture or similar business organization more than 50% of the ownership interests having ordinary voting power of which shall at the time be so owned or controlled.

“*University*” means University of Florida, for and on behalf of the Department of Education of the State of Florida, a Florida body corporate and politic.

*Section 1.02. Other Interpretive Provisions.* With reference to this Agreement Exhibit and each other Related Document, unless otherwise specified herein or in such other Related Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “*include*,” “*includes*” and “*including*” shall be deemed to be followed by the phrase “without limitation.” The word “*will*” shall be construed to have the same meaning and effect as the word “*shall*.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Related Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “*hereto*,” “*herein*,” “*hereof*” and “*hereunder*,” and words of similar import when used in any Related Document, shall be construed to refer to such Related Document in its entirety and not to any particular provision thereof, (iv) all references in a Related Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to

Articles and Sections of, and Exhibits and Schedules to, the Related Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “*asset*” and “*property*” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word “*from*” means “*from and including*,” the words “*to*” and “*until*” each mean “*to but excluding*,” and the word “*through*” means “*to and including*.”

(c) Section headings herein and in the other Related Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement Exhibit or any other Related Document.

*Section 1.03. Accounting Terms.*

(a) *Generally.* All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement Exhibit shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, *except* as otherwise specifically prescribed herein.

(b) *Changes in GAAP.* If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Related Document, and either the Obligated Group Representative or the Majority Noteholder shall so request, the Majority Noteholder and the Obligated Group Representative shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP; *provided that*, until so amended, (A) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (B) the Obligated Group Representative shall provide to the Majority Noteholder financial statements and other documents required under this Agreement Exhibit or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

*Section 1.04. Rounding.* Any financial ratios required to be maintained by the Obligated Group pursuant to this Agreement Exhibit shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

*Section 1.05. Times of Day.* Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

## ARTICLE II

### THE OBLIGATED GROUP'S OBLIGATIONS

*Section 2.01. Payment Obligations.* (a) The Obligated Group Representative, on behalf of itself and the other Obligated Group Members, shall pay within thirty (30) days after demand:

(i) if an Event of Default shall have occurred, all reasonable costs and expenses of the Noteholders in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights and remedies under this Agreement Exhibit, the other Related Documents and such other documents which may be delivered in connection therewith;

(ii) a fee for each amendment to this Agreement Exhibit or any other Related Document or any consent or waiver by the Majority Noteholder with respect to any Related Document, in each case, in an amount as agreed to by the Obligated Group Representative and the Majority Noteholder, plus the reasonable fees and expenses of counsel to the Noteholders;

(iii) the reasonable fees and out-of-pocket expenses for counsel or other reasonably required consultants to the Majority Noteholder in connection with advising the Noteholders as to its rights, remedies and obligations under this Agreement Exhibit and the other Related Documents following a Default or Event of Default or in connection with responding to requests from the Obligated Group Representative for approvals, consents and waivers; and

(iv) any amounts advanced by or on behalf of the Noteholders to the extent required to cure any Default, Event of Default or event of nonperformance hereunder or any Related Document, together with interest at the Default Rate.

(b) The Obligated Group Representative, on behalf of itself and the other Obligated Group Members, acknowledges that Section 2.02 of the Financing Agreement authorizes the Obligated Group Representative, on behalf of itself and the other Obligated Group Members, upon making an election thereof in writing to the Issuer and the Initial Noteholder (the "*Direct Payment Election*"), to make all payments of principal of and interest accrued on the Notes (including bond redemption payments) directly to the Initial Noteholder, (without payment by Obligated Group Representative to the Issuer) in such manner or at such address in the United States as may be designated by the Initial Noteholder. In the event that the Borrower makes the Direct Payment Election, all payments of principal of and interest accrued on the Notes (including bond redemption payments), and all other payments by the Obligated Group Representative, on behalf of itself and the other Obligated Group Members, to the Initial Noteholder with respect to the Notes and under this Agreement Exhibit and the other Related Documents, shall be made by automatic deduction of immediately available monies by the Bank from the Borrower's DDA Account #: \_\_\_\_\_ (and together with any successor or renumbered account, the "*Account*"), to the extent funds in the Account are sufficient therefor. Each Obligated Group Member hereby authorizes such deductions from the Account, unless otherwise agreed upon by the Initial Noteholder and the

Obligated Group Representative in a writing that makes specific reference to this Agreement. If previously or hereafter agreed upon by the Obligated Group Representative in writing and subject to Section 8.03 of the Financing Agreement, the Initial Noteholder may deduct monies payable for any fees, expenses or other amounts referenced in this Agreement from any other account of the Obligated Group Members at any time maintained with the Initial Noteholder. If (i) funds in the Account are not sufficient to pay all amounts due on any debit date, (ii) the Account is discontinued or (iii) payment is not otherwise made in accordance with this Section 2.01(b), the Initial Noteholder may invoice the Obligated Group Representative for such amounts, which invoice(s) shall be due immediately upon receipt, or may deduct such funds from the Account when the same become available. Any amounts paid by the Obligated Group Members in response to an invoice shall be paid to the Initial Noteholder in lawful money of the United States of America in freely transferable and immediately available funds by wire transfer to the Initial Noteholder account at: TD Bank, N.A., [INCORPORATE APPROPRIATE WIRING INSTRUCTIONS] or at such other address or wiring instructions and to the attention of such other person as the Initial Noteholder may stipulate by written notice to the Obligated Group Representative, on behalf of itself and the other Obligated Group Members.

*Section 2.02. Reserved.*

*Section 2.03. Reserved.*

*Section 2.04. Reserved.*

*Section 2.05. Obligations Absolute.* The obligations of the Obligated Group, with respect to the Loan, this Agreement Exhibit and the Related Documents shall be unconditional and irrevocable and shall be joint and several obligations of the Borrower and, with respect to Senior Obligation No. 4 and Senior Obligation No. 5 each Obligated Group Member and shall be paid and performed strictly in accordance with the terms of the Related Documents, as applicable, under all circumstances.

### ARTICLE III

#### TAXES

*Section 3.01. Net of Taxes, Etc.*

(a) Any and all payments to any Noteholder by the Obligated Group Representative hereunder or with respect to the Notes, this Agreement Exhibit shall be made free and clear of and without deduction or withholding for any and all Indemnified Taxes. If the Obligated Group Representative shall be required by law to deduct or withhold any Indemnified Taxes imposed by the United States of America or any political subdivision thereof from or in respect of any sum payable hereunder or with respect to the Notes, then (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) any such Noteholder receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Obligated Group Representative shall make such deductions and (iii) the Obligated Group Representative shall

timely pay the full amount deducted to the Obligated Group Representative shall make any payment under this Section to or for the benefit of any such Noteholder with respect to Indemnified Taxes and if the such Noteholder shall claim any credit or deduction for such Indemnified Taxes against any other taxes payable by any such Noteholder to any taxing jurisdiction in the United States of America, then such Noteholder shall pay to the Obligated Group Representative an amount equal to the amount by which such other taxes are actually reduced; *provided*, that the aggregate amount payable by such Noteholder pursuant to this sentence shall not exceed the aggregate amount previously paid by the Obligated Group Representative with respect to such Indemnified Taxes. In addition, the Obligated Group Representative agrees to pay any present or future stamp, recording or documentary taxes and any other excise or property taxes, charges or similar levies that arise under the laws of the United States of America or any state of the United States from any payment made hereunder or under the Notes or from the execution or delivery of this Agreement Exhibit or the Notes, or otherwise with respect to this Agreement Exhibit or the Notes (hereinafter referred to as "*Other Taxes*"). Any such Noteholder shall provide to the Obligated Group Representative within a reasonable time a copy of any written notification it receives with respect to Indemnified Taxes or Other Taxes owing by the Obligated Group Representative to such Noteholder hereunder; *provided*, that such Noteholder's failure to send such notice shall not relieve the Obligated Group Representative of its obligation to pay such amounts hereunder.

(b) The Obligated Group Representative shall, to the fullest extent permitted by law and subject to the provisions hereof, pay such Noteholder for the full amount of Indemnified Taxes and Other Taxes including any Indemnified Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section paid by such Noteholder or any liability (including penalties, interest and reasonable expenses) arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally asserted; *provided*, that the Obligated Group Representative shall not be obligated to pay such Noteholder for any penalties, interest or expenses relating to Indemnified Taxes or Other Taxes arising from such Noteholder's gross negligence or willful misconduct. Any such Noteholder agrees to give notice to the Obligated Group Representative of the assertion of any claim against any such Noteholder relating to such Indemnified Taxes or Other Taxes as promptly as is practicable after being notified of such assertion; *provided*, that such Noteholder's failure to notify the Obligated Group Representative promptly of such assertion shall not relieve the Obligated Group Representative of its obligation under this Section. Payments by the Obligated Group Representative pursuant to this Section shall be made within thirty (30) days from the date such Noteholder makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof. Any such Noteholder agrees to repay to the Obligated Group Representative any refund (including that portion of any interest that was included as part of such refund) with respect to Indemnified Taxes or Other Taxes paid by the Obligated Group Representative pursuant to this Section received by such Noteholder for Indemnified Taxes or Other Taxes that were paid by the Obligated Group Representative pursuant to this Section and to contest, with the cooperation and at the expense of the Obligated Group Representative, any such Indemnified Taxes or Other Taxes which such Noteholder or the Obligated Group Representative reasonably believes not to have been properly assessed.

(c) Within thirty (30) days after the date of any payment of Indemnified Taxes by the Obligated Group Representative, the Obligated Group Representative shall furnish to the such Noteholder, as applicable, the original or a certified copy of a receipt evidencing payment thereof.

(d) Without prejudice to the survival of any other agreement of the Obligated Group Representative hereunder, the agreements and obligations of the Obligated Group Representative contained in this Section shall survive the termination of this Agreement Exhibit and the payment in full of the Notes and the obligations of the Obligated Group Representative thereunder and hereunder.

## ARTICLE IV

### CONDITIONS PRECEDENT

*Section 4.01. Documentary Requirements.* The obligation of the Initial Noteholder to purchase the Notes on the Delivery Date is subject to the conditions precedent that the Initial Noteholder shall have received, on or before the Delivery Date, the items listed in this Article IV, each dated and in form and substance as is satisfactory to the Initial Noteholder.

(a) The following Obligated Group organizational documents and financial information:

(i) copies of the resolutions of the Governing Body of the Obligated Group Representative and, to the extent applicable, the other Obligated Group Members, approving the execution and delivery of the Related Documents to which the Obligated Group Representative is a party, and the other matters contemplated hereby, certified by an Authorized Representative as being true and complete and in full force and effect on the Delivery Date;

(ii) the articles of incorporation, by-laws or other similar organizational documents of each Obligated Group Member, certified to be in full force and effect as of a date not more than thirty (30) days preceding the Delivery Date by an appropriate official of the applicable jurisdiction of organization of such Member and certified by an Authorized Representative to be in full force and effect on the Delivery Date;

(iii) certificates issued by an appropriate official of each Member of the Obligated Group's jurisdiction of organization, issued no more than thirty (30) days preceding the Delivery Date, stating that each such Member is in good standing in such jurisdiction;

(iv) copies of (1) the Actuarial Study demonstrating that the Obligated Group's approved pricing structure (taking into account projected contractual liabilities to Residents) is actuarially sound, that the Obligations can be adequately serviced, and that compliance with the financial covenants set forth in Section 6.34 hereof are expected to be achieved throughout the life of the Notes, (2) the Pricing Schedule and (3) the current forms of Reservation Agreement and Residency Agreement, together with copies of any proposed amendments thereto, meeting the requirements of the CCRC Law;

(v) the Audited Financial Statements, together with internally prepared financial statements of the Borrower and its Affiliates for each fiscal quarter(s) ended since the end of such Fiscal Year;

(vi) a copy of the Borrower and Affiliates' Investment Policy in effect as of the Delivery Date; and

(vi) a certificate dated the Delivery Date and executed by an Authorized Representative certifying the names, titles, offices and signatures of the persons authorized to sign, on behalf of the Obligated Group Representative, the Related Documents to which it is a party and the other documents to be delivered by it hereunder or thereunder.

(b) The following financing documents:

(i) an executed original or certified copy, as applicable, of each of the Related Documents;

(ii) an executed original of the Series 2017A Note and the Series 2017B Note; and

(iii) copies of all documentation relating to any Hedging Agreement relating to the Notes.

(c) The following opinions, dated the Delivery Date and addressed to the Initial Noteholder and the Initial Noteholder is otherwise expressly authorized to rely:

(i) from counsel to the Obligated Group Representative and the other Obligated Group Members, opinions as to the due authorization, execution, delivery and enforceability of the Related Documents to which the Obligated Group Representative and each other Member is a party, the validity and perfection of the security interests created by the Mortgage and the pledge of Gross Revenues created by the Master Indenture, as amended pursuant hereto, and such other customary matters as the Initial Noteholder may reasonably request and such other customary matters as the Initial Noteholder may reasonably request;

(ii) from counsel to the Issuer, opinions as to the due authorization, execution, delivery and enforceability of the Related Documents to which the Issuer is a party, and such other customary matters as the Initial Noteholder may reasonably request;

(iii) from Note Counsel, opinions to the effect that the interest on the Notes is excludable from gross income for federal income tax purposes and such other customary matters as the Initial Noteholder may reasonable request.



(d) The following documents and other information:

(i) a certificate dated the Delivery Date and executed by an Authorized Representative certifying (A) that there has been no event or circumstance since the date of the Audited Financial Statements and as supplemented in the unaudited financial statements for the fiscal quarter ended June 30, 2017, that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect, (B) that the representations and warranties contained in Article V hereof and the other Related Documents are true and correct in all material respects on the Delivery Date, (C) no event has occurred and is continuing, or would result from entry into this Agreement, which would constitute a Default or Event of Default and (D) other than Hedging Agreements in effect on the Delivery Date, there are no additional material contingent obligations of any Obligated Group Member in existence on the Delivery Date which could reasonably be expected to result in a Material Adverse Effect;

(ii) a certified copy of the resolutions of the Issuer and approving the execution and delivery of the Related Documents to which the Issuer is a party, and the other matters contemplated hereby, certified by an authorized representative of the Issuer as being true and complete and in full force and effect on the Delivery Date;

(iii) evidence of insurance of the Obligated Group Members and/or any of their respective Affiliates meeting or exceeding the requirements set forth herein and in the Master Indenture; and

(iv) receipt of an executed flow of funds memorandum by an officer of the Obligated Group Representative set forth in the Obligated Group Representative's incumbency certificate and authorized to execute transaction documents as set forth in the Obligated Group Representative's authorizing resolution.

*Section 4.02. Real Estate Requirements.* (a) *Appraisal.* Prior to the closing, the Initial Noteholder shall have received a satisfactory written "as-stabilized" MAI Real Estate appraisal (the "*Appraisal*") of the real property collateral (the "*Mortgaged Property*"), which Appraisal shall be paid for by the Obligated Group Representative and addressed to the Initial Noteholder. The Appraisal shall be reasonably acceptable to the Initial Noteholder and confirm that the total Indebtedness of the Obligated Group secured under the Master Indenture does not to exceed the sum of (i) 80% of the value of Mortgaged Property (land and buildings); (ii) 60% of the value of Furniture, Fixtures, and Equipment; and (iii) 80% of the appraised Business Valuation.

(b) *Survey and Engineer's Report.* Prior to closing, upon the Initial Noteholder's request, the Initial Noteholder, at the Obligated Group Representative's expense, will be furnished with a satisfactory survey of the Mortgaged Property in the standard ALTA form, certified to the Initial Noteholder and to the title company by a licensed professional engineer or surveyor acceptable to the Initial Noteholder, certifying, among other things: (i) there are no encroachments upon the Mortgaged Property, and the existence and location of all easements, improvements, and rights of way that benefit or burden the premises; and (ii) the Mortgaged Property is not located in a flood hazard area. If any existing improvements on the Mortgaged Property, or any improvements to be

constructed on the Mortgaged Property will be located a federally designated flood hazard area, the Obligated Group Representative shall have provided to Initial Noteholder evidence of flood hazard coverage in the maximum amount available and otherwise in a form acceptable to Initial Noteholder.

(c) *Hazardous Waste Existence.* The Initial Noteholder will require satisfactory evidence, including, without limitation, a Phase I Environmental Report with respect to the Mortgaged Property and reports from an environmental engineering firm, satisfactory to Initial Noteholder in the form of a site assessment (the cost of which is to be borne by Obligated Group Representative), confirming that (i) there is no indication that the Mortgaged Property is the subject of a release or threat of release of oil and/or hazardous material that would cause any Obligated Group Member to incur any liability under the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act or any other Federal, state or local statutes, ordinances, rules, regulations and the like addressing similar issues, and (ii) that the Mortgaged Property does not contain any asbestos or, in the case of residential property, lead paint. The site assessment shall also address the presence of asbestos and, in the case of residential property, lead paint. The Obligated Group Representative shall also provide a written representation and warranty that no such oil or hazardous waste materials have been deposited on the Mortgaged Property. Based on the recommendation of the engineering firm and/or in the event that the site assessment so indicates, the Initial Noteholder may require further investigation, in which event the Initial Noteholder will require written authorization from Obligated Group Representative for such testing.

(d) *Title Insurance.* The Obligated Group Representative shall obtain title insurance and Initial Noteholder required endorsements from a title insurer reasonably acceptable to the Initial Noteholder and shall be written by counsel or an agent reasonably acceptable to the Initial Noteholder. The title insurance policy shall (i) be in the ALTA form or other form approved by the Initial Noteholder with such endorsements as the Initial Noteholder may reasonably require; (ii) contain no exceptions for survey, easements and other use restrictions not shown on the survey; (iii) contain no inspection exceptions except in respect to improvements thereafter added; (iv) contain no exception taken for parties in possession, unless permitted by the Initial Noteholder, or for mechanics' liens; and (v) contain no other exceptions which in the opinion of counsel to the Initial Noteholder may have an adverse effect upon the use of all or any portion of the Mortgaged Property as contemplated.

*Section 4.03. Litigation.* The Initial Noteholder shall have received a written description of all actions, suits or proceedings pending or threatened against the Obligated Group Members and/or any of their respective Affiliates in any court or before any arbitrator of any kind or before or by any governmental or non-governmental body which could reasonably be expected to result in a Material Adverse Effect, if any, and such other statements, certificates, agreements, documents and information with respect thereto as the Initial Noteholder may reasonably request.

*Section 4.04. Other Matters.* All other legal matters pertaining to the execution and delivery of this Agreement and the Related Documents shall be satisfactory to the Initial Noteholder and its counsel, and the Initial Noteholder shall have received such other statements, certificates, agreements, documents and information with respect to the Obligated Group

Members, the Issuer and the other parties to the Related Documents and matters contemplated by this Agreement as the Initial Noteholder may reasonably request.

*Section 4.05. No Note Rating; DTC; Offering Document; CUSIP.* The Notes shall not be (i) assigned a specific rating by any Rating Agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) issued pursuant to any type of official statement, private placement memorandum or other offering document, (iv) assigned a CUSIP number by Standard & Poor's CUSIP Service or (v) placed or offered by a broker-dealer in the capacity of an underwriter or a placement agent.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES

The Obligated Group Representative, on behalf of itself and the other Obligated Group Members, hereby makes the following representations and warranties to the Noteholders:

*Section 5.01. Existence and Power; Tax Status.* The Obligated Group Representative is duly organized and validly existing under the laws of the State, each other Obligated Group Member is a not for profit corporation duly organized, validly existing and in good standing under the laws of its applicable jurisdiction of organization and the Obligated Group Representative and other each Obligated Group Member has the power and authority to own its properties and to carry on its businesses as now being conducted and as currently contemplated to be conducted hereafter and is duly qualified to do business in each jurisdiction in which the character of the properties owned or leased by it or in which the transactions of any material portion of its business (as now conducted and as currently contemplated to be conducted) makes such qualification necessary.

*Section 5.02. Reserved.*

*Section 5.03. Reserved.*

*Section 5.04. Non-contravention.* The execution, delivery and performance of this Agreement Exhibit and each of the other Related Documents in accordance with their respective terms do not and will not require any consent or approval of any creditor of any Obligated Group Member.

*Section 5.05. Compliance with Laws.*

(a) *Compliance with Laws.* Each Obligated Group Member is in compliance in all material respects with the requirements of all Laws applicable to it and all orders, writs, injunctions and decrees applicable to it or to its properties (including, without limitation, all Health Care Laws and the CCRC Law), except in such instances in which (i) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (ii) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect. No Obligated Group Member has knowledge of any material violation, nor is there any notice or other record of any material violation, of any zoning, subdivision,

environmental, building, fire, safety, health or other statute (including, without limitations, the CCRC Law and the Health Law), ordinance, regulation, restrictive covenant or other restriction applicable to the Project.

(b) *Health Care Laws.* No Obligated Group Member has received notice or has knowledge that any Governmental Authority or accreditation organization is considering limiting, suspending, terminating, or revoking any Permit, except for notices or occurrences for which the related Member is pursuing a plan of compliance or taking similar actions to correct any such deficiency in a manner acceptable to the related Governmental Authority or related accreditation organization such that upon completion of the related plan of compliance such Obligated Group Member does not reasonably expect a limitation, suspension, termination or revocation of such Permit. All Permits are valid and in full force and effect.

(c) *Programs.* To the extent it participates in a particular Program, each Obligated Group Member meets all of the requirements of participation and payment of Medicare, Medicaid, any other state or federal government health care programs and any other public or private third party payor programs (each, a “Program” and, collectively, “Programs”) and is a party to valid participation agreements for payment by such Programs. There is no investigation, audit, claim review, or other action pending or, to the knowledge of the Obligated Group Representative, threatened which could result in a revocation, suspension, termination, probation, material restriction, material limitation, or non-renewal of any Program participation agreement or result in the Obligated Group Representative’s or any other Obligated Group Member’s exclusion from any Program.

(d) *Exclusion.* Neither the Obligated Group Representative, any other Obligated Group Member nor any of their respective officers and directors has been or is currently excluded from participation in any government health care programs pursuant to 42 U.S.C. § 1320a-7.

(e) *Settlement Agreements, Etc.* Neither the Obligated Group Representative nor any other Obligated Group Member (A) has any reporting obligations pursuant to a settlement agreement, plan of correction, or other remedial measure entered into with any Governmental Authority, or (B) has, within the past five years, been served with or received any search warrant, subpoena, civil investigative demand or contact letter from any Governmental Authority related to its business operations. The Obligated Group Representative and each other Obligated Group Member has complied with the terms and conditions of any corporate integrity agreements, settlement agreements, plans of correction, other remedial measures, search warrants, subpoenas, civil investigative demands, or contract letters.

(f) *CCRC Law.* Each Obligated Group Member is in full compliance with all requirements of the CCRC Law and Health Law applicable to such Obligated Group Member and the Project, and the forms of the Reservation Agreement and the Residency Agreement conform to the requirements of the applicable provisions of the CCRC Law and all other applicable Law and have been approved by the Department. Each Obligated Group Member has (i) a valid and effective certificate of authority for the Project issued by the Department and (ii) valid and effective operating licenses for the Health Center, including all of the Nursing Beds and all of the Assisted Living Units. No Obligated Group Member has received notice of any default under or

noncompliance with the CCRC Law or the Health Law, the institution of any investigation or proceeding affecting such Obligated Group Member or the Project under the CCRC Law or the Health Law, or the suspension or revocation of any license for the Project or the Health Center (or any of the Residential Units, Assisted Living Units or Nursing Beds included therein).

*Section 5.06. Pending Litigation and Other Proceedings.* There is no action, suit or proceeding pending in any court, any other governmental authority with jurisdiction over any Obligated Group Member or any arbitration in which service of process has been completed against any Obligated Group Member or, to the knowledge of any Obligated Group Member, any other action, suit or proceeding pending or threatened in any court, any other governmental authority with jurisdiction over such Obligated Group Member or any arbitrator, in either case against any Obligated Group Member or any of its properties or revenues, or any of the Related Documents to which it is a party which is reasonably likely to result in a Material Adverse Effect, except any action, suit or proceeding which has been brought prior to the Delivery Date as to which the Initial Noteholder has received an opinion of counsel satisfactory to the Initial Noteholder in form and substance satisfactory to the Initial Noteholder and the Initial Noteholder's legal counsel, to the effect that such action, suit or proceeding is without substantial merit.

*Section 5.07. Financial Statements.* (a) The Audited Financial Statements, which financial statements, accompanied by the audit report of Moore Stephens Lovelace, P.A., independent public accountants, heretofore furnished to the Initial Noteholder which are consistent in all material respects with the audited financial statements of the Borrower and its Affiliates for the Fiscal Year ended December 31, 2016, fairly present the financial condition of the Borrower and its Affiliates in all material respects as of such dates and the results of its operations for the periods then ended in conformity with GAAP. Since the date of the Audited Financial Statements and as supplemented in the unaudited financial statements for the fiscal quarter ended June 30, 2017, there has been no material adverse change in the financial condition or operations of the Borrower and its Affiliates that could reasonably be expected to result in a Material Adverse Effect.

(b) Neither the Borrower nor any of its Affiliates has any contingent obligations or have entered into any Guaranties other than those set forth in the Audited Financial Statements.

*Section 5.08. ERISA Compliance.* (a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state laws. Each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Code, or an application for such a letter is currently being processed by the Internal Revenue Service. To the best knowledge of the Obligated Group Representative, nothing has occurred that would prevent or cause the loss of such tax-qualified status.

(b) There are no pending or, to the best knowledge of the Obligated Group Representative, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with

respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred, and neither the Obligated Group Representative, any Obligated Group Member nor any ERISA Affiliate is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan; (ii) the Obligated Group Representative, each Obligated Group Member and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is 60% or higher and neither the Obligated Group Representative, any Obligated Group Member nor any ERISA Affiliate knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the most recent valuation date; (iv) neither the Obligated Group Representative, any Obligated Group Member nor any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (v) neither the Obligated Group Representative, any Obligated Group Member nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that could reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

(d) Neither the Obligated Group Representative, any Obligated Group Member or any ERISA Affiliate maintains or contributes to, or has any unsatisfied obligation to contribute to, or liability under, any active or terminated Pension Plan other than (A) on the Delivery Date, those listed on Schedule 5.08(d) hereto and (B) thereafter, Pension Plans not otherwise prohibited by this Agreement Exhibit.

*Section 5.09. No Defaults.* No default by the Obligated Group Representative or any other Obligated Group Member has occurred and is continuing in the payment of the principal of or premium, if any, or interest on any Parity Debt including, without limitation, regularly scheduled payments on Hedging Agreements which constitute Parity Debt. No bankruptcy, insolvency or other similar proceedings pertaining to any Obligated Group Member is pending or presently contemplated. No Default or Event of Default has occurred and is continuing hereunder. No “default” or “event of default” under, and as defined in, any of the other Related Documents has occurred and is continuing. Neither the Obligated Group Representative nor any other Obligated Group Member is presently in default under any material agreement to which it is a party which could reasonably be expected to have a Material Adverse Effect. Neither the Obligated Group Representative nor any other Obligated Group Member is in violation of any material term of the Organizational Documents applicable to the Obligated Group Representative or such Obligated Group Member or any material term of any bond indenture or agreement to which it is a party or by which any of its Property is bound which could reasonably be expected to result in a Material Adverse Effect.

*Section 5.10. Reserved.*

*Section 5.11. Reserved.*

*Section 5.12. Reserved.*

*Section 5.13. Correct Information.* All information, reports and other papers and data with respect to the Obligated Group furnished by the Obligated Group Representative or any other Obligated Group Member to the Initial Noteholder were, at the time the same were so furnished, correct in all material respects. Any financial, budget and other projections furnished by the Obligated Group Representative or any other Obligated Group Member to the Initial Noteholder were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair and reasonable in light of conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as of the date of this representation, represent (subject to the updating or supplementation of any such financial, budget or other projections by any additional information provided to the Initial Noteholder, in writing, the representations contained in this Agreement Exhibit being limited to financial, budget or other projections as so updated or supplemented), in the judgment of the Obligated Group Representative or such other Obligated Group Member, a reasonable, good faith estimate of the information purported to be set forth, it being understood that uncertainty is inherent in any projections and that no assurance can be given that the results set forth in the projections will actually be obtained. No fact is known to the Obligated Group Representative or any other Obligated Group Member that materially and adversely affects or in the future may (as far as it can reasonably foresee) materially and adversely affect the security for any of the Notes, or the ability of the Obligated Group Representative, on behalf of itself and the other Obligated Group Members, to repay when due the Obligations, that has not been set forth in the financial statements and other documents referred to in this Section 5.13 or in such information, reports, papers and data or otherwise disclosed in writing to the Initial Noteholder.

*Section 5.14. Investment Company.* No Obligated Group Member is an “investment company” or a company “controlled” by an “investment company,” as such terms are defined in the Investment Company Act of 1940, as amended.

*Section 5.15. Margin Stock.* Neither the Obligated Group Representative nor any other Obligated Group Member is engaged in the business of extending credit for the purpose of purchasing or carrying Margin Stock, and no part of the proceeds from the issuance of the Notes will be used to purchase or carry any such Margin Stock or extend credit to others for the purpose of purchasing or carrying any such Margin Stock.

*Section 5.16. Tax-Exempt Status.* Neither the Obligated Group Representative nor any other Obligated Group Member has taken any action or omitted to take any action, and has no actual knowledge of any action taken or omitted to be taken by any other Person, which action, if taken or omitted, would adversely affect the exclusion of interest on the Notes from gross income for federal income tax purposes.

*Section 5.17. Usury.* None of the Related Documents or the Notes provide for any payments that would violate any applicable law regarding permissible maximum rates of interest.

*Section 5.18. Security; Perfection of Security; Mortgage.* (a) The Master Indenture provides a Lien on and security interest in the Gross Revenues to secure the prompt payment of (i) Senior Obligation No. 4 and (ii) Senior Obligation No. 5. Senior Obligation No. 4 and Senior Obligation No. 5 have been duly and validly issued under the Supplemental Indenture and each is a valid and binding joint and several obligation of each Obligated Group Member and ranks on a parity with all other Master Indenture Obligations issued pursuant to the Master Indenture.

(b) The Obligated Group Representative, on behalf of itself and the other Obligated Group Members, has taken any and all action necessary to perfect the Lien on and security interest in the Gross Revenues granted to the Master Trustee, on behalf of the holders of the Master Indenture Obligations, pursuant to the Master Indenture by the filing of appropriate financing statements (to the extent that perfection of the Lien and security interest in the Gross Revenues may be achieved by the filing of a financing statement).

(c) The Senior Mortgage creates a valid lien on and/or security interest in the Mortgaged Property, and the Master Trustee has a perfected security interest in or valid lien on the Mortgaged Property. Senior Obligation No. 4 and Senior Obligation No. 5 will be secured by the Mortgage *pari passu* with all other Master Indenture Obligations issued under the Master Indenture.

(d) The Obligations of the Obligated Group Members hereunder shall be secured by the Financing Agreement and by Senior Obligation No. 4 and Senior Obligation No. 5. The obligations of the Obligated Group under Senior Obligation No. 4 and Senior Obligation No. 5 are secured by (i) the parity pledge of Gross Revenues of each Member of the Obligated Group made pursuant to the Master Indenture and (ii) the Senior Mortgage with respect to the Mortgaged Property on a parity with all other Master Indenture Obligations issued under the Master Indenture.

(e) The Obligated Group Representative, on behalf of itself and the other Obligated Group Members, hereby acknowledges and agrees that Senior Obligation No. 4, Senior Obligation No. 5 and the Obligations owed hereunder are the joint and several obligations of each Obligated Group Member, and are absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever by the Noteholders, and without limiting the generality of the foregoing, each Obligated Group Member's joint and several obligation with respect to Senior Obligation No. 4, Senior Obligation No. 5 and the Obligations shall not be impaired by any acceptance by the Noteholders of any other security for or guarantors upon Senior Obligation No. 4, Senior Obligation No. 5 and the Obligations or by any failure, neglect or omission on the part of the Noteholders to resort to any one or all of the Members for payment of Senior Obligation No. 4, Senior Obligation No. 5 and the Obligations or to realize upon or protect any collateral security therefor. Each Obligated Group Member's joint and several obligation with respect to Senior Obligation No. 4, Senior Obligation No. 5 and the Obligations shall not in any manner be impaired or affected by the Person who receives or uses the proceeds of any of the Notes or for what purposes such proceeds are used. Such joint and several obligation of each Obligated Group Member, subject to the terms of the Master Indenture, shall also not be impaired or affected by (and the Noteholders, without notice to anyone, is hereby authorized to make from



time to time) any sale, pledge, surrender, compromise, settlement, release, renewal, extension, indulgence, alteration, substitution, exchange, change in, modification or disposition of any collateral security for Senior Obligation No. 4, Senior Obligation No. 5 and the Obligations or of any guaranty thereof. In order to enforce payment of Senior Obligation No. 4, Senior Obligation No. 5 and the Obligations of the Obligated Group Members hereunder, foreclose or otherwise realize on any collateral security therefor, and to exercise the rights granted to the Noteholders hereunder and thereunder and under applicable law, subject to the terms of the Master Indenture, the Noteholders shall be under no obligation at any time to first resort to any collateral security, property, liens or any other rights or remedies whatsoever, and the Noteholders shall have the right to enforce Senior Obligation No. 4, Senior Obligation No. 5 and the Obligations of the Members irrespective of whether or not other proceedings or steps are pending seeking resort to or realization upon or from any of the foregoing. In furtherance thereof, the Obligated Group Representative, on behalf of itself and the other Obligated Group Members, agrees that wherever in this Agreement, Senior Obligation No. 4 and Senior Obligation No. 5 it is provided that any Obligated Group Member is liable for a payment, such obligation is the joint and several obligation of each Obligated Group Member. Senior Obligation No. 4 and Senior Obligation No. 5 will be secured on a *pari passu* basis and shall not be senior in priority to the other Master Indenture Obligations issued under the Master Indenture.

*Section 5.19. Pending Legislation and Decisions.* There is no amendment, or to the knowledge of the Obligated Group Representative or any other Obligated Group Member, proposed amendment to the Constitution of the State or any State law or any administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the legislature of the State, or any judicial decision interpreting any of the foregoing, the effect of which could reasonably be expected to result in a Material Adverse Effect.

*Section 5.20. Master Trustee.* Wells Fargo Bank, National Association is the duly appointed and acting master trustee under the Master Indenture.

*Section 5.21. Environmental Matters.* To the knowledge of the Obligated Group Representative after reasonable diligence with respect thereto, the operations of each Obligated Group Member are in material compliance with all of the requirements of applicable federal, state and local environmental, health and safety statutes and regulations and are not the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, where a failure to comply with any such requirement or the need for any such remedial action could reasonably be expected to result in a Material Adverse Effect. No Obligated Group Member has received notice to the effect that it is not in compliance with any of the requirements of applicable federal, state or local environmental, health and safety statutes and regulations or is the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, which noncompliance or failure to take remedial action could have a Material Adverse Effect.

*Section 5.22. Reserved.*

*Section 5.23. Reserved.*

*Section 5.24. Hedging Agreements.* Neither the Obligated Group Representative nor any other Obligated Group Member has entered into any Hedging Agreement relating to Indebtedness (a) wherein any termination payment thereunder is senior to or on a parity with the payment of the Notes or the Obligations or (b) which requires the Obligated Group Representative or any other Obligated Group Member to post cash collateral to secure its obligations thereunder.

*Section 5.25. Subsidiaries; Equity Interests.* As of the Delivery Date, neither the Obligated Group Representative nor any other Obligated Group Member has any Subsidiaries nor has any equity investments in any other corporation or entity other than those investments specifically undertaken by the Obligated Group Representative or such other Obligated Group Member as part of its normal treasury operations and in compliance with the Investment Policy.

*Section 5.26. Obligated Group.* As of the Delivery Date, the Borrower is the only Member of the Obligated Group.

*Section 5.27. Reserved.*

*Section 5.28. Anti-Corruption Laws and Sanctions.* The Obligated Group Representative and each other Obligated Group Member has implemented and maintains in effect policies and procedures designed to ensure compliance by the Obligated Group Representative and each such Obligated Group Member and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Obligated Group Representative and each such Obligated Group Member and their respective officers and employees and to the knowledge of the Obligated Group Representative and such Obligated Group Member its directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of the Obligated Group Representative or any other Obligated Group Member or, to the knowledge of the Obligated Group Representative or such Obligated Group Member, any of their respective directors, officers or employees or any of their respective agents that will act in any capacity in connection with or benefit from the credit facility established hereby is a Sanctioned Person. No transaction contemplated by this Agreement Exhibit will violate Anti-Corruption Laws or applicable Sanctions.

*Section 5.29. Project Compliance.* To the knowledge of the Obligated Group Representative after reasonable diligence with respect thereto, the use of the Site and the Project for the purposes contemplated by the Related Documents, and the operation of the Project, in all material respects, comply with, and are lawful, permitted and conforming uses under, all applicable building, fire, safety, subdivision, zoning, sewer, environmental, securities, health, insurance and other laws (including, without limitation, the CCRC Law and the Health Law), ordinances, rules, regulations and plan approval conditions of any Governmental Authority.

## ARTICLE VI

### COVENANTS

The Obligated Group Representative covenants and agrees that it shall, and shall cause each Obligated Group Member to do the following, until the full and final payment and satisfaction of all of the Obligations, unless the Majority Noteholder shall otherwise consent in writing, that:

*Section 6.01. Existence, Etc.* (a) The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, (i) maintain its existence pursuant to its articles of incorporation, by-laws or other organizational documents and the laws of its applicable jurisdiction of organization and (ii) take all necessary action to maintain its existence as an organization described in Section 501(c)(3) of the Code and its exemption from federal income tax under Section 501(a) of the Code or corresponding provisions of future income tax laws.

(b) The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, maintain in full force and effect all of its governmental and other authorizations, approvals, consents, permits, licenses, certifications, accreditations and qualifications necessary for the conduct of its business as it is presently being conducted (and contemplated to be conducted as described in the Actuarial Study) and the ownership and operation of the Project as it is presently operated (and contemplated to be operated as described in the Actuarial Study), including, without limitation, (i) each certificate of authority issued by the Department for the Project under the CCRC Law, and (ii) operating licenses for the Health Center (and all of the Assisted Living Units and Nursing Beds contained therein) issued by the Health Agency under the Health Law (which the Obligated Group Representative shall cause to be renewed annually or biannually, as applicable, without any gap in the effectiveness thereof as required by the CCRC Law, the Health Law and other Applicable Law).

(c) The Obligated Group Representative shall promptly furnish copies of all reports and correspondence relating to a loss or proposed revocation of any such authorization, approval, consent, permit, license, certification, accreditation or qualification to the Majority Noteholder.

*Section 6.02. Maintenance of Properties.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, (a) maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect; and (c) use commercially reasonable efforts to operate and maintain the facilities owned, leased or operated by such Person now or in the future in a manner believed by such Person to be consistent with prevailing industry standards in the locations where the facilities exist from time to time, except to the extent failure to do so could not reasonably be expected to result in a Material Adverse Effect.

*Section 6.03. Reserved.*

*Section 6.04. Insurance.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, maintain insurance in accordance with the terms of the Master Indenture. The Obligated Group Representative shall upon request of the Majority Noteholder furnish a certificate setting forth in summary form the nature and extent of the insurance maintained pursuant to this Section 6.04.

*Section 6.05. Reports.* The Obligated Group Representative shall furnish to the Majority Noteholder in form and detail satisfactory to the Majority Noteholder:

(a) *Annual Audited Financial Statements.* Within one hundred thirty-five (135) days after the end of each Fiscal Year of the Borrower, the annual consolidated financial statements of each Obligated Group Member and their respective Affiliates, including a balance sheet, statement of income, statement of cash flows, a consolidating report and such other financial information of each Obligated Group Member and their respective Affiliates in such detail as the Majority Noteholder may reasonably request. Such financial information shall present fairly the consolidated financial position of each Obligated Group Member and their respective Affiliates as of the close of such Fiscal Year and the results of its operations during such Fiscal Year, in accordance with GAAP, and shall be audited and accompanied by the opinion, reasonably satisfactory in form and substance to the Majority Noteholder, of an independent certified public accountant reasonably acceptable to the Majority Noteholder and shall contain the independent certified public accountant's schedules of consolidated and consolidating balance sheets, statement of operations and statement of cash flows and balance sheets, statement of operations and statement of cash flows, for the individual entities comprising each Obligated Group Member and their respective Affiliates, including consolidated subtotals for the Obligated Group.

(b) *Quarterly Unaudited Financial Statements.* Within forty-five (45) days after the end of each fiscal quarter of each Fiscal Year of each Obligated Group Member and their respective Affiliates, the quarterly unaudited consolidated financial statements of each Obligated Group Member and their respective Affiliates, including a balance sheet, statement of income and such other financial information of each Obligated Group Member and their respective Affiliates in such detail as the Majority Noteholder may reasonably request. Such financial information shall present fairly the consolidated financial position of the Borrower and its Affiliates as of the close of such fiscal quarter and the results of its operations during such fiscal quarter, substantially in accordance with GAAP and shall contain schedules of consolidated balance sheets and statement of operations, for the individual entities comprising the Borrower and its Affiliates, including consolidated subtotals for the Obligated Group.

(c) *Compliance Certificate.* In connection with the financial statements required to be delivered by the Obligated Group Representative pursuant to Sections 6.05(a) and (b) hereof, a Compliance Certificate signed by the chief financial officer of the Obligated Group Representative (x) stating that no Event of Default or Default has occurred, or if such Event of Default or Default has occurred, specifying the nature of such Event of Default or Default, the period of its existence, the nature and status thereof and any remedial steps taken or proposed to correct such Event of Default or

Default and (y) demonstrating detailed calculations of and compliance with the financial covenants set forth in Section 6.34 hereof.

(d) *Resident Information.* By the forty-five (45th) day following the end of each fiscal quarter of the Borrower and its Affiliates, a statement, as of the end of the preceding fiscal quarter, setting forth (i) a schedule of payor mix statistics for each Member of the Obligated Group, (ii) Entrance Fees collected in such fiscal quarter, (iii) the number of Residential Units (including a breakdown of the types of Residential Units) for which Reservation Agreements or Residency Agreements have been executed during such preceding fiscal quarter, net of any terminations; (iv) the number of Reservation Agreements or Residency Agreements terminated or Residential Units vacated during such preceding fiscal quarter, specifying the reason therefor (including death, transfer to a health care facility or other causes), and (v) the current occupancy of the Project by Residents, expressed as separate percentages of the number of Residential Units (as a whole and by type of Residential Unit) and the number of Assisted Living Units and Nursing Beds (as a whole and by Assisted Living Units and Nursing Beds);

(e) *Budget and Capital Plan.* As soon as available, and in any event prior to the first day of each Fiscal Year, the operating budget and capital plan of the Obligated Group.

(f) *Reserved.*

(g) *Notices of Resignation of the Master Trustee.* As promptly as practicable, written notice to the Majority Noteholder of any resignation of the Master Trustee promptly upon receiving notice of the same.

(h) *Offering Memorandum and Material Event Notices.* (A) Within ten (10) days after the issuance of any securities by the Obligated Group with respect to which a final official statement or other offering or disclosure document has been prepared by the Obligated Group, (1) a copy of such official statement or offering circular or (2) notice that such information has been filed with EMMA and is publicly available; and (B) during any period of time the Obligated Group is subject to continuing disclosure requirements under Rule 15c2-12 promulgated pursuant to the Securities Exchange Act of 1934, as amended (17 C.F.R. Sec. 240-15c2-12), or any successor or similar legal requirement, immediately following any dissemination, distribution or provision thereof to any Person, (1) a copy of any reportable event notice (as described in b(5)(i)(C) of Rule 15c2-12) disseminated, distributed or provided in satisfaction of or as may be required pursuant to such requirements or (2) notice that such event notice has been filed with EMMA and is publicly available.

(i) *Notice of Default or Event of Default.* (i) Promptly upon obtaining knowledge of any Default or Event of Default, or notice thereof, and in any event within five (5) days thereafter, a certificate signed by an Authorized Representative specifying in reasonable detail the nature and period of existence thereof and what action the Obligated Group has taken or proposes to take with respect thereto; (ii) promptly following a written

request of the Majority Noteholder, a certificate of an Authorized Representative as to the existence or absence, as the case may be, of a Default or Event of Default under the Financing Agreement; and (iii) promptly upon obtaining knowledge of any “default” or “event of default” as defined under any Bank Agreement, notice specifying in reasonable detail the nature and period of existence thereof and what action the Obligated Group has taken or proposes to take with respect thereto.

(j) *Notice of Material Adverse Change.* Promptly after, and in any event within five (5) Business Days after obtaining knowledge of any of the following which could reasonably be expected to result in a Material Adverse Effect, a certificate signed by an Authorized Representative specifying in reasonable detail the nature and period of existence and what action the Obligated Group has taken or proposes to take with respect thereto: (i) any material labor dispute to which any Obligated Group Member is or may become a party, including any strikes, lockouts or other disputes relating to any of such Person’s plants and other facilities, (ii) the occurrence of any Health Care Reportable Event and (iii) the occurrence of an ERISA Event;

(k) *Litigation.* As promptly as practicable, written notice to the Majority Noteholder of all actions, suits or proceedings pending or threatened against any Obligated Group Member before any arbitrator of any kind or before any court or governmental authority which could reasonably be expected to result in a Material Adverse Effect.

(l) *Amendments.* Promptly after the adoption thereof and to the extent the Noteholders are not required to receive and make notice of the same, copies of any amendments to any of the Related Documents.

(m) *Other Information.* Such other information regarding the business affairs, financial condition and/or operations of the Obligated Group as the Majority Noteholder may from time to time reasonably request, including, without limitation, any information provided by the Obligated Group Representative or any other Obligated Group Member to any Rating Agency.

(n) *Consultant Reports.* Upon receipt thereof by any Obligated Group Member, a copy of each report in connection with any financial covenant hereunder or under the Master Indenture.

(o) *Notices of Change in Executive Offices, Etc.* As soon as practicable and in any event within 15 days after the respective event, notice of any change of (i) the Chief Executive Officer or President of any Obligated Group Member, (ii) the auditors or name of any Obligated Group Member, (iii) any form of Residency Agreement (but only if such change is material), or (iv) the nature of the Board of any Obligated Group Member.

(p) *Notice of Future Service Obligation.* If the Borrower’s annual audit delivered to the Majority Noteholder pursuant to Section 6.05(a) does not contain an AICPA calculation of the Borrower’s future service obligation, following receipt by the Majority Noteholder of the Borrower’s annual audit, upon request of the Majority

Noteholder to the Borrower of the AICPA calculation, within thirty (30) days of such request, the Borrower shall deliver to the Majority Noteholder a report of a Consultant stating the amount, if any, required to provide the reserve necessary for the payment of extraordinary health care costs (i.e., the amount by which the Obligated Group's cost of providing health care to Residents of the Project exceeds the revenues received by the Obligated Group from its health care operations and other revenue available from Monthly Service Fees and Entrance Fees not needed to pay expenses of operating the Project or debt service expenses). If such study or an annual audit future service obligation calculation shows an unfunded obligation, the Obligated Group Representative shall be required to deliver to the Majority Noteholder a plan to meet such obligation within the period during which the related services giving rise to such obligation will be delivered to Residents. Such plan shall provide for the meeting of such obligation through the establishment of reserves, revision of Entrance Fees and Monthly Service Fees, purchase of long term care insurance, or otherwise.

(q) *Actuarial Study.* Within one hundred thirty-five (135) days after the end of every second Fiscal Year, beginning with the Fiscal Year ending December 31, 2017, and any other Fiscal Year at the written request of the Majority Noteholder, the Obligated Group Representative shall provide a new or updated Actuarial Study, prepared by an actuary reasonably acceptable to the Majority Noteholder, with respect to the Residents in the Project and the pricing of Entrance Fees and Monthly Service Fees.

*Section 6.06. Maintenance of Books and Records.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, keep proper books of record and account in which full, true and correct entries in accordance with GAAP. The Obligated Group shall not vary or modify the accounting methods or principles from the accounting standards employed in the preparation of its audited financial statements described in Section 5.06 hereof except in accordance with any guidance or directive of AICPA or in accordance with GAAP.

*Section 6.07. Reserved.*

*Section 6.08. Compliance With Documents.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, perform and comply with each and every covenant and agreement required to be performed or observed by it in the Financing Agreement and each of the other Related Documents to which it is a party, which provisions, as well as related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety all of which shall be deemed to be made for the benefit of the Noteholders and shall be enforceable against the Obligated Group Representative and each other Obligated Group Member. To the extent that any such incorporated provision permits the Obligated Group Representative, any other Obligated Group Member or any other party to waive compliance with such provision or requires that a document, opinion or other instrument or any event or condition be acceptable or satisfactory to the Obligated Group Representative, any other Obligated Group Member or any other party, for purposes of this Agreement Exhibit, such provision shall be complied with unless it is specifically waived by the Majority Noteholder in writing and such document, opinion or other instrument and such event or condition shall be acceptable or satisfactory only if it is acceptable or satisfactory to the Majority

Noteholder which shall only be evidenced by the written approval by the Majority Noteholder of the same. All such incorporated covenants shall be in addition to the express covenants contained herein and shall not be limited by the express covenants contained herein nor shall such incorporated covenants be a limitation on the express covenants contained herein.

*Section 6.09. Pari Passu.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, cause the Lien on and security interest in the Gross Revenues and the Senior Mortgage, in each case, securing Senior Obligation No. 4 and Senior Obligation No. 5 to rank at all times *pari passu* in priority of payment and security with the other Master Indenture Obligations at any time outstanding under the Master Indenture.

*Section 6.10. No Impairment.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, take any action, or cause the Issuer or the Master Trustee to take any action, under the Financing Agreement or any other Related Document which would materially adversely affect the rights, interests, remedies or security of the Majority Noteholder under this Agreement Exhibit or any other Related Document or which could reasonably be expected to result in a Material Adverse Effect.

*Section 6.11. Reserved.*

*Section 6.12. Master Trustee; Escrow Agent.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, without the prior written consent of the Majority Noteholder (which consent shall not be unreasonably withheld) remove, or seek to remove, the Master Trustee or the Escrow Agent. The Obligated Group Representative shall at all times maintain a Master Trustee pursuant to the terms of the Master Indenture that is reasonably acceptable to the Majority Noteholder. The Obligated Group Representative shall at all times maintain an Escrow Agent pursuant to the terms of the Escrow Agreement that is acceptable to the Majority Noteholder.

*Section 6.13. Limitation on Additional Indebtedness.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, issue or incur any additional Indebtedness unless after the issuance or incurrence of such Indebtedness (a) no Default or Event of Default shall have occurred as a result of the issuance or incurrence of such Indebtedness, (b) the Obligated Group shall be in compliance with the terms of the Master Indenture and (c) after giving effect to such issuance or occurrence, the Obligated Group is in compliance with the financial covenants set forth in Section 6.34 hereof as of the most recent testing date with respect to such financial covenants.

*Section 6.14. Related Documents.* Except with respect to amendments or supplements to the Master Indenture in accordance with Section 6.01 of the Master Indenture, the Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, modify, amend or consent to any modification, amendment, termination, replacement, substitution or waiver in any material respect of any Related Document without the prior written consent of the Majority Noteholder.



*Section 6.15. Liens.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, create, incur or permit to exist any Lien of any kind on any Property owned by any Obligated Group Member which constitutes a material part of the primary operations of such Person, except in accordance with the terms of the Master Indenture.

*Section 6.16. Reserved.*

*Section 6.17. Disclosure to Participants, Noteholder Transferees and Non-Noteholder Transferees.* The Obligated Group Representative, on behalf of the other Obligated Group Members, shall permit the Noteholders to disclose the financial information received by it pursuant to this Agreement Exhibit to each Participant of any Noteholder, Noteholder Transferee and Non-Noteholder Transferee pursuant to Section 7.06 of this Agreement Exhibit, subject to confidentiality restrictions and use restrictions customary for financial institutions.

*Section 6.18. Most Favored Nations.* In the event that the Obligated Group Representative or any other Obligated Group Member has, directly or indirectly, already entered into or shall, directly or indirectly, enter into or otherwise consent to any Bank Agreement or supplement to the Master Indenture which such Bank Agreement or supplement to the Master Indenture provides the creditor thereunder with more favorable or more restrictive financial covenants, defaults or remedies than are provided to the Noteholders in this Agreement Exhibit, the Obligated Group Representative shall provide the Majority Noteholder with a copy of each such Bank Agreement or supplement to the Master Indenture and such more favorable or more restrictive financial covenants, defaults or remedies shall automatically be deemed to be incorporated into this Agreement Exhibit and the Noteholders shall have the benefits of such more favorable or more restrictive financial covenants, defaults or remedies as if specifically set forth herein. Upon the request of the Majority Noteholder, the Obligated Group Representative shall promptly enter into an amendment to this Agreement Exhibit to include more favorable or more restrictive financial covenants, defaults or remedies; *provided* that the Noteholders shall have and maintain the benefit of such more favorable or more restrictive financial covenants, defaults or remedies even if the Obligated Group Representative fails to provide such amendment.

*Section 6.19. Hedging Agreements.* Without the prior written consent of the Majority Noteholder, the Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, enter into any Hedging Agreements (other than a Hedging Agreement with the Initial Noteholder or any of its Affiliates) relating to Indebtedness (i) wherein any termination payments thereunder are senior to or on parity with the payment of the Notes or the Obligations or (ii) which requires the Obligated Group Representative or any other Obligated Group Member to post cash collateral to secure its obligations thereunder.

*Section 6.20. Use of Initial Noteholder's Logo, Financial Information or Credit Ratings.* Except as may be required by law (including, but limited to, federal and state securities laws), the Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, use the Initial Noteholder's logo, financial information or credit ratings in any published materials (other than the Obligated Group Member's staff reports, annual statements, audited financial statements, and rating agency presentations) without the prior written consent of the Initial Noteholder.

*Section 6.21. Maintenance of Tax-Exempt Status of Notes.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, take any action or omit to take any action which, if taken or omitted, would adversely affect the tax-exempt status of the Notes.

*Section 6.22. Investments.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, retain or have outstanding any investments (whether through purchase of stock or obligations or otherwise) in, or loans or advances to, any other Person, or acquire all or any substantial part of the assets or business of any other Person (but excluding the acquisition of all or any substantial part of the assets or business of any other Person if such assets or business is given or bequeathed by such Person to any such Obligated Group Member), or subordinate any claim or demand it may have to the claim or demand of any other Person; *provided, however,* that the foregoing shall not operate to prevent (i) investments permitted by the Obligated Group's Investment Policy, and (ii) loans, investments, acquisitions and advances not prohibited by the terms of the Master Indenture, in any case, so long as the making of any such loans, investments, acquisition and advances (x) would not result in a Default or Event of Default hereunder and (y) could not reasonably be expected to have a Material Adverse Effect.

*Section 6.23. Environmental Laws.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, comply with all applicable Environmental Laws and cure any defect (or cause other Persons to cure any such defect) to the extent necessary to bring such real property owned, leased, occupied or operated by such Obligated Group Member back into compliance with Environmental Laws and to comply with any cleanup orders issued by a Governmental Authority having jurisdiction thereover. The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, at all times use commercially reasonable efforts to render or maintain any real property owned, leased, occupied or operated by such Obligated Group Member safe and fit for its intended uses. The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, also immediately notify the Majority Noteholder of any actual or alleged material failure to so comply with or perform, or any material breach, violation or default under any Environmental Law.

*Section 6.24. Federal Reserve Board Regulations.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, use any portion of the proceeds of the purchase price of the Notes for the purpose of carrying or purchasing any Margin Stock and shall not incur any Indebtedness which is to be reduced, retired or purchased by the Obligated Group Representative out of such proceeds.

*Section 6.25. Obligated Group.* Notwithstanding the provisions of Section 3.08 and 3.09 of the Master Indenture, as applicable, the Obligated Group Representative and each other Obligated Group Member agrees that:

- (i) it will not allow any Person to become an Obligated Group Member; *provided, however,* that a Person may become an Obligated Group Member if (A) the entrance of such new Obligated Group Member is in compliance with the terms of the Master Indenture, (B) no Default or Event of Default would occur as a result of such action and (C) the entrance of such new Obligated Group Member could not reasonably be

expected to have a Material Adverse Effect and (D) after giving effect to such event, the Obligated Group would be in compliance with the financial covenants set forth in Section 6.34 hereof tested on a pro forma basis as of the most recent testing date with respect to each such financial covenant; and

(ii) it will not allow the Borrower or any Material Member to cease to be an Obligated Group Member; *provided, however*, that any other Obligated Group Member (other than the Borrower or any Material Member) may cease to be an Obligated Group Member if (A) the cessation of such Obligated Group Member from the Obligated Group is in compliance with the terms of the Master Indenture, (B) no Default or Event of Default would occur as a result of such cessation, (C) the cessation of such Obligated Group Member could not reasonably be expected to have a Material Adverse Effect and (D) the Obligated Group would be in compliance with the financial covenants set forth in Section 6.34 hereof tested on a pro forma basis as of the most recent testing date with respect to each such financial covenant.

*Section 6.26. Fundamental Changes.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, merge, dissolve, liquidate, consolidate with or into another Person, or dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person.

*Section 6.27. Reserved.*

*Section 6.28. Change in Nature of Business.* (a) The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, engage in any material line of business substantially different from those lines of business conducted by each Obligated Group Member on the date hereof or any business substantially related or incidental thereto unless entering into such new line of business is in compliance with the terms of the Master Indenture and so long as no Default or Event of Default, in either case, shall result from entering into such new line of business.

(b) Each Obligated Group Member is engaged exclusively in the development, ownership and operation of the Project, shall not engage in any other business or enterprise that is not ancillary or related to its existing business, and shall not acquire or construct, or permit any Affiliate to acquire or construct, any facilities competing with the Project. The Obligated Group Representative shall, and shall cause each other Obligated Group Member (other than any Obligated Group Member not participating in the Project on the Delivery Date) to, operate the Project as a continuing care retirement community as provided and described in the Related Documents.

*Section 6.29. Transactions with Affiliates.* The Obligated Group Representative shall not, nor shall it permit any other Obligated Group Member to, enter into any transaction of any kind with any Affiliate of any Obligated Group Member, other than in accordance with the terms of the Master Indenture; *provided, however*, that the Obligated Group Representative, shall not, nor shall it permit any Obligated Group Member to enter into any transaction of any kind with any Affiliate

of any Obligated Group Member, whether or not in the ordinary course of business, on less than fair and reasonable terms, if such transaction shall result in a Default or an Event of Default.

*Section 6.30. No Changes in Fiscal Year.* The Obligated Group Representative shall not permit the Obligated Group to change its Fiscal Year from its present basis without providing the Majority Noteholder with prior written notice thereof.

*Section 6.31. Control Agreements.* The Obligated Group shall not, and shall not permit any other Obligated Group Member to, enter into any deposit account control agreement, securities account control agreement or any other agreement of similar force and effect (each a “*Control Agreement*”) with respect to any account that contains any amounts that constitute Gross Revenues; *provided, however*, that this Section 6.31 shall not prohibit any Control Agreement entered into solely for the benefit of the Master Trustee, on behalf of all of the holders of Master Indenture Obligations.

*Section 6.32. Obligated Group Representative.* The Obligated Group Members shall not replace the Borrower as the Obligated Group Representative under the Master Trust Indenture with any Person other than an existing Member without the prior written consent of the Majority Noteholder.

*Section 6.33. Plans* The Obligated Group Representative shall not, and shall not permit any Obligated Group Member to, with regard to any Plan (i) engage in any “prohibited transaction” (as defined in Section 4975 of the Code), (ii) permit any Plan to fail to meet the minimum funding standards (as provided in Section 302 of ERISA) whether or not waived, (iii) either directly or indirectly, cause any Plan to terminate, either under Section 4041 or 4042 of ERISA, in a manner which could result in the imposition of a material lien or encumbrance on the assets of the Obligated Group or any Obligated Group Member pursuant to Section 4068 of ERISA or (iv) take or permit any action which could result in a withdrawal or partial withdrawal from a Plan and result in the assessment of any withdrawal liability against the Obligated Group or any Obligated Group Member; *provided*, that any such action described herein shall be permissible if the resultant liability could not reasonably be expected to have a Material Adverse Effect.

*Section 6.34. Financial Covenants.*

(a) *Annual Debt Service Coverage.* (i) Within 135 days after the end of each Fiscal Year, the Obligated Group Representative shall compute the Annual Debt Service Coverage Ratio for the Obligated Group for such Fiscal Year based on the Financial Statements and furnish to the Majority Noteholder in writing an Officer’s Certificate setting forth the results of such computation. The Obligated Group Representative covenants that such Annual Debt Service Coverage Ratio shall not be less than 1.25:1.0; *provided, however*, that in any case where Long-Term Indebtedness has been incurred to acquire or construct capital improvements, the Annual Debt Service with respect thereto shall not be taken into account in making the foregoing calculation until the first full Fiscal Year commencing after the Fiscal Year in which substantially all of such capital improvements are placed in service (except that with respect to capital improvements consisting, in whole or in part, of the addition of residential units, assisted living units or nursing beds, the Annual Debt Service with respect thereto shall not be taken into account

until the earlier to occur of (A) the first full Fiscal Year next succeeding the Fiscal Year in which the average occupancy of such residential units, assisted living units or nursing beds was forecasted (in connection with the incurrence of the related Long-Term Indebtedness) to reach 90% or (B) the first full Fiscal Year next succeeding the Fiscal Year in which occurs that date which is 18 months following the date upon which substantially all of such capital improvements are placed in service; in either case, the Obligated Group Representative agrees that it shall notify the Majority Noteholder when such capital improvements are placed in service within 10 days following its occurrence).

(ii) If the Annual Debt Service Coverage Ratio, calculated at the end of any annual period is less than 1.25:1.0, management of the Obligated Group Representative shall prepare a report to be delivered to the Majority Noteholder within 30 days after such calculation (but in no event later than one hundred sixty-five (165) days after the end of such annual period) explaining in detail the reasons the Annual Debt Service Coverage Ratio was less than 1.25:1.0 and stating actions to be taken by the Obligated Group to attempt to increase the coverage to such amount. Further, during the period in which the Annual Debt Service Coverage Ratio is less than 1.25:1.0, the Obligated Group shall furnish to the Majority Noteholder, on a quarterly basis within 30 days following the end of each quarter, an Officer's Certificate stating the Annual Debt Service Coverage Ratio for such 12-month period then ended.

(iii) In the event management of the Obligated Group Representative prepares the required report and the Annual Debt Service Coverage Ratio is not 1.25:1.0 or greater within the fourth quarterly period after the end of the period in which such coverage ratio required such report, it shall promptly employ an Independent Consultant to make recommendations as to a revision of the rates, fees and charges of the Obligated Group or the methods of operation of the Obligated Group to increase the Annual Debt Service Coverage Ratio to at least 1.25:1.0 for subsequent Fiscal Years (or, if in the opinion of the Independent Consultant, the attainment of such level is impracticable, to the highest practicable level). Copies of the recommendations of the Independent Consultant shall be filed with the Majority Noteholder in writing within 90 days of the retention of the Independent Consultant. Each Obligated Group Member shall, promptly upon its receipt of such recommendations, subject to applicable requirements or restrictions imposed by law, revise its rates, fees and charges or its methods of operation or collections and shall take such other action as shall be in conformity with such recommendations.

(iv) If the Obligated Group complies in all material respects with the reasonable recommendations of the Independent Consultant with respect to its rates, fees, charges and methods of operation or collection, the Obligated Group shall be deemed to have complied with the covenants set forth in this Section for such Fiscal Year, notwithstanding that the Annual Debt Service Coverage Ratio shall be less than 1.25:1.0; *provided, however*, that an immediate Event of Default shall exist if the Annual Debt Service Coverage Ratio is less than 1.15:1.0 for any Fiscal Year. Nevertheless, the Obligated Group Members shall not be excused from taking any action or performing any duty required under this Agreement or the Master Indenture and no other Event of Default shall be waived by the operation of the provisions of this subsection (iv).

(v) If a written report of an Independent Consultant is delivered to the Majority Noteholder stating that Industry Restrictions have made it impossible for the Annual Debt Service Coverage Ratio of 1.25:1.0 to be met, then such ratio shall be reduced to the maximum ratio which the Industry Restrictions would allow the Obligated Group Members to achieve, but in no event less than a ratio of 1.15:1.0.

(vi) Notwithstanding the foregoing, the Obligated Group Members may permit the rendering of services or the use of their Property without charge or at reduced charges, at the discretion of the Governing Body of such Obligated Group Member, to the extent necessary for maintaining its tax-exempt status or the tax-exempt status of its Property, Plant and Equipment or its eligibility for grants, loans, subsidies or payments from governmental entities, or in compliance with any recommendation for free services that may be made by an Independent Consultant.

(b) *Days' Cash on Hand.* (i) Within 135 days after the end of each Fiscal Year, the Obligated Group Representative shall compute the Days' Cash on Hand for the Obligated Group as of each December 31 based on the financial statements of the Obligated Group and (b) within 60 days after the end of each June 30, the Days' Cash on Hand for the Obligated Group as of such June 30 based on unaudited financial statements of the Obligated Group (each December 31 and June 30, a "Testing Date"). The Obligated Group Representative shall cause the Obligated Group to maintain not less than 200 days Days' Cash on Hand as of each such Testing Date; *provided, however,* that a failure to maintain such Days' Cash on Hand shall not be an Event of Default so long as the Obligated Group Representative is in compliance with clause (b)(ii) below.

(ii) If the Days' Cash on Hand is less than 200 days as of any June 30 or December 31, management of the Obligated Group Representative shall (i) prepare a report to be delivered to the Majority Noteholder on such calculation date explaining in detail the reasons the Days' Cash on Hand was less than 200 days and stating actions proposed to be taken by the Obligated Group to increase the Days' Cash on Hand and (ii) promptly employ an Independent Consultant to make recommendations to be implemented by the Obligated Group to attempt to cause the Days' Cash on Hand to meet the requirements of clause (i) of this Section 6.34(b). Each Obligated Group Member shall promptly upon its receipt of such recommendations, subject to applicable requirements or restrictions imposed by Law, revise its rates, fees and charges or its methods of operation or collections and shall take such other action as shall be in conformity with such recommendations. Copies of the recommendations of the Independent Consultant shall be filed with the Master Trustee and the Majority Noteholder that shall request the same in writing within 90 days of the retention of the Independent Consultant.

(iii) Notwithstanding the foregoing, as of June 30 and December 31 of each Fiscal Year, the Obligated Group Representative shall cause the Obligated Group to maintain not less than 175 Days' Cash on Hand as of each such Testing Date.

The foregoing Days's Cash on Hand has been determined by the Initial Holder based upon documentation provided to the Initial Holder reflecting the Days' Cash on Hand that the Borrower has historically maintained.

*Section 6.35. Anti-Corruption Laws.* Neither the Obligated Group Representative nor any Obligated Group Member shall use, and shall require that its subsidiaries and affiliates and its or their respective directors, officers, employees and agents shall not use, the proceeds of the Notes (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

*Section 6.36. Banking Relationship.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, at all times maintain mutually agreeable traditional banking products with the Initial Noteholder.

*Section 6.37. Loan to Value Maintenance.* The Obligated Group Representative shall not, and shall not permit any Obligated Group Member to, allow the total Indebtedness of the Obligated Group secured under the Master Indenture to exceed the sum of (i) 80% of the value of Mortgaged Property (land and buildings); (ii) 60% of the value of Furniture, Fixtures, and Equipment; and (iii) 80% of the appraised Business Valuation. Upon the request of the Majority Noteholder, upon its reasonable belief that the foregoing covenant has been breached, not more than once per year except as more frequently required by Law or upon the occurrence of a Material Adverse Effect, the Obligated Group Representative shall engage an updated appraisal at Obligated Group's expense in conformity with the Majority Noteholder's then prevailing policies. In the event of any failure to perform this Section 6.37, the Obligated Group Representative shall, and shall cause each other Obligated Group Member to, repay the Loan in an amount sufficient to pay the Notes in such an amount which would cause the Obligated Group to be in compliance with this Section 6.37.

*Section 6.38. Application of Entrance Fees; Operating Fund.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, deposit be upon receipt all amounts in respect of Entrance Fees received by or on behalf of any Obligated Group Member with the Escrow Agent in accordance with the CCRC Law and, upon release thereof from the Escrow Agreement, shall be paid by the Escrow Agent in accordance with the Escrow Agreement.

*Section 6.39. Annual Budget.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, cause its annual budget to set forth revenues and expenses by category in reasonable detail, operating expenses, total operating revenues and projected occupancy, and shall include at least as much information as in the projected cash flow statements provided to the Majority Noteholder reflecting such Entrance Fees and Monthly Service Fees as are necessary to meet such projections and to comply with the projections and assumptions contained in the Actuarial Study.

*Section 6.40. Reservation Agreements and Residency Agreements.* (a) *Form.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, give the Majority Noteholder prior written notice of any material changes to the Reservation Agreement and Residency Agreements prior to such changes becoming effective.

(b) *Refunds.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, make refunds of Entrance Fees to Residents only in accordance with the respective Reservation Agreements and Residency Agreements or as the Obligated Group Representative reasonably determines is in the best interest of the Obligated Group.

(c) *Performance and Enforcement.* The Obligated Group Representative shall, and shall cause each other Obligated Group Member to, duly and punctually perform and comply with any and all representations, warranties, covenants and agreements expressed as binding upon the Obligated Group Members under the Reservation Agreements and Residency Agreements; appear in and defend or negotiate any action or proceeding brought against it in any manner connected with any Reservation Agreements or Residency Agreements; and deliver to the Majority Noteholder such further information, and execute and deliver to the Noteholders such further assurances, with respect to the Reservation Agreements and Residency Agreements as the Majority Noteholder from time to time may reasonably request.

(d) *Protection.* The Obligated Group Representative shall not, and shall not permit any Obligated Group Member to, (i) do or knowingly permit to be done anything to impair the value of any Reservation Agreement or Residency Agreement; (ii) except for the Senior Mortgage, assign or grant a security interest in any Reservation Agreement or Residency Agreement; or (iii) waive or release any obligation of any Resident under any Reservation Agreement or Residency Agreement (except for any waivers or releases in accordance with established policy of the Obligated Group Members, which, in the aggregate, are not material or determined by the Obligated Group Representative to be in the best interests of the Obligated Group).

## ARTICLE VII

### MISCELLANEOUS

*Section 7.01. Reserved.*

*Section 7.02. Notices .* The Noteholders shall be entitled to rely and act upon any notices (including telephonic or electronic notices) purportedly given by or on behalf of the Obligated Group Representative even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof.

*Section 7.03. Reserved.*

*Section 7.04. Costs and Expenses; Damage Waiver.* (a) The Obligated Group Representative, on behalf of itself and the other Obligated Group Members, shall pay (i) on the Delivery Date, all reasonable out-of-pocket expenses incurred by the Noteholders and their respective Affiliates (including the reasonable fees, charges and disbursements of counsel for the Noteholders), in connection with the preparation, negotiation, execution, delivery and administration of this Agreement Exhibit and the other Related Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) on the Delivery Date, all reasonable



out-of-pocket expenses incurred by the Noteholders in connection with the purchase of the Notes and (iii) all out-of-pocket expenses incurred by the Noteholders (including the fees, charges and disbursements of any counsel for the Noteholders), and all fees and time charges for attorneys who may be employees of the Noteholders in connection with the enforcement or protection of its rights (A) in connection with this Agreement Exhibit and the other Related Documents, including its rights under this Section, or (B) in connection with the purchase of the Notes, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such purchase.

(b) *Indemnification by the Obligated Group.* The Obligated Group Representative, on behalf of itself and the other Obligated Group Members, shall indemnify the Noteholders and each Related Party of the Noteholders (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all reasonable fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Obligated Group Representative) other than such Indemnitee and its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement Exhibit, any other Related Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Noteholders (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement Exhibit and the other Related Documents (including in respect of any matters addressed in Section 3.01), (ii) the purchase of the Notes or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Obligated Group Member, or any Environmental Liability related in any way to any Obligated Group Member, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Obligated Group Member, and regardless of whether any Indemnitee is a party thereto; *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee.

(c) *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by applicable law, the Obligated Group shall not assert, and hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement Exhibit, any other Related Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, the purchase of the Notes or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement Exhibit or the other Related Documents or the transactions contemplated

hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(d) *Payments.* All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(e) *Survival.* The agreements in this Section shall survive the payment in full of the Notes, the repayment, satisfaction or discharge of all the other Obligations and the termination of this Agreement Exhibit.

*Section 7.05. Reserved.*

*Section 7.06. Successors and Assigns.*

(a) *Successors and Assigns Generally.* This Agreement Exhibit is a continuing obligation and shall be binding upon the Obligated Group, its successors, transferees and assigns and shall inure to the benefit of the Noteholders and their respective permitted successors, transferees and assigns. The Obligated Group may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Majority Noteholder. Each Noteholder may, in its sole discretion and in accordance with applicable Law, from time to time assign, sell or transfer in whole or in part, this Agreement Exhibit, its interest in the Notes and the Related Documents in accordance with the provisions of paragraph (b) or (c) of this Section. Each Noteholder may at any time and from time to time enter into participation agreements in accordance with the provisions of paragraph (d) of this Section. Each Noteholder may at any time pledge or assign a security interest subject to the restrictions of paragraph (e) of this Section.

(b) *Sales and Transfers by Noteholder to a Noteholder Transferee.* Without limitation of the foregoing generality subject to any additional requirements set forth in the Financing Agreement, a Noteholder may at any time sell or otherwise transfer to one or more transferees all or a portion of the Notes to a Person that is (i) a Noteholder Affiliate of any Noteholder or (ii) a trust or other custodial arrangement established by any Noteholder or a Noteholder Affiliate, the owners of any beneficial interest in which are limited to “qualified institutional buyers” as defined in Rule 144A promulgated under the 1933 Act (each, a “*Noteholder Transferee*”). From and after the date of such sale or transfer, TD Bank, N.A. (and its successors) shall continue to have all of the rights of the Noteholders hereunder and under the other Related Documents as if no such transfer or sale had occurred; *provided, however*, that (A) no such sale or transfer referred to in clause (b)(i) or (b)(ii) hereof shall in any way affect the obligations of the Noteholders hereunder or under the Related Documents, (B) the Obligated Group Representative and the Issuer shall be required to deal only with the assigning Noteholder with respect to any matters under this Agreement Exhibit and (C) in the case of a sale or transfer referred to in clause (b)(i) or (b)(ii) hereof, only the assigning Noteholder shall be entitled to enforce the provisions of this Agreement Exhibit against the Obligated Group.

(c) *Sales and Transfers by Noteholder to a Non-Noteholder Transferee.* Without limitation of the foregoing generality subject to any additional requirements set forth in the

Financing Agreement, a Noteholder may at any time sell or otherwise transfer to one or more transferees which are not Noteholder Transferees but each of which constitutes a “qualified institutional buyer” as defined in Rule 144A promulgated under the 1933 Act (each a “*Non-Noteholder Transferee*”) all or a portion of the Notes if (A) written notice of such sale or transfer, including that such sale or transfer is to a Non-Noteholder Transferee, together with addresses and related information with respect to the Non-Noteholder Transferee, shall have been given to the Obligated Group Representative, the Issuer and the Noteholder (if different than the Noteholder) by such selling Noteholder and Non-Noteholder Transferee, and (B) the Non-Noteholder Transferee shall have delivered to the Obligated Group Representative, the Issuer and the selling Noteholder, an investment letter in substantially the form attached as [Exhibit \_\_\_] to the Financing Agreement (the “*Investor Letter*”).

From and after the date the Obligated Group Representative, the Issuer and the selling Noteholder have received written notice and an executed Investor Letter, (A) the Non-Noteholder Transferee thereunder shall be a party hereto and shall have the rights and obligations of a Noteholder hereunder and under the other Related Documents, and this Agreement Exhibit shall be deemed to be amended to the extent, but only to the extent, necessary to effect the addition of the Non-Noteholder Transferee, and any reference to the assigning Noteholder hereunder and under the other Related Documents shall thereafter refer to such transferring Noteholder and to the Non-Noteholder Transferee to the extent of their respective interests, and (B) if the transferring Noteholder no longer owns any Notes, then it shall relinquish its rights and be released from its obligations hereunder and under the Related Documents.

(d) *Participations.* Each Noteholder shall have the right to grant participations in all or a portion of such Noteholder’s interest in the Notes, this Agreement Exhibit and the other Related Documents to one or more other banking institutions; *provided, however,* that (i) no such participation by any such participant shall in any way affect the obligations of the assigning Noteholder hereunder and (ii) the Obligated Group Representative and the Issuer shall be required to deal only with the assigning Noteholder, with respect to any matters under this Agreement Exhibit, the Notes and the other Related Documents and no such participant shall be entitled to enforce any provision hereunder against the Obligated Group. The Obligated Group Representative, on behalf of the Obligated Group Members, agrees that each participant shall be entitled to the benefits of Section 2.03(c) of the Financing Agreement and Sections 3.01 and 7.04 hereof to the same extent as if it were a Noteholder hereunder; *provided, however,* that a participant shall not be entitled to receive any greater payment under Section 2.03(c) of the Financing Agreement and Section 3.01 hereof than the assigning Noteholder would have been entitled to receive with respect to the participation sold to such participant.

(e) *Certain Pledges.* In addition to the rights of the Noteholders set forth above, the Noteholders may at any time pledge or grant a security interest in all or any portion of its rights or interests under the Notes, this Agreement Exhibit and/or the Related Documents to secure obligations of the Noteholders or an Affiliate of the Noteholders, including any pledge or assignment to secure obligations to a Federal Reserve Bank or to any state or local governmental entity or with respect to public deposits; *provided* that no such pledge or assignment shall release the Noteholders from any of its obligations hereunder or substitute any such pledgee or assignee for the Noteholders as a party hereto.

*Section 7.07. Treatment of Certain Information; Confidentiality* Each of the Obligated Group Representative and the other Obligated Group Members and the Noteholders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party to the Financing Agreement, (e) in connection with the exercise of any remedies hereunder or under any other Related Document or any action or proceeding relating to this Agreement Exhibit or any other Related Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement Exhibit or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Obligated Group and its obligations, this Agreement Exhibit or payments hereunder, (g) on a confidential basis to any rating agency in connection with rating the Obligated Group or the credit facilities provided hereunder, (h) with the consent of the Obligated Group or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Noteholders or any of their respective Affiliates on a nonconfidential basis from a source other than the Obligated Group Representative. For purposes of this Section, "Information" means all information received from the Obligated Group Representative relating to the Obligated Group or any of their respective businesses, other than any such information that is available to the Noteholders or the Trustee on a nonconfidential basis prior to disclosure by the Obligated Group Representative, *provided that*, in the case of information received from the Obligated Group Representative after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

*Section 7.08. Reserved.*

*Section 7.09. Reserved.*

*Section 7.10. Survival of Representations and Warranties.* All representations and warranties made hereunder and in any other Related Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Noteholders regardless of any investigation made by the Noteholders or on its behalf and notwithstanding that the Noteholders may have had notice or knowledge of any Default at the time of the purchase of the Notes, and shall continue in full force and effect as long as any Obligation hereunder shall remain unpaid or unsatisfied.

*Section 7.11. Severability.* If any provision of this Agreement Exhibit or the other Related Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement Exhibit and the other Related Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

*Section 7.12. Reserved.*

*Section 7.13. Reserved.*

*Section 7.14. No Advisory or Fiduciary Relationship.* In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Related Document), the Obligated Group Representative, on behalf of itself and the other Obligated Group Members, acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a) (i) the services regarding this Agreement Exhibit provided by the Initial Noteholder and any Affiliate thereof are arm's-length commercial transactions between the Obligated Group, on the one hand, and the Initial Noteholder and its Affiliates, on the other hand, (ii) each of the Obligated Group Representative and each Obligated Group Member has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Obligated Group Representative, on behalf of itself and each Obligated Group Member, is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Related Documents; (b) (i) the Initial Noteholder and its Affiliates each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the Obligated Group Representative or any other Obligated Group Member, or any other Person and (ii) neither the Initial Noteholder nor any of its respective Affiliates has any obligation to the Obligated Group with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Related Documents; and (c) the Initial Noteholder and its Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Obligated Group, and neither the Initial Noteholder nor any of its Affiliates has any obligation to disclose any of such interests to the Obligated Group. To the fullest extent permitted by law, the Obligated Group Representative, on behalf of itself and the other Obligated Group Members, hereby waives and releases any claims that it may have against the Initial Noteholder or any of its Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby.

*Section 7.15. Reserved.*

*Section 7.16. USA Patriot Act.* The Initial Noteholder is subject to the Patriot Act and hereby notifies the Obligated Group Representative that pursuant to the requirements of the Patriot Act, the Initial Noteholder is required to obtain, verify and record information that identifies the Obligated Group, which information includes the name and address of the Obligated Group and

other information that will allow the Initial Noteholder to identify the Obligated Group in accordance with the Patriot Act. The Obligated Group Representative shall, promptly following a request by the Initial Noteholder, provide all documentation and other information that the Initial Noteholder requests in order to comply with its ongoing obligations under applicable laws, rules and regulations, including, but not limited to, “know your customer” and anti-money laundering rules and regulations, including, but not limited to, the Patriot Act.

*Section 7.17. Reserved.*

*Section 7.18. Reserved.*

*Section 7.19. Further Assurances.* From time to time upon the request of either party hereto, the other shall promptly and duly execute, acknowledge and deliver any and all such further instruments and documents as the requesting party may in its reasonable discretion deem necessary or desirable to confirm this Agreement Exhibit, and the other Related Documents, to carry out the purpose and intent hereof and thereof or to enable the requesting party to enforce any of its rights hereunder or thereunder. At any time, and from time to time, upon request by the Majority Noteholder, the Obligated Group Representative will, at the Obligated Group’s expense, (a) correct any defect, error or omission which may be discovered in the form or content of any of the Related Documents, and (b) make, execute, deliver and record, or cause to be made, executed, delivered and recorded, any and all further instruments, certificates, and other documents as may, in the opinion of the Majority Noteholder, be necessary or desirable in order to complete, perfect or continue and preserve the Lien of the Financing Agreement. Upon any failure by the Obligated Group Representative to do so, the Majority Noteholder or the Trustee may make, execute and record any and all such instruments, certificates and other documents for and in the name of the Obligated Group, all at the sole expense of the Obligated Group, and the Obligated Group hereby appoints the Majority Noteholder and the Trustee the agent and attorney-in-fact of the Obligated Group to do so, this appointment being coupled with an interest and being irrevocable. Without limitation of the foregoing, the Obligated Group irrevocably authorizes the Majority Noteholder at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements deemed necessary or desirable by the Majority Noteholder to establish or maintain the validity, perfection and priority of the security interests granted in the Financing Agreement, and the Obligated Group ratifies any such filings made by the Majority Noteholder prior to the date hereof. In addition, at any time, and from time to time, upon request by the Majority Noteholder or the Trustee, the Obligated Group Representative will, at the Obligated Group’s expense, provide any and all further instruments, certificates and other documents as may, in the opinion of the Majority Noteholder or the Trustee, be necessary or desirable in order to verify the Obligated Group’s identity and background in a manner satisfactory to the Majority Noteholder or the Trustee, as the case may be.

*Section 7.20. No Third-Party Rights.* Nothing in this Agreement Exhibit, whether express or implied, shall be construed to give to any Person other than the parties hereto and the Noteholders any legal or equitable right, remedy or claim under or in respect of this Agreement Exhibit, which is intended for the sole and exclusive benefit of the parties hereto.

*Section 7.21. Redaction.* In the event the Obligated Group Representative on behalf of itself and the Obligated Group Members delivers or permits, authorizes or consents to the delivery of this Agreement Exhibit to any Person for delivery to EMMA, prior to such delivery the Obligated Group Representative agrees, to the extent permitted by law, that it shall redact all fees, signatures, contact information, account information and other personal information contained herein and therein in a manner which is consistent with MSRB Notice 2011-17 (February 23, 2011).

**APPENDIX A**

**FORM OF COMPLIANCE CERTIFICATE**

Financial Statement Date: \_\_\_\_\_, \_\_\_\_\_

To: TD Bank N.A., as Initial Noteholder

Ladies and Gentlemen:

Reference is hereby made to that certain Exhibit C to the Financing Agreement dated as of September 1, 2017 (as amended, modified or restated from time to time, this “*Agreement Exhibit*”), among the City of Gainesville, Florida (the “*Issuer*”), as Issuer, Oak Hammock at the University of Florida, Inc., a not for-profit corporation organized and existing under the laws of the State of Florida (the “*Borrower*” and, as Obligated Group Representative on behalf of itself and the hereinafter defined Obligated Group Members (the “*Obligated Group Representative*”), as Borrower, and TD BANK, N.A., as Noteholder. Unless otherwise defined herein, the terms used in this Certificate shall have the meanings assigned thereto in the Agreement.

The undersigned Authorized Officer hereby certifies as of the date hereof that he/she is the \_\_\_\_\_ of the Obligated Group Representative, and that, as such, he/she is authorized to execute and deliver this Certificate to Initial Noteholder, on the behalf of the Obligated Group Representative, and that:

*[Use following paragraph 1 for fiscal year-end financial statements]*

1. Attached hereto as Schedule 1 are the year-end audited financial statements required by Section 6.05(a) of the Agreement for the fiscal year of the Obligated Group ended as of the above date, together with the report and opinion of an independent certified public accountant required by such section.

*[Use following paragraph 1 for fiscal quarter-end financial statements]*

1. Attached hereto as Schedule 1 are the quarter-end unaudited financial statements required by Section 6.05(b) of the Agreement for the fiscal year of the Obligated Group ended as of the above date, which includes the balance sheet as of the end of such quarter and a statement of income and expenses.

2. The undersigned has reviewed and is familiar with the terms of the Agreement and has made, or has caused to be made under his/her supervision, a review of the transactions and condition (financial or otherwise) of the Obligated Group during the accounting period covered by the attached financial statements.

3. A review of the activities of the Obligated Group during such fiscal period has been made under the supervision of the undersigned with a view to determining whether during such



fiscal period the Obligated Group performed and observed all its Obligations under the Related Documents, and

[select one:]

**[to the best knowledge of the undersigned during such fiscal period, the Obligated Group performed and observed each covenant and condition of the Related Documents applicable to it, and no Default or Event of Default has occurred and is continuing.]**

--or--

**[the following covenants or conditions have not been performed or observed and the following is a list of each such Default or Event of Default and its nature and status:]**

4. The representations and warranties of the Obligated Group contained in Article V of the Agreement are true and correct on and as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this Certificate, the representations and warranties contained in Section 5.07 of the Agreement shall be deemed to refer to the most recent statements furnished pursuant to Section 6.05 of the Agreement, including the statements in connection with which this Certificate is delivered.

5. Attached are true and accurate calculations demonstrating compliance with the financial covenant(s) set forth in Section 6.34 of the Agreement for the periods specified in such attachment.

Delivery of an executed counterpart of a signature page of this Certificate by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Certificate.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of \_\_\_\_\_,  
\_\_\_\_\_.

OAK HAMMOCK AT THE UNIVERSITY OF  
FLORIDA, INC., as Obligated Group  
Representative, on behalf of itself and the  
other Obligated Group Members

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[ATTACHMENT TO COMPLIANCE CERTIFICATE**

**COMPLIANCE CALCULATIONS FOR EXHIBIT C TO THE FINANCING AGREEMENT DATED AS OF  
SEPTEMBER 1, 2017**

Calculations as of \_\_\_\_\_, 20\_\_]

The foregoing certifications, together with the computations set forth in the Attachment hereto and the financial statements delivered with this Certificate in support hereof, are made and delivered this \_\_ day of \_\_\_\_\_, 20 \_\_.

OAK HAMMOCK AT THE UNIVERSITY OF  
FLORIDA, INC., as Obligated Group  
Representative, on behalf of itself and the  
other Obligated Group Members

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT D**  
**INVESTOR LETTER**

EXHIBIT B

FORM OF TAX REGULATORY AGREEMENT

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**TAX REGULATORY AGREEMENT**

**and**

**NO ARBITRAGE CERTIFICATE**

---

**Between**

**City of Gainesville, Florida**

**and**

**Oak Hammock at the University of Florida, Inc.**

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**Dated as of \_\_\_\_\_, 2017**

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**\$ \_\_\_\_\_**

**CITY OF GAINESVILLE, FLORIDA**

**Continuing Care Retirement Community Revenue Refunding Note  
(Oak Hammock at the University of Florida, Inc. Project),  
Series 2017A**

**\$ \_\_\_\_\_**

**CITY OF GAINESVILLE, FLORIDA**

**Continuing Care Retirement Community Revenue Refunding Note  
(Oak Hammock at the University of Florida, Inc. Project),  
Series 2017B**

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TAX REGULATORY AGREEMENT  
and  
NO ARBITRAGE CERTIFICATE

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THIS TAX REGULATORY AGREEMENT and NO ARBITRAGE CERTIFICATE (the "Tax Regulatory Agreement") is made and dated as of \_\_\_\_\_, 2017, between the City of Gainesville, Florida (the "Issuer") and Oak Hammock at the University of Florida, Inc. (the "Borrower"). For purposes of the use of Proceeds of the Notes (as hereinafter defined) and any certification contained in this Tax Regulatory Agreement, "Borrower" includes any organization described in Section 501(c)(3) of the Code (as hereinafter defined) that is part of the same "controlled group" with Oak Hammock at the University of Florida, Inc. within the meaning of Section 1.150-1(e) of the Regulations (as hereinafter defined).

W I T N E S S E T H:

WHEREAS, this Tax Regulatory Agreement has been executed by the Issuer and the Borrower to ensure compliance by the Issuer and the Borrower with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and the Regulations thereunder; and

WHEREAS, the Issuer is acting as a "conduit issuer" in order to benefit the Borrower, and the Issuer's representations herein concerning the use of the Refunded Project, the Proceeds and the Notes are based solely on information provided to it by the Borrower, including the Borrower's warranties, representations and covenants herein; and

WHEREAS, the Issuer, at the request of the Borrower, proposes to issue the Notes and loan the proceeds thereof to the Borrower to finance certain health care facilities to be owned and operated by the Borrower in the City of Gainesville, Florida; and

WHEREAS, to ensure that interest on the Issuer's Continuing Care Retirement Community Revenue Refunding Note (Oak Hammock at the University of Florida, Inc. Project), Series 2017A (the "2017A Note") and Continuing Care Retirement Community Revenue Refunding Note (Oak Hammock at the University of Florida, Inc. Project), Series 2017B (the "2017B Note," together with the 2017A Note, the "Notes") will be and remain excludable from gross income under the Code, the restrictions contained in this Tax Regulatory Agreement must be satisfied.

NOW THEREFORE, the Issuer and the Borrower warrant, represent and covenant as follows:

ARTICLE I  
DEFINITIONS

Section 1.1 Definitions. The following words and phrases shall have the following meanings. Any capitalized word or term used herein and not otherwise defined herein shall have the meaning ascribed thereto in the hereinafter defined Indenture or Regulations.

"Act" means Chapter 166, Florida Statutes, as amended, Part II, Chapter 159, Florida Statutes, as amended (to the extent applicable), the Constitution of the State of Florida, and other applicable provisions of law.

"Agreement" means Financing Agreement dated as of \_\_\_\_\_, 2017, by and among the Issuer, the Borrower and the Holder, as supplemented and amended from time to time.

"Authority" means the Alachua County Health Facilities Authority.

"Bona Fide Debt Service Fund" means, as defined by the Regulations, a fund, which may include Proceeds of an issue, that is used primarily to achieve a proper matching of revenues and debt service payments within each Bond Year, and is depleted at least once a year, except for a reasonable carryover amount (not to exceed the greater of the earnings on the fund for the immediately preceding Bond Year or one-twelfth of the principal and interest payments on the issue for the immediately preceding Bond Year).

"Bond Counsel" means the law firm or firms with expertise in public finance delivering their approving opinions with respect to the issuance of or the exclusion from gross income for federal income tax purposes of interest on the Notes.

"Bond Year" means the one-year periods during the term of the Notes beginning \_\_\_\_\_ 2 of any calendar year and ending on \_\_\_\_\_ 1 of the succeeding calendar year. Notwithstanding the foregoing, the first Bond Year begins on the Date of Issue of the Notes and ends on \_\_\_\_\_ 1, 2018.

"Capital Expenditure" means any cost of a type that is properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of Placed in Service contained herein) under general Federal income tax principles.

"Code" means the Internal Revenue Code of 1986, as amended.

"Computation Date" means \_\_\_\_\_ 1, 2022 and every fifth year thereafter.

"Computation Period" means the period of time between Computation Dates.

"Continuing Care Escrow Agreement" means the Continuing Care Escrow Agreement for Oak Hammock at the University of Florida, Inc. Escrow Accounts dated September 5, 2012, between the Borrower and Wells Fargo Bank, National Association, as escrow agent, as the same may be further amended, supplemented, modified or restated from time to time.

"Costs of Issuance" means with respect to the Notes all costs that are treated as issuance costs within the meaning of Section 1.150-1(b) of the Regulations, including but not limited to, (a) purchaser's fees (whether realized directly or derived through purchase of the Notes at a discount below the price at which they are expected to be sold to the public); (b) counsel fees (including bond counsel, purchaser's counsel, Issuer's counsel and Borrower's counsel fees that relate to the issuance of the Notes, as well as any other certain specialized counsel fees incurred in connection with the issuance of the Notes); (c) financial advisory fees incurred in connection with the issuance of the Notes; (d) paying agent and registrar and authenticating agent fees related to issuance of the Notes; (e) accountant fees related to the issuance of the Notes; (f) publication costs associated with the financing proceedings; (g) any fees paid to the Issuer; and (h) costs of engineering and feasibility studies necessary to the issuance of the Notes; provided, that bond insurance premiums and certain credit enhancement fees, to the extent treated as interest expense under applicable income tax regulations, shall not be treated as "Costs of Issuance."

"Costs of the Refunded Projects" means all reasonable or necessary costs and expenses of the Refunded Project that were permitted under the laws under which the Refunded Bonds and the Notes were issued and the Code that were paid out of Proceeds of the Refunded Bonds.

"Date of Issue" means \_\_\_\_\_, 2017.

"Debt Service Reserve Fund Requirement" means \$\_\_\_\_\_ dollars.

"Discharged" means, with respect to any bond, the date on which all amounts due with respect to such bond are actually and unconditionally due, if cash is available at the place of payment for such bond, and no interest accrues with respect to such bond after such date.

"Governmental Person" means a state, a political subdivision or instrumentality of the foregoing within the meaning of Section 1.141-1(b) of the Regulations and would include the Issuer but not the Borrower.

"Gross Proceeds" means the Proceeds and Replacement Proceeds of an issue.

"Holder" means TD Bank, N.A., or its successors or assigns.

"Investment Proceeds" means any amounts actually or constructively received from investing Proceeds of an issue.

"IRS" means the Internal Revenue Service.

"Issue Price" shall have the meaning given in Section 4.2(b) hereof.

"Loan Agreement" means the loan agreement between the Issuer and the Borrower dated as of \_\_\_\_\_, 2017, as the same may be supplemented and amended from time to time.

"Master Trust Indenture" means the Master Trust Indenture dated as of September 1, 2012), between the Borrower and Wells Fargo Bank, National Association, as master trustee, as supplemented and amended from time to time.

"Master Trustee" means Wells Fargo Bank, National Association, in its capacity as master trustee under the Master Trust Indenture, or any successor or assign.

"Measurement Period" means, generally, the period of time that begins on the later of the date of issue of tax-exempt bonds or the date the property financed or refinanced with such issue is Placed in Service and ends on the earlier of the last date of the reasonably expected economic life of such property or the latest maturity date of any bond of the issue of such tax-exempt bonds.

"Net Proceeds" means Proceeds of an issue reduced by amounts in a reasonably required reserve or replacement fund.

"Nonpurpose Investment" means any security, obligation, annuity contract, or investment type property as defined in Section 148(b) of the Code, that is not a Purpose Investment, including "specified private activity bonds" as defined in Code Section 57(a)(5)(c), but not including any other tax-exempt bond.

"Non-Qualified Project" means, collectively, that portion, if any, of the Refunded Project that was not financed or refinanced with Qualified Project Costs.

"Non-Qualified Project Costs" means Costs of the Refunded Project that resulted in property that was not a Qualified Project Cost. For example, Non-Qualified Project Costs would include Costs of the Refunded Project that was used in the trade or business of a Private Person or used by the Borrower, or another organization described in Section 501(c)(3) of the Code, in an "unrelated trade or business" (as such term is used in Section 513(a) of the Code).

"Placed in Service" means, with respect to a facility, the date on which, based on all of the facts and circumstances, (a) the facility has reached a degree of completion which would permit its operation at substantially its design level, and (b) the facility is, in fact, in operation at such level.

"Private Person" means any person or entity other than a Governmental Person or a Qualified Section 501(c)(3) Organization.

"Proceeds" means any Sale Proceeds, Investment Proceeds, and Transferred Proceeds of an issue.

"Purpose Investment" means an investment that is acquired to carry out the governmental purpose of an issue.

"Qualified Administrative Costs" means those costs described in Section 1.148-5(e)(2)(i) or (ii) or 1.148-5(e)(3)(ii)(A) of the Regulations which would include: (A) reasonable, direct administrative costs of Nonpurpose Investments, such as separately stated brokerage or selling commissions, recordkeeping, custody, and similar costs; and (B) costs or expenses paid, directly or indirectly, to purchase or sell, or retire a Purpose Investment (such as the Agreement), and costs of issuing carrying, or repaying the Notes.

"Qualified Project" means collectively that portion of the Refunded Project that relates to Qualified Project Costs.

"Qualified Project Costs" means, collectively, Costs of the Refunded Project which will result or has resulted in property which is or will be owned by the Borrower or by a Governmental Person and which has not been and will not be used in an "unrelated trade or business" (as such term is used in Section 513(a) of the Code) of the Borrower (or any other organization described in Section 501(c)(3) of the Code) or in the trade or business of a Private Person. For purposes of the preceding sentence, any fees paid to banks for letters of credit, fees paid for municipal bond insurance premiums or other guaranty fees and any capitalized interest on the Refunded Bonds and the Notes properly allocable to property financed by the Refunded Bonds and the Notes that constitute Qualified Project Costs (e.g., interest or qualified guarantee fees paid during a construction period of a building owned by the Borrower which building is not used in an unrelated trade or business of the Borrower or in the trade or business of a person who is neither a Governmental Person nor an organization described in Section 501(c)(3) of the Code) shall be considered Qualified Project Costs. Qualified Project Costs shall not include any Costs of Issuance of the Notes; however, Costs of Issuance of the Refunded Bonds will be considered Qualified Project Costs of the Notes.

"Qualified Section 501(c)(3) Organization" means any organization exempt from federal income tax pursuant to Section 501(a) of the Code as an organization described in Section 501(c)(3) of the Code and whose use of the Qualified Project is not an unrelated trade or business use within the meaning of Section 513(a) of the Code.

"Refunded Bonds" means the Refunded 2012 Bonds and the Refunded 2014 Bond.

"Refunded 2012 Bonds" means collectively, the Authority's Continuing Care Retirement Community Revenue Refunding Bond (Oak Hammock at the University of Florida, Inc. Project), Series 2012B and Continuing Care Retirement Community

Subordinate Adjustable Rate Tender Option Refunding Bonds (Oak Hammock at the University of Florida, Inc. Project), Series 2012C.

"Refunded 2014 Bond" means the Authority's Continuing Care Retirement Community Revenue Bond (Oak Hammock at the University of Florida, Inc. Project), Series 2014.

"Refunded 2007 Bonds" means the Authority's Continuing Care Retirement Community Variable Rate Revenue Refunding Bonds (Oak Hammock at the University of Florida, Inc. Project), Series 2007.

"Refunded 2002 Bonds" means collectively the Refunded 2002A Bonds together with the Refunded 2002B Bonds.

"Refunded 2002A Bonds" means the Authority's Continuing Care Retirement Community Revenue Bonds (Oak Hammock at the University of Florida, Inc. Project), Series 2002A.

"Refunded 2002B-1 Bonds" means the Authority's Continuing Care Retirement Community Subordinate Adjustable Rate Revenue Bonds (Oak Hammock at the University of Florida, Inc. Project), Series 2002B-1.

"Refunded 2002B-2 Bonds" means the Authority's Continuing Care Retirement Community Subordinate Adjustable Rate Revenue Bonds (Oak Hammock at the University of Florida, Inc. Project), Series 2002B-2.

"Refunded 2002B-3 Bonds" means the Authority's Continuing Care Retirement Community Subordinate Fixed Rate Revenue Bonds (Oak Hammock at the University of Florida, Inc. Project), Series 2002B-3.

"Refunded 2002B Bonds" means the Authority's Continuing Care Retirement Community Subordinate Adjustable Rate Revenue Bonds (Oak Hammock at the University of Florida, Inc. Project), Series 2002B-1, Continuing Care Retirement Community Subordinate Adjustable Rate Revenue Bonds (Oak Hammock at the University of Florida, Inc. Project), Series 2002B-2 and Continuing Care Retirement Community Subordinate Fixed Rate Revenue Bonds (Oak Hammock at the University of Florida, Inc. Project), Series 2002B-3.

"Refunded 2012C Bonds Indenture" means the Bond Indenture dated September 1, 2012 between the Authority and Wells Fargo Bank, National Association as bond trustee for the Refunded 2012C Bonds.

"Refunded Project" means, collectively, the 2012 Project and the 2014 Project.

"Refunded 2002 Project" means the project financed and refinanced on a current refunding basis by the Refunded 2002 Bonds consisting of the costs of

acquisition, construction and equipping of a continuing care retirement community facility.

"Refunded 2012 Project" means the project refinanced by the Refunded 2012 Bonds consisting of the costs of acquisition, construction and equipping of a continuing care retirement community facility.

"Refunded 2014 Project" means the project financed by the Refunded 2014 Bond consisting of the costs of expansion of an existing 42-bed skilled nursing facility by up to 31 beds, renovation of an existing skilled nursing facility, an expansion of the existing assisted living facilities by up to 15 units, acquisition or construction of related and appurtenant facilities, fixtures and equipment at the 136-acre continuing care retirement facility owned by the Borrower.

"Regulation" or "Regulations" means the temporary, proposed or final Income Tax Regulations, and any amendments thereto, promulgated by the Department of the Treasury and applicable to the Notes, including Sections 1.141-0 through 1.141-16, 1.145-0 through 1.145-2, 1.148-0 through 1.148-11, 1.149(b)-1, 1.149(d)-1, 1.149(g)-1 and Sections 1.150-1 and 1.150-2, and interpretative guidance issued by the IRS including, for example, Rev. Proc. 2017 or the Prior Procedures (as defined herein), as permitted in Section 2.4.

"Reissued 2002A Bonds" means the Refunded 2002A Bonds that were deemed reissued for federal income purposes on February 28, 2007.

"Replacement Proceeds" means amounts defined in Section 1.148-1(c) of the Regulations. Pursuant to this Section of the Regulations, amounts are Replacement Proceeds of an issue if the amounts have a sufficiently direct nexus to the issue or to the governmental purpose of the issue to conclude that the amounts would have been used for that governmental purpose if the Proceeds of the issue were not used or to be used for that governmental purpose. For this purpose, governmental purposes include the expected use of amounts for the payment of debt service on a particular date. The mere availability or preliminary earmarking of amounts for a governmental purpose, however, does not in itself establish a sufficient nexus to cause those amounts to be Replacement Proceeds. Replacement Proceeds include, but are not limited to, sinking funds, pledged funds, and other Replacement Proceeds described in Section 1.148-1(c)(4) of the Regulations, to the extent that those funds or amounts are held by or derived from a substantial beneficiary of the issue. A substantial beneficiary of an issue includes the issuer and any related party to the issuer, and, if the issuer is not a state, the state in which the issuer is located. A person is not a substantial beneficiary of an issue solely because it is a guarantor under a qualified guarantee.

Replacement Proceeds includes amounts held under an agreement to maintain the amount at a particular level for the direct or indirect benefit of the Bond holders or a guarantor of the Notes. An amount is not treated as Replacement Proceeds,

however, if: (A) the issuer or a substantial beneficiary may grant rights in the amounts that are superior to the rights of the Noteholders or the guarantor; or (B) the amount does not exceed reasonable needs for which it is maintained, the required level is tested no more frequently than every six months, and the amount may be spent without any substantial restrictions other than a requirement to replenish the amount by the next testing date.

"Resolution" means the resolution of the Issuer dated September 7, 2017 authorizing the issuance of the Notes.

"Revenues" means (i) all payments to the Issuer or the Bondholder pursuant to the Agreement, and (ii) all other receipts of the Issuer attributable to the financing and refinancing of the Refunded Project with the Proceeds of Notes, provided that "Revenues" shall not include payments to the Issuer of any issuance fees or any indemnity payments to the Issuer.

"Sale Proceeds" means any amount actually or constructively received from the sale of an issue, including amounts used to pay underwriter's discount or compensation and accrued interest other than "pre-issuance accrued interest." Sale Proceeds also include, but are not limited to, amounts derived from the sale of a right that is associated with a bond, and that is described in Section 1.148-4(b)(4) of the Regulations.

"Service Provider" means any Private Person that provides services under a Service Provider agreement with respect to the Refunded Project financed or refinanced by the Notes.

"State" means the State of Florida.

"Tax-Exempt Bond" means any obligation other than specified private activity bonds (as defined in Section 57(a)(5)(C) of the Code) the interest on which is excludable from the gross income of the recipients thereof.

"Tax Regulatory Agreement" means this Tax Regulatory Agreement and No Arbitrage Certificate dated as of \_\_\_\_\_, 2017, between the Issuer and the Borrower.

"Test Period Beneficiary" means any person who at any time during the test period for the issue is a principal user of a facility financed or refinanced by the proceeds of the issue, including a person who is related to a principal user. A principal user of a facility would include an owner or a lessee of a facility.

"Transferred Proceeds" means those Proceeds of a prior issue that become Proceeds of a refunding issue and cease to be Proceeds of the prior issue when Proceeds of the refunding issue discharge any of the outstanding principal amount of the prior issue. The amount of Proceeds of the issue that become Transferred Proceeds of the refunding issue is an amount equal to the Proceeds of the prior issue



on the date of that discharge multiplied by a fraction (i) the numerator of which is the principal amount of the prior issue Discharged with Proceeds of the refunding issue on the date of that discharge; and (ii) the denominator of which is the total outstanding principal amount of the prior issue on that date immediately before the date of that discharge.

"2012 Bonds" means the Authority's Continuing Care Retirement Community Revenue Refunding Bonds (Oak Hammock at the University of Florida, Inc. Project), Series 2012A, Continuing Care Retirement Community Revenue Refunding Bond (Oak Hammock at the University of Florida, Inc. Project), Series 2012B and Continuing Care Retirement Community Subordinate Adjustable Rate Tender Option Refunding Bonds (Oak Hammock at the University of Florida, Inc. Project), Series 2012C.

"Yield" or "yield" means, for purposes of yield on an issue, and as specifically modified herein and as provided further in Section 1.148-4 of the Regulations, the discount rate that, when used in computing the present value as of the issue date of all unconditionally payable payments of principal, interest, fees for qualified guarantees (as defined in Section 1.148-4 of the Regulations) on the issue and amounts reasonably expected to be paid as fees for qualified guarantees on the issue and amounts properly allocable to a qualified hedge (as defined in Section 1.148-4 of the Regulations), produces an amount equal to the present value, using the same discount rate, of the aggregate Issue Price of the Notes as of the issue date. For purposes of determining Yield on an investment, and as specifically modified herein and as provided further in Section 1.148-5 of the Regulations, Yield is that discount rate that, when used in computing the present value as of the date the investment is first allocated to the issue of all unconditionally payable Receipts from the investment, produces an amount equal to the present value of all unconditionally payable payments for the investment.

"Working Capital Expenditure" means an expenditure other than a Capital Expenditure.

Section 1.2 Reliance on Information Provided by the Issuer and the Borrower. Bond Counsel shall be permitted to rely upon the contents of any certification, document or instructions provided pursuant to this Tax Regulatory Agreement and shall not be responsible or liable in any way for the accuracy of their contents or the failure of the Issuer or the Borrower to deliver any required information.

## ARTICLE II CERTAIN REPRESENTATIONS

Section 2.1 Representations as to the Refunded Project. The Borrower hereby represents and warrants as follows:

(a) (i) The Borrower represents that the Refunded 2002A Bonds and the Refunded 2002B Bonds were originally issued as a single issue for arbitrage

purposes to finance the costs of the Refunded 2002 Project. On February 28, 2007, the Authority and the Borrower reissued the Refunded 2002A Bonds as the Reissued 2002A Bonds. From that date onward the Reissued 2002A Bonds no longer constituted a single issue for arbitrage purposes with the Refunded 2002 Bonds.

(ii) The Borrower represents that on February 28, 2007 the Authority issued the Refunded 2007 Bonds. Proceeds of the Refunded 2007 Bonds were used to currently refund the Refunded 2002B-1 Bonds and advance refund the Refunded 2002B-2 Bonds and Refunded 2002B-3 Bonds.

(iii) The Borrower represents that on September 6, 2012, the Authority issued the 2012 Bonds which were issued to currently refund the Reissued 2002A Bonds and the Refunded 2007 Bonds, pay a portion of a swap termination payment, make a deposit to the Series 2012A/B Senior Reserve Account (the "2012A/B Reserve Funds") and Series 2012C Subordinate Reserve Account for the 2012 Bonds (the "2012C Reserve Funds") and pay certain costs of issuance on the 2012 Bonds. The 2012 Bonds were all issued as a single issue for arbitrage purposes.

(iv) The Borrower represents that on October 29, 2014, the Authority issued the Refunded 2014 Bonds the proceeds of which were issued to pay the costs of the Refunded 2014 Project and costs of issuance on the Refunded 2014 Bond. The Refunded 2014 Bond constituted a "draw-down" loan under Section 1.150-1 of the Treasury Department Regulations, and an amount equal to the lesser of \$50,000 or 5% of the issue price of the Refunded 2014 Bond was advanced on October 29, 2014.

(v) The Borrower also represents that at least 95% of the Proceeds of the Refunded Bonds were and will be used to finance or refinance Qualified Projects. The Borrower further represents that no more than 2% of the Proceeds of the Refunded Bonds were used to pay for Costs of Issuance.

(vi) The Borrower represents that all of the Proceeds of the Refunded Bonds have been expended except for the 2012C Reserve Funds.

(vii) The Borrower further represents that it reasonably expected as of the dates of issue of the Refunded Bonds and of the bonds refunded by the Refunded Bonds that originally financed the Refunded 2002 Project and the Refunded 2014 Project (collectively, the "Original Bonds") that 85% of the Proceeds of the Refunded Bonds and the Original Bonds allocable to the Refunded Project would be used to carry out the governmental purpose of the Refunded Bonds and the Original Bonds by the date that was three years from the respective dates of issue of the Refunded Bonds and the Original Bonds. The Borrower further represents that no more than 50% of the Proceeds of the Refunded Bonds and the Original Bonds allocable to the Refunded Project were invested in nonpurpose investments having a substantially guaranteed yield for four (4) years or more.

(viii) Since 56% of the Refunded 2007 Bonds were, directly or indirectly, advance refunding bonds, and since 31% of the Refunded 2012 Bonds were applied to refund the Refunded 2007 Bonds, Bond Counsel has concluded that 18% of the Refunded 2012 Bonds may not be advance refunded (the "Non-refundable Portion of the 2012 Bonds").

(ix) Since the Notes will in part refund the Refunded 2012 Bonds, the portion of the Notes attributable to refunding the Non-refundable Portion of the 2012 Bonds may not be advanced refunded.

(b) (i) (A) In determining whether at least 95% of the Proceeds of the Notes will be used to refinance and finance Qualified Project Costs and whether no more than 5% of the Proceeds of the Notes will be used to refinance a Non-Qualified Project, the amount of "qualified" or "nonqualified" use of property financed or refinanced with Proceeds of the Notes is based on the average amount of such use over the Measurement Period. Thus, for example, if the reasonably expected useful life of property financed with Proceeds of the Refunded Bonds is 20 years and such property was Placed in Service on January 1, 2001, use of such property after January 1, 2021 is disregarded. The average percentage of qualified or non-qualified use is the average of the percentages of such use during the 1-year periods within the Measurement Period. Thus, if a project is subject to 100% non-qualified use for one year followed by 100% qualified use for 19 years, the average non-qualified use of such project for such 20-year period is 5%.

(B) Section 1.141-13 of the Regulations provides the general rule that in applying the private business use test to an issue that refunds a prior issue, the amount of private business use of the refunding issue is the amount of private business use (i) during the combined Measurement Period or (ii), at the option of the issuer, during the Measurement Period of just the refunding issue (for example, without regard to any private business use that occurred prior to the issue date of the refunding issue) but only if the prior issue did not satisfy the private business use test based on a Measurement Period that begins on the first date of the combined Measurement Period and ends on the date of issue of the refunding issue.

(C) Section 1.141-13 of the Regulations provides that the combined Measurement Period begins on the first day of the Measurement Period for the prior issue (or, in the case of a series of refundings, the first issue of governmental bonds in the series) and ends on the last day of the Measurement Period for the refunding issue. Thus, for example, if 20% of the proceeds of the Refunded Bonds was used in a trade or business of a private person in the first year in the combined Measurement Period and the combined Measurement Period was for 30 years, the "bad use" of the proceeds of the Refunded Bonds would be .667% of the proceeds of the Refunded Bonds.

(D) With respect to the Notes, the Issuer, as directed by the Borrower, has determined to apply a separate Measurement Period that will begin on the date of issue of the Notes.

(ii) For a facility in which actual qualified use and non-qualified use occur at different times (for, example, different days), the average amount of non-qualified use is based on the amount of time that the facility is used for a non-qualified use as a percentage of total time for all actual use. For example, if a discrete portion of a building that costs ten percent (10%) of the Proceeds of the Notes is used in an unrelated trade or business of the Borrower for five percent (5%) of the actual use of such facility during the year, the amount of non-qualified use attributable to such non-qualified use during the year would be .5%.

(iii) For a facility in which the qualified use and the non-qualified use of a facility, or a portion thereof, occur simultaneously, the entire facility, or a portion thereof, is treated as non-qualified use. For example, if a facility is owned by a Section 501(c)(3) organization and leased to a Private Person, or operated by the Private Person pursuant to a non-qualified management or operating agreement for the entire year in an activity that is in furtherance of the Section 501(c)(3) exempt purposes, the cost of the entire amount of space leased to the Private Person would be non-qualified use.

(c) (i) The Borrower represents and covenants that it will not enter into any lease or similar transaction or an operating agreement or activity with respect to the Refunded Project that is unrelated to its exemption under Section 501(a) of the Code that will result, when aggregated with Proceeds that financed or refinanced other Non-Qualified Projects Costs, in more than 5% of the Proceeds of the Notes financing or refinancing Non-Qualified Projects (including in such 5% amount is the amount of Proceeds of the Notes that financed Costs of Issuance of the Notes) without obtaining an unqualified opinion of Bond Counsel that such lease, transaction, operating agreement or activity will not adversely affect the exclusion of interest on the Notes for federal income tax purposes.

(ii) The Borrower represents and covenants that it will not enter into any lease or similar transaction or an operating agreement (other than any operating agreement that meets one of the safe harbors contained in Rev. Proc. 2017-13 or the Prior Procedures, as discussed in Section 2.4 herein) or activity with respect to the Refunded Project with a Private Person that will result, when aggregated with Proceeds that financed or refinanced other Non-Qualified Projects, in more than 5% of the Proceeds of the Notes financing or refinancing Non-Qualified Projects without obtaining an unqualified opinion of Bond Counsel that such lease, transaction, operating agreement or activity will not adversely affect the exclusion of interest on the Notes for federal income tax purposes.

(d) The Borrower represents that the Refunded Project does not and will not include, any airplanes, skybox or private luxury box, facilities primarily used

for gambling or any store the principal business of which is the sale of alcoholic beverages for consumption off premises. The Borrower further represents that the Refunded Project does not include residential rental housing for family units unless (i) the first use of such use was pursuant to the 2002 Bonds or the 2014 Bonds; (ii) the project qualified as a qualified residential rental project (as defined in Section 142(d) of the Code) or (iii) the project was substantially rehabilitated beginning within the 2-year period ending one year after the date of acquisition of such property.

(e) The Borrower represents that any health club facility which is a part of the Refunded Project will be used directly for purposes qualified under Borrower's Section 501(c)(3) exempt purposes under the Code.

(f) The Notes are registered within the meaning of Section 149(a) of the Code.

(g) Pursuant to Sections 1.141-13(d), 1.148-9(h) (including 1.148-9(h)(4)(v)(B)), and Section 1.150-1(c)(3) of the Regulations, the portions of the Notes attributable to refinancing the Refunded 2012 Bonds (the "2012 Refunding Portion") and the Refunded 2014 Bond (the "2014 Refunding Portion"), when delivered, will be treated by the Issuer and the Borrower as separate "issues" for certain purposes. For example, the separate 2012 Refunding Portion and the 2014 Refunding Portion will be treated as separate issues: (A) for purposes of determining whether each "issue" is a qualified 501(c)(3) bond" for purposes of Section 145(a) of the Code; (B) for purposes of determining whether each "issue" is treated as included in the \$150 million limitation of Section 145(b) of the Code; and (C) for purposes of determining whether each "issue," or a portion of each "issue," is a refunding bond for purposes of Sections 148 and 149(d) of the Code. The 2012 Refunding Portion and the 2014 Refunding Portion; however, will be treated as a single issue for purposes of determining the Yield on the Notes, for purposes of determining arbitrage rebate on the Notes, for purposes of determining the "minor portion" on the Notes and for purposes of determining whether a portion of the Notes is eligible for investment in higher yielding investments as part of a reasonably required reserve or replacement fund under Section 148(d) of the Code.

Section 2.2 Representations as to 501(c)(3) Status of the Borrower: Representations as to \$150 Million Cap.

(a) As of the date of delivery hereof, the Borrower represents that it has received a letter (the "Letter") from the Internal Revenue Service to the effect that it is an organization exempt from federal income tax as an organization described in Section 501(c)(3) of the Code, the Letter has not been revoked or modified in any way and the Borrower is in full compliance with the terms of the Letter, and the Borrower is therefore exempt from federal income taxes under Section 501(a) of the Code.

(b) The Borrower agrees that it shall not perform any acts or enter into any agreement which shall adversely affect its federal income tax status nor shall the Borrower permit the Refunded Project to be used in any trade or business or by any person if such activity would adversely affect the exclusion from gross income for federal income tax purposes of interest on the Notes or if such activity would adversely affect the Borrower's federal income tax status under Section 501(c)(3) of the Code. The Borrower also represents that it will not permit any use of the Refunded Project that would cause any portion of the Qualified Project to be used in an unrelated trade or business of the Borrower within the meaning of Section 513 of the Code.

(c) For purposes of the \$150 million cap of Section 145(b) of the Code, the Borrower represents that at least 95% of the Net Proceeds of the Notes were used or will be used to finance or refinance Capital Expenditures incurred after August 5, 1997.

(d) (i) Section 145(b) of the Code provides the general rule that a bond (other than a "qualified hospital bond") shall not be treated as a "qualified 501(c)(3) bond" if the aggregate authorized face amount of the issue (of which such bond is a part) allocated to any 501(c)(3) organization which is a Test Period Beneficiary (when increased by the outstanding tax-exempt nonhospital bonds of such organization) exceeds \$150 million.

(ii) Section 145(b)(5) of the Code provides that Section 145(b) of the Code does not apply with respect to bonds issued after August 5, 1997 as part of an issue 95% or more of the Net Proceeds of which were used to finance Capital Expenditures incurred after such date.

(iii) Since more than 95% of the proceeds of the Notes will finance or refinance Capital Expenditures incurred after August 5, 1997, the Notes will be not included in determining whether the \$150 million limitation of Section 145(b) of the Code has been exceeded.

Section 2.3 Change in Use of the Qualified Project for Purposes of Sections 150(b)(3) and 150(b)(5) of the Code; Change in Use of the Qualified Project for Purposes of Section 103 of the Code.

(a) The Borrower acknowledges that pursuant to Section 150(b)(3) of the Code, any change in use of any portion of the Qualified Project while the Notes that financed or refinanced such portion are still outstanding in situations where the Borrower continues to own such portion could result in the Borrower being treated as engaged in an "unrelated trade or business" within the meaning of Section 513 of the Code from the date on which the change in use occurs. The amount of such unrelated trade or business income is equal to the fair rental value of such portion of the Qualified Project, with interest on the Notes being nondeductible against the unrelated trade or business income.

(b) The Borrower acknowledges that pursuant to Section 150(b)(5) of the Code, if the Borrower sells or otherwise transfers ownership of the Qualified Project the new owner may be denied an interest deduction (including the interest component of rent or other user charges) incurred in connection with the acquisition of that portion of the Qualified Project.

(c) The Borrower also acknowledges that a change of use of the Qualified Project, or any portion thereof, during the stated term of the Notes could cause the interest on the Notes to become includable in the gross income of the Bondholder. Thus, during the entire stated term of the Notes the Borrower will not change the use of the Qualified Project without an opinion of Bond Counsel that such change will not adversely affect the exclusion of interest on the Notes.

#### Section 2.4 Service Contracts.

(i) The Borrower acknowledges that in determining whether all or a portion of the Proceeds of the Notes is used, directly or indirectly, in the trade or business of a Private Person for purposes of the "private business use test" under Section 141(b)(1) of the Code, use by a Private Person of the facilities financed or refinanced with proceeds of the Notes (the "Project") pursuant to a management or other service contract must be examined. Pursuant to Rev. Proc. 97-13, as modified by Rev. Proc. 2001-39 and amplified by Notice 2014-67 (the "Prior Procedures"), a management or other service contract between the Borrower and a Private Person will not result in the Proceeds of the Notes being used in the trade or business of a Private Person if certain guidelines are satisfied. On January 17, 2017, the Internal Revenue Service released Rev. Proc. 2017-13 (the "New Procedures") which contained new safe harbors for qualified service or management contracts relating to facilities financed or refinanced with tax-exempt bonds. These New Procedures apply to any service or management contract entered into on or after January 17, 2017; but an issuer may elect to apply them to prior contracts. However, the Prior Procedures can still be applied to contracts entered before August 18, 2017, and that are not materially modified or extended after that date (except pursuant to a renewal option under which either party has a legally enforceable right to renew the contract).

(a) Since you may apply the Prior Procedures to service and management contracts entered into prior to August 18, 2017, we have attached a summary of the Prior Procedures as Exhibit "F" hereto.

(b) The New Procedures provide that the contract must provide for reasonable compensation for services rendered with no compensation based on, or contingent on, in whole or in part, on a share of net profits from the operation of the project. None of the service provider's or manager's compensation may be based upon, or contingent upon, both the managed property's revenues and expenses for any fiscal period.

(c) The New Procedures provide that the service provider's or the manager's compensation may be based on any type of fixed or variable compensation that is reasonable compensation for the services provided (such compensation may also include a percentage of gross revenues (or adjusted gross revenues) of the facility or a percentage of expenses of the facility, but not both revenues and expenses) but may not be based or be contingent upon the net profits of the facility or result in the manager bearing any share of the net losses of the project. Reasonable compensation also applies to the reimbursement of actual and direct expenses paid by the manager and its related administrative overhead expenses. Under the New Procedures permissible compensation arrangements include "capitation fee", "per-unit fee" and "periodic fixed fee" arrangements (described below), and incentive compensation arrangements based upon meeting standards that measure quality of services, performance or productivity ("incentive fees"). In addition, the service provider may pay the unreimbursed expenses of the managed property in connection with capitation fee, per-unit fee, periodic fixed fee, incentive fees, or any combination thereof, and this will not result in a net profits arrangement or the bearing of net losses. Reasonable compensation also applies to the reimbursement of actual and direct expenses paid by the manager and its related administrative overhead expenses.

(d) Capitation fee means: a fixed dollar amount is paid for each person for whom the provider agrees to provide all needed services for a period of time, such as when an HMO agrees to provide all medical services to a patient. The fixed fee can be increased by specific, objective, external standards not linked to the output or efficiency of the managed property such as CPI or industry increases. This fee may include a variable component of up to 20% of the fee to protect the provider against catastrophic loss.

(e) Per-Unit Fee means: a fee based upon a unit of service by the provider specified in the contract or determined by an independent third party such as Medicare, or by the exempt entity. This includes separate fees for medical procedures, or car parked, or passenger mile. It also includes separate billing arrangements between physicians and hospitals. The fixed fee can be increased by specific, objective, external standards not linked to the output or efficiency of the managed property such as CPI or industry increases.

(f) Periodic fixed fee means: a stated dollar amount for service rendered for a specific period of time. For example, a stated dollar amount per years. The fixed fee can be increased by specific, objective, external standards not linked to the output or efficiency of the managed property such as CPI or industry increases.

(g) Description of Net Losses: A management contract does not require the bearing of net losses if: (i) the determination of the amount of the service provider's compensation and the amount of unreimbursed expenses to be paid by the service provider, separately and collectively, do not take into account either the managed property's net losses or the both the managed property's revenues and



expenses for any fiscal period and (ii) the timing of the service provider's compensation is not contingent upon the amount of the managed property's net losses. Thus it is permissible to reduce a service provider's compensation by stated dollar amounts if the managed property's expenses exceed certain targets, because the reduction does not also take into account any measure of the property's revenues. In addition, it is permissible to delay a service provider's compensation because there were no net revenues from which to pay it. The New Procedures allow this deferral of payments due to insufficient net cash flows where the contract includes the following requirements: (i) the compensation is payable at least annually, (ii) the Borrower is subject to reasonable consequences for late payment, such as reasonable interest charges or late payment fees, and (iii) the Borrower will pay such deferred compensation (with interest or late payment fees) no later than the end of 5 years after the original due date of the payment.

(h) A management contract is based upon a managed facility's net profits if it is based in any part on both the facility's revenues and expenses for any fiscal period. This includes basing the eligibility for, the amount of and the timing of the payments under the contract upon net profits. However, in determining if compensation is based upon net profits, the reimbursement of actual and direct expenses to unrelated parties (such as unrelated vendors) is disregarded as are incentive payments for meeting quality standards of services, performance or productivity.

(i) The Borrower must bear the risk of loss upon damage or destruction of the managed project (however, the maintenance of insurance is permitted as is penalizing the manager for failing to operate the facility as required under the contract).

(j) The New Procedures permit qualified service or management contracts to have a maximum term (including legally enforceable renewal options) not exceeding the lesser of thirty-years or 80 percent of the weighted average economic life of the portion of the "project" subject to the management contract. Economic life is determined as of the beginning of the contract, and is retested as a new contract as of the date any of its terms that could affect its status as a qualified contract are materially modified. A "project" is defined to mean all facilities or capital projects financed or refinanced in whole or in part with proceeds of a single issue of bonds. An issuer in its bond documents can identify as a single project all of the properties to be financed or refinanced by proceeds of a single bond issue. Thus, if bond proceeds are used to finance short-lived equipment (e.g., 8 years) that is part of a building project that in total has a useful life of 40 years and the entire building is subject to the management contract, then the management contract may have a term of 30 years and is not limited to 80% of the useful life of the financed equipment (6.4 years). Land is treated as having an economic life of 30 years if 25 percent or more of the net proceeds of the bonds are used to finance land, otherwise it is not included in the calculation of useful life.

(k) The Borrower must exercise significant control over the use of the managed project. This requirement is met if the service or the management contract requires the Borrower to approve the annual budget of the facility, its capital expenditures, disposition of the property, rates charged for user of the facility and the general nature and use of the property. These approvals may be shown in different manners but they must be explicit and generally in writing. An exception applies for approval of rates which may also be determined by the having the contract provide that the manager's rates be reasonable and customary as determined by an independent third party. The New Procedures also clarify that the Borrower may satisfy the approval of rates requirement by approving a reasonable general description of the method used to set the rates (such as a method that establishes hotel room rates using specific revenue goals based upon comparable properties). In addition, the service provider or manager must agree that it will not take any tax position with respect to the project that is inconsistent with its being a qualified user under the New Procedures. Thus the service provider or the manager cannot take a tax position similar to an owner of the property (such as depreciation or amortization, or investment tax credits) or to a lessee of the project (such as deducting any payments on the property as rent).

(ii) The service provider or the manager must not have any role or relationship with the Borrower that, in effect, substantially limits the Borrower's ability to exercise its rights, including cancellation rights, under the contract, based on all the facts and circumstances. This requirement is satisfied: (A) if not more than 20% of the voting power of the governing body of the Borrower in the aggregate is vested in the service provider's or the manager's (or any related party's) directors, officers, shareholders, partners, members and employees; (B) overlapping board members do not include the chief executive officer (or equivalent) or the chairperson (or equivalent executive) of the service provider or the manager or its governing body or the Borrower or its governing body; (C) the chief executive officer (or equivalent) of the service provider or the manager (or a related party) is not the chief executive officer (or equivalent) of the Borrower or any of its related entities; and (D) the Borrower and the service provider or the manager are not otherwise related parties as defined Section 1.150-1(b) of the Regulations (relating to being members of the same controlled group or otherwise having a relationship under which losses between the two would be disallowed).

(iii) The New Procedures also provides an exception from private use for certain other uses by the service provider or manager of financed or refinanced property that are functionally related and subordinate to a qualified management contract (e.g., use of storage areas to store equipment used in connection with the provision of services under a qualified management contract does not constitute private use).

Section 2.5 Ownership. The Borrower represents that it intends to own and operate the Refunded Project (except for operations pursuant to qualifying service contracts at all times during the term of the Notes. The Borrower knows of no reason

why the Refunded Project will not be so owned and operated in the absence of (i) supervening circumstances not anticipated by the Borrower or Issuer at Date of Issue, (ii) adverse circumstances beyond its control or (iii) such insubstantial parts or portions thereof which may become worthless as a result of normal use thereof. The Borrower will not change ownership or operation of the Refunded Project unless, in the written opinion of Bond Counsel, such change will not adversely affect the exclusion of interest on the Notes for federal income tax purposes.

Section 2.6 120 Percent Maturity Limitation. Borrower represents that the weighted average reasonably expected remaining economic life of the assets comprising the Refunded Project is at least \_\_\_\_ years. See Exhibit "A" attached hereto. Ziegler Capital Markets Group, as placement agent for the Notes (the "Placement Agent") has determined that the weighted average maturity of the Notes is \_\_\_\_ years, and the remaining weighted average maturity of the Refunded Bonds is \_\_\_\_ years, all as described in the Certificate of the Placement Agent attached hereto as Exhibit "H". The weighted average maturity of the Notes does not exceed 120% of the weighted average reasonably expected remaining economic life of the assets being refinanced with the Notes. The Borrower has no reason to believe that any of the information or conclusions of either the Refunded Bonds Useful Life Report are not accurate.

Section 2.7 TEFRA. A public hearing with respect to the issuance of the Notes was held by the Issuer on September 7, 2017, which was preceded by reasonable public notice on August 21, 2017 in *The Gainesville Sun*, a newspaper of general circulation in Gainesville, Florida. On September 7, 2017, subsequent to the hearing held by the Issuer, the Mayor of the City of Gainesville, Florida approved the issuance of the Notes as reflected on the letter attached as Exhibit "B" hereto.

Section 2.8 Federal Guarantee. The Borrower represents that the Notes are not and shall not become directly or indirectly "federally guaranteed." Unless otherwise excepted under Section 149(b) of the Code, the Notes will be considered "federally guaranteed" if (i) the payment of principal and interest with respect to the Notes is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), (ii) 5% or more of the Proceeds of the Notes are (A) to be used in making loans, the payment of principal or interest with respect to which are to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof) or (B) to be invested (directly or indirectly) in federally insured deposits or accounts or (iii) the payment of principal or interest on the Notes is otherwise indirectly guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof). For purposes of determining whether the Notes are federally guaranteed, a guarantee by the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Government National Mortgage Association would not be included.

Section 2.9 Representations by the Issuer for Purposes of IRS Form 8038. Section 149(e) of the Code requires as a condition to qualification for exclusion of interest on the Notes for federal income tax purposes that the Issuer provide to the Secretary of the Treasury certain information with respect to the Notes and the application of the Proceeds derived therefrom. Attached as Exhibit "C" is a draft of the Form 8038 that will be filed with the IRS. The Issuer, based solely on information provided to it from the Borrower and other parties to the transaction, and the Borrower have no reason to believe that any of the information contained in the attached Form 8038 is not accurate.

Section 2.10 Recordkeeping.

(a) The Borrower will maintain records of (i) the expenditure of the Proceeds of the Notes and (ii) the actual use and operation of the Refunded Project (including any management or service contracts) until six years after the date the last Note Bond is Discharged or, if the Notes are refunded, the date that is four years after the date the last refunding bond is Discharged.

(b) With respect to investment of Note Proceeds and any other amounts allocable to the Notes the Borrower shall record the following information: (i) the purchase date of each investment, (ii) the purchase price thereof, (iii) any accrued interest paid, (iv) the face amount of each investment, (v) the coupon rate, (vi) the periodicity of interest payments, (vii) the disposition price, (viii) any accrued interest received, and (ix) the disposition date. The Borrower shall also record payments of interest, principal, qualified guarantee payments and payments made with respect to qualified hedges. The records required by this Section 2.10(b) shall be maintained until the date that is six years after the last Note is Discharged.

ARTICLE III  
SOURCE AND USE OF BOND PROCEEDS

Section 3.1 Non-Arbitrage Purposes. Borrower represents that, and to the knowledge of the Issuer, no portion of the Notes is issued solely for the purpose of investing the Proceeds from such portion at a materially higher yield than the yield on the Notes.

Section 3.2 Sources. The Borrower represents that the costs of refunding the Refunded Bonds will be financed by the Proceeds received from the issuance and sale of the Notes. These sources can be broken down as follows:

Source Amount

Face Amount of Notes

TOTAL:

Section 3.3 Uses. The Borrower represents that the total available Proceeds received from the sale of the Notes are expected to be needed and fully expended as follows:

(i) \$\_\_\_\_\_ of proceeds of the Notes shall be transferred to Whitney Bank d/b/a Hancock Bank to redeem the Refunded 2012B Bonds;

(ii) \$\_\_\_\_\_ of proceeds of the Notes (together with \$\_\_\_\_\_ on deposit in the Interest Account for the Refunded 2012C Bonds) shall be transferred to Trustee for deposit to the Optional Redemption Account established in the Redemption Fund, each created under the Refunded 2012C Bonds Indenture and used to redeem the Refunded 2012C Bonds;

(iii) \$\_\_\_\_\_ of proceeds of the Notes shall be transferred to Whitney Bank d/b/a Hancock Bank to redeem the Refunded 2014 Bonds;

(iv) \$\_\_\_\_\_, of proceeds of the Notes (together with \$\_\_\_\_\_ on deposit in the Debt Service Reserve Fund for the Refunded 2012C Bonds) will be applied to fund the Debt Service Reserve Fund for the Notes; and

(v) \$\_\_\_\_\_, the balance of the proceeds of the Notes, shall be applied to pay Costs of Issuance.

Section 3.4 The Refunded Bonds. A portion of the Proceeds of the Notes will be applied to redeem the outstanding Refunded 2014 Bond and Refunded 2012B Bonds on September 28, 2017 and Refunded 2012C Bonds on September 29, 2017 which is within 90 days of the date hereof. Such proceeds will be held uninvested until expended.

Section 3.5 No Overissuance. The Issuer, based on information provided to it, and the Borrower represent that the cost of refunding the Refunded Bonds is at least \$\_\_\_\_\_.

Section 3.6 Costs of Issuance. The Costs of Issuance of the Notes paid from the Proceeds of the Notes will be as shown in Section 3.3(iv) above and do not exceed 2% of the Proceeds of the Notes.

ARTICLE IV  
ARBITRAGE

Section 4.1 Arbitrage Information and Representations. The Borrower represents that the Proceeds from the sale of the Notes shall be applied as indicated in Article III hereof.

(a) The Borrower represents that no portion of the Proceeds of the Notes will be used directly or indirectly to replace funds of the Issuer or the Borrower used directly or indirectly to acquire securities or obligations which may reasonably be expected, on the date hereof, to produce a Yield materially higher than the Yield on the Notes.

(b) The Borrower represents that, and to the Issuer's knowledge, an "abusive device" has not been employed with respect to the Notes. An "abusive device" is any action that has the effect of (i) enabling the Issuer or the Borrower to exploit the difference between tax-exempt and taxable interest rates to obtain a material financial advantage and (ii) overburdening the tax-exempt bond market.

(c) No other obligations are being sold by the Issuer or any related entity at substantially the same time (i.e., within fifteen (15) days) of the sale date of the Notes pursuant to a common plan of financing and which will be paid out of substantially the same source of funds as the Notes or which will be paid directly or indirectly from Proceeds of the sale of the Notes. The Notes constitute a single issue for arbitrage purposes.

(d) The Borrower represents that, and to the Issuer's knowledge, the issuance of the Notes will not involve the use of a "device" within the meaning of Section 149(d)(4) of the Code.

(e) The Issuer has received a fee of \$\_\_\_\_\_ in connection with the issuance of the Notes (there are no additional fees of the Issuer).

Section 4.2 Yield on the Notes.

(a) For purposes of the Notes, Yield is, and shall be calculated as set forth in Section 1.148-4 of the Regulations and Section 148(b) of the Code. TD Bank, N.A., the initial purchaser of the Notes in a private placement (the "Initial Purchaser") has certified that the Issue Price of the Notes is \$\_\_\_\_\_ as shown in its Issue Price Certificate attached hereto as Exhibit "G".

(b) The Yield on a variable yield issue, such as the Notes, is computed separately for each computation period. The Yield for each computation period is the discount rate that, when used in computing the present value as of the first day of the computation period of all the payments of principal and interest and fees for qualified guarantees that are attributable to the computation period, produces an amount equal to the present value, using the same discount rate, of the aggregate

issue price (or the deemed issue price, as determined under Section 1.148-4(c)(2)(iv) of the Regulations) of the Notes as of the first day of the computation period.

The Yield on a variable yield issue, such as the Notes, takes into account payments made pursuant to certain qualified guarantees as defined in Section 1.148-4(f) of the Regulations and certain qualified hedging transactions as defined in Section 1.148-4(h) of the Regulations. As of the date hereof, there are no qualified hedging transactions in connection with the Notes.

(c) Based on the foregoing, the Yield on the Notes includes payments of principal and interest on the Notes.

#### Section 4.3 Replacement Proceeds.

(a) Section 1.148-1(c) of the Regulations provides that amounts are Replacement Proceeds of an issue if the amounts have a sufficiently direct nexus to the issue or to the governmental purpose of the issue to conclude that the amounts would have been used for that governmental purpose if the Proceeds of the issue were not used or to be used for that governmental purpose. For this purpose, governmental purposes include the expected use of amounts for the payment of debt service on a particular date.

(b) To the extent the Borrower or an affiliate thereof receives contributions that are restricted to pay Costs earmarked for the Refunded Project or a facility that comprises a portion of the Refunded Project, Section 1.148-1(c) of the Regulations would treat such contributions as Replacement Proceeds without regard to whether such contributions are not pledged directly or indirectly to pay debt service on the Notes. Replacement Proceeds may not be invested at a Yield that exceeds the Yield on the Notes.

Section 4.4 Funds and Accounts. No funds or accounts were established under the Agreement.

(i) Under the terms of the Escrow Agreement \$\_\_\_\_ (the "Escrow Deposit") of proceeds of the Notes will be held in the MLR Debt Service and Taxes Account established pursuant to Section 2 of the Continuing Care Escrow Agreement, to be available and applied to pay certain taxes imposed on the Borrower and debt service on the Notes.

(ii) The moneys in the Continuing Care Escrow Agreement constitute a parity reserve fund for the 2012 Bonds, the Notes and any other obligations issued on a parity basis (the "Parity Obligations") and do not exceed the least of (x) 10 percent of the stated principal amount of the Parity Obligations, (y) the maximum annual principal and interest requirements on the Parity Obligations or (z) 125 percent of the average annual principal and interest requirements on the Parity Obligations.

(iii) The moneys in the Continuing Care Escrow Agreement may be invested at an unrestricted yield to the extent that they do not exceed the limits set forth in Section 4.4(ii) above. To the extent such amounts may not be invested at an unrestricted yield, the Issuer and the Borrower may make yield reduction payments to lower the yield on those funds.

Section 4.5 Governmental Program and Yield on the Agreement.

(a) The Agreement represents a loan that is part of a program established by the Issuer to make loans to a substantial number of persons representing the general public, States or political subdivisions, 501(c)(3) organizations, or any combination of the foregoing.

(b) At least 95% of the receipts from the Agreement are used to pay principal, interest or redemption prices on the Notes, to pay or reimburse anticipated future losses directly related to the program or to redeem and retire governmental obligations at the next earliest date of redemption.

(c) The Borrower (or any other obligor on the Agreement) or any related party will not purchase the Notes in an amount related to the Agreement.

(d) The Yield on the Agreement will not exceed the Yield on the Notes by more than 1.50%.

Section 4.6 Arbitrage Compliance. The Issuer and the Borrower acknowledge that the continued exclusion of interest on the Notes from gross income of the recipients thereof for purposes of federal income taxation depends, in part, upon compliance with the arbitrage limitations imposed by Section 148 of the Code, including the rebate requirement. The Borrower hereby agrees and covenants that it will not permit at any time or times any of the Gross Proceeds of the Notes nor other funds of the Issuer or the Borrower to be used, directly or indirectly, to acquire any asset or obligation, the acquisition of which would cause the Notes to be "arbitrage bonds" for purposes of Section 148 of the Code. The Borrower further agrees and covenants that it shall do and perform all acts and things necessary in order to ensure that the requirements of Section 148 of the Code are met. The Issuer expects and the Borrower agrees that all the funds described in this Tax Regulatory Agreement will be invested in the manner described in the letter from Holland & Knight LLP as Bond Counsel, attached hereto as Exhibit "D."

Section 4.7 Covenants with Respect to the Refunded Bonds. All representations and covenants made by the Issuer and the Borrower in the Tax Regulatory Agreements relating to the Refunded Bonds were and are true, accurate and complete and have been complied with fully by the Issuer and the Borrower. The Issuer and the Borrower have complied, and will comply, with all applicable rebate requirements under Section 148(f) of the Code and the applicable Treasury Regulations with respect to the Refunded Bonds and the Borrower agrees to calculate



and pay any rebate liability on the Refunded Bonds to the United States no later than the date 60 days after the final redemption of the issue including the Refunded Bonds.

## ARTICLE V TERM OF TAX REGULATORY AGREEMENT

This Tax Regulatory Agreement shall be effective from the Date of Issue through the date that the last Bond is Discharged and, with respect to arbitrage rebate, the date that is six (6) years after the last Note is Discharged pursuant to the terms of the Agreement.

## ARTICLE VI AMENDMENTS

Notwithstanding any other provision hereof, any provision of this Tax Regulatory Agreement may be deleted or modified at any time at the option of the Borrower if the Borrower has provided an unqualified opinion of Bond Counsel that such deletion or modification will not adversely affect the exclusion of interest on the Notes from the gross income of the recipients thereof for purposes of federal income taxation.

## ARTICLE VII EVENTS OF DEFAULT, REMEDIES

Section 7.1 Events of Default. If the Issuer or the Borrower fails to perform any of its required duties or obligations under any provision hereof or if any representation or warranty of the Issuer or the Borrower proves to be false or misleading when made, such event shall constitute an Event of Default under this Tax Regulatory Agreement.

Section 7.2 Remedies for an Event of Default. Upon an occurrence of an Event of Default under Section 7.1 hereof, the Trustee, at the written request to the Trustee by the owners of a majority in aggregate principal amount of the outstanding Notes and on being indemnified to its satisfaction, shall proceed to protect and enforce the rights of the owners of the Notes by pursuing any available remedy, including, but not limited to, a suit at law or in equity, provided, however, that the Issuer shall have only such liability as provided by the Agreement and the Notes.

## ARTICLE VIII POST ISSUANCE COMPLIANCE

Section 8.1 Post Issuance Compliance. Attached as Exhibit "E" to this Tax Regulatory Certificate are the written procedures adopted by the Board of Directors of the Borrower on April 24, 2013 (the "Written Procedures") with respect to tax-exempt bonds issued on its behalf to ensure that all nonqualified bonds are remediated and to monitor the arbitrage requirements of Section 148 of the Code. The Borrower may amend the Written Procedures, including upon advice of Bond

Counsel, and will provide the Issuer with a copy of any amendments. The Issuer hereby agrees that the Written Procedures shall be the written procedures utilized with respect to the Notes. If applicable, the Borrower will annually provide to the Issuer, within 90 days of filing its Form 990, a notice of noncompliance with the Written Procedures and an explanation as to why it has not yet complied. The Borrower will also notify the Issuer within 90 days of any discovery of a violation. The Borrower may rely on reports of its auditors, rebate analysts and opinions of counsel in making such certifications.

[Signature pages follow]

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Tax Regulatory Agreement to be executed in their respective names and by their proper officers thereunto duly authorized, all as of the day and year first written above.

CITY OF GAINESVILLE, FLORIDA

By: \_\_\_\_\_  
Finance Director

APPROVED AS TO FORM AND LEGALITY:

By: \_\_\_\_\_  
City Attorney

OAK HAMMOCK AT THE UNIVERSITY  
OF FLORIDA, INC.

By: \_\_\_\_\_  
Title:

ATTEST:

By: \_\_\_\_\_  
Title:

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## EXHIBIT "A"

### ECONOMIC LIFE OF REFUNDED PROJECT

					(A)	(B)
<u>Asset</u>	<u>Minimum Economic Life</u> A <sup>1</sup>	<u>Period Since In- Service Date</u> B <sup>2</sup>	<u>Period to In-Service Date</u> C <sup>3</sup>	<u>Adjusted Economic Life</u> D <sup>4</sup>	<u>Asset Cost Financed with Net Proceeds</u> =	<u>Asset Cost Years</u>

The aggregate of the Asset Cost Years (B) divided by the Asset Costs Financed or Refinanced with Net Proceeds of the Notes (A) is at least \_\_\_\_\_ years.

- 
- <sup>1</sup> Economic Life of an asset is the longer of (a) the reasonably expected economic life of the asset, based on facts and circumstances; or (b) the "midpoint" life of the asset under the Asset Depreciation Range ("ADR") system, as established under Rev. Proc. 87 56, 1987 2 C.B. 378, as amended or supplemented, where applicable, or the guideline life for the asset under Rev. Proc. 62 21, 1962 2 C.B. 418, in the case of structures. Land shall not be taken into account for purposes of this certificate unless 25 percent or more of the net proceeds of the Notes (including investment earnings) is to be used to finance land. Land taken into account pursuant to the preceding sentence shall be treated as having an economic life of 30 years. Interest during construction financed with the Notes (chargeable to capital account with a proper election under Section 266 of the Code) is generally treated as having an economic life equal to that of the asset to which it relates.
  - <sup>2</sup> If the asset has previously been placed in service, the period of time (expressed in years or portion thereof, as applicable) from the date the asset was placed in service to the date hereof.
  - <sup>3</sup> If the asset has not yet been placed in service, the period of time (expressed in years or portion thereof, as applicable) from the date hereof to the date such asset is expected to be placed in service. For purposes hereof, the term "placed in service" refers to the date the property is placed in a condition or state of readiness and availability for a specifically assigned function within the meaning of Treasury Regulation Section 1.46 3(d).
  - <sup>4</sup> The Adjusted Economic Life of the asset shall be its Economic Life reduced by the Period Since In Service Date or increased by the Period to In Service Date, as the case may be.

**EXHIBIT "B"**  
**TEFRA APPROVAL**

[See Document No. \_\_\_ in the Closing Binder]

**EXHIBIT "C"**

**FORM 8038**

[See Document No. \_\_\_ in the Closing Binder]

**EXHIBIT "D"**

**LETTER OF INSTRUCTIONS**

[See Document No. \_\_\_ in the Closing Binder]



**EXHIBIT "E"**

**BORROWER'S WRITTEN PROCEDURES**

## EXHIBIT "F"

### PRIOR MANAGEMENT AND SERVICE CONTRACT PROCEDURES

The Borrower acknowledges that in determining whether all or a portion of the Proceeds of the Notes is used, directly or indirectly, in the trade or business of a Private Person for purposes of the "private business use test" under Section 141(b)(1) of the Code, use by a Private Person pursuant to a management or other service contract must be examined. Thus, any contract with a Private Person to manage, for example, the Refunded Project must be examined. Pursuant to Rev. Proc. 97-13, as modified by Rev. Proc. 2001-28, and amplified by Notice 2014-67, a management or other service contract between the Borrower and a Private Person will not result in the Proceeds of the Notes being used in the trade or business of a Private Person if the following guidelines are satisfied:

(a) The contract must provide for reasonable compensation for services rendered with no compensation based, in whole or in part, on a share of net profits from the operation of the Refunded Project. Reimbursement of the Service Provider for actual and direct expenses paid by the Service Provider to unrelated parties is not by itself to be treated as compensation. Permitted compensation arrangements include:

(i) an arrangement where at least 95% of the compensation for services for each annual period during the term of the contract is based on a Periodic Fixed Fee;

(A) The term of the contract, including all renewal options, must not exceed the lesser of 80% of the reasonably expected useful life of the financed or refinanced property and fifteen (15) years.

(B) A fee does not fail to qualify as a Periodic Fixed Fee as a result of a one-time incentive award during the term of the contract under which compensation automatically increases when a gross revenue or expense target (but not both) is reached if that award is equal to a single, stated dollar amount.

(ii) an arrangement where at least 80% of the compensation for services for each annual period during the term of the contract is based on a Periodic Fixed Fee;

(A) The term of the contract, including all renewal options, must not exceed the lesser of 80% of the reasonably expected useful life of the financed or refinanced property and ten (10) years.

(B) A fee does not fail to qualify as a Periodic Fixed Fee as a result of a one-time incentive award during the term of the contract under which compensation automatically increases when a gross

revenue or expense target (but not both) is reached if that award is equal to a single, stated dollar amount.

(iii) an arrangement where either at least 50% of the compensation for services for each annual period during the term of the contract is based on a Periodic Fixed Fee or all of the compensation for services is based on a Capitation Fee or a combination of a Capitation Fee and a Periodic Fixed Fee;

(A) The term of the contract, including all renewal options, must not exceed five (5) years.

(B) The contract must be terminable by the Borrower on reasonable notice, without penalty or cause, at the end of the third year of the contract term.

(iv) an arrangement where all of the compensation for services is based on a Per-Unit Fee or a combination of a Per-Unit Fee and a Periodic Fixed Fee;

(A) The term of the contract, including all renewal options, must not exceed three (3) years.

(B) The contract must be terminable by the Borrower on reasonable notice, without penalty or cause, at the end of the second year of the contract term.

(v) an arrangement where all of the compensation for services is based on a percentage of fees charged (during a start-up period, compensation may be based on a percentage of either gross revenues, adjusted gross revenues, or expenses of a facility) or a combination of a per-unit fee and a percentage of revenue or expense fee;

(A) The term of the contract, including renewal options, must not exceed two (2) years.

(B) The contract must be terminable by the Borrower on reasonable notice, without penalty or cause, at the end of the first year of the contract term.

(C) This permissible arrangement only applies to

(1) contracts under which the Service Provider primarily provides services to third parties, e.g., radiology services to patients; and

(2) management contracts involving a facility during an initial start-up period for which there have been insufficient

operations to establish a reasonable estimate of the amount of the annual gross revenues and expenses, e.g. a contract for general management services for the first year of operations.

(vi) a management contract with a term not exceeding five-years with compensation based on a stated amount, a periodic fixed fee, a capitation fee, a per-unit fee or a combination of the foregoing (such compensation may also include a percentage of gross revenues (or adjusted gross revenues) of the facility or a percentage of expenses of the facility, but not both revenues and expenses.). A "tiered productivity award" will be treated as a stated amount or a periodic fixed fee for purposes of analyzing this arrangement. No right to cancel prior to termination is required. Productivity awards may be given for services in any annual period during the contract term that is based on the quality of services provided rather than on increases in revenues or decreases in expenditures. Such awards must be (i) based on the quality of the services provided under the contract, *e.g.*, the achievement of Medicare Shared Savings Program quality performance standards, meeting data reporting requirements or achieving specified benchmarks in customer satisfaction surveys (rather than on increases in revenues or reductions in expenses), and (ii) the amount of the productivity award is a stated dollar amount, a periodic fixed fee or a tiered system of stated dollar amounts or periodic fixed fees based solely on the level of performance achieved with respect to the applicable measure.

(b) The Service Provider must not have any role or relationship with the Borrower that, in effect, substantially limits the Borrower's ability to exercise its rights, including cancellation rights, under the contract, based on all the facts and circumstances. This requirement is satisfied: (A) if not more than 20% of the voting power of the governing body of the Borrower in the aggregate is vested in the Service Provider and its directors, officers, shareholders, and employees; (B) overlapping board members do not include the chief executive officers of the Service Provider or its governing body or the Borrower or its governing body; and (C) the Borrower and the Service Provider under the contract are not related parties as defined in Section 1.150-1(b) of the Regulations.

**EXHIBIT "G"**

**ISSUE PRICE CERTIFICATE OF THE INITIAL PURCHASER**

**\$ \_\_\_\_\_**  
**CITY OF GAINESVILLE, FLORIDA**  
**Continuing Care Retirement Community Revenue Refunding Note**  
**(Oak Hammock at the University of Florida, Inc. Project),**  
**Series 2017A**

**\$ \_\_\_\_\_**  
**CITY OF GAINESVILLE, FLORIDA**  
**Continuing Care Retirement Community Revenue Refunding Note**  
**(Oak Hammock at the University of Florida, Inc. Project),**  
**Series 2017B**

The undersigned (the "Initial Purchaser") hereby certifies that it has acted as the initial purchaser in connection with the above-referenced notes (the "Notes"). The undersigned represents as follows:

1. We are purchasing the Notes for our own account for investment purposes and with no present intention to resell or otherwise dispose of the Notes (or any portion thereof or any interest therein); provided, however, that subject to our compliance with federal and state securities laws applicable to us, we reserve the right to transfer the Notes or any part thereof or interest therein at any time in our sole discretion in accordance with the Agreement (as defined in the Tax Regulatory Agreement and No Arbitrage Certificate relating to the Notes (the "Tax Certificate")) and the Notes.

2. We are not acting as an Underwriter (as defined in Section 4 below) with respect to the Notes and presently there is no Underwriter for the Notes. We have not contracted with any person pursuant to a written agreement to have such person participate in the initial sale of the Notes and we have not agreed with the City of Gainesville, Florida (the "Issuer") pursuant to a written agreement to sell the Notes to persons other than ourselves or related parties to ourselves.

3. We are purchasing the Notes for the price of \$ \_\_\_\_\_, the stated principal amount of the Notes.

4. Defined Terms.

(a) "Public" means any person (including an individual, trust, estate, partnership, association or corporation) other than an Underwriter or a related party. The term "related party" for purposes of this Certificate generally means any

two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(b) "Underwriter" means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Notes to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Notes to the Public (including a member of the selling group or a party to a retail distribution agreement participating in the initial sale of the Notes to the Public).

5. The undersigned understands that the foregoing information will be relied upon by the Issuer and Oak Hammock at the University of Florida, Inc. (the "Borrower") with respect to certain of the representations set forth in the Tax Certificate executed by the Issuer and the Borrower in connection with the issuance of the Notes and with respect to compliance with the federal income tax rules affecting the Notes, and by Holland & Knight LLP, Bond Counsel, in connection with rendering its opinion that interest on the Notes is excludable from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038, and other federal income tax advice that it may give to the Issuer and the Borrower from time to time relating to the Notes. The undersigned, however, makes no representation as to the legal sufficiency of the information set forth in this certificate for purposes of compliance with the Code or for any other purpose. Nothing herein represents the undersigned's interpretation of any laws, including but not limited to the regulations under Section 148 of the Code, or the application of any laws to these facts.

EXECUTED and DELIVERED this \_\_\_\_\_ day of \_\_\_\_\_ 2017

**TD BANK, N.A.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT "H"**

**CERTIFICATE OF THE PLACEMENT AGENT**

§ \_\_\_\_\_  
**CITY OF GAINESVILLE, FLORIDA**  
**Continuing Care Retirement Community Revenue Refunding Note**  
**(Oak Hammock at the University of Florida, Inc. Project),**  
**Series 2017A**

§ \_\_\_\_\_  
**CITY OF GAINESVILLE, FLORIDA**  
**Continuing Care Retirement Community Revenue Refunding Note**  
**(Oak Hammock at the University of Florida, Inc. Project),**  
**Series 2017B**

The undersigned has served as the placement agent (the "Placement Agent") with respect to the sale of the above-referenced notes (the "Notes"). Capitalized terms used and not defined herein have the same meanings as in the Tax Regulatory Agreement and No Arbitrage Certificate (the "Tax Certificate") to which this certificate is attached as Exhibit H.

The undersigned DOES HEREBY CERTIFY as follows:

1. The weighted average maturity of the Notes is \_\_\_\_\_ years. The remaining weighted average maturity of the Refunded Bonds is \_\_\_\_\_ years.
2. The funding of the reserve requirement in accordance with the Continuing Care Escrow Agreement for Oak Hammock at the University of Florida, Inc. Escrow Accounts dated September 5, 2012, between the Borrower and Wells Fargo Bank, National Association was reasonably required and was a vital factor in the marketing of the Notes.

The undersigned understands that the foregoing information will be relied upon by the City of Gainesville, Florida (the "Issuer") and Oak Hammock at the University of Florida, Inc. (the "Borrower") with respect to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Notes, and by Holland & Knight LLP, Bond Counsel, in connection with rendering its opinion that interest on the Notes is excludable from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038, and other federal income tax advice that it may give to the Issuer and the Borrower from time to time relating to the Notes.

EXECUTED and DELIVERED this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

ZIEGLER CAPITAL MARKETS GROUP

By: \_\_\_\_\_

Title: \_\_\_\_\_